

## 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 agree that You have read and understand these terms, and 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 Accounts 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 Accounts including, without limitation, the measurement of student progress on activities assigned in ClassKit enabled applications through Apple School Manager, features involving Third Party Products and Services as set forth in Section 3 of this Agreement, 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 Accounts for End Users and make the features of the Service available. Once You create the Managed Apple Accounts 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 Accounts. 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, features, 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 or on Your behalf 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 support Your use and Your End Users' use of 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 Account, such as name, Institution, enrolled classes, role, contact information such as email address and phone number, grade level, employment information, 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 Account, 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 only process Personal Data pursuant to Your instructions, as described in this Agreement, including Section 3A and Exhibit A for student End Users, unless (i) prohibited by an applicable legal requirement from doing so or (ii) required to do so by an applicable legal requirement. In such cases, 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). Apple shall not disclose any Personal Data or engage in any processing activity in connection with this Agreement in such a manner as to constitute a "sale" or "sharing" (as those terms are defined in the California Consumer Privacy Act (CCPA) or any similar concept in other data protection laws) of Personal Data. Apple shall immediately inform You if, in Apple's opinion, any of Your instructions infringes the GDPR or other Union or Member State data protection provisions, to the extent required. Apple shall also inform you if it can no longer meet its obligations under the CCPA or other applicable data protection laws and regulations.

In addition, 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 Your 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 by You.

**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 Inc.'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 reasonably assist Institution as required under applicable law, 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. Such safeguards may include the Model Contract Clauses as executed by Apple, or other data transfer agreements, which You agree to enter into if required by Your jurisdiction, as executed by Apple at <https://www.apple.com/legal/enterprise/datatransfer/>. Apple's international transfer of Personal Data collected in participating Asia-Pacific Economic Cooperation (APEC) countries abides by the APEC Cross-Border Privacy Rules (CBPR) System (<http://cbprs.org/>) and Privacy Recognition for Processors (PRP) System (<http://cbprs.org/>) for the transfer of Personal Data. In case of questions or unresolved concerns about our APEC CBPR or PRP certifications, our third-party dispute resolution provider (<https://feedback-form.truste.com/watchdog/request>) can be contacted.

**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 or services to access Personal Data as required for the use of those additional services. Certain of those third party products or services may also provide access to Personal Data to Apple, such as if You allow Your End Users to sign into the Service through federated identity providers. You are not required to use such additional products or services in relation to the Service, and Your Administrator may restrict the use of such additional products or services in accordance with

this Agreement. Prior to accessing, using, downloading, installing, or enabling third party products or services for use with a Managed Apple Account, You should review the terms, policies and practices of the third party products and services to understand what data they may collect from Your 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 Apple to use all the Apple entities set forth in the definition of “Apple” 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. The list of Service Providers is available at [https://www.apple.com/legal/enterprise/data-transfer-agreements/subprocessors\\_us.pdf](https://www.apple.com/legal/enterprise/data-transfer-agreements/subprocessors_us.pdf). If a Service Provider fails to fulfill its data protection obligations under this Agreement, Apple shall remain fully liable to You for the performance of that Service Provider’s obligations as required by applicable law.

#### **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 Account 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 of Your Managed Apple Accounts, 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 Accounts.

**C. End User Notice.** Administrators will have the ability to monitor, access or disclose End User data associated with Managed Apple 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 support You and Your End Users' use of 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 Accounts; Features and Services.** A Managed Apple Account 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 Accounts for Your End Users. When You create Managed Apple Accounts 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 Accounts. 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 Account**

1. **Devices and Accounts.** Use of Managed Apple Accounts 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 Accounts that may be created and the number of devices associated with a Service account.

2. **Your rights to the Managed Apple Accounts.** Unless otherwise required by law or this Agreement, You agree that each Managed Apple Account is non-transferable between individual End Users, and between Institutions.

ii. **Find My iPhone.** Find my iPhone is automatically disabled for all Managed Apple Accounts. 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 Account 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 Accounts 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 Accounts 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 Accounts 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 Account 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 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 Account. 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 Account, 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 Account 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 Account.

