

## 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 certain features and functionality of the Service for End Users to use with their Managed Apple IDs including, without limitation, the measurement of student progress on activities assigned in ClassKit enabled applications through Apple School Manager and the features and services set forth in Section 4D of this Agreement. 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 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. Customer Instructions and Use of Personal Data.** Under this Agreement, Apple, acting as a data processor on Your behalf, may receive Personal Data if provided by You and Your End Users. By entering into this Agreement, You instruct Apple to process such Personal Data, in accordance with applicable law: (i) to provide and improve the Service, including any

Apple features, functionality, and services You or applicable End Users enable; (ii) pursuant to Your instructions as given through Your or applicable End Users' use of the Service (including the Web Portal and other features and functionality of the Service); (iii) as specified under this Agreement including as set forth in Exhibit A for student End Users; and (iv) as further documented in any other written instructions given by You and acknowledged by Apple as constituting instructions under this Agreement.

You understand that Apple may process Personal Data associated with a Managed Apple ID, such as name, Institution, enrolled classes, role, email address, grade level, user identifiers, and device identifiers, as applicable and depending on the type of End User, the services used, and data provided. Apple may also process Personal Data in connection with its provision of features and services that are available with a Managed Apple ID, including without limitation those services outlined in Section 1A above, Section 4D below, Apple Services, and services outlined in Exhibit A for student End Users. The processing of student End Users' Personal Data is explained in further detail in Exhibit A.

Apple shall process Personal Data pursuant to Your instructions, as described in this Agreement, including Section 3A and Exhibit A for student End Users, 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).

In addition, You acknowledge and agree, and shall ensure that the applicable End Users agree where required under applicable law, that Apple and its affiliates and agents may collect, use, store, and process diagnostic, technical, usage and related information, including but not limited to, unique system or hardware identifiers, and information about Your Authorized Devices, system and application software, and peripherals, cookies, and IP addresses in a way that does not personally identify Your End Users in order to provide and improve the Service; to facilitate the provision of software updates, product support, and other features related to the Service; for security and account management purposes; and to verify compliance with the terms of this Agreement.

**B. Compliance with law.** You agree that You are solely liable and responsible for ensuring Your compliance with all applicable laws, including without limitation 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 End User making such data available. You are responsible for safeguarding and limiting access to End User data by all persons and any of Your service providers, including Third Party Service Providers, with access to End User data and for the actions of all persons who are permitted access to use the Service.

**C. Data Incidents.** Apple will (i) notify Institution, without undue delay and as required by law, if Apple becomes aware that there has been a breach of security of the Service leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Institution's Personal Data ("a Data Incident"); and (ii) take reasonable steps to minimize harm and secure Institution's Personal 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 3C will not be construed as an acknowledgment by Apple of any responsibility or liability with respect to a Data Incident.

**D. Your Audit/Inspection Rights.** To the extent that the GDPR applies to the processing of Your or Your End Users' 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 to exercise Your audit rights under this Section 3D, Apple shall demonstrate compliance by providing you with a copy of Apple's ISO 27001 and ISO 27018 Certifications.

**E. Security Procedures.** Apple shall use industry-standard measures to safeguard Personal Data during the processing 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 of Personal Data. 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.

**F. Security controls.** Apple will assist You to ensure Your compliance with Your obligations with regards to the security of Personal Data, including Your Institution's obligations, under Article 32 of the GDPR or equivalent obligations under applicable law, by implementing the Security Procedures set forth in Section 3E of this Agreement and by maintaining the ISO 27001 and ISO 27018 Certifications. Apple will make available for review by Institution the certificates issued in relation to the ISO 27001 and ISO 27018 Certifications following a request by You or Your Institution under this Section 3F.

**G. Security Compliance.** Apple will take appropriate steps to ensure compliance with security procedures by Apple Personnel and Apple Service Providers 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.

**H. Data Impact Assessment and Prior Consultation.** Apple will assist Institution, at its sole discretion and to the extent it involves Personal Data 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.

**I. 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) Your 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.

**J. Data Transfer.** If required by law, Apple will ensure that any international data transfer is done only to a country that ensures an adequate level of protection, has provided appropriate safeguards as set forth in applicable law, such as those in Articles 46 and 47 of the GDPR (e.g., standard data protection clauses), or is subject to a derogation in Article 49 of the GDPR. If You are required to enter into certain standard contractual clauses, which are incorporated as Exhibit B, in order to transfer data to a third country, You agree to do so.

**K. 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.

**L. Requests Regarding Personal Data.**

- i. **Institution Requests:** Apple shall provide You with the ability to access, correct, retrieve, or delete Your and Your End Users' Personal Data in accordance with Your obligations under privacy and data protection laws, as applicable. In the event that You make a request to Apple regarding Your or Your End Users' Content or Personal Data in connection with the Service, Apple will either reasonably (i) enable You to manage such requests directly, such as through available tools in the Web Portal, or (ii) cooperate with You to handle such requests to the extent such requests involve Personal Data that Apple has access to. Apple is not responsible for data, including Content or Personal 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.
- ii. **End User Requests:** In the event that Apple receives any requests from End Users for a copy of their Personal Data in connection with the Service, Apple will either reasonably (i) enable You to manage such requests directly, such as through available tools in the Web Portal, or (ii) cooperate with You to handle such requests to the extent such requests involve Personal Data that Apple has access to. If You choose to allow Apple to provide a copy of an End User's Personal Data in its privacy portal at [privacy.apple.com](https://privacy.apple.com) through the Web Portal, You hereby instruct Apple, upon the End User's request, to process and fulfil such End User's request to access their data as available on [privacy.apple.com](https://privacy.apple.com) on Your behalf.
- iii. **Third Party Requests:** In the event that Apple receives a third party request, such as a request from law enforcement or a regulatory authority, 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. In the event You are subject to an investigation by a data

protection regulator or similar authority regarding Personal Data, Apple shall provide You 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.

**M. 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, the parties agree that for the purposes of this Agreement, Apple will (a) act as a “school official” as defined in 34 C.F.R. § 99.31(a)(1)(i) with a legitimate educational interest; (b) with respect to applicable End Users’ Personal Data, perform an institutional service or function under the direct control of the Institution for which the Institution would otherwise use employees; (c) use applicable End Users’ Personal Data only for a purpose authorized by the Institution, including as set forth in this Agreement; and (d) not re-disclose applicable End Users’ Personal Data to third parties or affiliates except as authorized under this Agreement, with permission from the Institution, pursuant to a court order, or as otherwise permitted under applicable laws or regulations.

**N. 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 collect, use, or disclose Personal Data of children under the age of 13. You grant Apple permission to collect, use and disclose such Personal Data for the purpose of providing and improving the Service and as set forth in Exhibit A.

**O. 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.

**P. Apple Service Provider.** Apple may provide Personal Data to Service Providers who provide services to Apple in connection with the Service. You authorize the use of Apple Inc. as a Service Provider and any other Service Providers Apple may use, provided that such Service Providers are bound by contract to treat Personal 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 Service Providers will be available upon request.

#### 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 set forth in this Agreement. 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 Managed 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 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 End User data associated with Managed Apple ID accounts through the 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 and applicable, 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 End 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 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 End Users; (c) controlling against unauthorized access; and (d) maintaining the confidentiality and security of user names, 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, if applicable), 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 Apple Books 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 Apple device that an End User signs into using their Managed Apple ID. 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 Web Portal, student progress on activities assigned in ClassKit enabled applications 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 enabled applications 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 student progress 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 and all applicable laws for each Managed Apple ID based on the third party apps You make available to Your End Users to download.

viii. **Other Apple Services.** If You make available other Apple Services for Your non-student End Users to sign into, You agree to allow the Apple Services to store data in the accounts associated with those End Users' Managed Apple IDs, and for Apple to collect, store and process such data in association with Your and/or Your non-student End User's use of the Apple Service. You are responsible for ensuring that You and Your non-student End Users are in compliance with all applicable laws for each Managed Apple ID based on the Apple Service you allow Your End Users to access. If Your non-student End Users access certain Apple Services, Apple may communicate with Your End Users about their use of the Service, Apple Services, and updates to Apple Services.

**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., in connection with iCloud 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 Apple Books 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 (VPP) to purchase Apps and Books for use on the Service. Your use of the iTunes Store, App Store, and/or Apple Books Store is subject to Sections G and H of the Apple Media Services Terms and Conditions (<http://www.apple.com/legal/internet-services/itunes/us/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 are subject to the VPP terms, and delivered to End Users or assigned to a device through the App Store and/or the Apple Books 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 an Information Security Breach or a Data Incident.

**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 (<http://www.apple.com/legal/trademark/claimsofcopyright.html/>). Apple may, in its sole discretion, suspend and/or terminate accounts of End Users that are found to be infringers.

## 6. EULAS

**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 Administrator must accept the EULAs for the Apple Software on the Web Portal prior to deploying Authorized Devices running such Apple Software to End Users. If the EULAs for the Apple Software have changed, Your Administrator will need to return to the 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).

## 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.

**E. Third party rights.** 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.

## **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.

## **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 state in which Your 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 11M.

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. 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.

