

使用本服務之前，請仔細閱讀以下 **APPLE BUSINESS MANAGER** 平台條款及細則。這些條款及細則構成貴機構與 **APPLE** 之間的法律協議。點按「同意」按鈕，即表示貴機構透過其授權代表同意接受本協議的約束並成為本協議的一方。如果貴機構不同意或不能同意本協議，請點按「取消」按鈕。如果貴機構不同意本協議，則不得加入本平台。

## Apple Business Manager 平台協議

### 目的

本協議允許你加入 Apple Business Manager 平台，為貴機構自動登記 Apple 品牌裝置作流動裝置管理 (簡稱 MDM)、購買和管理此類裝置的內容、為你的使用者建立「管理式 Apple 帳戶」，以及透過便利的工具取用相關服務。

**注意：**必須在貴機構內啟用 MDM 解決方案 (例如來自第三方開發商的描述檔管理程式)，方可使用本服務的功能。MDM 解決方案可讓你配置、部署和管理 Apple 品牌裝置。詳情請瀏覽 <https://www.apple.com/business/resources/>。

### 1. 定義

本協議中使用的特定詞語之定義如下：

「**管理員**」意指為管理帳戶 (例如管理伺服器、上載 MDM 佈建設定、為你的帳戶新增裝置、購買內容，以及執行其他相關服務) 而加到本服務的貴機構之員工或合約員工 (或服務供應商)。

「**協議**」意指本 Apple Business Manager 平台協議。

「**Apple**」的定義如下，除非本協議另有訂明：(a) **Apple Inc.**，地址為 One Apple Park Way, Cupertino, California 95014, U.S.A.，適用於美國境內 (包括波多黎各) 的機構；(b) **Apple Canada Inc.**，地址為 120 Bremner Blvd., Suite 1600, Toronto ON M5J 0A8, Canada，適用於加拿大或其領地和屬地的機構；(c) **Apple Services LATAM LLC**，地址為 1 Alhambra Plaza, Ste 700 Coral Gables, Florida，適用於墨西哥、中美洲、南美洲或任何加勒比海國家/地區或領地 (不包括波多黎各) 的機構；(d) **iTunes K.K.**，地址為 Roppongi Hills, 6-10-1 Roppongi, Minato-ku, Tokyo 106-6140, Japan，適用於日本的機構；(e) **Apple Pty Limited**，地址為 20 Martin Place, Sydney NSW 2000, Australia，適用於澳洲和紐西蘭 (包括島嶼屬地、領地和附屬司法管轄區) 的機構；(f) **Apple Services Pte. Ltd.**，地址為 4F, 504 Teheran-ro (Daechi-dong), Gangnam-gu, Seoul, Republic of Korea，適用於南韓的機構；及 (g) **Apple Distribution International Ltd.**，地址為 Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland，適用於有提供本服務但上文並未涵蓋的所有其他國家或地區之機構。

「**Apple 服務**」意指根據本協議提供予你的授權使用者使用之 App Store、Apple Books、Apple 網上商店、AppleCare 服務計劃、iCloud，以及其他 Apple 服務。

「**Apple 軟件**」意指 iOS、iPadOS、macOS、tvOS、visionOS 和 watchOS 作業系統軟件或其任何後續版本。

「**授權裝置**」意指由你擁有或控制、指定為僅供授權使用者或認可使用者使用，且符合資格用於本服務的 Apple 品牌裝置。為避免疑義，除非 Apple 另有書面同意外，否則由個別人士個人擁有的裝置 (例如：「BYOD」裝置)，一律不得作為本服務的一部分註冊加入受監管裝置管理 (例如：配置「裝置登記設定」)，且並非所有裝置均符合資格加到本服務。

「**授權使用者**」意指 (i) 貴機構及/或 (ii) 貴機構直接或間接全資擁有的附屬公司 (如適用) 之員工和合約員工 (或服務供應商)。若貴機構為醫院，則「授權使用者」一詞的含義亦包括執業醫生、諮詢醫生和臨床醫生。為清楚起見，你可以要求將其他類似使用者納入為「授權使用者」，而 Apple 可全權決定是否核准，唯未得 Apple 事先書面同意，沒有其他方會納入此定義。

「**內容**」意指根據 Apple 的《內容條款》可能作為本服務之一部分獲授權許可或取得的任何材料或資訊 (例如：來自 App Store 的 App)。

「**合約員工**」意指以非計件單價形式代表實體履行工作或提供服務的個別人士，以及享有該等實體私有資料技術系統 (例如：VPN) 和/或設有保安的實體設施 (例如：企業設施的出入通行證) 之內部使用存取權限的人士。

「**裝置登記設定**」意指可在本服務下配置和管理的 Apple 品牌裝置設定，包括但不限於裝置的初始登記流程，以及用於監管裝置、強制執行配置或封鎖 MDM 描述檔的設定。

「**文件**」意指 Apple 可能向你提供以配合本服務使用的技術或其他規格/文件。

「**最終使用者許可協議**」或「**EULA**」意指 Apple 軟件的軟件許可協議條款及細則。

「**管理式 Apple 帳戶**」意指你透過使用本服務建立和部署的使用者帳戶 (包括但不限於儲存空間、日曆、備忘錄和通訊錄)。

「**MDM 伺服器**」意指由你 (或代你行事的服務供應商) 擁有或控制、且指定用於與本服務通訊的電腦。

「**認可實體**」意指：(a) 如果貴機構是汽車製造商，即指你的授權汽車經銷商和獲認證的服務合作夥伴；(b) 如果貴機構是酒店持有公司，即指在貴機構名下營運的酒店物業、商標或品牌 (或其擁有或控制的名稱、商標或品牌)；或 (c) 如果貴機構以「限制 App 模式」在授權裝置上部署 App (例如：在 iPad 上部署其以 App 為基礎之付款系統的銷售點供應商)，即指在授權裝置上以「限制 App 模式」使用該等 App 的貴機構之客戶。此外，任何該等 App 必須根據《Apple Developer Program 許可協議》的條款進行開發和分發 (例如：分發自訂 App)。為清楚起見，你可以要求將其他與上述 (a) 和 (b) 小節所述類似的實體納入此定義，Apple 可決定是否核准，唯未得 Apple 事先書面同意，沒有其他實體會納入此定義。

「**認可使用者**」意指貴機構之認可實體的員工和合約員工。

「**個人資料**」意指可合理用於識別在本協議下受貴機構管控之人士的資料。

「**限制 App 模式**」意指當 Apple 品牌裝置透過本服務受監管和獲配置，以致 (a) 該裝置於啟用後自動發佈並鎖定於單一應用程式中，且不可存取任何其他操作系統功能；或 (b) 終端使用者無法個人化裝置 (例如：裝置設定禁止使用個人憑證配置「郵件」app、無法使用個人 Apple 帳戶從 App Store 取得內容等)。

「**服務**」意指 Apple Business Manager 服務 (及其任何組成部分、功能或特性) 並用於：自動流動裝置管理登記；獲取和管理內容；建立、管理和使用「管理式 Apple 帳戶」、連接「管理式 Apple 帳戶」的 iCloud 儲存空間；使用管理員帳戶；以及本協議設想的其他相關服務，包括入口網站和下文所述的任何服務或工具。

「**服務供應商**」意指遵照本協議條款代你提供服務的第三方。

「**伺服器憑證**」指你的公鑰、Apple 帳戶和 Apple 提供的憑證，結合三者允許你的 MDM 伺服器註冊本服務。

「**子處理方**」指代表 Apple 執行與 Apple 提供本服務相關的特定工作 (例如處理或儲存資料以及提供客戶服務) 之第三方。

「**你**」、「**你的**」和「**機構**」意指簽訂本協議的機構。為避免疑義，貴機構有責任確保授權後代表其行使本協議權利之員工、合約員工及服務供應商等均能遵守本協議。