1. **iCloud File Sharing.** When you share a file using Schoolwork in connection with a Managed Apple Account, 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 Account. 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 Accounts 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 Account from the Student Progress feature, all student progress Personal Data associated with that Managed Apple Account will be deleted in accordance with Section 3L(i).

vii. **Third Party Apps.** If You make available any third party apps for Your End Users to sign into with their Managed Apple Accounts, You agree to allow such apps to store data in the accounts associated with Your End Users' Managed Apple Accounts, 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 Account 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 Accounts, 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 Account 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 Account 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 Accounts. 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. Purchasing Apps and Books.**

i. **Acquisition of Content.** Acquisition of Content from the App Store or Apple Books Store using Managed Apple Accounts 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 App Store, and/or Apple Books Store is subject to Sections H and I of the Apple Media Services Terms and Conditions (<https://www.apple.com/legal/internet-services/itunes/ww/>), as applicable. You agree that You have the authority to and will accept such applicable terms on behalf of Your authorized End Users.

ii. **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 <https://www.apple.com/legal/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 at <https://www.apple.com/legal/intellectual-property/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. 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

(<https://www.apple.com/legal/contact/copyright-infringement.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 of 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 Accounts 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; (f) You or any entity or person that directly or indirectly controls You, or is under common control with You (where "control" has the meaning defined in Section 11(D)), are or become subject to sanctions or other restrictions in the countries or regions where the Service is available; or (g) 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 Accounts, 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.

You represent and warrant that You and any entity or person that directly or indirectly controls You, or is under common control with You, are not: (a) on any sanctions lists in the countries or regions where the Service is available, (b) doing business in any of the US embargoed countries or regions, and (c) a military end user as defined and scoped in 15 C.F.R § 744. As used in this Section 11(D), “control” means that an entity or person possesses, directly or indirectly, the power to direct or cause the direction of the management policies of the other entity, whether through ownership of voting securities, an interest in registered capital, by contract, or otherwise.

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

**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.

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

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.

The following Sections are not intended to exclude, restrict, or modify any rights held in Australia under the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010), including, but not limited to, the consumer guarantee provisions of the Australian Consumer Law: 4(B), 4(D)(iii), 4(D)(vii), 4(D)(viii), 4(L)(ii), 7(B), 8, 9, 10. Your statutory entitlements under the Australian Consumer Law are separate to, and are unaffected by, the Agreement.

**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: Apple Pty Limited, Level 2, 20 Martin Place, Sydney NSW 2000, Australia. 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 Accounts, and other tasks relevant to administering the Service, in compliance with the terms of this Agreement.

"Apple" as used herein means\*:

- Apple Inc., located at One Apple Park Way, Cupertino, California, 95014, United States for users in the United States, including Puerto Rico;
- 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 Services Pte. Ltd., located at 7 Ang Mo Kio Street 64, Singapore for users in Republic of Korea;

- 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 Services LATAM LLC, located at 1 Alhambra Plaza, Ste. 700 Coral Gables, Florida 33134, U.S.A., for users in Mexico, Central or South America, or any Caribbean country or territory (excluding Puerto Rico); and
- Apple Distribution International Ltd., located at Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland, for users in all other countries or territories not specified above in which the Service is offered.

“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, iPadOS, macOS, tvOS, visionOS, watchOS, Classroom, Schoolwork, 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 (including hardware purchased or donated by parents for use by Institution), that have been designated for use only by End Users and that meet the applicable technical specifications and requirements for use in the Service. Personally owned 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 Account. 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 Account 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, Managed Apple Accounts and iCloud storage connected to such Managed Apple Accounts, 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.

## **EXHIBIT A**

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

#### **Your Students' Managed Apple Account**

With the Managed Apple Account 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 Accounts 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
- 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
- Add a supported student ID card or a corporate access pass to Wallet.

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 Accounts, to allow Apple to provide the Service using the Managed Apple Accounts, 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 Accounts for Your students is an Administrator from Your Institution with authority to provide consent on Your behalf.

#### **Collection of Information**

##### *Managed Apple Account Creation:*

Apple may receive the following Personal Data if provided by You or on Your behalf to create a Managed Apple Account for Your students: student name, Institution, enrolled classes, role, and student ID. At Your option, You may also provide Your student's grade level and 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 Account:*

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 to support You or Your End Users' use of 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. Personalized Ads will be disabled by default for all devices associated with Your Managed Apple Accounts 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, and cookies 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 Account) to provide and improve the app.

## **Disclosure to Third Parties**

### *Managed Apple Accounts*

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 Account 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 Account may be visible or accessible to others using the device unless and until the student signs out.

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

### *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 as required under applicable law.

### *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 Accounts. You can delete data associated with Your Managed Apple Accounts 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 Account 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 Account.

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 ACCOUNT, YOU SHOULD REVIEW THE TERMS, POLICIES, AND PRACTICES OF SUCH THIRD PARTY APPS.