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15 *Counsel for Plaintiffs Andrea M. Williams*  
16 *and James Stewart*

17 **UNITED STATES DISTRICT COURT**  
18 **NORTHERN DISTRICT OF CALIFORNIA**

19 ANDREA M. WILLIAMS AND JAMES  
20 STEWART, On Behalf of Themselves And  
21 All Others Similarly Situated,

22 Plaintiff,

23 v.

24 APPLE, INC.,

25 Defendant.

**No.**

**CLASS ACTION COMPLAINT**

**Class Action**

**Jury Trial Demanded**

**NATURE OF THE ACTION**

1  
2           1. Plaintiffs Andrea M. Williams and James Stewart and (collectively “Plaintiffs”) bring  
3 this Class Action Complaint against Defendant Apple, Inc. (“Defendant” or “Apple”) on behalf of  
4 themselves and all other similarly situated persons in the United States who during the Class  
5 Period defined below paid for subscriptions to Apple’s iCloud service. Plaintiffs allege claims for  
6 breach of contract, violations of California’s False Advertising Law (California Business and  
7 Professions Code, §§ 17500 *et seq.*), and violations of California’s Unfair Competition Law  
8 (California Business and Professions Code, §§ 17200 *et seq.*).

9           2. As detailed more fully below, Apple’s iCloud service provides users the ability to  
10 store their digital data on remote servers, as opposed to keeping the data stored merely on the  
11 users’ devices. This is commonly referred to as “storing on the cloud.” Throughout the Class  
12 Period, Apple sold subscriptions to the putative class members by which Apple represented to  
13 class members that, in exchange for paying Apple the iCloud monthly subscription fees, Apple  
14 would provide them with cloud storage. In truth and in fact, however, Apple lacked the  
15 necessary infrastructure to provide this service at the time it sold it. Unbeknownst to Plaintiffs  
16 and the putative class members, instead of storing class members’ data on Apple cloud servers  
17 and facilities, Apple actually stored users’ data on cloud facilities owned and operated by other  
18 entities, like Amazon, Microsoft or Google—all undisclosed to these class members who paid and  
19 entrusted Apple to store their data.

20           3. The selection of a cloud storage provider is a significant and material consideration,  
21 as it involves entrusting all of a user’s stored data—including sensitive information like  
22 photographs, documents of all kinds, and e-mail content—to be stored by the cloud storage  
23 provider. Thus, users have an interest in who is offering this storage and taking custody of their  
24 data. For this reason, in Apple’s iCloud subscription contract, Apple went to great lengths to  
25 represent and assure iCloud subscribers that Apple was the provider of the cloud storage service  
26 being purchased by the putative class members. Apple highlighted as much in its iCloud contract  
27 for U.S. subscribers, emphasizing that:

1 *Apple is the provider of the Service*, which permits you to utilize certain Internet  
 2 services, including storing your personal content (such as contacts, calendars, photos,  
 3 notes, reminders, documents, app data, and iCloud email) and making it accessible on  
 4 your compatible devices and computers, and certain location based services, only under  
 5 the terms and conditions set forth in this Agreement. iCloud is automatically enabled  
 6 when you are running devices on iOS 9 or later and sign in with your Apple ID during  
 7 device setup, unless you are upgrading the device and have previously chosen not to  
 enable iCloud. You can disable iCloud in Settings. When iCloud is enabled, ***your***  
***content will be automatically sent to and stored by Apple***, so you can later access that  
 content or have content wirelessly pushed to your other iCloud-enabled devices or  
 computers.

8 Ex. 1 to Class Action Complaint (iCloud U.S. Contract), at 1 (emphasis added).

9 4. Touting itself as the provider of the iCloud service (when, in fact, Apple was merely  
 10 reselling cloud storage space on cloud facilities of other entities) allowed Apple not only to obtain  
 11 paid subscriptions of class members who subscribed to iCloud believing that their cloud storage  
 12 was being provided by Apple, but also allowed Apple to charge a premium for its iCloud service  
 13 because subscribers placed a value on having the “Apple” brand as the provider of the storage  
 14 service for their most sensitive data. In fact, at the time that Apple was selling iCloud storage as  
 15 its own to subscribers, but actually reselling (unbeknownst to class members) cloud storage  
 16 provided by Amazon or Microsoft, these rival entities (*i.e.*, Amazon or Microsoft) were providing  
 17 cloud storage services to the public at prices lower than Apple’s iCloud. Class members,  
 18 therefore, paid a premium for their belief and understanding that their data would be stored by  
 19 Apple.

20 5. As the foregoing allegations make clear and as more fully detailed below, Apple has  
 21 breached its iCloud contract, a copy of which is attached hereto as Exhibit 1. This breach was  
 22 material and caused all class members harm in that, *inter alia*, they did not receive the benefit of  
 23 their bargain with Apple (a bargained-for assurance and promise that Apple would provide the  
 24 cloud storage service when, in fact, the service was provided by entirely different and unrelated  
 25 entities with whom class members did not contract). Further, by representing that “Apple is the  
 26 provider of the Service” when, in fact, it was not, Apple engaged in false advertising within the  
 27 meaning of California’s False Advertising Law (“FAL”). Moreover, Apple’s acts also amount

1 to unlawful, unfair, or deceptive practices within the meaning of California's Unfair Competition  
2 Law ("UCL").

3 6. Apple's iCloud contract contains a choice of law provision, by which Apple and all  
4 iCloud subscribers nationwide agreed to be bound by California law with regard to their rights  
5 and liabilities in connection with the use and purchase of the iCloud service. *See* Ex. 1 to Class  
6 Action Complaint, at § X.B ("Except to the extent expressly provided in the following paragraph, this  
7 Agreement and the relationship between you and Apple shall be governed by the laws of the State of  
8 California, excluding its conflicts of law provisions."). It is therefore proper and appropriate to apply  
9 California law to the claims raised on behalf of this nationwide putative class of iCloud subscribers.

### 10 JURISDICTION AND VENUE

11 7. This Court has subject-matter jurisdiction over all claims asserted in this Class Action  
12 Complaint pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d). Plaintiffs' action is  
13 brought on behalf of a class of nationwide subscribers of Apple's iCloud service during the Class  
14 Period, and Defendant Apple is a citizen of California. The putative class action, therefore, satisfies the  
15 diversity of citizenship requirement. Given the redress sought and that class members number in the  
16 millions, this Class Action Complaint also satisfies the amount in controversy requirement, as the  
17 amount of redress sought exceeds \$5 million exclusive of interest, attorneys' fees, or costs.

18 8. This Court has personal jurisdiction over Defendant because Apple is a corporation  
19 incorporated under the laws of the State of California and has its principal place of business within this  
20 state and judicial district at One Apple Park Way in Cupertino, California 95014.

21 9. Venue is proper in this district because Apple's principal place of business is  
22 located within this judicial district, the acts underlying all claims asserted in this Class Action  
23 Complaint arose from within this judicial district and, as part of the iCloud contract, all parties  
24 agreed to submit to venue in courts located within the county of Santa Clara, California. *See* Ex.  
25 1 to Class Action Complaint, at § X.B. Venue in this Court, therefore, is proper pursuant to 28  
26 U.S.C. § 1391.

**INTRADISTRICT ASSIGNMENT**

10. Pursuant to Civil L.R. 3-5(b), Plaintiffs allege that under Civil L.R. 3-2(e) and the Court's General Order No. 44, assignment of this action to the San Jose Division is appropriate because the events giving rise to the claims arose from Apple's principal place of business in Santa Clara County. The Plaintiffs, putative class members, and Apple also agreed as part of the iCloud agreement "to submit to the personal and exclusive jurisdiction of the courts located within the county of Santa Clara, California, to resolve any dispute or claim arising from this Agreement." Ex 1 to Class Action Complaint, at § X.B.

**PARTIES**

11. Plaintiff Andrea M. Williams is a resident of Florida and a citizen of Florida for purposes of the federal diversity statute as she intends to remain in Florida for the foreseeable future. During the Class Period, Ms. Williams subscribed to Apple's iCloud service, paid money to Apple for her iCloud subscription, and used iCloud to store her data on the cloud. The legal agreement or contract that she and Apple entered into regarding Ms. Williams' iCloud subscription provided that Apple would be the provider of this cloud storage service. Ms. Williams was never informed by Apple that her data actually was being stored on the cloud on non-Apple remote servers and facilities, such as cloud storage facilities belonging to Amazon, Microsoft, or Google (or possibly other entities). Had Apple disclosed that, contrary to its contractual representation, Apple was not the provider of the cloud storage, Ms. Williams either would not have subscribed to Apple's iCloud service or would have not agreed to pay as much as she did for the service..

12. Plaintiff James Stewart is a resident of San Francisco, California and a citizen of California for purposes of the federal diversity statute as he intends to remain in California for the foreseeable future. During the Class Period, Mr. Stewart subscribed to Apple's iCloud service, paid money to Apple for his iCloud subscription, and used iCloud to store his data on the cloud. The legal agreement or contract that he and Apple entered into regarding Mr. Stewart's iCloud subscription provided that Apple would be the provider of this cloud storage service. Mr. Stewart

1 was never informed by Apple that his data actually was being stored on the cloud on non-Apple  
2 remote facilities, such as cloud storage facilities belonging to Amazon, Microsoft, or Google (or  
3 possibly other entities). Had Apple disclosed that, contrary to its contractual representation,  
4 Apple was not the provider of the cloud storage being provided as part of the iCloud agreement,  
5 Mr. Stewart either would not have subscribed to Apple's iCloud service or would have not agreed  
6 to pay as much as he did for the service

### 7 CLOUD STORAGE

8 13. Cloud storage involves stashing data on hardware in a remote physical location,  
9 which can be accessed from any device via the internet. Clients send files to a data server  
10 maintained by a cloud provider instead of (or as well as) storing it on their own hard drives.

11 14. Cloud storage systems generally encompass hundreds of data servers linked  
12 together by a master control server.