**J. 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.

**K. 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.

**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. Definitions.** In this Agreement, unless expressly stated otherwise:

“Administrator” means an employee or contractor (or Third Party 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 Ltd., 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 Services” means the App Store, Apple Books, Apple Online Store, AppleCare, Apple Teacher Learning Center and other Apple Services as available to Your End Users under this Agreement.

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

“Apple Service Provider” and “Service Provider” means a third party that performs certain tasks on Apple’s behalf, such as processing or storing data and providing customer service, in connection with Apple’s provision of the Service.

“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, teachers, staff, 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.

“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 Third Party 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, Administrators, employees, and contractors of Your Institution, such as information associated with a Managed Apple ID. Personal Data does not include information that has been aggregated, anonymized, or de-identified in a manner that such data can no longer be reasonably linked to or associated with an individual.

“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 the 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.

“Web Portal” means the web-based platform provided by Apple that allows You to manage the Service.

Rev. 09/08/2021

## **EXHIBIT A**

### **Privacy Notice for Student Personal Data**

#### **Your Students' Managed Apple ID**

With the Managed Apple ID You create, students will be able to take advantage of the Apple features and services You choose to make available for educational purposes. For example, students can use their Managed Apple IDs to:

- Make and receive FaceTime video and voice calls
- Create and share photos, documents, videos, audio messages, and text messages using Camera, Photos, iCloud Photo Sharing, Messages, Mail, iWork and other Apple apps
- Enroll and participate in iTunes U courses
- Interact with the Classroom App, which allows teachers and Administrators to guide students through lessons and view their device screens
- Save contacts, calendar events, notes, reminders, photos, documents and backups to iCloud
- Access and search the internet and internet resources through Safari and Spotlight
- Record their and share their progress on ClassKit enabled apps if the Student Progress feature is enabled in Apple School Manager
- Use Schoolwork to view class assignments, navigate to assigned app activities, collaborate with teachers and other students, and submit your work

Apple will not knowingly collect, use, or disclose any Personal Data from Your students without appropriate consent. You acknowledge that You are responsible for obtaining consent from, and providing sufficient notice to, students and/or parents, where required under applicable law, to create Managed Apple IDs, to allow Apple to provide the Service using the Managed Apple IDs, and to collect, use, and disclose student Personal Data provided by You or Your End Users to Apple through the Service, including any additional features and services You make available to Your students.

Apple may take additional steps to verify that the person granting permission for the creation of Managed Apple IDs for Your students is an Administrator from Your Institution with authority to provide consent on Your behalf.

#### **Collection of Information**

##### *Managed Apple ID Creation:*

Apple receives the following Personal Data from You to create a Managed Apple ID for Your students: student name, Institution, grade level, enrolled classes, role, 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.

##### *Use of Apple Services with a Managed Apple ID:*

Apple may collect Personal Data associated with Your students' use of the Apple features and services You choose to make available for educational purposes, including the information described above. For example, if You choose to use Schoolwork, Apple may collect Personal Data from students that is related to activities their teachers assign through Schoolwork, such as when Your students mark an activity as complete and their feedback on assigned activities. If You enable the Student Progress feature in Apple School Manager, Apple will receive data about Your students' progress on assigned activities from participating apps, such as reading a chapter in a book, completing a set of math equations or taking a quiz.

In addition, Apple may collect diagnostic and technical data on Your students' use of the Service including, for example, IP address, information about Your students' devices, browsers, system and application software, and peripherals.

## **Use of Information**

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 and to comply with applicable law.

Apple will not use students' Personal Data to help create, develop, operate, deliver or improve advertising. Limit Ad Tracking will be enabled by default for all devices associated with Your Managed Apple IDs created through the Service to ensure Your students 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.

Apple may use non-personally identifiable diagnostic, technical, usage and related information, including but not limited to, identifiers, information about Authorized Devices, system and application software, and peripherals, cookies, and IP addresses in order to provide and improve the Service; to facilitate the provision of software updates, product support and other features related to the Service; for security and account management purposes; and to verify compliance with the terms of this Agreement. For example, Apple may use non-personally identifiable data on Your students use of Schoolwork (which is not associated with a Managed Apple ID) to provide and improve the app.

## **Disclosure to Third Parties**

### *Managed Apple IDs*

Subject to the restrictions You set, Your students may also share information with Your other students and teachers through use of the Apple services and features that you choose to make available, including the services and features described above.

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 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.

### *Apple Service Providers*

Apple may provide Personal Data to Apple Service Providers who perform certain tasks on Apple's behalf, such as processing or storing data and providing customer service, in connection with Apple's provision of the Service. You authorize the use of Apple Inc. as a Service Provider and any other Service Providers Apple may use, provided such Service Providers 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 Service Providers will be available upon request. Where an Apple Service Provider fails to fulfill its data protection obligations under this Agreement, Apple shall remain fully liable to You for the performance of that Apple Service Provider'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 Web Portal. If you have questions, you can contact us at <https://www.apple.com/legal/privacy/contact/>.

### **Parent/Guardian Review and Deletion of Information**

The parents or guardians of student End Users with a Managed Apple ID in Primary/Secondary (K-12) schools can contact the Administrator to access their child's Personal Data or request deletion. If a parent or guardian wishes to stop any further collection of their child's Personal Data, 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.

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

PLEASE NOTE: THIS NOTICE 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.

**Clauses Contractuelles Types (sous-traitants)**

Aux fins de l'article 26, paragraphe 2 de la directive 95/46/CE pour le transfert des données à caractère personnel vers des sous-traitants établis dans des pays tiers qui n'assurent pas un niveau adéquat de protection des données

Nom de l'organisation exportant les données:

**Institution**

(l'exportateur de données)

Et

Nom de l'organisation important les données: **Apple Inc.**

Adresse : **1 Infinite Loop, Cupertino, CA 95014, Etats-Unis d'Amérique**

(importateur de données)

chacune individuellement une "partie" et collectivement les "parties"

SONT CONVENUS des clauses contractuelles suivantes (les Clauses) afin d'offrir des garanties adéquates concernant la protection de la vie privée et des libertés et droits fondamentaux des personnes lors du transfert, par l'exportateur de données vers l'importateur de données, des données à caractère personnel visées à l'Appendice 1.

*Clause 1***Définitions**

Au sens des clauses:

- (a) «données à caractère personnel», «catégories particulières de données», «traiter/traitement», «responsable du traitement», «sous-traitant», «personne concernée» et «autorité de contrôle» ont la même signification que dans la directive 95/46/CE du Parlement européen et du Conseil du 24 octobre 1995 relative à la protection des personnes physiques à l'égard du traitement des données à caractère personnel et à la libre circulation de ces données;
- (b) l'«exportateur de données» est le responsable du traitement qui transfère les données à caractère personnel;
- (c) l'«importateur de données» est le sous-traitant qui accepte de recevoir de l'exportateur de données des données à caractère personnel destinées à être traitées pour le compte de ce dernier après le transfert conformément à ses instructions et aux termes des présentes clauses et qui n'est pas soumis au mécanisme d'un pays tiers assurant une

**Standard Contractual Clauses (processors)**

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

Name of the data exporting organisation:

**Institution**

(the data exporter)

And

Name of the data importing organisation: **Apple Inc.**

Address: of **1 Infinite Loop, Cupertino, CA 95014, United States of America**

(the data importer)

each a "party"; together "the parties",

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

*Clause 1***Definitions**

For the purposes of the Clauses:

- (a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) 'the data exporter' means the controller who transfers the personal data;
- (c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

protection adéquate au sens de l'article 25, paragraphe 1, de la directive 95/46/CE;

- (d) *le «sous-traitant ultérieur»* est le 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 à caractère personnel 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, aux conditions énoncées dans les présentes clauses et selon les termes du contrat de sous-traitance écrit;
- (e) *le «droit applicable à la protection des données»* est la législation protégeant les libertés et les droits fondamentaux des personnes, notamment le droit à la vie privée à l'égard du traitement des données à caractère personnel, et s'appliquant à un responsable du traitement dans l'État membre où l'exportateur de données est établi;
- (f) *les «mesures techniques et d'organisation liées à la sécurité»* sont les mesures destinées à protéger les données à caractère personnel contre une destruction fortuite ou illicite, une perte fortuite, une altération, une divulgation ou un accès non autorisé, notamment lorsque le traitement suppose la transmission de données par réseau, et contre toute autre forme illicite de traitement.

#### Clause 2

##### *Détails du transfert*

Les détails du transfert et, notamment, le cas échéant, les catégories particulières de données à caractère personnel, sont spécifiés dans l'appendice 1 qui fait partie intégrante des présentes clauses.