**注意：**如果你是服務供應商，則與你合作的機構需要簽訂本協議並將你加入為管理員，因為擁有授權裝置並計劃將該等裝置分配給其授權使用者的實體必須登記本服務。

## 2. 本服務規定

### 2.1 使用本服務

作為本服務的使用條件，貴機構須承諾並同意：

- (a) 貴機構僅獲准在本協議明確允許的目的和方式下，依據所有適用的法例、規定和文件使用本服務；
- (b) 貴機構不得將本服務 (或其任何部分) 用於任何非法、不適當、不恰當或違法活動；
- (c) 貴機構獲准使用本服務來管理的授權裝置僅供授權使用者和認可使用者使用，不得用於一般的第三方部署 (除本協議明確許可外)，而且貴機構須為該等使用者對授權裝置的所有使用負責，包括但不限於獲得同意並向使用者提供有關裝置管理功能的適當資料；
- (d) 貴機構須為其認可實體 (及此等認可實體的任何認可使用者) 對本服務的所有使用負責，認可實體的任何行動均視為由貴機構採取，因此貴機構 (及其認可實體) 須為所有該等行為對 Apple 負責。
- (e) 貴機構須向其授權使用者和認可使用者取得在下文允許的範圍內部署授權裝置所需的一切權利及同意；
- (f) 貴機構有權透過本服務購買及管理可能獲認可的內容，並須符合使用內容的所有適用條款；

- (g) 貴機構須向其授權使用者獲取所需的一切權利和同意，以建立「管理式 Apple 帳戶」並讓 Apple 為「管理式 Apple 帳戶」提供本服務 (包括使用和維護個人資料)；
- (h) 貴機構可以在本服務下新增管理員，但有關人員必須是貴機構的員工或合約員工，或代貴機構行事的服務供應商，而且貴機構只能出於帳戶管理目的新增有關人員；及
- (i) 除非 Apple 另有書面同意，否則貴機構僅獲認可就其自身 (及其認可實體之) 內部業務運作和資訊科技目的使用本服務，不得提供裝置或服務予第三方 (「認可實體」定義 (c) 小節所涵蓋的認可實體除外)，以任何方式整合或利用透過本服務提供之服務或資訊。

## 2.2 無其他認可用途

貴機構同意不以任何未經授權的方式濫用本服務，包括但不限於入侵、加重網絡容量負擔或上載惡意程式碼。任何該等企圖均屬侵犯 Apple 及其許可人的權利。除本協議明確許可外，貴機構不得向任何第三方提供許可、出售、分享、出租、租賃、分配、分發、託管、允許分時使用/事務局使用或提供本服務 (或其任何組成部分)。貴機構同意不得使用本服務上載、下載、發佈、寄送電郵、傳輸、儲存或以其他方式提供：(i) 具有違法、騷擾、威脅、傷害、誹謗、猥褻、侵犯私隱、仇恨、種族歧視性質或其他爭議之內容；(ii) 侵害著作權、其他知識產權、商業秘密或其他契約、專利權之內容；(iii) 未經同意或授權下發送之電郵訊息、廣告、宣傳資料、垃圾郵件、詐騙郵件或連鎖信；及/或 (iv) 含有病毒之內容，或意圖傷害、干擾、限制本服務或其他電腦軟件、硬件正常運作之電腦編碼、檔案或程式。貴機構進一步同意不會使用本服務進行追蹤、騷擾、誤導、濫用、威脅或傷害，或偽裝成已登記實體以外的任何人。Apple 保留權利拒絕或封鎖任何可能被視為冒充另一實體或人士之名字或身分或就此作虛假陳述的帳戶。貴機構不會干擾本服務，也不會干擾本服務中、由本服務或者由 Apple 軟件或任何其他相關 Apple 軟件/技術所執行的任何保安、數碼簽署、數碼版權管理、驗證或認證機制，或者允許其他人這樣做。若貴機構是涵蓋實體、業務夥伴、涵蓋實體/業務夥伴的代表 (根據這些字詞在 45 C.F.R § 160.103 中的定義) 或者醫療服務供應商或實體，則貴機構同意不會將本服務的任何組成部分、功能或其他設施用於建立、接收、維護或傳輸任何「受保護健康資料」(根據此等字詞在 45 C.F.R § 160.103 中的定義) 或適用法例下的同等健康資料，或者使用本服務的方式不會使 Apple 成為貴機構/任何第三方的業務夥伴，或不會使 Apple 直接受適用的健康資料私隱法例約束。本協議中未明確授予的一切權利均為保留權利，Apple 並未透過暗示、禁止反言或其他形式，明示或暗示授予任何其他許可、豁免或權利。

## 2.3 伺服器憑證用途

貴機構同意伺服器憑證僅可用於在本服務下登記機構的 MDM 伺服器，以及上載裝置登記設定，以在授權使用者和認可使用者首次啟動授權裝置時將設定傳送到裝置。貴機構同意不會將其伺服器憑證提供或轉讓給任何其他實體或者與任何其他實體共用，唯貴機構之服務供應商除外。貴機構同意採取適當措施來保護該等伺服器憑證的安全和私隱，並在憑證遭盜用或機構有理由相信已遭盜用時撤回該等伺服器憑證。Apple 保留權利隨時全權決定撤回或停用伺服器憑證。此外，貴機構明白並同意重新產生伺服器憑證將影響貴機構對本服務的使用，直到新伺服器憑證加至 MDM 伺服器為止。

## 2.4 終端使用者授權合約 (EULA) 條款及細則

作為本服務的一部分，機構可選擇讓其授權使用者和認可使用者在裝置上接受除常規初始激活過程之外的 Apple 軟件條款及細則。只要貴機構同意以下要求，即可以使用本服務的此項功能：

- (a) 貴機構的授權代表必須在向授權使用者和認可使用者部署運行該等 Apple 軟件的授權裝置之前，在本服務的入口網站上接受 Apple 軟件的 EULA；
- (b) 如果 Apple 軟件的 EULA 有所改動，貴機構同意在收到 Apple 通知後立即要求授權代表返回本服務的入口網站接受該等 EULA，以繼續使用本服務。貴機構確認在接受該等 EULA 之前將無法使用本服務，包括將更多授權裝置連結其 MDM 伺服器；
- (c) 貴機構有責任確保向授權使用者和認可使用者提供該等 EULA，且每個授權使用者和認可使用者皆知悉並遵守 Apple 軟件的 EULA 條款及細則；及
- (d) 貴機構同意有責任為授權使用者和認可使用者獲取使用 Apple 軟件所需的一切許可。

## 2.5 裝置轉讓

貴機構不得轉售任何啟用了裝置登記設定的授權裝置，並同意在轉售或以任何方式轉讓給第三方之前，將該等裝置從本服務中移除。

## 2.6 購買內容

本服務已自動停用內容獲取功能，你的使用須受本協議和約束本服務下 App 和電子書之使用的條款（以下稱「大量內容條款」）所限制。你可選擇啟用管理員透過本服務存取內容的權限，方式是賦予其購買權限並允許其存取內容。視乎《大量內容條款》和本協議的限制而定，本服務可讓你使用裝置分發將內容分配至授權裝置，或者透過使用者分發和 Apple 帳戶，分配至授權使用者或認可使用者。你可分發（或撤回並重新分發）App 至位於任何國家或地區的授權使用者和授權裝置，前提是該等 App 必須在 App Store 在商業上提供，唯可能隨時變更。對於電子書，你理解並同意當你分發電子書給授權使用者或認可使用者後，該等電子書不得轉讓他人，且你將無法撤回或重新分發該等電子書。所有該等購買由你全權負責，你亦須確保遵守適用條款。如果你（或你的管理員）透過本服務購買或存取內容，你同意你有權並將代表你的授權使用者和認可使用者接受該等適用條款。你理解並同意內容可能不適用於所有國家或地區。你同意不會匯出內容以供在你所在國家或地區以外的地方使用，亦不會聲明你有權或有能力這樣做。你同意不規避任何國家或地區的法例或內容供應商所制定的限制。