13 15. An appeal to individual users is that cloud storage service providers allow  
14 individuals to store their photos, e-mail, music, calendars, contacts and other data in a central  
15 location, accessible from whatever device happens to be handy. These can be set up to  
16 automatically sync with the cloud, ending an era of fumbling with USB cables or other external  
17 storage devices.

18 16. As the foregoing summary explanation makes clear, provision of cloud storage  
19 services requires a sufficient and robust infrastructure of remote server and associated hardware  
20 facilities for this data to be stored. Also, of importance to users, is the identity of the entity  
21 providing this storage on its facilities, as the user is turning over sensitive data for storage, like  
22 photographs, documents, and other personal digital files.

23 17. Today, there are a number of competing cloud storage service providers. In  
24 addition to Apple's iCloud, other cloud storage providers include Dropbox, Amazon (through,  
25 *inter alia*, its Amazon Drive service), Microsoft (through its Microsoft OneDrive service), and  
26 Google (through, *inter alia*, its Google Drive service).

**APPLE'S iCloud SERVICE AND APPLE'S CONTRACTUAL  
MISREPRESENTATION**

18. Apple launched its iCloud cloud storage and computing service on or about October 12, 2011. iCloud replaced Apple's previous MobileMe service, which had acted as a data syncing center for email, contacts, calendars, bookmarks, notes, reminders (to-do lists), iWork documents, photos, and other data.

19. iCloud enables users to store data such as documents, photos, and music on remote servers for download to iOS, macOS, or Windows devices, to share and send data to other users, and to manage their Apple devices if lost or stolen.

20. Owners of Apple devices are granted up to 5 GB of iCloud storage for free. If an Apple device user wishes to store more than 5 GB of data on the cloud through iCloud, then that user must subscribe to iCloud's paid service.

21. As set forth below, pricing for an iCloud subscription, which is billed on a monthly basis, depends on the amount of cloud data storage (measured in gigabytes or terabytes) the subscriber is entitled to store through iCloud.

22. In order to subscribe to iCloud, a user must agree to the iCloud Terms of Service Agreement. A current version of the iCloud agreement for iCloud subscribers in the United States is attached hereto as Exhibit 1. A key term of this iCloud agreement for U.S. subscribers, which sets forth the terms, duties and obligations, of Apple and the iCloud subscribers, is that Apple is the entity providing the iCloud cloud storage service for U.S. subscribers. This much is underscored in the iCloud agreement's second paragraph, in which Apple promises and represents that:

*Apple is the provider of the Service*, which permits you to utilize certain Internet services, including storing your personal content (such as contacts, calendars, photos, notes, reminders, documents, app data, and iCloud email) and making it accessible on your compatible devices and computers, and certain location based services, only under the terms and conditions set forth in this Agreement. iCloud is automatically enabled when you are running devices on iOS 9 or later and sign in with your Apple ID during device setup, unless you are upgrading the device and have previously chosen not to enable iCloud. You can disable iCloud in Settings. When iCloud is enabled, your content will ***be automatically sent to and stored by Apple***, so you can later access that

1 content or have content wirelessly pushed to your other iCloud-enabled devices or  
2 computers.

3 Ex. 1 to Class Action Complaint, at 1 (emphasis added).

4 23. Although the current version of the iCloud agreement for U.S. subscribers was last  
5 revised on September 17, 2018, Apple's representation that it was providing the iCloud cloud  
6 storage service was a term and representation found in versions of the iCloud agreement for U.S.  
7 subscribers for the entire Class Period. This is evidenced by the version of the iCloud agreement  
8 for U.S. subscribers last revised on September 16, 2015, which contains the identical second  
9 paragraph as the current version of that agreement and identically represents that "*Apple is the*  
10 *provider of the Service,...*" A copy of the September 16, 2015 iCloud agreement for U.S. subscribers  
11 is attached hereto as Exhibit 2.

12 24. As alleged at Paragraph 16 *supra*, the identity of the entity who is providing cloud  
13 storage of subscribers' digital data is of concern to subscribers and forms a material term of any  
14 agreement by subscribers of cloud storage. Indeed, it would be nonsensical to contend that users are  
15 indifferent to whom they entrust their most personal, private, and sensitive digital data for storage.  
16 This concern is not merely a privacy-driven one, but also a driven by subscribers need to assure  
17 themselves that the party to whom they entrust their digital data for cloud storage is one whom they  
18 sufficiently trust to take protect the data while in storage on the cloud servers and to ensure that the data  
19 will be accessible to the subscribers on demand at any point in the future.

20 25. Apple, in fact, recognized that consumers are not indifferent as to the identity of  
21 the provider storing consumers' digital data. Thus, for example, in mainland China, due to  
22 governmental regulations, Apple was permitted to sell iCloud subscriptions for cloud storage to  
23 Chinese users, but Apple was not permitted to own the cloud servers or other facilities. As a  
24 result, Apple went to great lengths in its iCloud agreement for mainland Chinese subscriptions to  
25 represent unlike in its U.S. iCloud agreement (where Apple represents that Apple provides the  
26 iCloud cloud storage service) that another entity altogether, AIPO CLOUD (GUIZHOU)



1 TECHNOLOGY CO. LTD (“GCBD”), provides the iCloud cloud storage service. A copy of  
2 Apple’ iCloud agreement for China-based subscribers, therefore, provides that:

3 ***GCBD is the provider of the Service in the Mainland of China***, which permits you to  
4 utilize certain Internet services, including storing your personal content (such as  
5 contacts, calendars, photos, notes, reminders, documents, app data, and iCloud email)  
6 and making it accessible on your compatible devices and computers, and certain  
7 location based services, only under the terms and conditions set forth in this Agreement.  
8 iCloud is automatically enabled when you are running devices on iOS 9 or later and  
9 sign in with your Apple ID during device setup, unless you are upgrading the device  
and have previously chosen not to enable iCloud. You can disable iCloud in Settings.  
When iCloud is enabled, ***your content will be automatically sent to and stored by***  
***GCBD***, so you can later access that content or have content wirelessly pushed to your  
other iCloud-enabled devices or computers.

10 Ex. 3 to Class Action Complaint, at 1 (emphasis added).

11 26. Thus, mainland China subscribers who subscribe to Apple’s iCloud are, in fact,  
12 informed that, though they are subscribing to Apple’s iCloud service, the cloud storage service is  
13 provided by an unrelated entity altogether, GCBD. By contrast, U.S. subscribers to Apple’s iCloud are  
14 assured by Apple that Apple is providing the cloud storage service for these subscribers.

15 27. In truth and in fact, Apple’s contractual representation is and has been false all along.  
16 The fact of the matter is that, at the time that Apple sold iCloud subscriptions to the putative class  
17 members, Apple lacked the facilities needed to readily provide the cloud storage space being sold to  
18 class members through iCloud.

19 28. Unable to provide the cloud storage space to all class members that Apple sold and was  
20 selling through iCloud, Apple breached its iCloud agreement with its subscribers and had these users’  
21 data stored not by Apple on Apple facilities, but instead turned the users’ digital files to other entities,  
22 like Amazon and Microsoft for them to store on their facilities. All this was undisclosed to Plaintiffs  
23 and the putative class members, who believed all along that Apple was providing the cloud storage of  
24 their data, as Apple had represented in its iCloud agreement and as these users had bargained for all  
25 along.

26 29. Apple continues to falsely claim that Apple is the provider of the iCloud cloud storage  
27

1 service when, in fact, the cloud storage of iCloud subscribers in the United States is done by Amazon  
2 or Microsoft. Without disclosing any of this to its iCloud subscribers, Apple effectively acts as a  
3 reseller of cloud storage on Amazon or Microsoft remote servers and facilities. Upon information and  
4 belief, Apple currently pays approximately half a billion dollars per year to Amazon and Microsoft to  
5 compensate them for storing Apple iCloud subscribers' data on Amazon's and Microsoft's cloud  
6 facilities.

7 30. Apple has never justified or even publicly explained its practice of having its iCloud  
8 users' data turned over to Microsoft or Amazon (or others) for cloud storage. Evidently, however,  
9 Apple believes it is justified in doing so (and not disclosing as much) because Apple maintains that the  
10 iCloud user data stored on Amazon or Microsoft cloud facilities is first encrypted by Apple before  
11 being turned over to these entities and Apple itself stores the encryption keys.

12 31. But, even if accurate, this "justification" does not excuse or legitimize Apple's  
13 behavior, breach of its iCloud agreement, or misrepresentations. No iCloud subscriber bargained for or  
14 agreed to have Apple turn his or her data—whether encrypted or not-- to others for storage. More  
15 fundamentally, encryption of iCloud subscribers' data stored on third-parties' facilities, at most,  
16 addresses the concerns over privacy and unauthorized access to the stored data. But turning over data  
17 to third parties for them to keep in storage at their facilities, without the prior consent of the subscribers  
18 who own the data, does nothing to address other fundamental concerns about the integrity of the data,  
19 reliability of the storage, and assurance that the data stored will remain intact and accessible by the user  
20 on demand without being damaged, lost, stolen, or otherwise disposed of by third-party entities who  
21 the subscribers never authorized to have their most sensitive digital data stored for indefinite periods of  
22 time. And, if subscribers are kept in the dark as to who is storing their data this, in and of itself, raises a  
23 privacy concern.

24 32. The subscribers bargained for, agreed, and paid to have Apple—an entity they trusted--  
25 store their data. Instead, without their knowledge or consent, these iCloud subscribers had their data  
26 turned over by Apple to third-parties for these third-parties to store the data in a manner completely  
27 unknown to the subscribers.

### THE “APPLE” PREMIUM APPLES EXACTED BY ITS MISREPRESENTATION

35. The price premium that the Apple brand name is able to and has exacted from iCloud subscribers is evidenced, *inter alia*, by review of the less expensive or greater offerings provided by other cloud storage providers. For example, as alleged herein, Apple's iCloud storage actually has been accomplished during the Class Period by having iCloud subscriber data stored on Microsoft cloud facilities. Apple effectively is reselling Microsoft cloud storage to iCloud subscribers (without informing them that it is doing so) that Apple has purchased or leased from Microsoft. But, whereas Apple now charges \$9.99 per month for an iCloud subscription in the United States that provides the consumer with up to 2 terabytes of cloud storage, for the same \$9.99 monthly price Microsoft provides users with up to 6 terabytes of cloud storage and a free subscription to Microsoft's Office 365 software suite. That is, Apple's iCloud offering is at least six times more expensive than Microsoft's offering, despite the fact, that Apple's iCloud service actually employs (or during the Class Period has employed) the Microsoft cloud facilities to store the subscribers' data. This price premium and disparity was even more pronounced during the bulk of the Class Period because, until relatively recently, Apple's iCloud provided only one terabyte of storage for the monthly price of \$9.99.