#### Clause 3

##### *Clause du tiers bénéficiaire*

1. La personne concernée peut faire appliquer contre l'exportateur de données la présente clause, ainsi que la clause 4, points b) à i), la clause 5, points a) à e) et points g) à j), la clause 6, paragraphes 1 et 2, la clause 7, la clause 8, paragraphe 2, et les clauses 9 à 12 en tant que tiers bénéficiaire.
2. La personne concernée peut faire appliquer contre l'importateur de données la présente clause, ainsi que la clause 5, points a) à e) et g), la clause 6, la clause 7, la clause 8, paragraphe 2, et les clauses 9 à 12 dans les cas où l'exportateur de données a matériellement disparu ou a cessé d'exister en droit, à moins que l'ensemble de ses obligations juridiques n'ait été transféré, par contrat ou par effet de la loi, à l'entité qui lui succède, à laquelle reviennent par conséquent les droits et les obligations de l'exportateur de données, et contre laquelle la personne concernée peut donc faire appliquer lesdites clauses.
3. La personne concernée peut faire appliquer contre le sous-traitant ultérieur la présente clause, ainsi que la

- (d) *'the 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 activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;
- (e) *'the applicable data protection law'* means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;
- (f) *'technical and organisational security measures'* means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

#### Clause 2

##### *Details of the transfer*

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

#### Clause 3

##### *Third-party beneficiary clause*

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.
3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause



clause 5, points a) à e) et g), la clause 6, la clause 7, la clause 8, paragraphe 2, et les clauses 9 à 12, mais uniquement dans les cas où l'exportateur de données et l'importateur de données ont matériellement disparu, ont cessé d'exister en droit ou sont devenus insolubles, à moins que l'ensemble des obligations juridiques de l'exportateur de données n'ait été transféré, par contrat ou par effet de la loi, au successeur légal, auquel reviennent par conséquent les droits et les obligations de l'exportateur de données, et contre lequel la personne concernée peut donc faire appliquer lesdites clauses. Cette responsabilité civile du sous-traitant ultérieur doit être limitée à ses propres activités de traitement conformément aux présentes clauses.

4. Les parties ne s'opposent pas à ce que la personne concernée soit représentée par une association ou un autre organisme si elle en exprime le souhait et si le droit national l'autorise.

*Clause 4*

***Obligations de l'exportateur de données***

L'exportateur de données accepte et garantit ce qui suit:

- (a) le traitement, y compris le transfert proprement dit des données à caractère personnel, a été et continuera d'être effectué conformément aux dispositions pertinentes du droit applicable à la protection des données (et, le cas échéant, a été notifié aux autorités compétentes de l'État membre dans lequel l'exportateur de données est établi) et n'enfreint pas les dispositions pertinentes dudit État;
- (b) il a chargé, et chargera pendant toute la durée des services de traitement de données à caractère personnel, l'importateur de données de traiter les données à caractère personnel transférées pour le compte exclusif de l'exportateur de données et conformément au droit applicable à la protection des données et aux présentes clauses;
- (c) l'importateur de données offrira suffisamment de garanties en ce qui concerne les mesures techniques et d'organisation liées à la sécurité spécifiées dans l'appendice 2 du présent contrat;
- (d) après l'évaluation des exigences du droit applicable à la protection des données, les mesures de sécurité sont adéquates pour protéger les données à caractère personnel contre une destruction fortuite ou illicite, une perte fortuite, une altération, une divulgation ou un accès non autorisé, notamment lorsque le traitement suppose la transmission de données par réseau, et contre toute autre forme illicite de traitement et elles assurent un niveau de sécurité adapté aux risques liés au traitement et à la nature des données à protéger, eu égard au niveau technologique et au coût de mise en œuvre;
- (e) il veillera au respect des mesures de sécurité;
- (f) si le transfert porte sur des catégories particulières de

7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

*Clause 4*

***Obligations of the data exporter***

The data exporter agrees and warrants:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- (b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;
- (e) that it will ensure compliance with the security measures;
- (f) that, if the transfer involves special categories of data, the

données, la personne concernée a été informée ou sera informée avant le transfert ou dès que possible après le transfert que ses données pourraient être transmises à un pays tiers n'offrant pas un niveau de protection adéquat au sens de la directive 95/46/CE;

- (g) il transmettra toute notification reçue de l'importateur de données ou de tout sous-traitant ultérieur conformément à la clause 5, point b), et à la clause 8, paragraphe 3), à l'autorité de contrôle de la protection des données s'il décide de poursuivre le transfert ou de lever sa suspension;
- (h) il mettra à la disposition des personnes concernées, si elles le demandent, une copie des présentes clauses, à l'exception de l'appendice 2, et une description sommaire des mesures de sécurité, ainsi qu'une copie de tout contrat de sous-traitance ultérieure ayant été conclu conformément aux présentes clauses, à moins que les clauses ou le contrat ne contienne(nt) des informations commerciales, auquel cas il pourra retirer ces informations;
- (i) en cas de sous-traitance ultérieure, l'activité de traitement est effectuée conformément à la clause 11 par un sous-traitant ultérieur offrant au moins le même niveau de protection des données à caractère personnel et des droits de la personne concernée que l'importateur de données conformément aux présentes clauses; et
- (j) il veillera au respect de la clause 4, points a) à i).

*Clause 5*

***Obligations de l'importateur de données***

L'importateur de données accepte et garantit ce qui suit:

- (a) il traitera les données à caractère personnel pour le compte exclusif de l'exportateur de données et conformément aux instructions de ce dernier et aux présentes clauses; s'il est dans l'incapacité de s'y conformer pour quelque raison que ce soit, il accepte d'informer dans les meilleurs délais l'exportateur de données de son incapacité, auquel cas ce dernier a le droit de suspendre le transfert de données et/ou de résilier le contrat;
- (b) il n'a aucune raison de croire que la législation le concernant l'empêche de remplir les instructions données par l'exportateur de données et les obligations qui lui incombent conformément au contrat, et si ladite législation fait l'objet d'une modification susceptible d'avoir des conséquences négatives importantes pour les garanties et les obligations offertes par les clauses, il communiquera la modification à l'exportateur de données sans retard après en avoir eu connaissance, auquel cas ce dernier a le droit de suspendre le transfert de données et/ou de résilier le contrat;
- (c) il a mis en œuvre les mesures techniques et d'organisation liées à la sécurité spécifiées dans l'appendice 2 avant de traiter les données à caractère personnel transférées;

data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

- (g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;
- (h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;
- (i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and
- (j) that it will ensure compliance with Clause 4(a) to (i).

*Clause 5*

***Obligations of the data importer***

The data importer agrees and warrants:

- (a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;
- (c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

<p>(d) il communiquera sans retard à l'exportateur de données:</p> <ul style="list-style-type: none"> <li>i) toute demande contraignante de divulgation des données à caractère personnel émanant d'une autorité de maintien de l'ordre, sauf disposition contraire, telle qu'une interdiction de caractère pénal visant à préserver le secret d'une enquête policière;</li> <li>ii) tout accès fortuit ou non autorisé; et</li> <li>iii) toute demande reçue directement des personnes concernées sans répondre à cette demande, à moins qu'il n'ait été autorisé à le faire;</li> </ul> <p>(e) il traitera rapidement et comme il se doit toutes les demandes de renseignements émanant de l'exportateur de données relatives à son traitement des données à caractère personnel qui font l'objet du transfert et se rangera à l'avis de l'autorité de contrôle en ce qui concerne le traitement des données transférées;</p> <p>(f) à la demande de l'exportateur de données, il soumettra ses moyens de traitement de données à une vérification des activités de traitement couvertes par les présentes clauses qui sera effectuée par l'exportateur de données ou un organe de contrôle composé de membres indépendants possédant les qualifications professionnelles requises, soumis à une obligation de secret et choisis par l'exportateur de données, le cas échéant, avec l'accord de l'autorité de contrôle;</p> <p>(g) il mettra à la disposition de la personne concernée, si elle le demande, une copie des présentes clauses, ou tout contrat de sous-traitance ultérieure existant, à moins que les clauses ou le contrat ne contienne(nt) des informations commerciales, auquel cas il pourra retirer ces informations, à l'exception de l'appendice 2, qui sera remplacé par une description sommaire des mesures de sécurité, lorsque la personne concernée n'est pas en mesure d'obtenir une copie de l'exportateur de données;</p> <p>(h) en cas de sous-traitance ultérieure, il veillera au préalable à informer l'exportateur de données et à obtenir l'accord écrit de ce dernier;</p> <p>(i) les services de traitement fournis par le sous-traitant ultérieur seront conformes à la clause 11;</p> <p>(j) il enverra dans les meilleurs délais une copie de tout accord de sous-traitance ultérieure conclu par lui en vertu des présentes clauses à l'exportateur de données.</p>	<p>(d) that it will promptly notify the data exporter about:</p> <ul style="list-style-type: none"> <li>(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,</li> <li>(ii) any accidental or unauthorised access, and</li> <li>(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;</li> </ul> <p>(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;</p> <p>(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;</p> <p>(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;</p> <p>(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;</p> <p>(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;</p> <p>(j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.</p>
<p style="text-align: center;"><i>Clause 6</i></p> <p style="text-align: center;"><b>Responsabilité</b></p> <p>1. Les parties conviennent que toute personne concernée ayant subi un dommage du fait d'un manquement aux obligations visées à la clause 3 ou à la clause 11 par une des parties ou par un sous-traitant ultérieur a le droit d'obtenir de l'exportateur de données réparation du préjudice subi.</p>	<p style="text-align: center;"><i>Clause 6</i></p> <p style="text-align: center;"><b>Liability</b></p> <p>1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.</p> <p>2. If a data subject is not able to bring a claim for</p>

2. Si une personne concernée est empêchée d'intenter l'action en réparation visée au paragraphe 1 contre l'exportateur de données pour manquement par l'importateur de données ou par son sous-traitant ultérieur à l'une ou l'autre de ses obligations visées à la clause 3 ou à la clause 11, parce que l'exportateur de données a matériellement disparu, a cessé d'exister en droit ou est devenu insolvable, l'importateur de données accepte que la personne concernée puisse déposer une plainte à son encontre comme s'il était l'exportateur de données, à moins que l'ensemble des obligations juridiques de l'exportateur de données n'ait été transféré, par contrat ou par effet de la loi, à l'entité qui lui succède, contre laquelle la personne concernée peut alors faire valoir ses droits.

