

APPLE PAYMENTS INC.  
PURCHASE AGREEMENT  
PURCHASE ORDER TERMS AND CONDITIONS

THIS PURCHASE AGREEMENT (the "**Agreement**") sets forth the terms and conditions that apply to all purchases of goods and services by Apple from Seller by means of a purchase order (a "**PO**") issued by Apple to Seller. As used in this Agreement, "**Seller**" means the entity identified on the face of a PO as "Seller" and its subsidiaries and affiliates, and "**Apple**" means Apple Payments Inc. Seller and Apple hereby agree as follows:

1. **SERVICES & DELIVERABLES.** Seller agrees to perform the services ("**Services**") and/or provide the software (including all updates, revisions, error corrections, and subsequent versions thereof, "**Software**"), materials, equipment, hardware, goods, or deliverables described in a PO (collectively referred to as "**Goods**"), in accordance with the terms and conditions in this Agreement and the terms and conditions on the face of the PO, which terms are incorporated herein by reference. Upon acceptance of a PO, shipment of Goods or commencement of Services, Seller shall be bound by the provisions of this Agreement, whether Seller acknowledges or otherwise signs this Agreement or the PO, unless Seller objects to such terms in writing prior to shipping Goods or commencing Services. A PO does not constitute a firm offer and may be revoked at any time prior to acceptance. This Agreement may not be added to, modified, superseded, or otherwise altered, except by a writing signed by an authorized Apple representative. Any terms or conditions contained in any acknowledgment, invoice, or other communication of Seller which are inconsistent with the terms and conditions of this Agreement, are hereby rejected. To the extent that a PO might be treated as an acceptance of Seller's prior offer, such acceptance is expressly made on condition of assent by Seller to the terms hereof and shipment of the Goods or beginning performance of any Services by Seller shall constitute such assent. Apple hereby reserves the right to reschedule any delivery or cancel any PO issued at any time prior to shipment of the Goods or prior to commencement of any Services. Apple shall not be subject to any charges or other fees as a result of such cancellation. All shrink-wrap, click-wrap, browse-wrap, and similar terms accompanying any Software, and any online terms of use, terms of service, or similar terms relating to Services, are expressly rejected by Apple and are null and void. The terms of this Agreement shall prevail over all other such terms and conditions.

2. **DELIVERY.** Time is of the essence. Delivery of Goods shall be made pursuant to the schedule, via the carrier, and to the place specified on the face of the applicable PO. Apple reserves the right to return, shipping charges collect, all Goods received in advance of the delivery schedule. If no delivery schedule is specified, the order shall be filled promptly and delivery will be made by the most expeditious form of transportation by land or sea. If no carrier is specified in the PO, Seller shall use the least expensive carrier. In the event Seller fails to deliver the Goods within the time specified, Apple may, at its option, decline to accept the Goods and cancel the PO without liability or may demand its allocable fair share of Seller's available Goods and cancel the balance of the PO without liability. Seller shall package all items in suitable containers to permit safe transportation and handling. Each delivered container must be labeled and marked to identify contents without opening and all boxes and packages must contain packing sheets listing contents. Apple's PO number must appear on all shipping containers, packing sheets, delivery tickets, and bills of lading. Seller will clearly identify the country of origin of all Goods delivered and will indemnify Apple with respect to any expenses, duties, penalties, damages, settlements, costs or attorney's fees incurred by Apple in connection with Seller's failure to identify or misidentification of the country of origin.

3. **IDENTIFICATION, RISK OF LOSS, & DESTRUCTION OF GOODS.** Identification of the Goods shall occur in accordance with Section 2501 of the California Commercial Code. Seller assumes all risk of loss until title transfers to Apple. Title to the Goods shall pass to Apple upon receipt by it of the Goods at the designated destination; provided, however, that if the designated destination is a warehouse operated by Seller or a third-party on Seller's behalf (a "**Hub**"), even if located on Apple's premises, receipt by Apple shall occur, and risk of loss and title shall transfer to Apple, when they are physically delivered to Apple and withdrawn from the Hub. If the Goods ordered are destroyed prior to title passing to Apple, Apple may at its option cancel the applicable PO without liability or require delivery of substitute Goods of equal quantity and quality. Such delivery will be made as soon as commercially practicable. If loss of Goods is partial, Apple shall have the right to require delivery of the Goods not destroyed.

4. **PAYMENT.**

4.1. As full consideration for the performance of the Services, delivery of the Goods and the assignment of rights to Apple as provided in this Agreement, Apple shall pay Seller (i) the amount agreed upon and specified in the applicable PO, or (ii) Seller's quoted price on date of shipment (for Goods), or the date Services were started (for Services), whichever is lower; provided, however, that if the designated destination for Goods is a Hub Apple shall pay Seller (a) the amount agreed upon and specified in the applicable PO, or (b) Seller's quoted price on the date such Goods are physically delivered to Apple and withdrawn from the Hub, whichever is lower. Applicable taxes and other charges such as shipping costs, duties, customs, tariffs, imposts, and government-imposed surcharges shall be stated separately on Seller's invoice. Payment is made when Apple's check is mailed. Payment shall not constitute acceptance. All duties and taxes assessable upon the Goods prior to receipt by Apple of Goods conforming to the PO shall be borne by Seller. Seller shall invoice Apple for all Goods delivered and all Services actually performed. Each invoice submitted by Seller must be provided to Apple within ninety (90) days of completion of the Services or delivery of Goods and must reference the applicable PO, and Apple reserves the right to return all incorrect invoices. Apple will receive a 2% discount of the invoiced amount for all invoices that are submitted more than ninety (90) days after completion of the Services or delivery of the Goods. Unless otherwise specified on the face of a PO, Apple shall pay the invoiced amount within forty-five (45) days after receipt of a correct invoice. Seller will receive no royalty or other remuneration on the production or distribution of any products developed by Apple or Seller in connection with or based on the Goods or Services provided.