1 plaintiffs allege that Apple breached its iCloud agreement with them, misrepresented and falsely  
2 advertised its iCloud offering, and violated the UCL by, *inter alia*, failing to disclose that Apple was  
3 not the provider of the iCloud cloud storage service but, in fact, the Plaintiffs' and class members' data  
4 was stored by third-parties. Plaintiffs' counsel is experienced in class action litigation, including  
5 previous classwide litigation against Apple, and will adequately represent the interests of putative class  
6 members.

7 41. Class certification is appropriate because Plaintiffs' action raises common  
8 questions of fact or law, whose means of proof predominates over questions that may call for  
9 individual adjudication. Among these predominating common questions of fact or law are:

- 10 a. Whether Apple and the class members entered into a contract for the provision of  
11 iCloud cloud storage services and, if so, the material terms of such contracts;
- 12 b. Whether Apple materially breached its iCloud agreement with class members;
- 13 c. Whether any such material breach caused harm or injury;
- 14 d. Whether Apple made and disseminated to the public any representation about its  
15 iCloud that was false or misleading;
- 16 e. The measure of any damages, restitution, or other recovery due to the class members  
17 as a result of Apple's conduct alleged herein;
- 18 f. Whether Apple's non-disclosure that third-parties unknown to class members were  
19 providing the cloud storage of subscribers files should be enjoined.

20 42. Class certification is appropriate because Plaintiffs' claims are typical of the  
21 claims asserted on behalf of the putative class members. Plaintiffs, like all class members, claim  
22 that they were harmed because Apple falsely represented that it was the provider of the iCloud  
23 storage service when, in fact, the cloud storage of Plaintiffs' and class members' data was done  
24 by third-parties that were undisclosed to Plaintiffs or class members. All claims asserted by  
25 Plaintiffs also are asserted on behalf of all class members, and there are no conflicts of interest  
26 that render Plaintiffs' claims or interests atypical of the claims or interests of the class members.

1           43.     Class certification is appropriate because classwide adjudication of the claims  
2 alleged by Plaintiffs is superior to separate adjudication by individual class members, which may  
3 yield conflicting results, judgments, and obligations. Further, the costs of litigating this complex  
4 action against a large multi-national defendant like Apple renders individual litigation impractical  
5 and unfeasible, thereby rendering classwide adjudication a superior means of resolving the claims  
6 alleged in this Class Action Complaint.

7           44.     Class certification also is separately and independently appropriate because Apple  
8 has acted or refused to act on grounds generally applicable to the class, such that final injunctive  
9 relief or declaratory relief is appropriate respecting the class as a whole. In its iCloud  
10 agreements with all class members, Apple continues to represent that Apple is the provider of the  
11 iCloud cloud storage service and has failed to and continues to fail to disclose that the cloud  
12 storage of iCloud subscribers' data actually is provided by non-Apple third parties unknown to  
13 the class members.

#### 14                               **COUNT I**

#### 15                               **(Breach of Contract)**

16           45.     Plaintiffs hereby incorporate by reference the allegations in paragraphs 1-44 of this  
17 Class Action Complaint with the same force and effect as if those allegations had been fully  
18 restated herein.

19           46.     Plaintiffs and the members of the putative class entered into a contractual  
20 agreement with Apple governing their relationship with respect to the Apple iCloud service. A  
21 copy of the current version of that agreement is attached hereto as Exhibit 1, and a copy of the  
22 version of the agreement that was in effect as of September 16, 2015 is attached hereto as Exhibit  
23 2.

24           47.     A material term of the iCloud agreements in effect throughout the Class Period  
25 was Apple's promise and representation that Apple was the provider of the Apple iCloud cloud  
26 storage service for class members' data. This term and representation formed part of, *inter alia*,  
27 the second paragraph of the iCloud agreement, which provides that:

1 *Apple is the provider of the Service*, which permits you to utilize certain Internet  
2 services, including storing your personal content (such as contacts, calendars, photos,  
3 notes, reminders, documents, app data, and iCloud email) and making it accessible on  
4 your compatible devices and computers, and certain location based services, only under  
5 the terms and conditions set forth in this Agreement. iCloud is automatically enabled  
6 when you are running devices on iOS 9 or later and sign in with your Apple ID during  
7 device setup, unless you are upgrading the device and have previously chosen not to  
enable iCloud. You can disable iCloud in Settings. When iCloud is enabled, ***your  
content will be automatically sent to and stored by Apple***, so you can later access that  
content or have content wirelessly pushed to your other iCloud-enabled devices or  
computers.

8 Ex. 1 to Class Action Complaint (iCloud current U.S. Contract), at 1 (emphasis added); Ex 2 to Class  
9 Action Complaint (iCloud U.S. contract last revised September 2015) (emphasis added).

10 48. Plaintiffs and class members fully performed their material obligations under their  
11 iCloud agreements with Apple by paying the iCloud monthly subscription fees charged by Apple.

12 49. Apple materially breached its iCloud agreement with Plaintiffs and the class members  
13 because, without Plaintiffs' or class members' prior consent, instead of Apple being the provider of the  
14 cloud storage of class members' data, such storage was provided by non-Apple third parties with  
15 whom neither Plaintiffs nor class members had bargained.

16 50. Apple's breach of its iCloud agreements with Plaintiffs and class members was  
17 material, as individuals are self-evidently concerned about who their sensitive online data is entrusted  
18 and provided to. All subscribers were informed and contracted for Apple to be the provider of cloud  
19 storage for these subscribers' data. The storage service, however, was performed by third parties, with  
20 Apple effectively acting as a reseller of these third-parties' cloud storage facilities.

21 51. Plaintiffs and class members were injured as a proximate, direct, and foreseeable result  
22 of Apple's material breach of the iCloud agreements. Had Apple disclosed that, instead, of Apple  
23 being the provider of the iCloud cloud storage service other, non-Apple, third-parties were actually  
24 undertaking the cloud storage of class members' data, they would either not have entered into the  
25 iCloud agreement with Apple or would not have agreed to pay Apple as much as they did for their  
26 iCloud subscription.



53. Plaintiffs and class members are entitled to an award of damages as redress for Apple's material breach of the iCloud agreements with Plaintiffs and the class members, including but not limited to, compensatory damages and/or benefit-of-the-bargain damages.

**COUNT II**

**(False Advertising – Violation Of California Bus. and Prof. Code, §§ 17500 *et seq.*)**

56. Apple's representations in connection with the sale of iCloud subscriptions to class members that Apple was the provider of the iCloud cloud storage service and that class members' data would be stored on the cloud by Apple were and are false and misleading within the meaning of California Business and Professions Code, § 17500 because, *inter alia*, Apple did not disclose that the cloud storage of class members' data provided through iCloud actually was being stored not by Apple but by third-parties (like Microsoft, Amazon, Google, or possibly others) at their facilities.

-15-



58. Plaintiffs and class members were harmed as a proximate, direct, and foreseeable result of Apple's false statements in connection Apple's sale of iCloud subscriptions to class members. Had Apple disclosed that, instead, of Apple being the provider of the iCloud cloud storage service other, non-Apple, third-parties were actually undertaking the cloud storage of class members' data, class members would either not have subscribed to Apple's iCloud or would not have agreed to pay Apple as much as they did for their iCloud subscription.

59. Apple's false and misleading statements alleged herein amount to false advertising within the meaning of California's False Advertising Law, California Business and Professions Code, §17500 *et seq.*

60. Apple continues to make the same false and misleading statements with respect to its iCloud cloud storage service, such that, unless it is enjoined from doing so, Plaintiffs and class members will continue to be harmed because they will not know who is storing their data on the cloud. Plaintiffs and the class members therefore are entitled to and pray for an injunction to prevent Apple from continuing to disseminate these false and misleading statements.

61. Apple has been able to and has charged a price premium for its iCloud subscription by representing falsely that it was the provider of the iCloud cloud storage service.

62. Pursuant to California Business and Professions Code, §17535, Plaintiffs and the class members are entitled to and seek an order of restitution for moneys paid by them to Apple for their iCloud subscriptions during the Class Period.

### **COUNT III**

#### **(Violations of California's UCL – Cal. Business and Professions Code, § 17200 *et seq.*)**

63. Plaintiffs hereby incorporate by reference the allegations in paragraphs 1-44 of this Class Action Complaint with the same force and effect as if those allegations had been fully restated herein.

64. Apple's business practice in connection with the sale of iCloud subscriptions to Plaintiffs and class members as alleged herein is unlawful within the meaning of California's UCL (Bus. and Prof. Code, § 17200 *et seq.*) because it violates, *inter alia*, California's False

1 Advertising Law (Cal. Bus. and Prof. Code, § 17500 *et seq.*) and also because it amounts to a  
2 breach of contract.

3 65. Apple's business conduct alleged herein with respect to Apple's iCloud  
4 subscription sales also independently amounts to an unfair business practice within the meaning  
5 of the UCL (Bus. and Prof. Code, § 17200 *et seq.*). Apple's misrepresentation as to which entity  
6 is providing the cloud storage of Plaintiffs' and class members' data cause substantial economic  
7 injury that Plaintiffs and class members cannot avoid precisely because Apple fails to inform  
8 Plaintiffs and the class members that Apple is not the provider of cloud storage for their data, but  
9 that the subscribers' data actually is turned over to third-parties unknown to Plaintiffs and the  
10 class for cloud storage. Apple's business practice is not outweighed by any countervailing  
11 benefits to consumers or competition.