## 2.7 管理員帳戶

你可為你的管理員建立管理員帳戶，以使用於管理本服務，但須受 Apple 設定的管理員帳戶數目限制。這些管理員帳戶由獨一無二的使用者名稱和密碼組成，並由你所擁有。建立管理員帳戶時，該等帳戶會啟用你所選的所有服務功能和特性，你有責任適當地啟用該等管理員帳戶並對與之相關的所有活動（例如允許購買內容）負責。你確認並同意這些管理員帳戶僅可用於取用和管理本服務，作為管理帳戶之用。如果你刪除任何管理員帳戶，則你或管理員均無法再存取該等管理員帳戶，且你確認並同意此操作不可復原。

## 2.8 管理式 Apple 帳戶

你可以根據本協議及文件在本服務下建立「管理式 Apple 帳戶」，供你的授權使用者存取和使用。你有責任決定為你的授權使用者啟用本服務的哪些功能和特性，用於建立、管理和使用「管理式 Apple 帳戶」。

建立「管理式 Apple 帳戶」以供授權使用者使用時，需要提供以下資料，其中可能包括個人資料：姓名、建議角色、密碼、電郵地址 (供聯絡用途)，以及電話號碼。為保護授權使用者帳戶的安全性，以及讓你能在線上輕鬆重設授權使用者的密碼，你必須對該資料保密。你同意僅就自身內部業務或資訊科技用途部署「管理式 Apple 帳戶」，並且僅供你的授權使用者使用。你同意不向你的授權使用者以外的任何其他人士分享、出售、轉售、出租、租賃、借出「管理式 Apple 帳戶」或提供其存取權限。你可在本服務中停用、凍結或刪除「管理式 Apple 帳戶」(例如：如果授權使用者離開貴機構)。Apple 有權限制可為你的授權使用者建立之「管理式 Apple 帳戶」數量，以及關聯帳戶之授權裝置數量。你為授權使用者啟用的服務的某些特色和功能 (例如：目錄) 可能需要額外資料 (包括個人資料)。

如果你向管理員、管理層或員工提供其他可供登入的 Apple 服務，你同意允許 Apple 服務在該等授權使用者之「管理式 Apple 帳戶」關聯帳戶中儲存資料，並允許 Apple 就與你和/或你的授權使用者對該等 Apple 服務之使用的相關用途收集、儲存及處理該等資料。你有責任確保你和授權使用者均符合基於你允許授權使用者存取之 Apple 服務的各個「管理式 Apple 帳戶」的所有適用法例。如果你的管理員、管理層或員工存取個別 Apple 服務，Apple 可能會與你的授權使用者溝通以知會有關其使用 Apple 服務的事宜。

## 2.9 認可實體和認可使用者

視乎本協議的條款而定，認可實體和認可使用者可使用你的帳戶存取本服務，唯使用和部署「管理式 Apple 帳戶」除外 (除非 Apple 另有事先書面核准)。你有責任確保認可實體和認可使用者符合本協議的條款，如果你的認可實體和認可使用者違反本協議的任何條款，你須直接向 Apple 承擔責任。如果你 (或代表你行事的服務供應商) 將認可實體所擁有的 Apple 品牌裝置加至本服務中，你在此向 Apple 聲明並擔保認可實體已授權你加入該等裝置、你對該等裝置享有控制權限，以及你有權代表認可實體 (及其認可使用者，如適用) 接受 EULA。Apple 保留以下權利：就貴機構可允許認可實體 (或認可使用者) 存取或使用之本服務下的功能設定限制，以及隨時在其自行判斷下，要求你移除你的帳戶中的任何認可實體或認可使用者。

## 2.10 更新；不設支援或維護

Apple 可隨時根據下述內容擴展、加強、暫停、終止或修改本服務 (或其任何部分) 而不另行通知，且 Apple 在行使該等權利時概不對你或任何第三方負責。Apple 並無義務向貴機構提供本服務之任何更新。如果 Apple 發佈更新，則本協議的條款將適用於該等更新，除非有關更新另附協議，在此情況下將以另附的協議條款為準。如有更新，則更新內容的特性、服務或功能可能有別於本服務。Apple 並無義務為本服務提供任何維護、技術或其他支援。

## 2.11 第三方服務供應商

你僅可於以下情況使用服務供應商：服務供應商根據此等條款代表你存取和使用本服務，而服務供應商須遵守你們雙方之間具約束力的書面協議，且其條款至少應與本協議中所述之 Apple 限制性和保護性條款一致。任何該等服務供應商就本服務採取及/或因本協議衍生的任何行為將視為由你採取，你 (及服務供應商) 須為所有該等行為 (或任何不作為) 對 Apple 負責。如果服務供應商的任何行為或不作為有可能構成違反本協議或造成任何損害，Apple 保留權利要求你終止選用該等服務供應商。

### 3. 貴機構之義務

貴機構聲明並保證：

- (a) 貴機構的授權代表有權利和權力代其訂立本協議，並在法律上約束貴機構遵守本協議的條款和義務；
- (b) 貴機構向 Apple (或其授權使用者或認可使用者) 提供且有關本協議或使用本服務 (包括 Apple 軟件) 的所有資料均必須為最新、真實、準確、可支援及完整的；並且若貴機構提供給 Apple 的資料有任何變更，貴機構將盡快通知 Apple；
- (c) 貴機構會監察其授權代表、管理員、服務供應商、授權使用者、認可使用者及認可實體，並須為他們對本服務之使用及對本協議條款之遵守情況負責；
- (d) 對於貴機構、其授權代表、管理員、服務供應商、授權使用者、認可使用者、認可實體和授權裝置因本服務而招致的一切費用、開支、損失和責任以及進行之活動，貴機構須全權負責；
- (e) 就使用本服務及在本服務下使用或收集資料 (包括個人資料) 和資訊而言，貴機構須全權負責確保遵守所有私隱及資料保護法例 (例如 2016 年 4 月 27 日歐洲議會和理事會就保護自然人個人資料之處理和自由流通所頒佈的歐盟 (EU) 第 2016/679 號條例，以及廢除 95/46/EC (下稱「GDPR」) 指令)；
- (f) 貴機構須為其個人資料相關活動負責 (例如保護、監察和限制存取個人資料、避免和處理不當活動等)；及
- (g) 貴機構須遵守本協議的條款並履行本協議規定之機構義務。

### 4. 本服務規定或條款的變更

Apple 可能隨時更改本服務或本協議的條款。如要繼續使用本服務，貴機構須透過其授權代表接受並同意本協議的新規定或條款。如果你不同意新的規定或條款，Apple 可能會暫停或終止你對本服務或其任何部分的使用。你同意你可以透過電子形式接受此等新協議條款，包括但不限於勾選選框或者點按「同意」或類似按鈕。