4.2. If Apple disputes the accuracy of an invoice (a "**Billing Dispute**"), Apple will not later than thirty (30) days following the date of such invoice, notify Seller in writing of the nature of the Billing Dispute. Apple may withhold payment of the disputed amount and such payment will not be considered past due during Seller's investigation. Seller will make commercially reasonable efforts to completely resolve the Billing Dispute within thirty (30) days following the date on which Seller received Apple's initial billing inquiry. If the parties are unable to resolve the Billing Dispute within such thirty (30) day period, it will be resolved pursuant to Section 28 below.

4.3. Seller shall maintain written or electronic records reflecting the basis for any charges billed in connection with a PO for five (5) years after Seller's receipt of Apple's final payment with respect to the PO. Apple shall have the right, but not the obligation, at any time or from time to time, during regular business hours, upon not less than twenty-four (24) hours notice to Seller, to inspect, audit or examine Seller's operations, records, systems and facilities to determine Seller's and any sub-contractor's compliance with the PO and the basis for any amounts billed to Apple. Any such inspection, examination, and/or audit shall not (i) relieve Seller of any obligation, responsibility or liability, or (ii) constitute Apple's approval of or consent to any actions undertaken or methods, systems and/or procedures used by Seller. Any inspection, examination and/or audit that Apple may perform shall be for Apple's sole benefit. If any such audit discloses any overcharges, Seller shall, on demand, pay Apple the amount of such overcharges, together with interest on such overcharges at the rate of ten percent (10%) per annum, or the maximum amount allowed by law, whichever is less, from the date of each such overcharge, until reimbursed to Apple. If any such audit discloses overcharges, in addition to any amounts to which Apple may be entitled, Seller shall, on demand, reimburse Apple for all costs and expenses incurred by Apple in connection with such audit.

## 5. WARRANTIES.

5.1. Services. Seller represents and warrants that all Services shall be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good, and sound professional procedures. Further, Seller represents and warrants that the Services shall be completed in accordance with applicable specifications and any statements of work signed by an authorized representative of Apple and shall be correct and appropriate for the purposes stated therein. Seller represents and warrants that the performance of Services under this Agreement will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction to which Seller is bound.

5.2. Goods. Seller warrants that it has good and transferable title to the Goods and that all Goods provided will be new and will not be used or refurbished. Seller warrants that all Goods delivered shall be free from all defects and shall conform to all applicable specifications and any statements of work signed by an authorized representative of Apple for a period of fifteen (15) months from the date of delivery to Apple or for the period provided in Seller's standard warranty covering the Goods, whichever is longer. Seller hereby agrees that it will make spare parts available to Apple for a period of seven (7) years from the date of shipment at Seller's then current price, less applicable discounts. Additionally, Goods purchased shall be subject to all written and oral express warranties made by Seller's agents, and

to all warranties provided for by the California Commercial Code. All warranties shall be construed as conditions as well as warranties and shall not be exclusive. Seller shall furnish to Apple Seller's standard warranty and service guaranty applicable to the Goods. All warranties shall run both to Apple and to its customers. If Apple identifies a warranty problem with the Goods during the warranty period, Apple will promptly notify Seller of such problems and will return the Goods to Seller, at Seller's expense. Within five (5) business days of receipt of the returned Goods, Seller shall, at Apple's option, either repair or replace such Goods, or credit Apple's account for the same. Replacement and repaired Goods shall be warranted for the remainder of the warranty period or six (6) months, whichever is longer.

6. **INSPECTION.** Apple shall have a reasonable time after receipt of Goods or Service deliverables and before payment to inspect them for conformity to the PO and applicable specifications and any statements of work signed by an authorized representative of Apple, and Goods received prior to inspection shall not be deemed accepted until Apple has run adequate tests to determine whether the Goods conform thereto. Use of a portion of the Goods for the purpose of testing shall not constitute an acceptance of the Goods. If Goods tendered do not wholly conform with the provisions hereof, Apple shall have the right to reject such Goods. Nonconforming Goods will be returned to Seller freight collect and risk of loss will pass to Seller upon Apple's delivery to the common carrier.

7. **INDEPENDENT CONTRACTOR.** Apple is interested only in the results obtained under this Agreement; the manner and means of achieving the results are subject to Seller's sole control. Seller is an independent contractor for all purposes, without express or implied authority to bind Apple by contract or otherwise. Neither Seller nor its employees, agents or subcontractors ("**Seller Parties**") are agents or employees of Apple, and therefore are not entitled to any employee benefits of Apple, including but not limited to, any type of insurance. Seller shall be responsible for all costs and expenses incident to performing its obligations under this Agreement and shall provide Seller's own supplies and equipment. Apple may require a background check of any of Seller Parties who perform Services on Apple premises, and Seller hereby agrees to conduct such investigation in accordance with background check standards to be provided by Apple, and shall at all times comply with all laws and regulations applicable to background investigations. Apple shall keep the results of any such investigation confidential, and provide such information only to those persons with a business need to know, or as required by applicable law. Seller Parties shall observe the working rules of all Apple premises when on such premises. Apple reserves the right to prohibit any Seller Parties from performing Services on Apple's premises.