12 64. Apple's business conduct alleged herein with respect to Apple's iCloud  
13 subscription sales also independently amounts to a deceptive business practice within the  
14 meaning of the UCL (Bus. and Prof. Code, § 17200 *et seq.*). Apple's misrepresentations to the  
15 effect that Apple is providing the iCloud cloud storage service when, in fact, it has not, has  
16 permitted Apple to charge a premium for class members' iCloud subscriptions.

17 65. During the time that Apple engaged in this unlawful business practice, Plaintiffs  
18 and class members conveyed money to Apple in the form of the iCloud subscription fees they  
19 paid Apple. Apple acquired this money from Plaintiffs and class members by resort and use of  
20 this unlawful business practice.

21 66. Plaintiffs and class members pray for an order of restitution, restoring to them the  
22 money they conferred on Apple while Apple engaged in the unlawful business practices alleged  
23 herein. Plaintiffs also pray for an injunction to prohibit Apple from continuing to engage in the  
24 unlawful conduct alleged herein.

**PRAYER FOR RELIEF**

Wherefore, Plaintiffs on behalf of themselves and on behalf of the members of the class, requests award and relief as follows:

- A. An order certifying that this action is properly brought and may be maintained as a class action, that Plaintiffs be appointed Class Representatives and Plaintiffs' counsel be appointed Class Counsel;
- B. With respect to Plaintiffs' breach of contract claim (Count I), an award of damages to compensate for Apple's material breach of the iCloud agreements, as proved at trial;
- C. With respect to Counts II and III for violations of California's FAL and UCL, respectfully, restitution in such amount to be determined by the Court;
- D. Injunctive relief to enjoin Apple from continuing to falsely represent that it is the provider of the iCloud cloud storage service and requiring Apple to disclose to class members all entities who store class members' data on the cloud as part of their iCloud subscription;
- E. An Order directing Apple to disseminate a Court-approved notice to the absent Class members, informing them about the pendency of this class action, and their rights in that regard;
- F. An order establishing a common fund to be funded by Apple from which any and all damages and restitution amounts awarded to class members may be paid, and from which Plaintiffs' counsel may be awarded and paid their reasonable attorneys' fees and costs of suit;
- G. An award of attorneys' fees and costs of suit under, *inter alia*, the common-benefit or common fund doctrine to compensate Plaintiffs' counsel for their reasonable fees and costs expended in litigating this matter on behalf of the class;
- H. Such other relief as the Court deems just and proper based on the evidence submitted.

**DEMAND FOR A JURY TRIAL**

Plaintiffs demand a trial by jury on all counts so triable.

Dated: August 12, 2019

Respectfully submitted,

/s/ Roy A. Katriel

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*Counsel for Plaintiffs James Stewart and Andrea M. Williams*

**EXHIBIT 1 TO CLASS ACTION COMPLAINT**

***Williams, et al. v. Apple, Inc.***

# Welcome to iCloud

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THIS LEGAL AGREEMENT BETWEEN YOU AND APPLE GOVERNS YOUR USE OF THE iCloud PRODUCT, SOFTWARE, SERVICES, AND WEBSITES (COLLECTIVELY REFERRED TO AS THE "SERVICE"). IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THE FOLLOWING TERMS. BY CLICKING "AGREE," YOU ARE AGREEING THAT THESE TERMS WILL APPLY IF YOU CHOOSE TO ACCESS OR USE THE SERVICE.

Apple is the provider of the Service, which permits you to utilize certain Internet services, including storing your personal content (such as contacts, calendars, photos, notes, reminders, documents, app data, and iCloud email) and making it accessible on your compatible devices and computers, and certain location based services, only under the terms and conditions set forth in this Agreement. iCloud is automatically enabled when you are running devices on iOS 9 or later and sign in with your Apple ID during device setup, unless you are upgrading the device and have previously chosen not to enable iCloud. You can disable iCloud in Settings. When iCloud is enabled, your content will be automatically sent to and stored by Apple, so you can later access that content or have content wirelessly pushed to your other iCloud-enabled devices or computers.

## I. REQUIREMENTS FOR USE OF THE SERVICE

**A. Age.** The Service is only available to individuals aged 13 years or older (or equivalent minimum age in the relevant jurisdiction), unless you are under 13 years old and your Apple ID was provided to you as a result of a request by an approved educational institution or established as part of the Family Sharing feature by your parent or guardian. We do not knowingly collect, use or disclose personal information from children under 13, or equivalent minimum age in the relevant jurisdiction, without verifiable parental consent. Parents and guardians should also remind any minors that conversing with strangers on the Internet can be dangerous and take appropriate precautions to protect children, including monitoring their use of the Service.

To use the Service, you cannot be a person barred from receiving the Service under the laws of the United States or other applicable jurisdictions, including the country in which you reside or from where you use the Service. By accepting this Agreement, you represent that you understand and agree to the foregoing.

**B. Devices and Accounts.** Use of the Service may require compatible devices, Internet access, and certain software (fees may apply); may require periodic updates; and may be affected by the performance of these factors. Apple reserves the right to limit the number of Accounts that may be created from a device and the number of devices associated with an Account. The latest version of required software may be required for certain transactions or features. You agree that meeting these requirements is your responsibility.

**C. Limitations on Use.** You agree to use the Service only for purposes permitted by this Agreement, and only to the extent permitted by any applicable law, regulation, or generally accepted practice in the applicable jurisdiction. Your Account is allocated 5GB of storage capacity as described in the iCloud feature pages. Additional storage is available for purchase, as described below. Exceeding any applicable or reasonable limitation of bandwidth, or storage capacity (for example, backup or email account space) is prohibited and may prevent you from backing up to iCloud, adding documents, or receiving new email sent to your iCloud email address. If your use of the Service or other behavior intentionally or unintentionally threatens Apple's ability to provide the Service or other systems, Apple shall be entitled to take all reasonable steps to protect the Service and Apple's systems, which may include suspension of your access to the Service. Repeated violations of the limitations may result in termination of your Account.

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.

**D. Availability 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 representation that the Service, or any feature or part thereof, is appropriate or available for use in any particular location. To the extent you choose to access and use the Service, you do so at your own initiative and are responsible for compliance with any applicable laws.

**E. Changing the Service.** Apple reserves the right at any time to modify this Agreement and to impose new or additional terms or conditions on your use of the Service, provided that Apple will give you 30 days’ advance notice of any material adverse change to the Service or applicable terms of service, unless it would not be reasonable to do so due to circumstances arising from legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or due to a natural disaster, catastrophic event, war, or other similar occurrence outside of Apple’s reasonable control. With respect to paid cloud storage services, Apple will not make any material adverse change to the Service before the end of your current paid term, unless a change is reasonably necessary to address legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or to avoid issues resulting from a natural disaster, a catastrophic event, war, or other similar occurrence outside of Apple’s reasonable control. In the event that Apple does make material adverse changes to the Service or terms of use, you will have the right to terminate this Agreement and your account, in which case Apple will provide you with a pro rata refund of any pre-payment for your then-current paid term. Apple shall not be liable to you for any modifications to the Service or terms of service made in accordance with this Section IE.

## **II. FEATURES AND SERVICES**

### **A. Use of Location-based Services**

Apple and its partners and licensors may provide certain features or services (e.g., Find My iPhone, Find My Friends) that rely upon device-based location information using GPS (where available) and crowd-sourced Wi-Fi hotspot and cell tower locations. To provide such features or services, where available, Apple and its partners and licensors must collect, use, transmit, process and maintain your location data, including but not limited to the geographic location of your device and information related to your iCloud account (“Account”) and any devices registered thereunder, including but not limited to your Apple ID, device ID and name, and device type.

You may withdraw consent to Apple and its partners’ and licensors’ collection, use, transmission, processing and maintenance of location and Account data at any time by not using the location-based features and turning off the Find My iPhone, Find My Friends, or Location Services settings (as applicable) on your device. When using third party services that use or provide location data as part of the Service, you are subject to and should review such third party’s terms and privacy policy on use of location data by such third party services. Any location data provided by the Service is not intended to be relied upon in situations where precise location information is needed or where erroneous, inaccurate, time-delayed or incomplete location data may lead to death, personal injury, property or environmental damage. Apple shall use reasonable skill and due care in providing the Service, but neither Apple nor any of its service and/or content providers guarantees the availability, accuracy, completeness, reliability, or timeliness of location data or any other data displayed by the Service. LOCATION-BASED SERVICES ARE NOT INTENDED OR SUITABLE FOR USE AS AN EMERGENCY LOCATOR SYSTEM.

### **B. Find My iPhone**

Find My iPhone is automatically enabled on iOS devices running iOS 8 or later, and any Apple accessory paired with your iPhone, when iCloud is enabled. When Find My iPhone is enabled on iOS devices running iOS 7 or later, your iOS device will be automatically linked to your Apple ID. Your Apple ID password will be required before anyone (including you) can turn off Find My iPhone, sign out of iCloud, erase or activate the device. Apple and its authorized agents may not perform hardware or software support services, including services under

Apple's limited warranty, unless you disable Find My iPhone prior to service. Apple shall bear no responsibility for your failure to protect your iOS device with a passcode, enable Lost Mode, and/or receive or respond to notices and communications. Apple shall also bear no responsibility for returning your iOS device to you or for any loss of data on your iOS device.

### C. Backup

iCloud Backup periodically creates automatic backups for iOS devices, when the device is screen locked, connected to a power source, and connected to the Internet via a Wi-Fi network. If a device has not backed up to iCloud for a period of one hundred and eighty (180) days, Apple reserves the right to delete any backups associated with that device. Backup may include device settings, device characteristics, photos and videos, documents, your messages, ringtones, Health app data and other app data. For additional information, please go to <https://support.apple.com/en-us/HT207428>. The following content is not included in your iCloud backup: content purchased from the iTunes Store, App Store, or iBooks Store, media synced from your computer, and your photo library if you have enabled iCloud Photo Library. Apple shall use reasonable skill and due care in providing the Service, but, TO THE GREATEST EXTENT PERMISSIBLE BY APPLICABLE LAW, APPLE DOES NOT GUARANTEE OR WARRANT THAT ANY CONTENT YOU MAY STORE OR ACCESS THROUGH THE SERVICE WILL NOT BE SUBJECT TO INADVERTENT DAMAGE, CORRUPTION, LOSS, OR REMOVAL IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, AND APPLE SHALL NOT BE RESPONSIBLE SHOULD SUCH DAMAGE, CORRUPTION, LOSS, OR REMOVAL OCCUR. It is your responsibility to maintain appropriate alternate backup of your information and data.