### 5. 彌償

對於由下列任何一種情況引起或與之相關，而為 Apple 受償方招致的任何及所有申索、損失、責任、損害、費用和成本，包括但不限於律師費和法院費用 (下文統稱「損失」)，你同意在適用法例允許的範圍內對 Apple 作出彌償及擔保其不受損害，並應 Apple 要求為 Apple、其董事、高級職員、員工、關聯公司、獨立承辦商和授權代表 (均為「Apple 受償方」) 抗辯：(a) 你違反在本協議中所作的任何認證、契約、義務、陳述或保證；(b) 你 (包括但不限於你的服務供應商、管理員、授權使用者、認可使用者和/或認可實體) 使用本服務；(c) 任何與你對授權裝置、裝置登記設定及/或 MDM 伺服器的使用、部署或管理相關的申索，包括但不限於任何最終使用者申索；(d) 就提供、管理及/或使用授權裝置、管理員帳戶、「管理式 Apple 帳戶」或內容，及/或對本服務的任何其他使用所提出的任何申索，包括但不限於任何最終使用者申索；及/或 (e) 任何有關你對個人資料的使用或管理之申索。未經 Apple 事先書面同意，你不得與第三方達成會以任何形式影響 Apple 的權利或者約束 Apple 或任何 Apple 受償方之任何和解或類似協議。

### 6. 有效期和終止條款

本協議的有效期自你首次在本服務中接受本協議當日開始，首階段有效期為 Apple 首次啟動你的服務帳戶當日後的一 (1) 年。此後，只要你遵守本協議的條款，條款將自動延續一 (1) 年，除非按照本協議要提前終止。如果你沒有為貴機構完成服務註冊驗證程序，Apple 可能會終止本協議和/或你的

帳戶。任何一方皆可為其便利、基於任何原因或在無原因下終止本協議，並在以書面通知另一方其終止意向後 30 天生效。

若你未能遵守或 Apple 懷疑你未能遵守本協議的任何條文，Apple 可能在不通知你的情況下全權決定：(a) 終止本協議及/或你的帳戶；及/或 (b) 暫停或禁止取用本服務 (或其任何部分)。Apple 保留權利隨時修改、暫停或終止本服務 (或其任何部分或內容) 而不另行通知，且 Apple 在行使該等權利時概不對你或任何第三方負責。如果遇到以下情況，Apple 也可以終止本協議或暫停你使用本服務的權利：(a) 你未能接受第 4 節中所述的任何新協議條款；或 (b) 你或任何直接/間接控制你，或是與你受到同一方控制 (「控制」一詞的定義請見第 10.8 節) 的實體或人員，在提供本服務的國家/地區或區域受到或將受到制裁或其他限制。你確認並同意你在本協議到期或終止後可能無法取用本服務，且 Apple 保留權利暫時禁止存取或刪除你、你的管理員、授權使用者、認可實體或認可使用者透過你使用本服務所儲存的數據或資料。在使用本服務的任何部分之前，你應該細閱相關文件並妥為備份你的數據和資料。Apple 在行使該等權利時，對於你或任何第三方，或因此類終止或暫停可能導致或可能產生的任何損害，Apple 將不會承擔任何責任。以下條文在本協議終止後仍然有效：第 1 節、第 2.9 節第二句、第 2.10 節、第 2.11 節第二句、第 3 節、第 5 節、第 6 節第二段，以及第 7、第 8、第 9 和第 10 節。

## 7. 免責聲明

你明確確認並同意，在適用法例允許的範圍內，你因使用/無法使用本服務或由/透過本服務取用的任何工具、特性或功能而衍生的風險由你獨自承擔，而與令人滿意的質量、效能、準確性和效力相關的一切風險亦由你承擔。

在適用法例允許的最大範圍內，本服務基於「現況」和「現有」基礎提供，包括所有瑕疵且不提供任何形式的保證。另外，Apple 及其董事、高級職員、員工、關聯公司、授權代表、代理人、承辦商、經銷商或許可人 (在第 7 和第 8 節統稱為「Apple」) 特此否認與本服務有關的一切明示、暗示或法定的保證和細則，包括但不限於對適銷性、令人滿意之質量、特定用途適用性、準確性、平和的享用權、所有權和不侵犯第三方權利之默示保證及/或細則。

Apple 不作以下擔保、聲明或保證：不妨礙你使用或享用本服務；本服務所涵蓋的功能或特性，或者所履行或提供的服務將符合你的要求且安全；你對本服務的使用或本服務的運作不會中斷或不會出錯；有關缺陷或錯誤將被修正；本服務會一直提供；本服務兼容或可配合任何第三方軟件、應用程式、內容、第三方服務或任何其他 Apple 產品或服務；或任何透過本服務儲存或傳輸的數據或資料不會遺失、損毀、損壞、受攻擊、受黑客入侵、受干擾或受任何其他安全性入侵。你同意 Apple 可能不時無限期取消本服務，或者隨時修訂、暫停、終止或取消本服務，而不作另行通知。

你進一步確認，本服務並非預定或並不適用在以下情況或環境中使用：由/透過本服務提供的內容、數據或資料之失效、延誤、存在錯誤或不準確之處可能導致死亡，人身傷害或嚴重的身體/環境損害，包括但不限於核設施、飛機導航系統或通訊系統、空中交通管制、維生或武器系統的操作。



任何由 Apple 或 Apple 授權代表提供的口頭或書面資訊或建議均不構成本協議中未明確聲明的保證。如果本服務證實存在缺陷，你應承擔所有必要的維修、修理或更正之全部費用。

## 8. 有限責任

在適用法例並無禁止的範圍內，Apple 在任何情況下概不對因本協議及/或你使用/無法使用本服務而導致的人身傷害，或任何附帶、特殊、間接或相應損害負責，包括但不限於利潤損失、數據或資料的損毀或遺失、未能傳輸或接收任何數據或資料、業務中斷或任何其他商業損害或損失，即使 Apple 已獲告知或意識到發生該等損害的可能性，且不論基於何種責任理論（合約、民事侵權等），以及即使 Apple 已獲告知發生該等損害的可能性。在任何情況下，Apple 對於你的所有損害（除適用法例規定下涉及個人傷害的個案之外）的全部賠償責任不超過五十美元（50.00 美元）。即使上述規定的補救措施未能達到其基本目的，上述限制仍將適用。

## 9. 資料私隱與安全

### 9.1 個人資料的使用與披露

在本協議下，Apple 將代你擔任資料處理方，可能會接收或有權存取由你或你的代表提供之個人資料。簽訂本協議，即表示你指示 Apple 根據適用法例、你透過使用本服務所提供的指示（例如你透過本服務提供的指示）及你以書面提供且 Apple 以書面接受並確認的任何其他指示，處理和使用有關個人資料以提供和維護本服務，Apple 應按照列明的指示處理個人資料，除非適用法律有所要求，在此情況下，Apple 將於處理個人資料前通知你有關法律要求（除非有關法律基於重大的公眾利益通知）。Apple 可能會將個人資料提供予本服務下向 Apple 提供服務的子處理方。你授權 Apple 使用「Apple」定義所訂明的全部 Apple 實體作為子處理方，並且使用任何其他子處理方；此等子處理方在合約上具有資料保護義務，程度須最少達到本協議的保護水平。子處理方名單詳見：[https://www.apple.com/legal/enterprise/data-transfer-agreements/subprocessors\\_us.pdf](https://www.apple.com/legal/enterprise/data-transfer-agreements/subprocessors_us.pdf)。如果子處理方未能履行資料保護義務，Apple 將就子處理方應履行適用法律所要求的義務向你承擔責任。

### 9.2 資料事故

若 Apple 發現因有人未經授權使用本服務而致個人資料遭更改、刪除或遺失（下稱「資料事故」），Apple 將按法例要求在沒有過度延遲的時間內通知貴機構，Apple 亦會採取合理措施減少損害並保護資料。Apple 對資料事故作出的通知或回應，不可視為 Apple 確認對有關資料事故負有任何責任或義務。貴機構有責任遵循適用的事故通知法例，並履行與資料事故相關的任何第三方義務。Apple 不會為識別受任何特定法例規定約束的資料而存取個人資料內容。