L'importateur de données ne peut invoquer un manquement par un sous-traitant ultérieur à ses obligations pour échapper à ses propres responsabilités.

3. Si une personne concernée est empêchée d'intenter l'action visée aux paragraphes 1 et 2 contre l'exportateur de données ou l'importateur de données pour manquement par le sous-traitant ultérieur à l'une ou l'autre de ses obligations visées à la clause 3 ou à la clause 11, parce que l'exportateur de données et l'importateur de données ont matériellement disparu, ont cessé d'exister en droit ou sont devenus insolubles, le sous-traitant ultérieur accepte que la personne concernée puisse déposer une plainte à son encontre en ce qui concerne ses propres activités de traitement conformément aux présentes clauses comme s'il était l'exportateur de données ou l'importateur de données, à moins que l'ensemble des obligations juridiques de l'exportateur de données ou de l'importateur de données n'ait été transféré, par contrat ou par effet de la loi, au successeur légal, contre lequel la personne concernée peut alors faire valoir ses droits. La responsabilité du sous-traitant ultérieur doit être limitée à ses propres activités de traitement conformément aux présentes clauses.

#### Clause 7

##### *Médiation et juridiction*

1. L'importateur de données convient que si, en vertu des clauses, la personne concernée invoque à son encontre le droit du tiers bénéficiaire et/ou demande réparation du préjudice subi, il acceptera la décision de la personne concernée:
  - a) de soumettre le litige à la médiation d'une personne indépendante ou, le cas échéant, de l'autorité de contrôle;
  - b) de porter le litige devant les tribunaux de l'État membre où l'exportateur de données est établi.
2. Les parties conviennent que le choix effectué par la personne concernée ne remettra pas en cause le droit procédural ou matériel de cette dernière d'obtenir réparation conformément à d'autres dispositions du droit national ou international.

compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.

The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.

3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

#### Clause 7

##### *Mediation and jurisdiction*

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:
  - (a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;
  - (b) to refer the dispute to the courts in the Member State in which the data exporter is established.
2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

*Clause 8*

***Coopération avec les autorités de contrôle***

1. L'exportateur de données convient de déposer une copie du présent contrat auprès de l'autorité de contrôle si celle-ci l'exige ou si ce dépôt est prévu par le droit applicable à la protection des données.
2. Les parties conviennent que l'autorité de contrôle a le droit d'effectuer des vérifications chez l'importateur de données et chez tout sous-traitant ultérieur dans la même mesure et dans les mêmes conditions qu'en cas de vérifications opérées chez l'exportateur de données conformément au droit applicable à la protection des données.
3. L'importateur de données informe l'exportateur de données, dans les meilleurs délais, de l'existence d'une législation le concernant ou concernant tout sous-traitant ultérieur faisant obstacle à ce que des vérifications soient effectuées chez lui ou chez tout sous-traitant ultérieur conformément au paragraphe 2. Dans ce cas, l'exportateur de données a le droit de prendre les mesures prévues par la clause 5, point b).

*Clause 9*

***Droit applicable***

Les clauses sont régies par le droit de l'État membre où l'exportateur de données est établi, à savoir la Belgique

*Clause 10*

***Modification du contrat***

Les parties s'engagent à ne pas modifier les présentes clauses. Les parties restent libres d'inclure d'autres clauses à caractère commercial qu'elles jugent nécessaires, à condition qu'elles ne contredisent pas les présentes clauses.

*Clause 11*

***Sous-traitance ultérieure***

1. L'importateur de données ne sous-traite aucune de ses activités de traitement effectuées pour le compte de l'exportateur de données conformément aux présentes clauses sans l'accord écrit préalable de l'exportateur de données. L'importateur de données ne sous-traite les obligations qui lui incombent conformément aux présentes clauses, avec l'accord de l'exportateur de données, qu'au moyen d'un accord écrit conclu avec le sous-traitant ultérieur, imposant à ce dernier les mêmes obligations que celles qui incombent à l'importateur de données conformément aux présentes clauses. 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

*Clause 8*

***Cooperation with supervisory authorities***

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

*Clause 9*

***Governing Law***

The Clauses shall be governed by the law of the Member State in which the data exporter is established, namely Belgium.

*Clause 10*

***Variation of the contract***

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

*Clause 11*

***Subprocessing***

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. 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

reste pleinement responsable du respect de ces obligations envers l'exportateur de données.

2. Le contrat écrit préalable entre l'importateur de données et le sous-traitant ultérieur prévoit également une clause du tiers bénéficiaire telle qu'énoncée à la clause 3 pour les cas où la personne concernée est empêchée d'intenter l'action en réparation visée à la clause 6, paragraphe 1, contre l'exportateur de données ou l'importateur de données parce que ceux-ci ont matériellement disparu, ont cessé d'exister en droit ou sont devenus insolvable, et que l'ensemble des obligations juridiques de l'exportateur de données ou de l'importateur de données n'a pas été transféré, par contrat ou par effet de la loi, à une autre entité leur ayant succédé. Cette responsabilité civile du sous-traitant ultérieur doit être limitée à ses propres activités de traitement conformément aux présentes clauses.
3. Les dispositions relatives aux aspects de la sous-traitance ultérieure liés à la protection des données du contrat visé au paragraphe 1 sont régies par le droit de l'État membre où l'exportateur de données est établi, à savoir la Belgique
4. L'exportateur de données tient une liste des accords de sous-traitance ultérieure conclus en vertu des présentes clauses et notifiés par l'importateur de données conformément à la clause 5, point j), qui sera mise à jour au moins une fois par an. Cette liste est mise à la disposition de l'autorité de contrôle de la protection des données de l'exportateur de données.

#### Clause 12

##### ***Obligation après la résiliation des services de traitement des données à caractère personnel***

1. Les parties conviennent qu'au terme des services de traitement des données, l'importateur de données et le sous-traitant ultérieur restitueront à l'exportateur de données, et à la convenance de celui-ci, l'ensemble des données à caractère personnel transférées ainsi que les copies, ou détruiront l'ensemble de ces données et en apporteront 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 à caractère personnel transférées. Dans ce cas, l'importateur de données garantit qu'il assurera la confidentialité des données à caractère personnel transférées et qu'il ne traitera plus activement ces données.
2. L'importateur de données et le sous-traitant ultérieur garantissent que si l'exportateur de données et/ou l'autorité de contrôle le demandent, ils soumettront leurs moyens de traitement de données à une vérification des mesures visées au paragraphe 1.

under such agreement.

2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established, namely Belgium.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

#### Clause 12

##### ***Obligation after the termination of personal data processing services***

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.
2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

EN FOI DE QUOI, les Parties acceptent que les Clauses soient signées par leurs représentants dûment autorisés, avec effet à compter de la date effective.

**Pour le compte de l'exportateur de données:**

Nom :

Fonction :

Date :

Signature :

**Pour le compte de l'importateur de données:**

Nom : Gene D. Levoff

Fonction : Assistant Secretary

Date : 22-3-14

Signature :



**APPENDICE 1 DES CLAUSES CONTRACTUELLES TYPES**

**Exportateur de données**

L'exportateur de données est une entité qui fournit des services d'éducation, d'instruction et d'autres services d'information aux étudiants et autres membres du public.

**Importateur de données**

L'importateur de données fournit des systèmes d'information et des services technologiques.

**Personnes concernées**

Les données à caractère personnel transférées concernent les catégories suivantes de personnes concernées:

- étudiants
- enseignants
- employés des établissements d'enseignement

**Catégories de données**

Les données à caractère personnel transférées concernent les

IN WITNESS WHEREOF, the Parties have caused the Clauses to be executed by their duly authorised representatives with effect as of the Effective Date.

**On behalf of the data exporter:**

Name:

Position:

Date:

Signature:

**On behalf of the data importer:**

Name: Gene D. Levoff

Position: Assistant Secretary

Date: 22-3-14

Signature:



**APPENDIX 1 TO THE STANDARD CONTRACTUAL CLAUSES**

**Data exporter**

The data exporter is an entity that provides education, instruction and other information services to students and other members of the public.

**Data importer**

The data importer provides information system and technology services.

**Data subjects**

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

- students
- teachers
- employees of educational institutions

**Categories of data**

The personal data transferred concern the following

catégories suivantes de données:

- Renseignements personnels: tels que les détails de compte, le nom et le prénom et le niveau de scolarité, y compris les devoirs, les résultats scolaires et les données de discussion générées au cours d'activités éducatives.