### D. Photos

1. **iCloud Photos.** When you enable iCloud Photos, your photos, videos, metadata and any edits that you make in the Photos App on your iOS device, macOS computer, or Windows PC will be automatically uploaded and stored in iCloud, and then pushed to all of your other iCloud Photos-enabled devices and computers. The photo and video resolution may vary depending on your device settings and available storage. You may download full resolution photos and videos at any time.

2. **Shared Albums.** When you use Shared Albums, Apple stores any photos and videos you share until you delete them. You can access your shared photos and videos from any of your Apple devices that have Shared Albums enabled. People you invite to shared albums may view, save, copy, and share these photos and videos, as well as contribute photos and videos, and comments. If you choose to use Shared Albums to share photos via a web link, these photos will be publicly available to anyone who has been provided or has access to the web link. If you want to stop sharing individual photos, videos, comments or entire Shared Albums, you may delete them at any time. However, any content previously copied from a Shared Album to another device or computer will not be deleted.

3. **My Photo Stream.** When you use My Photo Stream, Apple stores photos taken on your iOS device or uploaded from your computer for a limited period of time and automatically pushes the photos to your other Apple devices that have My Photo Stream enabled. A limited number of photos may be stored in iCloud or on your devices at any one time, and older photos will be automatically deleted from My Photo Stream over time. To keep these photos permanently, you must save them to the camera roll on your iOS device or the photo library on your computer.

**E. Family Sharing.** With Family Sharing, you can share certain purchased content such as Store purchases and Apple subscriptions with members of your family. You may also share certain content such as photos, calendars, location, and screen time information depending on what your family chooses to share. For more information regarding sharing your content purchases, please see the Apple Media Services Terms and Conditions at <https://www.apple.com/legal/internet-services/itunes/ww/>. For more information about sharing content, device usage and location information with family members, please see <https://www.apple.com/family-sharing/>.

**F. File Sharing.** When you use iCloud File Sharing, Apple stores any files you share until you delete them. You can access your shared files from any of your Apple devices with iCloud Drive enabled. You may give access to people to view, save, copy or edit these files. You have the option to give people the right to edit the files or to only view them. If you use iCloud File Sharing to share files via a web link, these files will be publicly accessible



to anyone who has been provided the web link. You can stop sharing files at any time. If you stop sharing, files will be removed from iCloud Drive on everyone's devices. However, any file previously copied to another device or computer will not be deleted.

**G. Mail Drop.** If you are logged in to iCloud and you use the macOS Mail app or iCloud Mail on the web to send emails with large attachments, you will have the option of using Mail Drop. With Mail Drop, your large attachments will be temporarily stored on iCloud servers in order to facilitate their delivery. Apple will either send a link or a preview of the attachment to recipients, depending on your recipient's email client application. Temporary storage of large email attachments will not count towards your iCloud storage quota. For more information about Mail Drop, please go to <https://support.apple.com/en-us/HT203093>.

**H. Third Party Apps.** If you sign in to certain third party Apps with your iCloud credentials, you agree to allow that App to store data in your personal iCloud account and for Apple to collect, store and process such data on behalf of the relevant third-party App Developer in association with your use of the Service and such Apps. The data that the App stores in your personal iCloud account will count towards your storage limit. Such data may be shared with another App that you download from the same App Developer.

**I. iCloud web-only account.** If you sign up for the Service with a web-only account on a non-Apple-branded device or computer, you will have access to only a limited set of Service functionality. You will receive 1 GB of free storage and you will not be able to increase this amount with a web-only account. As a condition to accessing the Service with a web-only account, you agree to all relevant terms and conditions found in this Agreement, including, without limitation, all requirements for use of the Service, limitations on use, availability, public beta, disclaimers of warranties, rules regarding your content and conduct, and termination. Terms found in this Agreement relating to features not available for web-only users will not be applicable to you. These include, for example, use of location based services and payment of fees for iCloud storage upgrades. You further agree that if you subsequently access your web-only account from an Apple-branded device or Apple-branded computer, whether or not you own such device or computer, Apple may automatically upgrade your web-only account to a full iCloud account and provide all available functionality of the Service to you, including increased free storage capacity. If you choose to access your web-only account from an Apple-branded device or Apple-branded computer and you are subsequently upgraded to full functionality of the Service, you agree that all of the terms and conditions contained herein apply to your use of the Service. If you do not want to have a full iCloud account, do not sign in to your web-only account from an Apple-branded device or computer.

**J. Two-Factor Authentication and Autodialed Calls/Texts.** If you choose to enable Two-Factor Authentication for your Apple ID, you consent to (a) provide Apple at least one telephone number; and (b) receive autodialed or prerecorded calls and text messages from Apple at any of the telephone numbers provided. We may place such calls or texts to (i) help keep your Account secure when signing in; (ii) help you access your Account when you've forgotten your password; or (iii) as otherwise necessary to service your Account or enforce this Agreement, our policies, applicable law, or any other agreement we may have with you.

### III. SUBSCRIPTION STORAGE UPGRADES

Additional storage is available for purchase on a subscription basis.

#### A. Payment

By upgrading your storage on your device or computer, Apple will automatically charge on a recurring basis the storage fee for the storage plan you choose, including any applicable taxes, to the payment method associated with your Apple ID (e.g., the payment method you use to shop on the iTunes Store, App Store, or Apple Books, if available) or the payment method associated with your Family account. For details about storage plans and pricing, please visit <https://support.apple.com/en-us/HT201238>. If you are a Family organizer, you agree to have Apple charge your payment method on a recurring basis for members of your Family who upgrade their storage. Apple may also obtain preapproval for an amount up to the amount of the transaction and contact you periodically by email to the email address associated with your Apple ID for billing reminders and other storage account-related communications.

You can change your subscription by upgrading or downgrading your storage under the iCloud section of Settings on your device, or under the iCloud pane of System Preferences on your Mac or iCloud for Windows on your PC.

The applicable storage fee for an upgraded storage plan will take effect immediately; downgrades to your storage plan will take effect on the next annual or monthly billing date. YOU ARE RESPONSIBLE FOR THE TIMELY PAYMENT OF ALL FEES AND FOR PROVIDING APPLE WITH VALID CREDIT CARD OR PAYMENT ACCOUNT DETAILS FOR PAYMENT OF ALL FEES. If Apple is unable to successfully charge your credit card or payment account for fees due, Apple reserves the right to revoke or restrict access to your stored Content, delete your stored Content, or terminate your Account. If you want to designate a different credit card or payment account or if there is a change in your credit card or payment account status, you must change your information online in the Account Information section of iCloud; this may temporarily disrupt your access to the Services while Apple verifies your new payment information. We may contact you via email regarding your account, for reasons including, without limitation, reaching or exceeding your storage limit.

If you are in Brazil, notwithstanding anything herein to the contrary:

For any charges made by Apple to you, Apple may use an affiliated company to perform activities of collection and remittances to charge any amounts owed by you in connection with your iCloud account. In addition, your total price will include the price of the upgrade plus any applicable credit card fees. You are responsible for any taxes applicable to you except for any applicable withholding taxes which shall be collected by Apple's affiliated company. You must provide all account information required by Apple to enable such transactions. You acknowledge and agree that if you do not provide all required account information, Apple shall have the right to terminate your account.

#### **B. Right of Withdrawal**

If you choose to cancel your subscription following its initial purchase or, if you are on an annual payment plan, following the commencement of any renewal term, you may do so by informing Apple with a clear statement (see applicable address details in section "General" below) within 14 days from when you received your e-mail confirmation by contacting Customer Support. You do not need to provide a reason for cancellation.

To meet the cancellation deadline, you must send your communication of cancellation before the 14-day period has expired.

Customers in the EU and Norway also have the right to inform us using the model cancellation form below:

To: Apple Distribution International, Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland:

I hereby give notice that I withdraw from my contract for the following:

[SUBSCRIPTION AMOUNT AND PERIOD, e.g., 200 GB MONTHLY iCloud SUBSCRIPTION STORAGE UPGRADE]

Ordered on [INSERT DATE]

Name of consumer

Address of consumer

Date

#### **Effects of cancellation**

We will reduce your storage back to 5 GB and reimburse you no later than 14 days from the day on which we receive your cancellation notice. If you have used more than 5GB of storage during this period, you may not be able to create any more iCloud backups or use certain features until you have reduced your storage. We will use the same means of payment as you used for the transaction, and you will not incur any fees for such reimbursement.

### **IV. Your Use of the Service**

#### **A. Your Account**

As a registered user of the Service, you must establish an Account. Don't reveal your Account information to anyone else. You are solely responsible for maintaining the confidentiality and security of your Account and for all activities that occur on or through your Account, and you agree to immediately notify Apple of any security breach of your Account. You further acknowledge and agree that the Service is designed and intended for personal use on an individual basis and you should not share your Account and/or password details with another individual. Provided we have exercised reasonable skill and due care, Apple shall not be responsible for any losses arising out of the unauthorized use of your Account resulting from you not following these rules.

In order to use the Service, you must enter your Apple ID and password to authenticate your Account. You agree to provide accurate and complete information when you register with, and as you use, the Service ("Service Registration Data"), and you agree to update your Service Registration Data to keep it accurate and complete. Failure to provide accurate, current and complete Service Registration Data may result in the suspension and/or termination of your Account. You agree that Apple may store and use the Service Registration Data you provide for use in maintaining and billing fees to your Account.

#### **B. Use of Other Apple Products and Services**

Particular components or features of the Service provided by Apple and/or its licensors, including but not limited to the ability to download previous purchases and iTunes Match and/or iCloud Music Library (additional fees apply), require separate software or other license agreements or terms of use. You must read, accept, and agree to be bound by any such separate agreement as a condition of using these particular components or features of the Service.