8. **SELLER RESPONSIBLE FOR TAXES AND RECORDS.** Except as otherwise required by applicable law, Apple shall have no responsibility to pay or withhold from any payment to Seller under this Agreement, any federal, state, or local taxes or fees. Seller shall be liable for any applicable income taxes, levies, duties, costs, charges, withholdings, deductions or any charges of equivalent effect imposed on, or in respect of the Services provided by Seller to Apple under this Agreement. Where applicable, Seller will charge Apple sales tax, excise tax, use tax, value added tax ("**VAT**"), goods and services tax ("**GST**"), consumption tax, or equivalent type charges (hereinafter "**Transaction Taxes**") that are owed by Apple solely as a result of the Services provided by Seller to Apple under this Agreement and which are required or permitted to be collected from Apple by Seller under applicable law. If Apple provides Seller with a valid exemption certificate, Seller shall not collect the Transaction Taxes covered by such certificate. All charges will be supported by valid tax invoices provided by Seller to Apple consistent with the applicable EU invoicing directive or comparable authority of the relevant jurisdiction. Where any relevant taxation authority imposes any income tax on the payment for Services by Apple to Seller and requires Apple to withhold such tax ("**Withholding Tax**"), Apple may deduct such Withholding Tax from the payment to Seller and remit such Withholding Tax to the relevant taxing authority on behalf of Seller. The determination of the applicability of a Withholding Tax is at Apple's sole discretion. In the event a reduced Withholding Tax rate may apply on payments to Seller, Seller shall furnish to Apple as soon as practicable all documentation necessary to evidence the qualifications for the reduced rate of Withholding Tax. If the necessary documentation is not provided in a timely fashion before payment, the reduced Withholding Tax rate will not apply and any payments to Seller shall be subject to the full rate of Withholding Tax. Upon reasonable request by Seller, Apple shall furnish Seller with tax receipts or other documentation evidencing the payment of such Withholding Tax when available. Upon request, Seller shall provide Apple with a validly executed U.S. Internal Revenue Service form to establish its U.S. or non-U.S. status or any other necessary tax documentation. Where applicable, a non-U.S. Seller shall note, on each invoice issued to Apple under this Agreement, the amount of Services performed by Seller within the United States, if any.

9. INSURANCE. Seller shall be solely responsible for maintaining and requiring Seller Parties to maintain such adequate health, auto, workers' compensation, unemployment compensation, disability, liability, and other insurance, as is required by law or as is the common practice in Seller's and Seller Parties' trades or businesses, whichever affords greater coverage. Upon request, Seller shall provide Apple with certificates of insurance or evidence of coverage before commencing performance under this Agreement. Seller shall provide adequate coverage for any Apple property under the care, custody or control of Seller or Seller Parties.

10. INDEMNITY. Seller shall indemnify, hold harmless, and at Apple's request, defend Apple, its officers, directors, customers, agents and employees, against all claims, liabilities, damages, losses, and expenses, including attorneys' fees, interest, and cost of suit arising out of or in any way connected with the Goods or Services provided pursuant to a PO, including, without limitation, (i) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean up costs, (ii) Seller failing to satisfy the Internal Revenue Service's guidelines for an independent contractor, (iii) any claim based on the negligence, omissions, or willful misconduct of Seller or any of Seller Parties, (iv) Seller failing to satisfy its obligations with regard to the protection of Confidential Data as described in Section 11 below, (v) the failure of Seller or any Seller Parties to comply with a requirement of applicable law, including but not limited to, those relevant to the payment of any wages and/or any other compensation, or statutory benefits of employment, including but not limited to, Workers' Compensation insurance, and/or for statutory penalties and/or interest, and (vi) any claim by a third party against Apple alleging that the Goods or Services, the results of such Services, or any other products or processes provided pursuant to a PO, infringe a patent, copyright, trademark, trade secret, or other proprietary right of a third party, whether such are provided alone or in combination with other products, software, or processes. Seller shall not settle any such suit or claim without Apple's prior written approval. Seller agrees to pay or reimburse all costs that may be incurred by Apple in enforcing this indemnity, including attorneys' fees. Should the use of any Goods or Services by Apple, its distributors, subcontractors, or customers be enjoined, be threatened by injunction, or be the subject of any legal proceeding, Seller shall, at its sole cost and expense, either (a) substitute fully equivalent non-infringing Goods or Services; (b) modify the Goods or Services so that they no longer infringe but remain fully equivalent in functionality; (c) obtain for Apple, its distributors, subcontractors, or customers the right to continue using the Goods or Services; or (d) if none of the foregoing is possible, refund all amounts paid for the infringing Goods or Services.