**Catégories particulières de données**

Aucune

**Traitement**

Les données personnelles transférées seront soumises aux activités de traitement de base suivantes :

- Les données personnelles seront traitées dans le cadre de la fourniture de systèmes d'information et de services technologiques, et un tel traitement comprendra l'entreposage de données (data warehousing), le traitement de données et l'exploration de données (data mining), ainsi que d'autres services connexes limités selon les instructions de l'exportateur de données.

**EXPORTATEUR DE DONNÉES**

Nom:

Date :

Signature:

**IMPORTATEUR DE DONNÉES**

Nom: Apple Inc.

Par : Gene D. Levoff, Assistant Secretary

Date : 22-3-15

Signature:



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.

**Special categories of data**

None

**Processing operations**

The personal data transferred will be subject to the following basic processing activities:

- Personal data shall be processed in the context of the provision of information system and technology services, and such processing shall include data warehousing, data processing and data mining, and other limited related services under the instructions of the data exporter

**DATA EXPORTER**

Name:

Date:

Signature:

**DATA IMPORTER**

Name: Apple Inc.

By: Gene D. Levoff, Assistant Secretary

Date: 22-3-15

Signature:





## APPENDICE 2 DES CLAUSES CONTRACTUELLES TYPES

**Description des mesures techniques et d'organisation liées à la sécurité mises en œuvre par l'importateur de données conformément aux Clauses 4, point d), et 5, point c) (ou document/législation jointe):**

L'importateur de données mettra en œuvre un programme de protection et de sécurité des Données Personnelles complet et à jour pour 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 faire des efforts commercialement raisonnables pour:

- empêcher toute personne non autorisée d'accéder aux installations utilisées pour le traitement des données (contrôle de l'entrée des installations);
- empêcher que des supports de données puissent être lus, copiés, modifiés ou déplacés par des personnes non autorisées (contrôle des médias);
- empêcher l'introduction non autorisée de toutes données dans le système d'information, ainsi que toute connaissance non autorisée, modification ou suppression des données enregistrées (contrôle de la mémoire);
- empêcher que des systèmes de traitement de données puissent être utilisés par des personnes non autorisées à l'aide d'installations de transmission de données (contrôle de l'utilisation);
- veiller à ce que les personnes autorisées, en utilisant un système de traitement automatisé de données, ne puissent accéder qu'aux données qui sont de leur compétence (contrôle d'accès);
- assurer la vérification et l'enregistrement de l'identité des tiers auxquels les données peuvent être transmises par des installations 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 puissent être vérifiées et enregistrées ex post facto, à tout moment et par des personnes compétentes (contrôle de l'introduction);
- éviter que les données soient lues, copiées, modifiées ou supprimées de façon non autorisée lorsque les données sont communiquées et les supports de données transportés (contrôle du transport); et
- Sauvegarder les données en créant des copies de sauvegarde (contrôle de disponibilité).

Il est reconnu que les mesures techniques et organisationnelles qui précèdent sont soumises aux progrès techniques, aux changements organisationnels, et aux autres développements, et l'Importateur de Données peut mettre en œuvre des mesures alternatives adéquates si ces mesures ne dérogent pas au niveau de protection convenu contractuellement.

## APPENDIX 2 TO THE STANDARD CONTRACTUAL CLAUSES

**Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):**

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 unauthorised 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 (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.

EXPORTATEUR DE DONNÉES

Nom:

Date :


Signature:

IMPORTATEUR DE DONNÉES

Nom: Apple Inc.

Par : Gene D. Levoff, Assistant Secretary

Date : 22-3-16

Signature: 

DATA EXPORTER

Name:

Date:

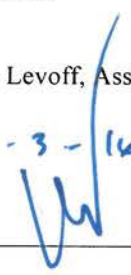
Signature:

DATA IMPORTER

Name: Apple Inc.

By: Gene D. Levoff, Assistant Secretary

Date: 22-3-16

Signature: 

### Modelcontractbepalingen (verwerkers)

Voor de toepassing van artikel 26, lid 2, van Richtlijn 95/46/EG, voor de doorgifte van persoonsgegevens aan verwerkers die gevestigd zijn in derde landen die geen passend beschermingsniveau waarborgen

Naam van de organisatie die de gegevens uitvoert:

**Instellig**

(de gegevensexporteur)

En

Naam van de organisatie die de gegevens invoert: **Apple Inc.**

Adres: **1 Infinite Loop, Cupertino, CA 95014, United States of America**

(de gegevensimporteur)

elk afzonderlijk „partij” en gezamenlijk „de partijen” genoemd,

ZIJN OVEREENGEKOMEN de volgende contractbepalingen, (de bepalingen) vast te stellen teneinde voldoende waarborgen te bieden ten aanzien van de bescherming van de persoonlijke levenssfeer en de fundamentele rechten en vrijheden van personen, bij de doorgifte van de in aanhangsel I vermelde persoonsgegevens door de gegevensexporteur aan de gegevensimporteur.

#### *Bepaling 1*

#### **Definities**

Voor de toepassing van de bepalingen:

- a) gelden voor 'persoonsgegevens', 'bijzondere categorieën gegevens', 'verwerken/verwerking', 'voor de verwerking verantwoordelijke', 'verwerker', 'betrokkene' en 'toezichthoudende autoriteit' dezelfde definities als in Richtlijn 95/46/EG van het Europees Parlement en de Raad van 24 oktober 1995 betreffende de bescherming van natuurlijke personen in verband met de verwerking van persoonsgegevens en betreffende het vrije verkeer van die gegevens;
- b) wordt onder 'gegevensexporteur' verstaan: de voor de verwerking verantwoordelijke die de persoonsgegevens doorgeeft;
- c) wordt onder 'gegevensimporteur' verstaan: de verwerker die overeenkomt van de gegevensexporteur persoonsgegevens te ontvangen om deze na doorgifte namens de gegevensexporteur te verwerken in

### Standard Contractual Clauses (processors)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection

Name of the data exporting organisation:

**Institution**

(the data exporter)

And

Name of the data importing organisation: **Apple Inc.**

Address: of **1 Infinite Loop, Cupertino, CA 95014, United States of America**

(the data importer)

each a “party”; together “the parties”,

HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

#### *Clause 1*

#### **Definitions**

For the purposes of the Clauses:

- (a) 'personal data', 'special categories of data', 'process/processing', 'controller', 'processor', 'data subject' and 'supervisory authority' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) 'the data exporter' means the controller who transfers the personal data;
- (c) 'the data importer' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's

overeenstemming met zijn instructies en de voorwaarden van de bepalingen, en die niet onderworpen is aan een regeling van een derde land die passende bescherming biedt in de zin van artikel 25, lid 1, van Richtlijn 95/46/EG;

- d) wordt onder '*subverwerker*' verstaan: een verwerker die door de gegevensimporteur of een andere voor de gegevensimporteur werkende subverwerker is gecontracteerd en die overeenkomt van de gegevensimporteur of van een andere voor de gegevensimporteur werkende subverwerker persoonsgegevens te ontvangen, uitsluitend ten behoeve van de verwerkingsactiviteiten die namens de gegevensexporteur worden verricht na de doorgifte, overeenkomstig de instructies van de gegevensexporteur, de voorwaarden van de bepalingen en de voorwaarden van het schriftelijke contract inzake subverwerking;
- e) wordt onder '*toepasselijk recht inzake gegevensbescherming*' verstaan: de wettelijke bepalingen ter bescherming van de fundamentele rechten en vrijheden van personen, en met name hun recht op bescherming van de persoonlijke levenssfeer in verband met de verwerking van persoonsgegevens, die in de lidstaat van vestiging van de gegevensexporteur van toepassing zijn op een voor de verwerking verantwoordelijke;
- f) wordt onder '*technische en organisatorische beveiligingsmaatregelen*' verstaan: maatregelen die tot doel hebben persoonsgegevens te beveiligen tegen vernietiging, hetzij per ongeluk, hetzij onrechtmatig, tegen verlies, vervalsing, niet-toegelaten verspreiding of toegang, met name wanneer de verwerking de doorzending van gegevens in een netwerk omvat, dan wel tegen enige andere vorm van onwettige verwerking.

#### *Bepaling 2*

#### ***Bijzonderheden betreffende de doorgifte***

De bijzonderheden betreffende de doorgifte, met name, in voorkomend geval, de bijzondere categorieën persoonsgegevens, worden nader omschreven in aanhangsel 1, dat een integrerend deel van de bepalingen vormt.

#### *Bepaling 3*

#### ***Derdenbeding***

1. De betrokkenen kunnen deze bepaling en bepaling 4, onder b) tot en met i), bepaling 5, onder a) tot en met e) en g) tot en met j), bepaling 6, leden 1 en 2, bepaling 7, bepaling 8, lid 2, en de bepalingen 9 tot en met 12 als derde begunstigen tegenover de gegevensexporteur afdwingen.
2. De betrokkenen kunnen deze bepaling, bepaling 5, onder a) tot en met e) en onder g), bepaling 6, bepaling 7, bepaling 8, lid 2, en de bepalingen 9 tot en met 12 tegenover de gegevensimporteur afdwingen in gevallen waarin de gegevensexporteur feitelijk is verdwenen of heeft opgehouden rechtens te bestaan, tenzij een rechtsopvolger contractueel of rechtens alle wettelijke

system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

- (d) '*the 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 activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;
- (e) '*the applicable data protection law*' means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;
- (f) '*technical and organisational security measures*' means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

#### *Clause 2*

#### ***Details of the transfer***

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

#### *Clause 3*

#### ***Third-party beneficiary clause***

1. The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.
2. The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the

verplichtingen van de gegevensexporteur heeft overgenomen en daardoor de rechten en verplichtingen van de gegevensexporteur op zich neemt; in dit geval kunnen betrokkenen de genoemde bepalingen tegenover deze rechtsopvolger afdwingen.