### 9.3 安全程序；合規

Apple 在本服務下轉移、處理和儲存個人資料期間，將使用符合業界標準之措施保護有關資料。作為這些措施的一部分，Apple 會採取商業上合理的措施，為儲存及傳輸的個人資料加密；確保本服務的持續保密性、完整性、可用性和復原性；在發生問題時適時恢復個人資料的可用性；以及定期測試、評核和評估此等措施的有效性。Apple 將採取適當措施確保其員工、承辦商和子處理方遵守安全程序，且 Apple 須確保獲授權處理此等個人資料的任何人員就本服務相關之個人資料保密性與安全性遵守適

用范例。Apple 可視乎各地理區域情況儲存經加密的個人資料。在 Apple 擔任資料處理方的範圍內，Apple 將協助你確保符合 (如適用) 以下各項：(a) GDPR 第 28 條或法例下其他同等義務 (透過提供所有必要資料；透過安排和參與審計 (前提是 Apple Inc. 的 ISO 27001 和 ISO 27018 認證應被視為足以完成此等必要的審計用途)；如果 Apple 認為你的任何指示違反 GDPR 或其他歐盟或歐盟成員國的資料保護規定，則根據適用法律的要求通知你)；(b) GDPR 第 32 條或法律規定的其他同等義務 (包括實施本第 9.3 節訂明的安全程序，及維護 ISO 27001 和 ISO 27018 認證)；(c) GDPR 的第 33 和 34 條或法例下其他同等義務 (透過協助你向監管機構或資料當事人提供資料事故的必要通知)；(d) GDPR 第 35 條和 36 條或法律規定的其他同等義務，要求機構進行資料保護影響評估或在處理前諮詢監管機構；(e) 由資料保護監管機構或類似機關就個人資料作出的調查；(f) 在可能的情況下，考慮到透過適當的技術和組織措施進行處理的性質，你有義務回應根據 GDPR 或其他同等法律義務行使資料當事人權利的請求。如果 Apple 認為無法再履行《加州消費者私隱法》(CCPA) 或其他適用資料保護法律與規範所賦予的義務，就必須通知你。

#### **9.4 資料存取與轉移；終止；貴機構為處理方**

如法例有所規定，Apple 將確保所有國際資料傳輸的目的地國家或地區符合下列條件，包括能確保適當的保護水平、在適用法例下 (例如 GDPR 第 46 及第 47 條規定的標準資料保護條款) 提供適當的保護措施，或受 GDPR 第 49 條的廢除條款約束。此類保護措施可能包括 Apple 執行的標準合約條款，或你同意簽訂的其他資料傳輸協議 (若你所在的司法管轄區要求，而由 Apple 執行，內容請見 <https://www.apple.com/legal/enterprise/datatransfer/>)。Apple 公司於國際間傳輸在亞太經濟合作組織 (APEC) 參與國家或地區所收集的個人資料時，須嚴格根據 APEC 跨境私隱規則 (CBPR) 體系 (<http://cbprs.org/>) 及資料處理者私隱認可 (PRP) 體系 (<http://cbprs.org/>) 傳輸個人資料。如對 APEC CBPR 或 PRP 認證有疑問或未能解決的疑慮，請聯絡我們的第三方爭議排解機構 (<https://feedback-form.truste.com/watchdog/request>)。對於你在 Apple 系統以外儲存或傳輸的資料，Apple 概不負責。除非為避免欺詐或法例有所規定，若本協議因任何原因終止，Apple 須於合理時間內安全地銷毀 Apple 因你使用本服務而儲存的個人資料。若貴機構以認可實體的資料處理方身分簽訂本協議，則貴機構聲明並保證代表自己及 (在本協議訂明的有限範圍內) 此等認可實體簽訂本協議。貴機構聲明已獲此等認可實體的適用同意，可簽訂本協議並視 Apple 為代表此等實體的子處理方，且須對此等認可實體的任何申索對 Apple 負責。Apple 不得以構成「銷售」或「分享」(這些詞彙已定義於 CCPA，以及其他資料保護法律中的任何其他類似概念) 個人資料的方式披露任何個人資料，也不得從事任何與本協議相關，且可能構成「銷售」或「分享」個人資料的處理活動。

#### **9.5 取用第三方產品及服務**

若你選擇存取、使用、下載、安裝或啟用與本服務共同運作，但不屬於本服務範圍之第三方產品或服務，本服務可於使用此類附加服務之必要範圍內，允許該等產品或服務存取個人資料。當中某些第三方產品或服務也可能向 Apple 提供個人資料的存取權限，例如：如果你允許你的授權使用者透過聯合身分供應商登入服務。你並無義務使用此類服務的相關附加產品或服務，貴機構管理員可依照本協議限制使用該等附加產品或服務。於存取、使用、下載、安裝或允許第三方產品或服務，並與「管理式 Apple 帳戶」一併使用前，你應細閱該等第三方產品及服務之條款、政策與實務，以了

解其可能自授權使用者收集之資料內容、可能使用、分享、儲存資料的方法，以及 (如適用) 該等實務是否符合你取得之同意。

## 9.6 其他

為執行 Apple 條款及細則或者為保護 Apple 營運或使用者，Apple 在判斷披露屬合理必要時，可能會披露你的個人資料。此外，若發生公司重組、合併或出售事宜，Apple 亦可能將你提供的任何及全部個人資料轉移予相關方。本揭露規定不適用於任何內容 (包括第三方 APP) 的資料收集。購買或下載作為本服務一部分的內容前，你應細閱這些條款、政策，以及該等內容的實踐方式。若有第三方向 Apple 索取個人資料 (下稱「第三方要求」)，Apple 會在法例允許的範圍內通知你收到第三方要求，並通知提出要求者向你說明此等第三方要求。除非法例或第三方另有要求，否則應由你負責回應有關要求。

## 10. 一般法律條款

### 10.1 第三方通知

Apple 軟件或本服務的個別部分可能使用或包含第三方軟件和其他受版權保護的內容。該等內容的確認、許可條款和免責聲明載於本服務或其適用部分的電子文件中，而你對該等內容的使用受各自的條款約束。

### 10.2 資料的其他收集與使用

Apple 及其關聯公司和代理人可收集、維護、處理和使用診斷、技術、使用情況及相關資料，包括但不限於獨特的系統或硬件識別碼、Cookie 或 IP 位址、有關你和你授權者使用本服務、你的 MDM 伺服器、裝置登記設定、電腦、裝置、系統和應用軟件，以及其他軟件和周邊設備的資料。此等定期收集的資料用於：向你提供與本服務相關的服務內容；提供、測試和改進 Apple 裝置和服務；為改進 Apple 裝置、服務和客戶通訊而進行的審計、數據分析和研究等內部用途；方便向你提供與本服務或任何此等軟件相關的軟件或軟件更新、裝置支援和其他服務 (如有)；以及確認本協議的條款是否獲得遵循。根據本節內容收集的資料將按照 Apple 的私隱政策處理，詳見：<http://www.apple.com/legal/privacy>。

### 10.3 轉讓

未經 Apple 事先明確的書面同意，本協議不得轉讓，也不得把你在本協議下的任何義務全部或部分地通過法例、合併或任何其他方式轉授，而任何未經此等同意的試圖轉讓將視為無效。

### 10.4 新聞稿和其他公開資料；各方關係

未經 Apple 明確書面批准 (Apple 可酌情決定不予批准)，你不得就本協議、其條款及細則或各方關係發佈任何新聞稿或者發表任何其他公開聲明。本協議並無就你與 Apple 之間建立任何代理關係、合作夥伴、合資、受託或任何其他形式的法律關係，你亦不得以明示、暗示、表現或其他方式對此作出相反聲明。本協議非為任何第三方之利益而存在。