#### **C. No Conveyance**

Nothing in this Agreement shall be construed to convey to you any interest, title, or license in an Apple ID, email address, domain name, iChat ID, or similar resource used by you in connection with the Service.

#### **D. No Right of Survivorship**

Unless otherwise required by law, You agree that your Account is non-transferable and that any rights to your Apple ID or Content within your Account terminate upon your death. Upon receipt of a copy of a death certificate your Account may be terminated and all Content within your Account deleted. Contact iCloud Support at <https://support.apple.com/icloud> for further assistance.

#### **E. No Resale of Service**

You agree that you will not reproduce, copy, duplicate, sell, resell, rent or trade the Service (or any part thereof) for any purpose.

#### **V. Content and Your Conduct**

##### **A. Content**

"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. You understand that all Content, whether publicly posted or privately transmitted on the Service is the sole responsibility of the person from whom such Content originated. This means that you, and not Apple, are solely responsible for any Content you upload, download, post, email, transmit, store or otherwise make available through your use of the Service. You understand that by using the Service you may encounter Content that you may find offensive, indecent, or objectionable, and that you may expose others to Content that they may find objectionable. Apple does not control the Content posted via the Service, nor does it guarantee the accuracy, integrity or quality of such Content. You understand and agree that your use of the Service and any Content is solely at your own risk.

##### **B. Your Conduct**

You agree that you will NOT use the Service to:

- a. upload, download, post, email, transmit, store or otherwise make available any Content that is unlawful, harassing, threatening, harmful, tortious, defamatory, libelous, abusive, violent, obscene, vulgar, invasive of another's privacy, hateful, racially or ethnically offensive, or otherwise objectionable;
- b. stalk, harass, threaten or harm another;
- c. if you are an adult, request personal or other information from a minor (any person under the age of 18 or such other age as local law defines as a minor) who is not personally known to you, including but not limited to any of the following: full name or last name, home address, zip/postal code, telephone number, picture, or the names of the minor's school, church, athletic team or friends;
- d. pretend to be anyone, or any entity, you are not — you may not impersonate or misrepresent yourself as another person (including celebrities), entity, another iCloud user, an Apple employee, or a civic or government leader, or otherwise misrepresent your affiliation with a person or entity (Apple reserves the right to reject or block any Apple ID or email address which could be deemed to be an impersonation or misrepresentation of your identity, or a misappropriation of another person's name or identity);
- e. engage in any copyright infringement or other intellectual property infringement (including uploading any content to which you do not have the right to upload), or disclose any trade secret or confidential information in violation of a confidentiality, employment, or nondisclosure agreement;
- f. post, send, transmit or otherwise make available any unsolicited or unauthorized email messages, advertising, promotional materials, junk mail, spam, or chain letters, including, without limitation, bulk commercial advertising and informational announcements;
- g. forge any TCP-IP packet header or any part of the header information in an email or a news group posting, or otherwise putting information in a header designed to mislead recipients as to the origin of any Content transmitted through the Service ("spoofing");
- h. upload, post, email, transmit, store or otherwise make available any material that contains viruses or any other computer code, files or programs designed to harm, interfere or limit the normal operation of the Service (or any part thereof), or any other computer software or hardware;
- i. interfere with or disrupt the Service (including accessing the Service through any automated means, like scripts or web crawlers), or any servers or networks connected to the Service, or any policies, requirements or regulations of networks connected to the Service (including any unauthorized access to, use or monitoring of data or traffic thereon);
- j. plan or engage in any illegal activity; and/or
- k. gather and store personal information on any other users of the Service to be used in connection with any of the foregoing prohibited activities.

### **C. Removal of Content**

You acknowledge that Apple is not responsible or liable in any way for any Content provided by others and has no duty to pre-screen such Content. However, Apple reserves the right at all times to determine whether Content is appropriate and in compliance with this Agreement, and may pre-screen, move, refuse, modify and/or remove Content at any time, without prior notice and in its sole discretion, if such Content is found to be in violation of this Agreement or is otherwise objectionable.

### **D. Back up Your Content**

You are responsible for backing up, to your own computer or other device, any important documents, images or other Content that you store or access via the Service. Apple shall use reasonable skill and due care in providing the Service, but Apple does not guarantee or warrant that any Content you may store or access through the Service will not be subject to inadvertent damage, corruption or loss.

### **E. Access to Your Account and Content**

Apple reserves the right to take steps Apple believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement. You acknowledge and agree that Apple may, without liability to you, access, use, preserve and/or disclose your Account information and Content to law enforcement authorities, government officials, and/or a third party, as Apple believes is reasonably necessary or appropriate, if legally required to do so or if Apple has a good faith belief that such access, use, disclosure, or preservation is reasonably necessary to: (a) comply with legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Apple, its users, a third party, or the public as required or permitted by law.

#### **F. 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 our Copyright Policy at <https://www.apple.com/legal/trademark/claimsocopyright.html>. Apple may, in its sole discretion, suspend and/or terminate Accounts of users that are found to be repeat infringers.

#### **G. Violations of 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 by sending an email to [abuse@iCloud.com](mailto:abuse@iCloud.com).

#### **H. Content Submitted or Made Available by You on the Service**

**1. License from You.** Except for material we may license to you, Apple does not claim ownership of the materials and/or Content you submit or make available on the Service. However, by submitting or posting such Content on areas of the Service that are accessible by the public or other users with whom you consent to share such Content, you grant Apple a worldwide, royalty-free, non-exclusive license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and publicly display such Content on the Service solely for the purpose for which such Content was submitted or made available, without any compensation or obligation to you. You agree that any Content submitted or posted by you shall be your sole responsibility, shall not infringe or violate the rights of any other party or violate any laws, contribute to or encourage infringing or otherwise unlawful conduct, or otherwise be obscene, objectionable, or in poor taste. By submitting or posting such Content on areas of the Service that are accessible by the public or other users, you are representing that you are the owner of such material and/or have all necessary rights, licenses, and authorization to distribute it.

**2. Changes to Content.** 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 modify or change your Content to comply with technical requirements of connecting networks or devices or computers. You agree that the license herein permits Apple to take any such actions.

**3. Trademark Information.** Apple, the Apple logo, iCloud, the iCloud 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 US and/or other countries. A list of Apple's trademarks can be found here - <https://www.apple.com/legal/trademark/appletmlist.html>. Other trademarks, service marks, graphics, and logos used in connection with the Service may be the trademarks of their respective owners. You are granted no right or license in any of the aforesaid trademarks, and further agree that you shall not remove, obscure, or alter any proprietary notices (including trademark and copyright notices) that may be affixed to or contained within the Service.

### **VI. Software**

**A. Apple's Proprietary Rights.** You acknowledge and agree that Apple and/or its licensors own all legal right, title and interest in and to the Service, including but not limited to graphics, user interface, the scripts and software used to implement the Service, and any software provided to you as a part of and/or in connection with the Service (the "Software"), including any and all intellectual property rights that exist therein, whether registered or not, and wherever in the world they may exist. You further agree that the Service (including the 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. You agree that you will not use such proprietary

information or materials in any way whatsoever except for use of the Service in compliance with this Agreement. No portion of the Service may be reproduced in any form or by any means, except as expressly permitted in these terms.

**B. License From Apple.** THE USE OF THE SOFTWARE OR ANY PART OF THE SERVICE, EXCEPT FOR USE OF THE SERVICE AS PERMITTED IN THIS AGREEMENT, IS STRICTLY PROHIBITED AND INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS AND MAY SUBJECT YOU TO CIVIL AND CRIMINAL PENALTIES, INCLUDING POSSIBLE MONETARY DAMAGES, FOR COPYRIGHT INFRINGEMENT.

**C. Public Beta.** From time to time, Apple may choose to offer new and/or updated features of the Service (the “Beta Features”) as part of a Public Beta Program (the “Program”) for the purpose of providing Apple with feedback on the quality and usability of the Beta Features. You understand and agree that your participation in the Program is voluntary and does not create a legal partnership, agency, or employment relationship between you and Apple, and that Apple is not obligated to provide you with any Beta Features. Apple may make such Beta Features available to Program participants by online registration or enrollment via the Service. You understand and agree that Apple may collect and use information from your Account, devices and peripherals in order to enroll you in a Program and/or determine your eligibility to participate. You understand that once you enroll in a Program you may be unable to revert to the earlier non-beta version of a given Beta Feature. In the event such reversion is possible, you may not be able to migrate data created within the Beta Feature back to the earlier non-beta version. Your use of the Beta Features and participation in the Program is governed by this Agreement and any additional license terms that may separately accompany the Beta Features. The Beta Features are provided on an “AS IS” and “AS AVAILABLE” basis and may contain errors or inaccuracies that could cause failures, corruption or loss of data and/or information from your device and from peripherals (including, without limitation, servers and computers) connected thereto. Apple strongly encourages you to backup all data and information on your device and any peripherals prior to participating in any Program. You expressly acknowledge and agree that all use of the Beta Features is at your sole risk. YOU ASSUME ALL RISKS AND ALL COSTS ASSOCIATED WITH YOUR PARTICIPATION IN ANY PROGRAM, INCLUDING, WITHOUT LIMITATION, ANY INTERNET ACCESS FEES, BACKUP EXPENSES, COSTS INCURRED FOR THE USE OF YOUR DEVICE AND PERIPHERALS, AND ANY DAMAGE TO ANY EQUIPMENT, SOFTWARE, INFORMATION OR DATA. Apple may or may not provide you with technical and/or other support for the Beta Features. If support is provided it will be in addition to your normal support coverage for the Service and only available through the Program. You agree to abide by any support rules or policies that Apple provides to you in order to receive any such support. Apple reserves the right to modify the terms, conditions or policies of the Program (including ceasing the Program) at any time with or without notice, and may revoke your participation in the Program at any time. You acknowledge that Apple has no obligation to provide a commercial version of the Beta Features, and that should such a commercial version be made available, it may have features or functionality different than that contained in the Beta Features. As part of the Program, Apple will provide you with the opportunity to submit comments, suggestions, or other feedback regarding your use of the Beta Features. You agree that in the absence of a separate written agreement to the contrary, Apple will be free to use any feedback you provide for any purpose.