3. De betrokkenen kunnen deze bepaling, bepaling 5, onder a) tot en met e) en onder g), bepaling 6, bepaling 7, bepaling 8, lid 2, en de bepalingen 9 tot en met 12 tegenover de subverwerker afdwingen in die gevallen waarin zowel de gegevensexporteur als de gegevensimporteur feitelijk is verdwenen, heeft opgehouden rechtens te bestaan of insolvent is geworden, tenzij een rechtsopvolger contractueel of rechtens alle wettelijke verplichtingen van de gegevensexporteur heeft overgenomen en daardoor de rechten en verplichtingen van de gegevensexporteur op zich neemt; in dat geval kunnen betrokkenen de genoemde bepalingen tegenover deze rechtsopvolger afdwingen. Deze aansprakelijkheid van de subverwerker jegens derden blijft beperkt tot de verwerkingswerkzaamheden die deze zelf heeft uitgevoerd krachtens de bepalingen.
4. De partijen verzetten zich er niet tegen dat de betrokkenen door een vereniging of andere instelling worden vertegenwoordigd, indien de betrokkenen dit uitdrukkelijk wensen en dit in het nationale recht is toegestaan.

#### *Bepaling 4*

##### *Verplichtingen van de gegevensexporteur*

De gegevensexporteur stemt ermee in en garandeert dat:

- a) de verwerking van de persoonsgegevens, met inbegrip van de doorgifte zelf, is geschied en zal blijven geschieden in overeenstemming met alle relevante bepalingen van het toepasselijke recht inzake gegevensbescherming (en, waar van toepassing, is gemeld aan de betrokken autoriteiten van de lidstaat waar de gegevensexporteur is gevestigd), en dat zij niet in strijd is met de toepasselijke bepalingen van die staat;
- b) hij de gegevensimporteur instructie heeft gegeven, en gedurende de verwerking van de persoonsgegevens zal geven, de persoonsgegevens uitsluitend namens de gegevensexporteur en in overeenstemming met het toepasselijke recht inzake gegevensbescherming en de bepalingen te verwerken;
- c) de gegevensimporteur voldoende waarborgen zal bieden ten aanzien van de technische en organisatorische beveiligingsmaatregelen die in aanhangsel 2 bij dit contract worden omschreven;
- d) deze beveiligingsmaatregelen, na een beoordeling van de vereisten van het toepasselijke recht inzake gegevensbescherming, geschikt zijn bevonden om persoonsgegevens te beschermen tegen vernietiging, hetzij bij ongeluk, hetzij onrechtmatig, tegen verlies, vervalsing, niet-toegelaten verspreiding of toegang, met name wanneer de verwerking doorzending van gegevens via een netwerk omvat, dan wel tegen enige andere vorm van onwettige

rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

3. The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
4. The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

#### *Clause 4*

##### *Obligations of the data exporter*

The data exporter agrees and warrants:

- (a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;
- (b) that it has instructed and throughout the duration of the personal data processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;
- (c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;
- (d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected

<p>verwerking, en deze maatregelen gezien de aan de verwerking en de aard van de te beschermen gegevens verbonden risico's een passend beveiligingsniveau waarborgen, gelet op de stand van de techniek en de kosten van de tenuitvoerlegging;</p> <p>e) hij op de naleving van deze beveiligingsmaatregelen zal toezien;</p> <p>f) wanneer de doorgifte bijzondere categorieën gegevens betreft, de betrokkene ervan in kennis is gesteld, of vóór of zo spoedig mogelijk na de doorgifte ervan in kennis zal worden gesteld, dat zijn gegevens kunnen worden doorgegeven naar een derde land dat geen passende bescherming biedt als bedoeld in Richtlijn 95/46/EG;</p> <p>g) hij overeenkomstig bepaling 5, onder b), en bepaling 8, lid 3, ontvangen kennisgevingen van de gegevensimporteur of een subverwerker aan de toezichhoudende autoriteit zal doorzenden, wanneer hij (dat wil zeggen de gegevensexporteur) besluit de doorgifte voort te zetten of de opschorting op te heffen;</p> <p>h) hij op verzoek een afschrift van de bepalingen ter beschikking van de betrokkene zal stellen, met uitzondering van aanhangsel 2, alsmede een beknopte beschrijving van de beveiligingsmaatregelen en een afschrift van elk contract voor subverwerkingsdiensten dat overeenkomstig de bepalingen dient te worden opgesteld; indien de bepalingen of het contract commerciële informatie bevatten, mag de gegevensexporteur deze commerciële informatie verwijderen;</p> <p>i) in geval van subverwerking de verwerkingsactiviteiten worden uitgevoerd overeenkomstig bepaling 11 door een subverwerker die ten minste hetzelfde beschermingsniveau voor de persoonsgegevens en de rechten van de betrokkenen waarborgt als de gegevensimporteur overeenkomstig deze bepalingen; en</p> <p>j) hij zal toezien op de naleving van bepaling 4, onder a) tot en met i).</p>	<p>having regard to the state of the art and the cost of their implementation;</p> <p>(e) that it will ensure compliance with the security measures;</p> <p>(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;</p> <p>(g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;</p> <p>(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;</p> <p>(i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and</p> <p>(j) that it will ensure compliance with Clause 4(a) to (i).</p>
<p style="text-align: center;"><i>Bepaling 5</i></p> <p style="text-align: center;"><b><i>Verplichtingen van de gegevensimporteur</i></b></p> <p>De gegevensimporteur stemt ermee in en garandeert dat:</p> <p>a) hij de persoonsgegevens uitsluitend namens de gegevensexporteur en in overeenstemming met diens instructies en met de bepalingen verwerkt; indien hij om welke reden dan ook daartoe niet in staat is, stemt hij ermee in de gegevensexporteur onverwijld daarvan in kennis te stellen, in welk geval de gegevensexporteur de gegevensdoorgifte mag opschorten en/of het contract mag beëindigen;</p> <p>b) hij geen reden heeft aan te nemen dat de op hem toepasselijke wetgeving hem belet de van de gegevensexporteur ontvangen instructies en zijn verplichtingen krachtens het contract na te komen, en dat hij in geval van een wijziging in deze wetgeving die in</p>	<p style="text-align: center;"><i>Clause 5</i></p> <p style="text-align: center;"><b><i>Obligations of the data importer</i></b></p> <p>The data importer agrees and warrants:</p> <p>(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;</p> <p>(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a</p>

<p>aanzienlijke mate afbreuk dreigt te doen aan de in de bepalingen opgenomen waarborgen en verplichtingen, de gegevensexporteur, zodra hij de wijziging kent, onverwijld daarvan in kennis stelt, in welk geval de gegevensexporteur de gegevensdoorgifte mag opschorten en/of het contract mag beëindigen;</p>	<p>change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;</p>
<p>c) hij de in aanhangsel 2 omschreven technische en organisatorische beveiligingsmaatregelen vóór de verwerking van de doorgegeven persoonsgegevens heeft getroffen;</p>	<p>(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;</p>
<p>d) hij de gegevensexporteur onverwijld ervan in kennis stelt wanneer:</p> <p>(i) een wetshandhavingsinstantie een juridisch bindend verzoek om verstrekking van persoonsgegevens heeft gedaan, tenzij deze kennisgeving anderszins is verboden, zoals een strafrechtelijk verbod dat ten doel heeft de vertrouwelijkheid van een wetshandhavingsonderzoek te bewaren;</p> <p>(ii) iemand per ongeluk of op ongeoorloofde wijze toegang tot de gegevens heeft gehad;</p> <p>(iii) hij van de betrokkenen rechtstreeks een verzoek heeft ontvangen, waarop hij niet ingaat, tenzij hem dit anderszins is toegestaan;</p>	<p>(d) that it will promptly notify the data exporter about:</p> <p>(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation,</p> <p>(ii) any accidental or unauthorised access, and</p> <p>(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;</p>
<p>e) hij alle vragen van de gegevensexporteur betreffende de door hem uitgevoerde verwerking van de doorgegeven persoonsgegevens zo spoedig mogelijk naar behoren beantwoordt en het advies van de toezichhoudende autoriteit volgt bij de verwerking van de doorgegeven gegevens;</p>	<p>(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;</p>
<p>f) hij op verzoek van de gegevensexporteur zijn verwerkingsvoorzieningen beschikbaar stelt voor controle van de onder deze bepalingen vallende verwerkingsactiviteiten, welke wordt uitgevoerd door de gegevensexporteur of door een controleorgaan waarvan de leden onafhankelijk zijn, over de vereiste beroepskwalificaties beschikken, tot geheimhouding verplicht zijn en door de gegevensexporteur worden aangewezen, waar van toepassing in overleg met de toezichhoudende autoriteit;</p>	<p>(f) at the request of the data exporter to submit its data processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;</p>
<p>g) hij, wanneer de betrokkene geen afschrift van de gegevensexporteur kan verkrijgen, hem op verzoek een afschrift van de bepalingen alsmede eventuele subverwerkingscontracten ter beschikking stelt, met uitzondering van aanhangsel 2 dat door een beknopte beschrijving van de beveiligingsmaatregelen wordt vervangen; indien de bepalingen of contracten commerciële informatie bevatten, mag de gegevensimporteur deze commerciële informatie verwijderen;</p>	<p>(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;</p> <p>(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;</p>
<p>h) hij, wanneer subverwerking plaatsvindt, de gegevensexporteur tevoren heeft ingelicht en diens schriftelijke toestemming heeft verkregen;</p>	<p>(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;</p>
<p>i) de verwerkingsdiensten van de subverwerker</p>	<p>(j) to send promptly a copy of any subprocessor agreement</p>

overeenkomstig bepaling 11 zullen worden uitgevoerd;

- j) hij van elk subverwerkingscontract dat hij in het kader van de bepalingen aangaat, onverwijld een afschrift doet toekomen aan de gegevensexporteur.