### 10.5 通知

本協議的所有相關通知必須採用書面形式。當通知發送至你在登記過程中提供的電郵地址或郵寄地址時，即視為已由 Apple 發出。就本協議向 Apple 提供的所有通知於以下情況將視為已發出：(a) 親自交付、(b) 在有書面派遞證明的商業通宵貨運商寄送後三個工作天內，及 (c) 透過已預付郵資的第一級或掛號郵件寄出後五個工作天內，寄送至以下 Apple 地址：Apple Inc., Apple Developer

Legal (Apple Business Manager), One Apple Park, 37-2ISM, Cupertino, California 95014 U.S.A.。你同意以電郵形式接收通知，並同意 Apple 以電子方式向你發送任何通知均符合法定通訊規定。一方可以按照上述說明以書面通知另一方，以更改電郵或郵寄地址。

## 10.6 可分割性

如果具有管轄權的法院認為本協議的任何條款因任何原因無法執行，則本協議的該條款須在可允許的最大範圍內執行，以呈現締約雙方的意圖，且本協議的其餘部分應繼續具有十足效力及作用。然而，如果適用法例禁止或限制你完全且具體地遵守本協議中題為「本服務規定」或「貴機構之義務」的章節或導致任何這些章節無法執行，本協議將立即終止且你必須立即停止使用本服務。

## 10.7 放棄權利與解釋

若 Apple 未能執行本協議的任何條文，不應被視作放棄將來執行該條文或任何其他條文之權利。任何使合約用語解釋不利於起草人之法例或規定都不適用於本協議。章節標題僅為方便閱讀而設，在解釋或解讀本協議時不予考慮。

## 10.8 出口管制

除非你獲美國法例、獲取本服務或 Apple 軟件時所在司法管轄區的法例和/或任何其他適用法例和規定的授權，否則不得使用、出口、再出口、進口、出售或轉讓本服務或 Apple 軟件或其任何部分。具體包括但不限於：本服務和 Apple 軟件不得出口或再出口到 (a) 任何美國禁運國家/地區，或 (b) 美國財政部發佈的特別指定國民名單或美國商務部發佈的被拒人員名單、被拒實體名單或任何其他受限制方名單上的任何人士。使用本服務或 Apple 軟件，即表示你聲明並保證你不在任何此類國家/地區或任何此類名單上。你同時同意不會將本服務或 Apple 軟件用於美國法例禁止的任何目的，包括但不限於開發、設計、製造或生產核武器、導彈、化學武器或生物武器。

你聲明並保證，你或任何直接/間接控制你，或是與你受到同一方控制的實體或人員：(a) 不在提供該服務的國家/地區或區域的任何制裁名單上，(b) 並未在美國禁運國家/地區或區域執行業務，且 (c) 不是 15 C.F.R § 744 所定義並位於其涵蓋範圍內的軍方最終用戶。如同第 10.8 節所用，「控制」一詞是指直接或間接擁有指導或促成指導另一方實體管理政策的權力，不論透過具投票權之證券的擁有權、註冊資本權益、合約或其他方式。

## 10.9 政府最終使用者

本服務、Apple 軟件和文件屬於美國 48 C.F.R. §2.101「商業電腦軟件」和「商業電腦軟件說明文件」定義之「商業產品」，並視乎情況適用 48 C.F.R. §12.212 或 48 C.F.R. §227.7202。根據 48 C.F.R. §12.212 或 48 C.F.R. §227.7202-1 至 227.7202-4 之規定，在適用情況下，商業電腦軟件和商業電腦軟件文件可授權給美國政府最終使用者，但須滿足以下兩項條件：(a) 僅作為商業產品，及 (b) 僅授予與所有其他最終使用者依據本協議條款及細則所享的相同權利。未公開之權利則依照美國版權法予以保留。

## 10.10 糾紛調解；規管法例

你與 Apple 之間因本協議、Apple 軟件或你與 Apple 的關係而產生的任何訴訟或與此相關的其他糾紛調解將在加州北部地區處理。你和 Apple 特此同意對於任何此類訴訟或糾紛調解，該地區的州法院和聯邦法院具有屬人管轄權且為專屬管轄法院。本協議將受制於並根據美國和加州的法例解釋，但加州法例中有關法例衝突的條款除外。在不違背上述條款的情況下：

(a) 如果你是美國聯邦政府的代理人、媒介或部門，則本協議須根據美國法例受管轄，而在沒有適用的聯邦法例的情況下，加州的法例將適用。此外，儘管本協議有任何相反規定 (包括但不限於第 5 節 (彌償))，所有申索、要求、投訴和糾紛均受《合約糾紛法》(Contract Disputes Act ; 41 U.S.C. §§ 601-613)、《擴大權利申訴法院管轄權法》(Tucker Act ; 28 U.S.C §1346 (a) 和 §1491)，或《聯邦侵權申索法》(Federal Tort Claims Act ; 28 U.S.C §§1346 (b)、2401-2402、2671-2672、2674-2680) (以適用者為準) 或其他適用的規管機關約束。為避免疑義，如果你是美國聯邦、州或地方政府的代理人、媒介或部門，或者是美國公立和經認證的教育機構，則你的彌償義務僅適用於其不會導致你違反任何適用法例 (例如《反超支法》(Anti-Deficiency Act)) 的程度，且你有任何法律要求的授權或授權法規；

(b) 如果你是美國公立和經認證的教育機構或者美國州或地方政府的代理人、媒介或部門，則 (i) 本協議將受制於並根據你所在美國州分之法例解釋，但州法例中有關法例衝突的條款除外；及 (ii) 你與 Apple 之間因本協議、Apple 軟件或你與 Apple 的關係而產生或與之相關的任何訴訟或其他糾紛調解，將於加州北部地區的聯邦法院處理。你和 Apple 特此同意有關地區的屬人管轄權且為專屬管轄法院，除非你所在州分的法例明文禁止此類同意；

(c) 如果你是透過政府間章程或協議獲賦予豁免國家法院管轄權的國際政府間組織，則由本協議引起或與本協議相關的任何爭議、申索或違約行為，須由根據該規則任命的三名仲裁員根據申請仲裁時有效的國際商會仲裁規則 (以下稱「ICC 規則」) 進行仲裁，並將依照律師協會 (IBA) 國際仲裁取證規則進行仲裁。仲裁地點為英國倫敦。仲裁語言須為英文。若 Apple 提出要求，你同意提供證據證明你是具有此類特權和豁免權的政府間組織；及

(d) 如果你身處歐盟國家或地區、冰島、挪威、瑞士或英國，按照「Apple」的定義所述，監管法例和司法機構應為提供本服務之 Apple 實體所在國家或地區的法例和法院 (如適用)。

本協議不受《聯合國國際貨物銷售合約公約》(United Nations Convention on Contracts for the International Sale of Goods) 規管，謹此明確排除適用。

### 10.11 完整協議；規管用語

本協議構成雙方之間在本協議下就本服務訂立的完整協議，並取代之前有關其主題內容的所有理解和協議。為避免疑義，本協議中的所有內容均不可取代 Apple 軟件的 EULA。本協議只能以下列方式修訂：(a) 雙方簽署的書面修訂案，或 (b) 在本協議明確允許的範圍內 (例如 Apple 向你發出通知)。本協議的任何翻譯出於尊重你的權益而提供，若英文版與任何非英文版之間出現歧異，在你所在司法管轄區的當地法例並無禁止的範圍內，概以本協議的英文版為準。如果你是法國境內的政府機構，則以下條款適用：雙方謹此確認已要求本協議及所有相關文件以英文草擬。

### 10.12 接受

貴機構確認並同意點按「同意」、類似按鈕或勾選選框，即表示貴機構透過授權代表接受並同意本協議的條款及細則。

LYL186  
2024 年 9 月 9 日

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

## Apple Business Manager Agreement

### Purpose

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

**Note:** You will need to have an MDM solution (e.g., from a third-party developer) enabled within Your Institution so that you can utilize the features of this Service. An MDM solution enables You to configure, deploy, and manage Apple-branded devices. For more information, see <https://www.apple.com/business/resources/>.