**D. Export Control.** Use of the Service and Software, including transferring, posting, or uploading data, software or other Content via the Service, may be subject to the export and import laws of the United States and other countries. You agree to comply with all applicable export and import laws and regulations. In particular, but without limitation, the Software may not be exported or re-exported (a) into any U.S. embargoed countries or (b) to anyone on the U.S. Treasury Department’s list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person’s List or Entity List. By using the Software or Service, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use the Software or Service for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You further agree not to upload to your Account any data or software that is: (a) subject to International Traffic in Arms Regulations; or (b) that cannot be exported without prior written government authorization, including, but not limited to, certain types of encryption software and source code, without first obtaining that authorization. This assurance and commitment shall survive termination of this Agreement.

**E. Updates.** From time to time, Apple may update the Software used by the Service. In order to continue your use of the Service, such updates may be automatically downloaded and installed onto your device or



computer. These updates may include bug fixes, feature enhancements or improvements, or entirely new versions of the Software.

## **VII. Termination**

### **A. Voluntary Termination by You**

You may delete your Apple ID and/or stop using the Service at any time. If you wish to stop using iCloud on your device, you may disable iCloud from a device by opening Settings on your device, tapping iCloud, and tapping "Sign Out". To terminate your Account and delete your Apple ID, contact Apple Support at <https://support.apple.com/contact>. If you terminate your Account and delete your Apple ID, you will not have access to other Apple products and services with that Apple ID. This action may be non-reversible. Any fees paid by you prior to your termination are nonrefundable (except as expressly permitted otherwise by this Agreement), including any fees paid in advance for the billing year during which you terminate. Termination of your Account shall not relieve you of any obligation to pay any accrued fees or charges.

### **B. Termination by Apple**

Apple may at any time, under certain circumstances and without prior notice, immediately terminate or suspend all or a portion of your Account and/or access to the Service. Cause for such termination shall include: (a) violations of this Agreement or any other policies or guidelines that are referenced herein and/or posted on the Service; (b) a request by you to cancel or terminate your Account; (c) a request and/or order from law enforcement, a judicial body, or other government agency; (d) where provision of the Service to you is or may become unlawful; (e) unexpected technical or security issues or problems; (f) your participation in fraudulent or illegal activities; or (g) failure to pay any fees owed by you in relation to the Service, provided that in the case of non-material breach, Apple will be permitted to terminate only after giving you 30 days' notice and only if you have not cured the breach within such 30-day period. Any such termination or suspension shall be made by Apple 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 of your Account and/or access to the Service. In addition, Apple may terminate your Account upon 30 days' prior notice via email to the address associated with your Account if (a) your Account has been inactive for one (1) year; or (b) there is a general discontinuance of the Service or any part thereof. Notice of general discontinuance of service will be provided as set forth herein, unless it would not be reasonable to do so due to circumstances arising from legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or due to a natural disaster, a catastrophic event, war, or other similar occurrence outside of Apple's reasonable control. In the event of such termination, Apple will provide you with a pro rata refund of any pre-payment for your then-current paid term. Apple shall not be liable to you for any modifications to the Service or terms of service in accordance with this Section VIIB.

### **C. Effects of Termination**

Upon termination of your Account you may lose all access to the Service and any portions thereof, including, but not limited to, your Account, Apple ID, email account, and Content. In addition, after a period of time, Apple will delete information and data stored in or as a part of your account(s). Any individual components of the Service that you may have used subject to separate software license agreements will also be terminated in accordance with those license agreements.

## **VIII. 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. Because Apple may have no control over such third party sites and/or materials, you acknowledge and agree that Apple is not responsible for the availability of such sites or resources, and does not endorse or warrant the accuracy of any such sites or resources, and shall in no way be liable or responsible for any Content, advertising, products or materials on or available from such sites or resources. You further acknowledge and agree that Apple shall not be responsible or liable in any way for any damages you incur or allege to have incurred, either directly or indirectly, as a result of your use and/or reliance upon any such Content, advertising, products or materials on or available from such sites or resources.

## **IX. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY**

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, AS SUCH, TO THE EXTENT SUCH EXCLUSIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, SOME OF THE EXCLUSIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

APPLE SHALL USE REASONABLE SKILL AND DUE CARE IN PROVIDING THE SERVICE. THE FOLLOWING DISCLAIMERS ARE SUBJECT TO THIS EXPRESS WARRANTY.

APPLE DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND 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.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. APPLE AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS 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 AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS MAKE NO WARRANTY THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS; (II) YOUR USE OF THE SERVICE WILL BE TIMELY, UNINTERRUPTED, SECURE OR ERROR-FREE; (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.

APPLE DOES NOT REPRESENT OR GUARANTEE THAT THE SERVICE WILL BE FREE FROM LOSS, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING, OR OTHER SECURITY INTRUSION, AND APPLE DISCLAIMS ANY LIABILITY RELATING THERETO.

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.

#### **LIMITATION OF LIABILITY**

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY BY SERVICE PROVIDERS. TO THE EXTENT SUCH EXCLUSIONS OR LIMITATIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, SOME OF THE EXCLUSIONS OR LIMITATIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

APPLE SHALL USE REASONABLE SKILL AND DUE CARE IN PROVIDING THE SERVICE. THE FOLLOWING LIMITATIONS DO NOT APPLY IN RESPECT OF LOSS RESULTING FROM (A) APPLE'S FAILURE TO USE REASONABLE SKILL AND DUE CARE; (B) APPLE'S GROSS NEGLIGENCE, WILFUL MISCONDUCT OR FRAUD; OR (C) DEATH OR PERSONAL INJURY.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT APPLE AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSSES (EVEN IF APPLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (I) THE USE OR INABILITY TO USE 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 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; AND (VI) ANY OTHER MATTER RELATING TO THE SERVICE.

#### **INDEMNIFICATION**

You agree to defend, indemnify and hold Apple, its affiliates, subsidiaries, directors, officers, employees, agents, partners, contractors, and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by a third party, relating to or arising from: (a) any Content you submit, post, transmit, or otherwise make available through the Service; (b) your use of the Service; (c) any violation by you of this Agreement; (d) any action taken by Apple as part of its investigation of a suspected violation of this Agreement or as a result of its finding or decision that a violation of this Agreement has occurred; or (e) your violation of any rights of another. This means that you cannot sue Apple, its affiliates, subsidiaries, directors, officers, employees, agents, partners, contractors, and licensors as a result of its decision to remove or refuse to process any information or Content, to warn you, to suspend or terminate your access to the Service, or to take any other action during the investigation of a suspected violation or as a result of Apple's conclusion that a violation of this Agreement has occurred. This waiver and indemnity provision applies to all violations described in or contemplated by this Agreement. This obligation shall survive the termination or expiration of this Agreement and/or your use of the Service. You acknowledge that you are responsible for all use of the Service using your Account, and that this Agreement applies to any and all usage of your Account. You agree to comply with this Agreement and to defend, indemnify and hold harmless Apple from and against any and all claims and demands arising from usage of your Account, whether or not such usage is expressly authorized by you.

#### **X. GENERAL**

##### **A. Notices**

Apple may provide you with notices regarding the Service, including changes to this Agreement, by email to your iCloud email address (and/or other alternate email address associated with your Account if provided), iMessage or SMS, by regular mail, or by postings on our website and/or the Service.

##### **B. Governing Law**

Except to the extent expressly provided in the following paragraph, this Agreement and the relationship between you and Apple shall be governed by the laws of the State of California, excluding its conflicts of law provisions. You and Apple agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Santa Clara, California, to resolve any dispute or claim arising from this Agreement. If (a) you are not a U.S. citizen; (b) you do not reside in the U.S.; (c) you are not accessing the Service from the U.S.; and (d) you are a citizen of one of the countries identified below, you hereby agree that any dispute or claim arising from this Agreement shall be governed by the applicable law set forth below, without regard to any conflict of law provisions, and you hereby irrevocably submit to the non-exclusive jurisdiction of the courts located in the state, province or country identified below whose law governs:

If you are a citizen of any European Union country or Switzerland, Norway or Iceland, the governing law and forum shall be the laws and courts of your usual place of residence.

Specifically excluded from application to this Agreement is that law known as the United Nations Convention on the International Sale of Goods.

##### **C. Entire Agreement**

This Agreement constitutes the entire agreement between you and Apple, 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. 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. You agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this agreement.

**D. “Apple” as used herein means:**

- Apple Inc., located at One Apple Park Way, Cupertino, California, for users in North, Central, and South America (excluding Canada), as well as United States territories and possessions; and French and British possessions in North America, South America, and the Caribbean;
- Apple Canada Inc., located at 120 Bremner Blvd., Suite 1600, Toronto ON M5J 0A8, Canada for users in Canada or its territories and possessions;
- iTunes K.K., located at Roppongi Hills, 6-10-1 Roppongi, Minato-ku, Tokyo 106-6140, Tokyo for users in Japan;
- Apple Pty Limited, located at Level 13, Capital Centre, 255 Pitt Street, Sydney NSW 2000, Australia, for users in Australia, New Zealand, including island possessions, territories, and affiliated jurisdictions; and
- Apple Distribution International, located at Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland, for all other users.

**ELECTRONIC CONTRACTING**

Your use of the Service includes the ability to enter into agreements and/or to make transactions electronically. YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH AGREEMENTS AND TRANSACTIONS. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO ON THIS SERVICE, INCLUDING NOTICES OF CANCELLATION, POLICIES, CONTRACTS, AND APPLICATIONS. In order to access and retain your electronic records, you may be required to have certain hardware and software, which are your sole responsibility.