#### 11. CONFIDENTIALITY; PERSONAL DATA; DATA SECURITY.

11.1 Confidentiality. Seller may acquire knowledge of Apple Confidential Information (as defined below) in connection with its performance hereunder and agrees to keep such Apple Confidential Information in confidence during and following termination or expiration of this Agreement. "**Apple Confidential Information**" includes but is not limited to all information, whether written or oral, in any form, including without limitation, information relating to the research, development, products, methods of manufacture, trade secrets, business plans, customers, vendors, finances, personnel data, Work Product (as defined in Section 12, below), and other material or information considered proprietary by Apple relating to the current or anticipated business or affairs of Apple which is disclosed directly or indirectly to Seller. In addition, Apple Confidential Information means any third party's proprietary or confidential information disclosed to Seller in the course of providing Services or Goods to Apple. Apple Confidential Information does not include any information (i) which Seller lawfully knew without restriction on disclosure before Apple disclosed it to Seller, (ii) which is now or becomes publicly known through no wrongful act or failure to act of Seller, (iii) which Seller developed independently without use of the Apple Confidential Information, as evidenced by appropriate documentation, or (iv) which is hereafter lawfully furnished to Seller by a third party as a matter of right and without restriction on disclosure. In addition, Seller may disclose Apple Confidential Information that is required to be disclosed pursuant to a requirement of a government agency or law so long as Seller provides prompt notice to Apple of such requirement prior to disclosure. Seller agrees not to copy, alter, or directly or indirectly disclose any Apple Confidential Information. Additionally, Seller agrees to limit its internal distribution of Apple Confidential Information to Seller Parties who have a need to know, and to take steps to ensure that the dissemination is so limited, including the execution by Seller Parties of nondisclosure agreements with provisions substantially similar to those set forth in this Agreement. In no event will Seller use less than the degree of care and means that it uses to protect its own information of like kind, but in any event not less than reasonable care to prevent the unauthorized use of Apple Confidential Information. Seller further agrees not to use the Apple Confidential Information except in the course of performing hereunder and will not use such Apple Confidential Information for its own benefit or for the benefit of

any third party. The mingling of the Apple Confidential Information with information of Seller shall not affect the confidential nature or ownership of the same as stated hereunder. Seller agrees not to design or manufacture any products incorporating Apple Confidential Information without Apple's express written consent in each instance. All Apple Confidential Information is and shall remain Apple property. Upon Apple's written request or the termination of this Agreement, Seller shall return, transfer, or assign to Apple all Apple Confidential Information, including all Work Product.

11.2 Protection of Personal Data. As a result of this Agreement, Seller and Seller Parties may obtain certain information relating to identified or identifiable individuals ("**Personal Data**"), including but not limited to, from Apple on Apple's or its affiliate(s)' behalf and/or from Apple affiliates located in any jurisdiction. Seller shall have no right, title or interest in Personal Data obtained by it as a result of this Agreement. The details of the type of Personal Data and categories of data subjects shall be determined in a PO, statements of work or other contractual instruments executed in connection with this Agreement.

Seller may only disclose Personal Data to third parties (including Seller Parties), who have a need to know and have signed agreements that require them to protect Personal Data in the same manner as detailed in this Agreement. Seller shall not engage any third party to perform any portion of the Services if such party may obtain or otherwise process Personal Data, without Apple's prior written consent. Notwithstanding such consent, Seller shall not be relieved of any obligations under this Section and shall remain solely liable to Apple if the third party fails to fulfil its obligations with respect to Personal Data.

Seller and Seller Parties shall: (i) comply with Apple's or its affiliate's reasonable instructions regarding Personal Data, unless otherwise required by applicable law, in which case, Seller shall promptly notify Apple of the applicable legal requirement before processing Personal Data, unless such applicable legal requirement prohibits such notification for public interest reasons; (ii) immediately inform Apple if, in its opinion, an instruction from Apple infringes Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 or other applicable data protection laws; (iii) collect, access, maintain, use, process and transfer Personal Data solely for the purpose of performing Seller's obligations under this Agreement; (iv) comply with all applicable laws, regulations and international accords or treaties pertaining to Personal Data; (v) take all appropriate legal, organizational and technical measures to protect against unlawful and unauthorized processing of Personal Data; and (vi) promptly notify Apple's Privacy Counsel at [privacy\\_notifications@apple.com](mailto:privacy_notifications@apple.com) if it receives any requests from an individual with respect to Personal Data, including but not limited to, "opt-out" specifications, information access requests, information rectification requests and all like requests. Seller shall work with Apple to promptly and effectively handle such requests with respect to Personal Data, and only respond to any such requests if expressly authorized to do so by Apple.

If Personal Data is transferred from the European Economic Area or Switzerland to or by Seller and/or Seller Parties, as processor and/or sub-processor, to a jurisdiction which the European Commission or, where relevant, the Swiss Federal Data Protection and Information Commissioner, have not determined as ensuring an adequate level of protection of personal data, then Seller shall either: (a) subscribe to the appropriate legal instruments for the international transfer of data (such as the EU-U.S. Privacy Shield Framework); or (b) execute: (1) the Standard Contractual Clauses as approved by the European Commission; and (2) where relevant, the Swiss Transborder Data Flow Agreement; or (c) execute mutually agreeable contractual instruments or Binding Corporate Rules (BCR) as such BCR are approved by the relevant supervisory authority.

Seller shall be liable for the damage caused to any individual as a result of Seller's processing of Personal Data, where Seller has not complied with its obligations under this Section or any applicable laws, regulations and international accords or treaties pertaining to Personal Data, or where it has acted outside or contrary to lawful instructions from Apple.

11.3 Data Security. Seller shall take all appropriate legal, organizational and technical measures to protect against unlawful and unauthorized processing of Personal Data or Apple Confidential Information ("**Confidential Data**"). Seller shall maintain reasonable operating standards and security procedures, and shall use its best efforts to secure Confidential Data through the use of appropriate physical and logical security measures including, but not limited to, appropriate network security and encryption technologies, and the use of reasonable user identification or password control requirements, including multiple-factor authentication, strong passwords, session time-outs, and other security

procedures as may be issued from time to time by Apple. If requested by Apple at any time during the term of this Agreement, Seller shall provide Apple with a copy of Seller's then current security policy. Seller shall promptly notify Apple if Seller knows or has reason to believe there has been any misuse, compromise, loss, or unauthorized disclosure or acquisition of, or access to, Confidential Data ("**Information Security Breach**"). Upon any discovery of an Information Security Breach, Seller will investigate, remediate, and mitigate the effects of the Information Security Breach, and provide Apple with assurances reasonably satisfactory to Apple that such Information Security Breach will not recur. Seller shall provide at Apple's request information related to any such Information Security Breach, including but not limited to, vulnerabilities or flaws, start or end date, date of discovery, and specific actions taken to contain and/or mitigate. If any Information Security Breach occurs as a result of an act or omission of Seller or Seller Parties, Seller will, at Seller's sole expense, undertake remedial measures (including notice, credit monitoring services, fraud insurance and the establishment of a call center to respond to customer inquiries) in accordance with Apple's instructions.