### 1. Definitions

Whenever capitalized in this Agreement:

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

“**Agreement**” means this Apple Business Manager Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

**“Permitted Entity(ies)”** means: (a) if You are a vehicle manufacturer, Your authorized vehicle dealerships and certified service partners; (b) if You are a hotel holding company, hotel properties operating under Your name, trademark or brand (or a name, trademark or brand it owns or controls); or (c) if You deploy an app on Authorized Devices in Restricted App Mode (e.g., a point-of-sale provider who deploys its app-based payment system on iPads), Your customers who are using such app in Restricted App Mode on the Authorized Device. Further, any such app must be developed and distributed in accordance with the terms of the Apple Developer Program License Agreement (e.g., distribution of a Custom App). For clarity, You may request, and Apple may approve, other entities similar to those identified in subsections (a) and (b) above; however, no other entity shall be included in this definition without Apple’s prior written consent.

**“Permitted Users”** means employees and Contract Employees of Your Permitted Entity.

**“Personal Data”** means data that can be reasonably used to identify an individual that is under

the control of the Institution under this Agreement.

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

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

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

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

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

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

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

## **2. Service Requirements**

### **2.1 Use of the Service**

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

- (a) Institution is permitted to use the Service only for the purposes and in the manner expressly permitted by this Agreement and in accordance with all applicable laws and regulations, and the Documentation;
- (b) Institution is not permitted to use the Service (or any part thereof) for any unlawful, improper, inappropriate, or illegal activity;
- (c) Institution is permitted to use the Service to manage Authorized Devices for use only by Authorized Users and Permitted Users and not for general deployment to third parties (except as otherwise expressly permitted herein), and Institution will be responsible for all use of the Authorized Devices by such users, including but not limited to obtaining consents and providing appropriate information to users about the managed features of such devices;
- (d) Institution will be responsible for all use of the Service by its Permitted Entities (and any Permitted Users of the Permitted Entity), and any actions undertaken by its Permitted Entity shall be deemed to have been taken by Institution, and Institution (in addition to its Permitted Entity) shall be responsible to Apple for all such actions.
- (e) Institution will obtain all necessary rights and consents from its Authorized Users and Permitted



Users to deploy its Authorized Devices as permitted hereunder;

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

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

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

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

## **2.2 No Other Permitted Uses**

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

## **2.3 Server Token Usage**

Institution agrees to use the Server Token only for purposes of enrolling Institution's MDM Server into the Service and uploading Device Enrollment Settings that will be sent to Authorized Devices when they are initially activated by Authorized Users and Permitted Users. Institution agrees not to provide or transfer its Server Token to any other entity or share it with any other entity, excluding its Service Provider. Institution agrees to take appropriate measures to safeguard the security and privacy of such Server Token and to revoke it if it has been compromised or Institution has reason

to believe it has been compromised. Apple reserves the right to revoke or disable Server Tokens at any time in its sole discretion. Further, Institution understands and agrees that regenerating the Server Token will affect Institution's ability to use the Service until a new Server Token has been added to the MDM Server.

#### **2.4 EULAs Term and Conditions**

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

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

#### **2.5 Device Transfer**

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

#### **2.6 Purchasing Content**

Acquisition of Content is automatically disabled in the Service, and Your use is subject to the restrictions of this Agreement and the terms governing the use of Apps and Books in the Service ("Volume Content Terms"). You may choose to enable Your Administrators to access Content through the Service by granting them purchasing authority and allowing them to access Content. Subject to the Volume Content Terms and the restrictions of this Agreement, the Service enables You to allocate Content to Authorized Devices using device assignment or to Authorized Users or Permitted Users using user assignment and Apple Accounts. You may assign (or revoke and re-assign) apps to Authorized Users and Authorized Devices in any country where such app is commercially available on the App Store or otherwise, subject to change at any time. With respect to books, You understand and agree that once You have assigned a book to an Authorized User or a Permitted User, such book is non-transferable, and You will not be able to revoke or re-assign the book. You are solely responsible for all such purchases and compliance with the applicable terms. You agree that You have the authority to and will accept such applicable terms on behalf of Your Authorized Users and Permitted Users if You (or Your Administrators) purchase or access Content as part of the Service. You understand and agree that Content may not be available in all countries or regions. You agree not to export Content for use outside of the country in which You are domiciled nor represent that You have the right or ability to do so. You agree not to circumvent the laws of any country or restrictions set forth by providers of the Content.

#### **2.7 Administrator Accounts**

You may create Administrator accounts for Your Administrators to use in administering the Service, subject to limits Apple may impose on the number of Administrator accounts. These Administrator accounts will be a combination of a unique user name and password, which will be owned by You.

When You create Administrator accounts, all features and functionality of the Service that You select to be available will be enabled for such accounts, and You are responsible for appropriately enabling these Administrator accounts and for all activity in connection with these accounts (e.g., permitting Content purchases). You acknowledge and agree that these Administrator accounts may be used only to access and manage the Service for account management purposes. If You delete any Administrator accounts, then neither You nor the Administrator will have access to such Administrator accounts, and You acknowledge and agree that this action may not be reversible.

## **2.8 Managed Apple Accounts**

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

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

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

## **2.9 Permitted Entities and Permitted Users**

Subject to the terms of this Agreement, Permitted Entities and Permitted Users may access the Service under Your account, excluding the use and deployment of Managed Apple Accounts (unless otherwise separately approved in advance and in writing by Apple). You shall be responsible for compliance with the terms of this Agreement by the Permitted Entities and Permitted Users and shall be directly liable to Apple for any breach of this Agreement by Your Permitted Entities and Permitted Users. If You (or Service Provider acting on Your behalf) add Apple-branded devices to the Service that are owned by a Permitted Entity, You represent and warrant to Apple that the Permitted Entity has authorized You to add such devices, that You have control of such devices, and that You have the authority to accept EULAs on behalf of the Permitted Entity (and its Permitted Users, if applicable). Apple reserves the right to: set limitations on the Service features or functionality that Institution may allow its Permitted Entity (or Permitted Users) to access or use, and to require You to remove any Permitted Entities or Permitted Users from Your account at any time, in its sole discretion.

## **2.10 Updates; No Support or Maintenance**

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

## **2.11 Third-Party Service Providers**

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

## **3. Institution's Obligations**

Institution represents and warrants that:

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

## **4. Changes to Service Requirements or Terms**

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

## **5. Indemnification**

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

## **6. Term and Termination**

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

If You fail, or Apple suspects that You have failed, to comply with any of the provisions of this Agreement, Apple, at its sole discretion, without notice to You may: (a) terminate this Agreement and/or Your account; and/or (b) suspend or preclude access to the Service (or any part thereof). Apple reserves the right to modify, suspend, or discontinue the Service (or any part or content thereof) at any time without notice to You, and Apple will not be liable to You or to any third-party should it exercise such rights. Apple may also terminate this Agreement, or suspend Your rights to use the Services, if: (a) You fail to accept any new Agreement terms as described in Section 4; or (b) You or any entity or person that directly or indirectly controls You, or is under common control with You (where "control" has the meaning defined in Section 10.8), are or become subject to sanctions or other restrictions in the countries or regions where the Service is available. . You acknowledge and agree that You may not be able to access the Service upon expiration or termination of this Agreement and that Apple reserves the right to suspend access to or delete data or information that You, Your Administrators, Authorized Users, Permitted Entities, or Permitted Users have stored through Your use of the Service. You should review the Documentation prior to using any part of the Service and make appropriate back-ups of Your data and information. Apple will not be liable or responsible to You or to any third party should it exercise such rights or for any damages that may result or arise out of any such termination or suspension. The following provisions shall survive the termination of this Agreement: Section 1, the second sentence of Section 2.9, Section 2.10, the second sentence of Section 2.11, Section 3, Section 5, the second paragraph of Section 6, and Sections 7, 8, 9, and 10.