*Bepaling 6*

***Aansprakelijkheid***

1. De partijen komen overeen dat elke betrokkene die ten gevolge van een schending van de verplichtingen bedoeld in bepaling 3 of bepaling 11 door een partij of een subverwerker schade heeft geleden, het recht heeft van de gegevensexporteur vergoeding voor de geleden schade te ontvangen.
2. Wanneer de betrokkene geen vordering tot schadevergoeding wegens niet-nakoming door de gegevensimporteur of diens subverwerker van een van de in bepaling 3 of bepaling 11 bedoelde verplichtingen, als bedoeld in lid 1, tegen de gegevensexporteur kan instellen doordat de gegevensexporteur feitelijk is verdwenen, heeft opgehouden rechtens te bestaan of insolvent is geworden, stemt de gegevensimporteur ermee in dat de betrokkene een vordering kan instellen tegen de gegevensimporteur alsof hij de gegevensexporteur was, tenzij een rechtsopvolger contractueel of rechtens alle wettelijke verplichtingen van de gegevensexporteur heeft overgenomen, in welk geval de betrokkene zijn rechten tegenover die rechtsopvolger kan doen gelden.  
  
De gegevensimporteur kan zich niet aan zijn aansprakelijkheid onttrekken door zich te beroepen op niet-nakoming van verplichtingen door de subverwerker.
3. Wanneer de betrokkene de in lid 1 of 2 bedoelde vordering wegens niet-nakoming door de subverwerker van een van de in bepaling 3 of bepaling 11 bedoelde verplichtingen niet tegen de gegevensexporteur of de gegevensimporteur kan instellen doordat zowel de gegevensexporteur als de gegevensimporteur feitelijk is verdwenen, heeft opgehouden rechtens te bestaan of insolvent is geworden, stemt de subverwerker ermee in dat de betrokkene een vordering kan instellen tegen de subverwerker, met betrekking tot diens eigen verwerkingsactiviteiten krachtens de bepalingen, alsof deze de gegevensexporteur of de gegevensimporteur was, tenzij een rechtsopvolger contractueel of rechtens alle wettelijke verplichtingen van de gegevensexporteur of de gegevensimporteur heeft overgenomen, in welk geval de betrokkene zijn rechten tegenover die rechtsopvolger kan doen gelden. De aansprakelijkheid van de subverwerker blijft beperkt tot de verwerkingsactiviteiten die deze zelf heeft uitgevoerd krachtens de bepalingen.

*Bepaling 7*

***Bemiddeling en rechtsmacht***

1. De gegevensimporteur stemt ermee in dat, indien de betrokkene tegen hem rechten ten behoeve van derden en/of vorderingen tot schadevergoeding krachtens de

it concludes under the Clauses to the data exporter.

*Clause 6*

***Liability***

1. The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.
2. If a data subject is not able to bring a claim for compensation in accordance with paragraph 1 against the data exporter, arising out of a breach by the data importer or his subprocessor of any of their obligations referred to in Clause 3 or in Clause 11, because the data exporter has factually disappeared or ceased to exist in law or has become insolvent, the data importer agrees that the data subject may issue a claim against the data importer as if it were the data exporter, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, in which case the data subject can enforce its rights against such entity.  
  
The data importer may not rely on a breach by a subprocessor of its obligations in order to avoid its own liabilities.
3. If a data subject is not able to bring a claim against the data exporter or the data importer referred to in paragraphs 1 and 2, arising out of a breach by the subprocessor of any of their obligations referred to in Clause 3 or in Clause 11 because both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, the subprocessor agrees that the data subject may issue a claim against the data subprocessor with regard to its own processing operations under the Clauses as if it were the data exporter or the data importer, unless any successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law, in which case the data subject can enforce its rights against such entity. The liability of the subprocessor shall be limited to its own processing operations under the Clauses.

*Clause 7*

***Mediation and jurisdiction***

1. The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data



bepalingen inroept, de gegevensimporteur de beslissing van de betrokkene aanvaardt:

(a) om het geschil te onderwerpen aan bemiddeling door een onafhankelijke persoon of, waar van toepassing, door de toezichthoudende autoriteit;

(b) om het geschil voor te leggen aan een rechterlijke instantie in de lidstaat waar de gegevensexporteur is gevestigd.

2. De partijen komen overeen dat de door de betrokkene gemaakte keuze geen afbreuk doet aan diens materiële of formele rechten om op grond van andere bepalingen van nationaal of internationaal recht verhaal te zoeken.

#### *Bepaling 8*

#### ***Samenwerking met de toezichthoudende autoriteiten***

1. De gegevensexporteur stemt ermee in een afschrift van dit contract bij de toezichthoudende autoriteit neer te leggen, indien deze daarom verzoekt of indien dit krachtens het toepasselijke recht inzake gegevensbescherming vereist is.
2. De partijen komen overeen dat de toezichthoudende autoriteit bevoegd is bij de gegevensimporteur en eventuele subverwerkers een controle te verrichten die dezelfde reikwijdte heeft en aan dezelfde voorwaarden is onderworpen als die welke krachtens het toepasselijke recht inzake gegevensbescherming voor haar controle van de gegevensexporteur zouden gelden.
3. Indien er wetgeving bestaat die op de gegevensimporteur of een subverwerker van toepassing is en die de uitvoering van controles als in lid 2 bedoeld op de gegevensimporteur of een subverwerker verbiedt, stelt de gegevensimporteur de gegevensexporteur daarvan onverwijld in kennis. In een dergelijk geval mag de gegevensexporteur de in bepaling 5, onder b), bedoelde maatregelen nemen.

#### *Bepaling 9*

#### ***Toepasselijk recht***

Op de bepalingen is het recht van de lidstaat van vestiging van de gegevensexporteur van toepassing, te weten België.

#### *Bepaling 10*

#### ***Wijziging van het contract***

De partijen verbinden zich ertoe de bepalingen niet te wijzigen. Dit vormt voor de partijen geen beletsel om indien nodig bepalingen toe te voegen betreffende met de transactie verband houdende vraagstukken, mits deze niet met de modelcontractbepalingen in strijd zijn.

#### *Bepaling 11*

#### ***Subverwerking***

1. De gegevensimporteur besteedt de verwerkingsactiviteiten

importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

2. The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

#### *Clause 8*

#### ***Cooperation with supervisory authorities***

1. The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
2. The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
3. The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5 (b).

#### *Clause 9*

#### ***Governing Law***

The Clauses shall be governed by the law of the Member State in which the data exporter is established, namely Belgium.

#### *Clause 10*

#### ***Variation of the contract***

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

#### *Clause 11*

#### ***Subprocessing***

die hij overeenkomstig de bepalingen namens de gegevensexporteur uitvoert, niet uit zonder de voorafgaande schriftelijke toestemming van de gegevensexporteur. Indien de gegevensimporteur met toestemming van de gegevensexporteur zijn verplichtingen uit hoofde van de bepalingen uitbesteedt, dient hij met de subverwerker een schriftelijk contract te sluiten waarbij aan de subverwerker dezelfde verplichtingen worden opgelegd als die waaraan de gegevensimporteur uit hoofde van de bepalingen moet voldoen. Indien de subverwerker niet voldoet aan zijn verplichtingen tot gegevensbescherming uit hoofde van dat schriftelijke contract, blijft de gegevensimporteur jegens de gegevensexporteur volledig aansprakelijk voor de uitvoering van de verplichtingen van de subverwerker uit hoofde van dat contract.