11.4 Assistance. Seller shall provide Apple with reasonable assistance and support and shall act solely at Apple's direction in (i) responding to an investigation or cooperation request by a data protection regulator or similar authority; (ii) providing notice of an Information Security Breach to any third party where required or requested by Apple; (iii) conducting legally required privacy, security, or data protection impact assessments; and (iv) consulting with the relevant authorities when required in relation to such impact assessments.

11.5 Return or Destruction of Confidential Data. Upon termination of this Agreement for any reason, Seller shall promptly contact Apple for instructions regarding the return, destruction or other appropriate action with regard to Confidential Data. Upon termination of this Agreement for any reason, or at any time at the request of Apple, Seller shall: (i) return all Confidential Data to Apple, including but not limited to all paper and electronic files, materials, documentation, notes, plans, drawings, and all copies thereof, and ensure that all electronic copies of such Confidential Data are deleted from Seller's (and where applicable, its Subcontractors') systems; or (ii) if requested by Apple in writing, promptly destroy, delete and render unrecoverable all tangible and electronic instances of Confidential Data from Seller's (and where applicable, its Subcontractors') systems, all in accordance with the National Institute of Standards and Technology (NIST) Guidelines for Media Sanitization. If requested by Apple, Seller shall provide Apple with written confirmation of its compliance with the requirements of this Section.

11.6 Notification of Non-Compliance. If Seller is unable to comply with the obligations stated in this Section, Seller shall promptly notify Apple, and Apple may take any one or more of the following actions: (i) suspend the transfer of Confidential Data to Seller; (ii) require Seller to cease processing Confidential Data; (iii) demand the secure return or destruction of Confidential Data; and/or (iv) immediately terminate this Agreement.

11.7 Seller shall make available to Apple all information necessary to demonstrate compliance with the obligations of this Section and all applicable laws, regulations and international accords or treaties pertaining to Personal Data; and acknowledges and agrees that Apple or an Apple-appointed third-party (collectively, "Monitor") has the right, for the purpose of verifying compliance with the requirements of this Section, to review the systems, records and/or facilities of Seller and Seller's subcontractors and affiliates that provide goods and/or services related to or involving the processing, transport or storage of Confidential Data. Apple will announce its intent to review Seller in accordance with this Section by providing at least five (5) business days' notice to Seller. Seller will provide Monitor with access to its site, systems and records as reasonably necessary to assess compliance with the requirements of this Section. At Apple's reasonable request, Seller will provide Monitor with a personal site guide while on-site. Seller will make available to Monitor, for in-person or phone interviews, any Seller employees and/or contractors for the provision of information and cooperation related to the verification hereunder. Such verification will be at Apple's expense, unless it reveals material non-compliance with the requirements of this Section, in which case the cost will be borne by Seller.

12. OWNERSHIP OF WORK PRODUCT. For purposes of this Agreement, "**Work Product**" includes, without limitation, all designs, discoveries, creations, works, devices, masks, models, work in progress, Service deliverables, inventions, products, computer programs, procedures, improvements, developments, drawings, notes, documents, information and materials made, conceived, or developed by Seller, alone or with others, which result from or relate to the Services performed pursuant to a PO, and all copies thereof. Standard Goods manufactured by Seller and sold to Apple without having been designed, customized, or modified for Apple do not constitute Work Product. All Work Product shall at all times be and remain the sole and exclusive property of Apple. Seller hereby agrees to irrevocably assign and transfer to Apple and does hereby assign and transfer to Apple all of its worldwide right, title, and interest

in and to the Work Product including all associated intellectual property rights. Apple will have the sole right to determine the treatment of any Work Product, including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name, or to follow any other procedure that Apple deems appropriate. Seller agrees: (a) to disclose promptly in writing to Apple all Work Product in its possession; (b) to assist Apple in every reasonable way, at Apple's expense, to secure, perfect, register, apply for, maintain, and defend for Apple's benefit all copyrights, patent rights, mask work rights, trade secret rights, and all other proprietary rights or statutory protections in and to the Work Product in Apple's name as it deems appropriate; and (c) to otherwise treat all Work Product as Apple Confidential Information as described above. These obligations to disclose, assist, execute, and keep confidential survive the expiration or termination of this Agreement. All tools and equipment supplied by Apple to Seller shall remain the sole property of Apple. Seller will ensure that Seller Parties appropriately waive any and all claims and assign to Apple any and all rights or any interests in any Work Product or original works created in connection with this Agreement. Seller irrevocably agrees not to assert against Apple or its direct or indirect customers, assignees, or licensees any claim of any intellectual property rights of Seller affecting the Work Product. Apple will not have rights to any works conceived or reduced to practice by Seller which were developed entirely on Seller's own time without using equipment, supplies, facilities, or trade secret or Apple Confidential Information, unless (i) such works relate to Apple's business, or Apple's actual or demonstrably anticipated research or development, or (ii) such works result from any Services performed by Seller for Apple.