## **7. DISCLAIMER OF WARRANTIES**

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF, OR INABILITY TO USE, THE SERVICE, OR ANY TOOLS

OR FEATURES OR FUNCTIONALITY ACCESSED BY OR THROUGH THE SERVICE, IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU.

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

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

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

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

## **8. LIMITATION OF LIABILITY**

TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL APPLE BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, CORRUPTION OR LOSS OF DATA OR INFORMATION, FAILURE TO TRANSMIT OR RECEIVE ANY DATA OR INFORMATION, BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF THIS AGREEMENT AND/OR YOUR USE OR INABILITY TO USE THE SERVICE, EVEN IF APPLE HAS BEEN ADVISED OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE), AND

EVEN IF APPLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL APPLE'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## **9. Data Privacy and Security**

### **9.1 Personal Data Usage and Disclosure**

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

### **9.2 Data Incidents**

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

### **9.3 Security Procedures; Compliance**

Apple shall use industry-standard measures to safeguard Personal Data during the transfer, processing, and storage of Personal Data as part of the Service. As part of these measures, Apple will use commercially reasonable efforts to encrypt Personal Data at rest and in transit; ensure the ongoing confidentiality, integrity, availability and resilience of the Service; in the event of an issue, restore the availability of Personal Data in a timely manner; and regularly test, assess, and evaluate the effectiveness of such measures. Apple will take appropriate steps to ensure compliance with security procedures by its employees, contractors and Sub-processors, and Apple shall ensure that any persons authorized to process such Personal Data comply with applicable laws regarding the confidentiality and security of Personal Data with regards to the Service. Encrypted Personal Data may be stored at Apple's geographic discretion. To the extent Apple is acting as a data processor, Apple will assist You with ensuring Your compliance, if applicable, with the following: (a) Article 28 of the GDPR or other equivalent obligations under law (by making available all necessary information; by allowing for and contributing to audits (provided, that Apple Inc.'s ISO 27001 and ISO 27018 certifications shall be considered sufficient for such required audit purposes) and by informing You, as required by applicable law, if, in Apple's opinion, any of Your instructions infringes the GDPR or other European Union or European Union Member State data protection provisions); (b) Article 32 of the GDPR or other equivalent obligations under law (including implementing the

security procedures set forth in this Section 9.3 and by maintaining the ISO 27001 and ISO 27018 Certifications); (c) Articles 33 and 34 of the GDPR or other equivalent obligations under law (by assisting You with providing required notice of a Data Incident to a supervisory authority or data subjects); (d) Articles 35 and 36 of the GDPR or other equivalent obligations under law requiring Institution to conduct data protection impact assessments or to consult with a supervisory authority prior to processing; (e) an investigation by a data protection regulator or similar authority regarding Personal Data; and (f) Your obligation to respond to request for exercising data subject's rights under the GDPR or other equivalent obligations under law, taking into account the nature of the processing by appropriate technical and organizational measures, insofar as this is possible. Apple shall inform You if, in its opinion, it can no longer meet its obligation under the California Consumer Privacy Act (CCPA) or other applicable data protection laws and regulations.

#### **9.4 Data Access and Transfer; Termination; Institution as Processor**

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

#### **9.5 Access to Third Party Products and Services**

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



## **9.6 Other**

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

## **10. General Legal Terms**

### **10.1 Third-Party Notices**

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

### **10.2 Other Collection and Use of Data**

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

### **10.3 Assignment**

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

### **10.4 Press Releases and Other Publicity; Relationship of Parties**

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

### **10.5 Notices**

Any notices relating to this Agreement shall be in writing. Notices will be deemed given by Apple when sent to You at the email address or mailing address You provided during the sign-up process. All notices to Apple relating to this Agreement will be deemed given (a) when delivered personally,

(b) three business days after having been sent by commercial overnight carrier with written proof of delivery, and (c) five business days after having been sent by first class or certified mail, postage prepaid, to this Apple address: Apple Inc., Apple Developer Legal (Apple Business Manager), One Apple Park, 37-2ISM, Cupertino, California 95014 U.S.A. You consent to receive notices by email and agree that any such notices that Apple sends You electronically will satisfy any legal communication requirements. A party may change its email or mailing address by giving the other written notice as described above.

#### **10.6 Severability**

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

#### **10.7 Waiver and Construction**

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

#### **10.8 Export Control**

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

You represent and warrant that You and any entity or person that directly or indirectly controls You, or is under common control with You, are not: (a) on any sanctions lists in the countries or regions where the Service is available, (b) doing business in any of the US embargoed countries or regions, and (c) a military end user as defined and scoped in 15 C.F.R § 744. As used in this Section 10.8, “control” means that an entity or person possesses, directly or indirectly, the power to direct or cause the direction of the management policies of the other entity, whether through ownership of voting securities, an interest in registered capital, by contract, or otherwise.

#### **10.9 Government End-users**

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

#### **10.10 Dispute Resolution; Governing Law**

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

(a) If You are an agency, instrumentality or department of the federal government of the United States, then this Agreement shall be governed in accordance with the laws of the United States of America, and in the absence of applicable federal law, the laws of the State of California will apply. Further, and notwithstanding anything to the contrary in this Agreement (including but not limited to Section 5 (Indemnification)), all claims, demands, complaints and disputes will be subject to the Contract Disputes Act (41 U.S.C. §§601-613), the Tucker Act (28 U.S.C. § 1346(a) and § 1491), or the Federal Tort Claims Act (28 U.S.C. §§ 1346(b), 2401-2402, 2671-2672, 2674-2680), as applicable, or other applicable governing authority. For the avoidance of doubt, if You are an agency, instrumentality, or department of the federal, state or local government of the U.S. or a U.S. public and accredited educational institution, then Your indemnification obligations are only applicable to the extent they would not cause You to violate any applicable law (e.g., the Anti-Deficiency Act), and You have any legally required authorization or authorizing statute;

(b) If You are a U.S. public and accredited educational institution or an agency, instrumentality, or department of a state or local government within the United States, then (i) this Agreement will be governed and construed in accordance with the laws of the state (within the U.S.) in which You are domiciled, except that body of state law concerning conflicts of law; and (ii) any litigation or other dispute resolution between You and Apple arising out of or relating to this Agreement, the Apple Software, or Your relationship with Apple will take place in federal court within the Northern District of California, and You and Apple hereby consent to the personal jurisdiction of and exclusive venue of such District unless such consent is expressly prohibited by the laws of the state in which You are domiciled;

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

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

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

#### **10.11 Entire Agreement; Governing Language**

This Agreement constitutes the entire agreement between the parties with respect to the Service contemplated hereunder and supersedes all prior understandings and agreements regarding its subject matter. For the avoidance of doubt, nothing in this Agreement supersedes the EULAs for the Apple Software. This Agreement may be modified only: (a) by a written amendment signed by

both parties, or (b) to the extent expressly permitted by this Agreement (for example, by Apple by notice to You). Any translation of this Agreement is provided as a courtesy to You, and in the event of a dispute between the English and any non-English version, the English version of this Agreement shall govern, to the extent not prohibited by local law in Your jurisdiction. If You are a government organization within France, the following clause applies: The parties hereby confirm that they have requested that this Agreement and all related documents be drafted in English. *Les parties ont exigé que le présent contrat et tous les documents connexes soient rédigés en anglais.*

#### **10.12 Acceptance**

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

LYL186  
9 September 2024