2. In het tevoren tussen de gegevensimporteur en de subverwerker te sluiten schriftelijke contract dient tevens een derdenbeding te zijn opgenomen zoals vervat in bepaling 3, dat voorziet in gevallen dat de betrokkene geen vordering tot schadevergoeding als bedoeld in bepaling 6, lid 1, kan instellen tegen de gegevensexporteur of de gegevensimporteur omdat deze feitelijk zijn verdwenen, hebben opgehouden rechtens te bestaan of insolvent zijn geworden, en er geen rechtsopvolger is die contractueel of rechtens alle wettelijke verplichtingen van de gegevensexporteur of de gegevensimporteur heeft overgenomen. Deze aansprakelijkheid van de subverwerker jegens derden blijft beperkt tot de verwerkingswerkzaamheden die deze zelf heeft uitgevoerd krachtens de bepalingen.
3. Op de in lid 1 bedoelde bepalingen betreffende de gegevensbeschermingsaspecten van de subverwerking uit hoofde van het in lid 1 bedoelde contract is het recht van de lidstaat van vestiging van de gegevensexporteur van toepassing, te weten België.
4. De gegevensexporteur houdt een lijst bij van subverwerkingscontracten die krachtens de bepalingen zijn gesloten en door de gegevensimporteur overeenkomstig bepaling 5, onder j), zijn aangemeld, en werkt deze ten minste eenmaal per jaar bij. Deze lijst wordt ter beschikking gesteld van de toezichthoudende autoriteit voor gegevensbescherming die op de gegevensexporteur toezicht houdt.

#### *Bepaling 12*

#### ***Verplichting na de beëindiging van de verwerking van persoonsgegevens***

1. De partijen komen overeen dat de gegevensimporteur en de subverwerker na het beëindigen van de verlening van de gegevensverwerkingsdiensten alle doorgegeven persoonsgegevens en kopieën daarvan aan de gegevensexporteur terugbezorgen of, indien de gegevensexporteur dat verkiest, alle persoonsgegevens vernietigen en aan de gegevensexporteur verklaren dat de vernietiging heeft plaatsgevonden, tenzij de op de gegevensimporteur toepasselijke wetgeving hem verbiedt alle of een gedeelte van de doorgegeven persoonsgegevens

1. The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. 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.
2. The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
3. The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established, namely Belgium.
4. The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5 (j), which shall be updated at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

#### *Clause 12*

#### ***Obligation after the termination of personal data processing services***

1. The parties agree that on the termination of the provision of data processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the

terug te bezorgen of te vernietigen. In dat geval garandeert de gegevensimporteur dat hij de vertrouwelijkheid van de doorgegeven persoonsgegevens zal respecteren en dat hij de doorgegeven gegevens niet verder actief zal verwerken.

2. De gegevensimporteur en de subverwerker garanderen dat zij op verzoek van de gegevensexporteur en/of de toezichhoudende autoriteit hun verwerkingsvoorzieningen voor een controle van de in lid 1 bedoelde maatregelen beschikbaar zullen stellen.

TEN BLIJKE WAARVAN, de partijen door hun gemachtigde vertegenwoordigers uitvoering gegeven hebben aan de clausules, met ingang vanaf de Ingangsdatum.

**Namens de gegevensexporteur**

Naam:

Functie:

Datum:

Handtekening:

**Namens de gegevensimporteur**

Naam: Gene D. Levoff

Functie: Adjunct Secretaris

Datum: 22-3-16

Handtekening:

**AANHANGSEL 1 BIJ DE  
MODELCONTRACTBEPALINGEN**

**Gegevensexporteur**

De gegevensexporteur is een entiteit die onderwijs, instructies en andere informatiediensten aanbiedt aan studenten en andere burgers.

**Gegevensimporteur**

De gegevensimporteur biedt informaticasystemen en technologiediensten aan.

**Betrokkenen**

De doorgegeven persoonsgegevens betreffen de volgende categorieën betrokkenen:

confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

2. The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data processing facilities for an audit of the measures referred to in paragraph 1.

IN WITNESS WHEREOF, the Parties have caused the Clauses to be executed by their duly authorised representatives with effect as of the Effective Date.

**On behalf of the data exporter:**

Name:

Position:

Date:

Signature:

**On behalf of the data importer:**

Name: Gene D. Levoff

Position: Assistant Secretary

Date: 22-3-16

Signature:

**APPENDIX 1 TO THE STANDARD CONTRACTUAL  
CLAUSES**

**Data exporter**

The data exporter is an entity that provides education, instruction and other information services to students and other members of the public.

**Data importer**

The data importer provides information system and technology services.

**Data subjects**

- studenten
- leerkrachten
- werknemers van onderwijsinstellingen

**Categorieën gegevens**

De doorgegeven persoonsgegevens betreffen de volgende categorieën gegevens:

- persoonlijke informatie zoals accountgegevens, naam en achternaam en opleidingsniveau waaronder huiswerk, gegevens die tijdens onderwijsactiviteiten worden verzameld met betrekking tot scores en discussies .

**Bijzondere Categorieën gegevens**

Geen

**Verwerking**

De doorgegeven persoonsgegevens zullen de volgende basisverwerkingen ondergaan:

- in het kader van de aanbidding van informaticasystemen en technologiediensten zullen persoonlijke gegevens verwerkt worden. Zulke verwerking zal data warehousing, gegevensverwerking, data mining en andere beperkte hiermee verbonden diensten volgens de instructies van de gegevensexporteur inhouden

**GEGEVENSEXPORTEUR**

Naam:

Datum:


Handtekening:

**GEGEVENSIMPORTEUR**

Naam: Apple Inc

Door: Gene D. Levoff, Assistant Secretary

Datum: 22-3-14

Handtekening: 

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

- students
- teachers
- employees of educational institutions

**Categories of data**

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.

**Special categories of data**

None

**Processing operations**

The personal data transferred will be subject to the following basic processing activities:

- Personal data shall be processed in the context of the provision of information system and technology services, and such processing shall include data warehousing, data processing and data mining, and other limited related services under the instructions of the data exporter

**DATA EXPORTER**

Name:

Date:

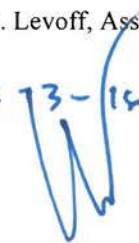
Signature:

**DATA IMPORTER**

Name: Apple Inc.

By: Gene D. Levoff, Assistant Secretary

Date: 22 3 - 14

Signature: 

**AANHANGSEL 1 BIJ DE  
MODELCONTRACTBEPALINGEN**

**Beschrijving van de technische en organisatorische beveiligingsmaatregelen die door de gegevensimporteur overeenkomstig bepaling 4, onder d), en bepaling 5, onder c), zijn getroffen (of bijgevoegd(e) document/wettelijke regeling):**

Gegevensimporteur zal een volledig en actueel programma voor de bescherming en veiligheid van Persoonsgegevens implementeren om een gepaste bescherming van de Persoonsgegevens te waarborgen tegen accidentele of onwettige vernietiging of toevallig verlies, verandering, ongeoorloofde openbaarmaking of toegang, in het bijzonder wanneer de verwerking de verzending van de Persoonsgegevens over een netwerk inhoudt, en tegen alle andere wettige vormen van verwerking.

Gegevensimporteur verbindt zich ertoe commercieel redelijke inspanningen te leveren om:

- te verhinderen dat onbevoegden toegang verkrijgen tot de faciliteiten die voor gegevensbescherming worden gebruikt (toezicht op toegang tot faciliteiten);
- te verhinderen dat informatiedragers door onbevoegden gelezen, gekopieerd, aangepast of verplaatst worden (toezicht op informatiedragers);
- te verhinderen dat enige ongeoorloofde informatie in het informaticasysteem wordt ingevoerd, alsook om ongeoorloofde kennisname, aanpassing of verwijdering van de opgenomen gegevens te verhinderen (toezicht op geheugen);
- te garanderen dat de bevoegde personen, wanneer zij een automatisch gegevensverwerkingsysteem gebruiken, enkel toegang kunnen krijgen tot die gegevens waarvoor zij bevoegd zijn (toezicht op toegang);
- het nazicht en de registratie te garanderen van de identiteit van derden naar wie de gegevens door middel van verzendingsinstrumenten verstuurd kunnen worden (toezicht op verzending);
- te garanderen dat de identiteit van alle personen die tot het informaticasysteem toegang hebben of hadden en de gegevens die in het systeem ingevoerd zijn, op elk moment en door de relevante personen achteraf (*ex post facto*) nagekeken en geregistreerd kunnen worden, (toezicht op invoering);
- te verhinderen dat gegevens die zijn vrijgegeven en informatiedragers die worden vervoerd op een ongeoorloofde manier gelezen, gekopieerd, aangepast of verwijderd zouden worden (toezicht op transport); en
- de gegevens te vrijwaren door het reserve kopies te maken (toezicht op beschikbaarheid).

De bovenstaande technische en organisatorische maatregelen zijn onderhevig aan technische vooruitgang, organisatorische veranderingen, en andere ontwikkelingen en de Gegevensimporteur kan passende alternatieve maatregelen treffen op voorwaarde dat deze maatregelen niet afwijken van het beschermingsniveau dat contractueel is overeengekomen.

**APPENDIX 2 TO THE STANDARD CONTRACTUAL  
CLAUSES**

**Description of the technical and organisational security measures implemented by the data importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):**

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 unauthorised 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 (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.

GEGEVENSEXPORTEUR

Naam:

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GEGEVENSIMPORTEUR

Naam: Apple Inc

Door: Gene D. Levoff, Assistant Secretary

Datum: 22-3-14

Handtekening:



DATA EXPORTER

Name:

Date:

Signature:

DATA IMPORTER

Name: Apple Inc.

By: Gene D. Levoff, Assistant Secretary

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