### 13. ANTI-CORRUPTION.

13.1 Seller shall comply with, and shall ensure that all Seller Parties comply with Apple's Anti-Corruption Policy as posted on Apple's public website, and with all applicable laws and regulations 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 or services will be conducted or performed pursuant to this Agreement. Seller shall not, and shall ensure that Seller Parties do not, either directly or indirectly, pay, offer, promise to pay, or give anything of value (including any amounts paid or credited by Apple to Seller) to any person including an employee or official of a government, government controlled enterprise or company, or political party, with the reasonable knowledge that it will be used for the purpose of obtaining any improper benefit or to improperly influence any act or decision by such person or for the purpose of obtaining, retaining, or directing business. Any amounts paid by Apple to Seller or Seller Parties pursuant to the terms of this Agreement will be for services actually rendered, or products sold, in accordance with the terms of this Agreement. Seller shall not, and shall ensure that Seller Parties do not, offer or accept bribes or kickbacks in any form.

13.2 Disclosure of Government Related Parties. Seller and Seller Parties represents and warrants that they have, to the best of the Seller's and Seller's Affiliate's knowledge and to the extent permitted by law, provided Apple with complete and accurate information regarding any majority owner, partner, officer, director, manager of Seller or Seller Parties, or any other party who is authorized to conduct business on behalf of Seller or Seller Parties (collectively, "**Seller Authorized Parties**") that is, has been or will become, an official or employee of a governmental entity or political party or a candidate for political office (each, a "**Government Related Party**"). If at any time during the term of this Agreement, Seller or Seller Parties becomes aware, or otherwise has reason to believe, that any Seller Authorized Party is, has been or will become, a Government Related Party, then, to the extent permissible by law, Seller shall promptly notify Apple.

14. NO GRATUITIES. Seller shall not, and shall ensure that Seller Parties do not, either directly, or indirectly, offer or give any person or entity any gift, gratuity, payment or other inducement with a view toward securing business from Apple or influencing the terms, conditions or performance of this Agreement or any PO.

15. TERMINATION. Apple may terminate this Agreement upon written notice to Seller if Seller fails to perform or otherwise breaches this Agreement, files a petition in bankruptcy, becomes insolvent, or dissolves. In the event of such termination, Apple shall pay Seller for the portion of the Services satisfactorily performed and those conforming Goods delivered to Apple through the date of termination, less appropriate offsets, including any additional costs to be incurred by Apple in completing the Services. Apple may terminate this Agreement for any other reason upon ten

(10) days' written notice to Seller. Seller shall cease to perform Services and/or provide Goods under this Agreement on the date of termination specified in such notice. In the event of such termination, Apple shall be liable to Seller only for those Services satisfactorily performed and those conforming Goods delivered to Apple through the date of termination, less appropriate offsets. Seller may terminate this Agreement upon written notice to Apple if Apple fails to pay Seller within sixty (60) days after Seller notifies Apple in writing that payment is past due. Upon the expiration or termination of this Agreement for any reason: (i) each party will be released from all obligations to the other arising after the date of expiration or termination, except for those which by their terms survive such termination or expiration; and (ii) Seller will promptly notify Apple of all Apple Confidential Information or any Work Product in Seller's possession and, at the expense of Seller and in accordance with Apple's instructions, will promptly deliver to Apple all such Apple Confidential Information and/or Work Product.

16. SURVIVAL OF OBLIGATIONS. Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

17. FORCE MAJEURE. Neither party will be liable for any failure to perform, including failure to accept performance of Services or take delivery of the Goods as provided, caused by circumstances beyond its reasonable control including, but not limited to, acts of God, acts of war, government action or accident, provided it promptly notifies the other party and uses reasonable efforts to correct its failure to perform.

18. SEVERABILITY. If any provision of this Agreement shall be deemed to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

19. REMEDIES. If Seller breaches this Agreement, Apple shall have all remedies available by law and at equity. For the purchase of Goods, Seller's sole remedy in the event of breach of this Agreement by Apple shall be the right to recover damages in the amount equal to the difference between market price at the time of breach and the purchase price specified in the Agreement. No alternate method of measuring damages shall apply to this transaction. Seller shall have no right to resell Goods for Apple's account in the event of wrongful rejection, revocation of acceptance, failure to make payment or repudiation by Apple and any resale so made shall be for the account of Seller. Seller acknowledges and agrees that the obligations and promises of Seller under this Agreement are of a unique, intellectual nature giving them particular value. Seller's breach of any of the promises contained in this Agreement will result in irreparable and continuing damage to Apple for which there will be no adequate remedy at law and, in the event of such breach, Apple will be entitled to seek injunctive relief, or a decree of specific performance.

20. ATTORNEYS' FEES. In any action to enforce this Agreement, the prevailing party shall be entitled to recover all court costs and expenses and reasonable attorneys' fees, in addition to any other relief to which it may be entitled.

21. LIMITATION OF LIABILITY. IN NO EVENT SHALL APPLE BE LIABLE TO SELLER OR SELLER PARTIES, OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, WHETHER OR NOT APPLE WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

22. ASSIGNMENT/WAIVER. Seller may not assign this Agreement or any of its rights or obligations under this Agreement, without the prior written consent of Apple. Any assignment or transfer without such written consent shall be null and void. A waiver of any default or of any term or condition of this Agreement shall not be deemed to be a continuing waiver or a waiver of any other default or any other term or condition.

23. NONEXCLUSIVE AGREEMENT. This is not an exclusive agreement. Apple is free to engage others to perform Services or provide Goods the same as or similar to Seller's. Seller is free to, and is encouraged to, advertise, offer, and provide Seller's Services and/or Goods to others; provided however, that Seller does not breach this Agreement.

24. NOTICES. Except for POs which may be sent by local mail, facsimile transmission, or electronically transmitted, all notices required or permitted by this Agreement must be in writing addressed to the authorized representative(s) of the other party. Notice will be deemed given (i) when delivered personally; (ii) when sent by confirmed facsimile; (iii) one day after having been sent by commercial overnight carrier specifying next-day delivery with written



verification of receipt; and (iv) three days after having been sent by first class or certified mail postage prepaid. A copy of any notice sent to Apple must also be sent simultaneously to Apple's General Counsel at Apple Inc., One Apple Park Way, Cupertino, CA 95014, fax (408) 974-8530.

## 25. COMPLIANCE WITH LAWS; SAFETY AND LABOR STANDARDS.

25.1. General. Seller and Seller Parties will comply with all applicable laws and regulations (including, without limitation, the applicable laws, orders, policies, and regulations of the U.S. Government, U.S. Customs, and any other jurisdiction in which Goods or Services are provided, relating to import, export and re-export of commodities, technical data and software, privacy, labor and employment, anti-discrimination and anti-harassment, freedom of association, environmental protection, hazardous substances management, pollution prevention and resource sustainability, waste management, recycling, protection of intellectual property, and anti-corruption) and Seller will defend and hold Apple harmless from any expense or damage resulting from its violation or alleged violation of any such law or regulation in the performance of this Agreement. Seller is solely responsible for compliance by Seller and/or Seller Parties with all laws and regulations regarding the payment of wages and/or other compensation to Seller Parties, including ensuring the provision of Workers' Compensation insurance for all Seller Parties.

25.2 Supplier Code of Conduct. At all times during the term of this Agreement, Seller will comply with the Apple Supplier Code of Conduct ("**Code of Conduct**"), as amended by Apple from time-to-time, available from Apple's public website at <https://www.apple.com/supplier-responsibility/>. Notwithstanding anything to the contrary herein, Seller will: (i) allow Apple and a third party representative, retained by or representing Apple (collectively, the "Auditor"), to assess Seller's compliance with the Code of Conduct by inspecting Seller's facilities and/or reviewing Seller's practices, policies, and relevant records without notice, and/or by interviewing Seller's personnel without monitoring, solely to verify Seller's compliance with the Code of Conduct (collectively, an "**Assessment**"); (ii) promptly provide the Auditor with access to any relevant facilities and personnel without disruption or interference, in connection with any Assessment; (iii) promptly provide complete and accurate information and documentation in response to the Auditor's requests, (iv) allow the Auditor to review and assess working hours and conditions, remuneration and benefits, personnel practices, production, dormitory, and dining facilities, business conduct, and health, safety, and environmental practices, as applicable, in connection with any Assessment; (v) not request or encourage, directly or indirectly, any Seller personnel to furnish false or incomplete information in connection with any Assessment; (vi) not take retaliatory action against any Seller personnel interviewed during an Assessment; and (vii) promptly implement corrective action to remedy any material non-conformance with the Code of Conduct. Apple may disclose the results of any Assessment in connection with its corporate responsibility, corporate compliance, and periodic reporting activities. Seller will obtain all permits, consents, and authorizations necessary to enable the Auditor to assess Seller's policies, practices, records, and facilities. Seller's failure to perform its obligations described in this subsection or to remedy any material non-conformance with the Code of Conduct after a reasonable amount of time will constitute a breach of this Agreement. For purposes of this subsection, the term "**Seller**" includes any party that performs a material portion of the obligations to Apple under this Agreement.

25.3. Export Compliance. Seller agrees that it will not export, re-export, resell or transfer any export controlled commodity, technical data or software (i) in violation of such limitations imposed by the United States or any other appropriate national government authority; or (ii) to any country for which an export license or other governmental approval is required at the time of export, without first obtaining all necessary licenses or other approvals.

25.4. Customs. Upon Apple's request, Seller will promptly provide Apple with a statement of origin for all Goods and United States Customs documentation for Goods wholly or partially manufactured outside of the United States. To the extent that services will be provided in the United States and/or that Goods will be transported into the United States, Seller represents that either (a) it is C-TPAT certified by U.S. Customs & Border Protection, and will maintain that certification while providing services in, or transporting Goods into, the United States or (b) it will comply with the C-TPAT (Customs Trade Partnership Against Terrorism) security procedures that may be found on the U.S. Customs website at [www.cbp.gov](http://www.cbp.gov) <<http://www.cbp.gov>> (or such other website that the C-TPAT security procedures may be moved to by the U.S. Government).

25.5. Equal Employment Opportunity. Apple is committed to the requirements of Executive Order 11246, the Rehabilitation Assistance Act, and all regulations pertaining to that order. Pursuant to these requirements, the Equal

Opportunity Clauses found at 41 Code of Federal Regulations sections 60-1.4(a) (1-7), 60-250.4(a-m), 60-300.5(a) and 60-741.5(a) (1- 6) are incorporated herein by reference as though set forth at length, and made an express part of this Agreement. If applicable, Seller will comply with the following Federal Acquisition Regulations: (i) 52.222-26 "Equal Opportunity", (ii) 52.222-35 "Affirmative Action for Special Disabled and Vietnam Veterans", (iii) 52.222-36 "Affirmative Action for Handicapped Workers."

#### 41 CFR 60-300.5(a)

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

#### 41 CFR 60-741.5(a)

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

25.6. Hazardous Materials. If Goods include hazardous materials, Seller represents and warrants that Seller understands the nature of any hazards associated with the manufacture, handling, and transportation of such hazardous materials

26. PUBLICITY/MARKS. Seller will not use (or permit Seller Parties to use) Apple's trademarks, service marks, trade names, logo or other commercial or product designations for any purpose, or make (or permit Seller Parties to make) any public statement whatsoever (including, without limitation, press releases, media statements, case studies or the like) regarding the existence of this Agreement or the parties' relationship.

27. GOVERNING LAW. This Agreement and the rights and obligations of the parties will be governed by and construed and enforced 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, without regard to conflicts of law principles. The parties expressly agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement or to their relationship.

28. DISPUTE RESOLUTION, JURISDICTION AND VENUE. If there is a dispute between the parties (whether or not the dispute arises out of or relates to this Agreement), the parties agree that they will first attempt to resolve the dispute through one senior management member of each party. If they are unable to do so within sixty (60) days after the complaining party's written notice to the other party, the parties will then seek to resolve the dispute through non-binding mediation conducted in Santa Clara County or San Francisco County, California. Each party must bear its own expenses in connection with the mediation and must share equally the fees and expenses of the mediator. If the parties are unable to resolve the dispute within sixty (60) days after commencing mediation, either party may commence litigation in the state or federal courts in Santa Clara County, California. The parties irrevocably submit to the exclusive jurisdiction of those courts and agree that final judgment in any action or proceeding brought in such courts will be conclusive and may be enforced in any other jurisdiction by suit on the judgment (a certified copy of which will be conclusive evidence of the judgment) or in any other manner provided by law. Process served personally or by registered or certified mail, return receipt requested, will constitute adequate service of process in any such action, suit or proceeding. Each party irrevocably waives to the fullest extent permitted by applicable law (i) any objection it may have to the laying of venue in any court referred to above; (ii) any claim that any such action or proceeding has been brought in an inconvenient forum; and (iii) any immunity that it or its assets may have from any suit, execution, attachment (whether provisional or final, in aid of execution, before judgment or otherwise) or other legal process.

29. EQUITABLE RELIEF. Notwithstanding Section 28 above, either party may seek equitable relief in order to protect its confidential information or intellectual property at any time, provided it does so in the state or federal courts in Santa Clara County, California (and only those courts). The parties hereby waive any bond requirements for

obtaining equitable relief. The confidentiality provisions of this Agreement will be enforceable under the provisions of the California Uniform Trade Secrets Act, California Civil Code Section 3426, as amended.

30. **ENTIRE AGREEMENT/MODIFICATION.** This Agreement is the complete, final, and exclusive statement of the terms of the agreement between the parties and supersedes any and all other prior and contemporaneous negotiations and agreements between them relating to the subject matter hereof. This Agreement may not be varied, modified, altered, or amended except in writing signed by the parties. The terms and conditions of this Agreement shall prevail notwithstanding any variance with the terms and conditions of any acknowledgment or other document submitted by Seller. Notwithstanding the foregoing, this Agreement will not supersede or take the place of any written agreement that is signed by both parties and covers the same subject matter as this Agreement or its related POs.

31. **SOFTWARE PROVISIONS.** In addition to the terms set forth above, the following terms apply as relevant to Apple's purchase of any Software pursuant to this Agreement:

31.1 **License Grant and Limitations.** Seller hereby grants to Apple and Apple contractors, consultants, and/or agents, a nonexclusive, transferable, worldwide, royalty-free, fully paid, perpetual license (unless specified otherwise in an ordering document) to use, display and reproduce the Software. Seller reserves all rights not expressly granted to Apple herein. Apple shall not decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Software except as permitted by law and this Agreement. All Software shall be delivered electronically; if Seller is unable to deliver Software electronically, it shall deliver media containing the Software and Documentation to Apple at 10260 S.W. Greenburg Road, Suite 400, Portland, Oregon 97223 (503/293-8400).

31.2 **Title to Software.** Seller retains title and intellectual property rights to the Software provided hereunder, and does not convey any proprietary interest therein to Apple other than the license specified above. Notwithstanding anything to the contrary included herein, all right, title and interest in and to the following shall vest in Apple and shall be the sole and exclusive property of Apple, and Apple does not convey any proprietary interest therein to Seller: (a) any data used in combination with the Software; (b) all output derived from the use of the Software; and (c) any additional computer programs that Apple develops to operate in combination with the Software for purposes of, including but not limited to, interoperability with Apple or third party systems, technology and/or software and/or development of application programming interfaces.

31.3 **Software Warranties.** In addition to, and without limiting the warranties set forth in Section 5 (Warranties) herein, Seller represents and warrants that: (a) all Software shall conform in all respects to all applicable documentation; and (b) any disk(s) or other media on which the Software is recorded will be free from defects in materials and workmanship under normal use and service for a period of one (1) year from the date of delivery; (c) the Software and documentation are not subject to any open source or third party licenses that would impose any obligations, encumbrances, royalties, restrictions or requirements on Apple; (d) the Software is free of any and all viruses, Trojan horses, trap doors, protecting codes or any other internal components, devices or mechanisms which are intended to: (i) cause the Software to perform any material functions other than those described in the Documentation provided to Apple; (ii) halt, disrupt, limit access or grant improper access to or sabotage the Software or any other system, process or device; or (iii) reveal any data or other information accessed through or processed by the Software or other systems, processes or devices without the user's consent; and (e) the remedies set forth in Section 5.2 (Goods) herein shall apply to any defective or non-conforming Software provided hereunder