Last revised: September 17, 2018

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United States

**EXHIBIT 2 TO CLASS ACTION COMPLAINT**

***Williams, et al. v. Apple, Inc.***

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## iCLOUD TERMS AND CONDITIONS

**Welcome to iCloud**

THIS LEGAL AGREEMENT BETWEEN YOU AND APPLE GOVERNS YOUR USE OF THE iCloud PRODUCT, SOFTWARE, SERVICES, AND WEBSITES (COLLECTIVELY REFERRED TO AS THE "SERVICE"). IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THE FOLLOWING TERMS. BY CLICKING "AGREE," YOU ARE AGREEING THAT THESE TERMS WILL APPLY IF YOU CHOOSE TO ACCESS OR USE THE SERVICE.

Apple is the provider of the Service, which permits you to utilize certain Internet services, including storing your personal content (such as contacts, calendars, photos, notes, reminders, documents, app data, and iCloud email) and making it accessible on your compatible devices and computers, and certain location based services, only under the terms and conditions set forth in this Agreement. iCloud is automatically enabled when you are running devices on iOS 9 or later and sign in with your Apple ID during device setup, unless you are upgrading the device and have previously chosen not to enable iCloud. You can disable iCloud in Settings. When iCloud is enabled, your content will be automatically sent to and stored by Apple, so you can later access that content or have content wirelessly pushed to your other iCloud-enabled devices or computers.

**I. REQUIREMENTS FOR USE OF THE SERVICE**

**A. Age.** The Service is only available to individuals aged 13 years or older (or equivalent minimum age in the relevant jurisdiction), unless you are under 13 years old and your Apple ID was provided to you as a result of a request by an approved educational institution or established as part of the Family Sharing feature by your parent or guardian. We do not knowingly collect, use or disclose personal information from children under 13, or equivalent minimum age in the relevant jurisdiction, without verifiable parental consent. Parents and guardians should also remind any minors that conversing with strangers on the Internet can be dangerous and take appropriate precautions to protect children, including monitoring their use of the Service.

To use the Service, you cannot be a person barred from receiving the Service under the laws of the United States or other applicable jurisdictions, including the country in which you reside or from where you use the Service. By accepting this Agreement, you represent that you understand and agree to the foregoing.

**B. Devices and Accounts.** Use of the Service may require compatible devices, Internet access, and certain software (fees may apply); may require periodic updates; and may be affected by the performance of these factors. Apple reserves the right to limit the number of Accounts that may be created from a device and the number of devices associated with an Account. The latest version of required software may be required for certain transactions or features. You agree that meeting these requirements is your responsibility.

**C. Limitations on Use.** You agree to use the Service only for purposes permitted by this Agreement, and only to the extent permitted by any applicable law, regulation, or generally accepted practice in the applicable jurisdiction. Your Account is allocated 5GB of storage capacity as described in the iCloud feature pages. Additional storage is available for purchase, as described below. Exceeding any applicable or reasonable limitation of bandwidth, or storage capacity (for example, backup or email account space) is prohibited and may prevent you from backing up to iCloud, adding documents, or receiving new email sent to your iCloud email address. If your use of the Service or other behavior intentionally or unintentionally threatens Apple's ability to provide the Service or other systems, Apple shall be entitled to take all reasonable steps to protect the Service and Apple's systems, which may include suspension of your access to the Service. Repeated violations of the limitations may result in termination of your Account.

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.

**D. Availability 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 representation that the Service, or any feature or part thereof, is appropriate or available for use in any particular location. To the extent you choose to access and use the Service, you do so at your own initiative and are responsible for compliance with any applicable laws.

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About this capture

**E. Changing the Service.** Apple reserves the right at any time to modify this Agreement and to impose or additional terms of conditions on your use of the Service. Such modifications and additional terms and conditions will be communicated to you and, if accepted, will be effective immediately and will be incorporated into this Agreement. In the event that you refuse to accept such changes, Apple will have the right to terminate this Agreement and your account. You agree that Apple shall not be liable to you or any third party for any modification or cessation of the Service. If you have paid to use the Service and we terminate it or materially downgrade its functionality, we will provide you with a pro rata refund of any pre-payment.

## II. FEATURES AND SERVICES

### A. Use of Location-based Services

Apple and its partners and licensors may provide certain features or services (e.g., Find My iPhone, Find My Friends) that rely upon device-based location information using GPS (where available) and crowd-sourced Wi-Fi hotspot and cell tower locations. To provide such features or services, where available, Apple and its partners and licensors must collect, use, transmit, process and maintain your location data, including but not limited to the geographic location of your device and information related to your iCloud account ("Account") and any devices registered thereunder, including but not limited to your Apple ID, device ID and name, and device type.

You may withdraw consent to Apple and its partners' and licensors' collection, use, transmission, processing and maintenance of location and Account data at any time by not using the location-based features and turning off the Find My iPhone, Find My Friends, or Location Services settings (as applicable) on your device. When using third party services that use or provide location data as part of the Service, you are subject to and should review such third party's terms and privacy policy on use of location data by such third party services. Any location data provided by the Service is not intended to be relied upon in situations where precise location information is needed or where erroneous, inaccurate, time-delayed or incomplete location data may lead to death, personal injury, property or environmental damage. Apple shall use reasonable skill and due care in providing the Service, but neither Apple nor any of its service and/or content providers guarantees the availability, accuracy, completeness, reliability, or timeliness of location data or any other data displayed by the Service. LOCATION-BASED SERVICES ARE NOT INTENDED OR SUITABLE FOR USE AS AN EMERGENCY LOCATOR SYSTEM.

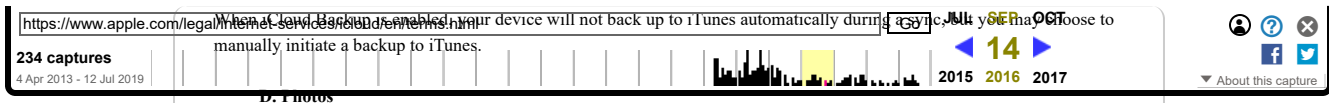
### B. Find My iPhone

Find My iPhone is automatically enabled on iOS devices running iOS 8 or later when iCloud is enabled. When Find My iPhone is enabled on iOS devices running iOS 7 or later, your iOS device will be automatically linked to your Apple ID. Your Apple ID password will be required before anyone (including you) can turn off Find My iPhone, sign out of iCloud, erase or activate the device. Apple and its authorized agents may not perform hardware or software support services, including services under Apple's limited warranty, unless you disable Find My iPhone prior to service. Apple shall bear no responsibility for your failure to protect your iOS device with a passcode, enable Lost Mode, and/or receive or respond to notices and communications. Apple shall also bear no responsibility for returning your iOS device to you or for any loss of data on your iOS device.

If you have an Apple Watch and pair it with an iPhone when you are signed in to iCloud, you may be able to benefit from the security features of Find My iPhone Activation Lock on your Apple Watch. If you enable Activation Lock for your Apple Watch and did not previously have Find My iPhone enabled on your paired iPhone, you will automatically turn on Find My iPhone on your paired iPhone. If you lose your watch and did not have Activation Lock turned on, you will not be able to benefit from the security features of Find My iPhone by turning it on from your iPhone unless you are in range of your Apple Watch to pair the devices.

### C. Backup

The Service creates automatic backups for iOS devices periodically, when the device is screen locked, connected to a power source, and connected to the Internet via a Wi-Fi network. iCloud will store your last three backups; however, if a device has not backed up to iCloud for a period of one hundred and eighty (180) days, Apple reserves the right to delete the backups associated with that device. Backup is limited to device settings, device characteristics, photos and videos, documents, messages (iMessage, SMS, and MMS), ringtones, app data (including Health app data), location settings (such as location-based reminders that you have set up), and Home screen and app organization. Content purchased from the iTunes Store, App Store, or iBookstore is not backed up, but may be eligible for download from those services, subject to account requirements, availability, and the applicable terms and conditions. Media synced from your computer is not backed up. If you enable iCloud Photo Library, your Photo Library will be backed up separately from the automatic iCloud backup. Your iCloud email, contacts, calendars, bookmarks, and documents are stored in, and can be accessed via iCloud on your devices and computers. Apple shall use reasonable skill and due care in providing the Service, but, TO THE GREATEST EXTENT PERMISSIBLE BY APPLICABLE LAW, APPLE DOES NOT GUARANTEE OR WARRANT THAT ANY CONTENT YOU MAY STORE OR ACCESS THROUGH THE SERVICE WILL NOT BE SUBJECT TO INADVERTENT DAMAGE, CORRUPTION, LOSS, OR REMOVAL IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, AND APPLE SHALL NOT BE RESPONSIBLE SHOULD SUCH DAMAGE, CORRUPTION, LOSS, OR REMOVAL OCCUR. It is your responsibility to maintain appropriate alternate backup of your information and data.



**1. iCloud Photo Library.** When you enable iCloud Photo Library, your photos, videos and metadata in the Photos App on your iOS device, OS X computer, or Windows PC (“Device Photo Library”) will be automatically sent to iCloud, stored as your Photo Library in iCloud, and then pushed to all of your other iCloud Photo Library-enabled devices and computers. If you later make changes (including deletions) to the Device Photo Library on any one of these devices or computers, your changes will automatically be sent to and reflected in your iCloud Photo Library. These changes will also be pushed from iCloud to and reflected in the Device Photo Library on all of your other iCloud Photo Library-enabled devices and computers. Please note that the resolution of content in your Photo Library on your device or computer may vary depending upon the amount of available storage and the storage management option you have selected for your iCloud-Photo-Library-enabled device. If you do not wish to use iCloud Photo Library, you can turn iCloud Photo Library off on all of your Apple devices that have iCloud Photo Library enabled.

**2. My Photo Stream.** When you use the My Photo Stream feature of iCloud, Apple may store photos taken on your iOS Device or uploaded from your computer for a limited period of time and automatically send the photos to your other Apple devices that have My Photo Stream enabled. Please note that a limited number of photos may be stored in the cloud or on your devices at any one time, and older photos will be automatically deleted from My Photo Stream over time. Any photos you want to keep on a particular device permanently must be saved to the camera roll or the photo library on your computer. Photo resolution may vary depending on the device to which the photos are downloaded. If you do not wish to use My Photo Stream, you can turn My Photo Stream off on all of your Apple devices that have My Photo Stream enabled. If you enable iCloud Photo Library, devices and computers will no longer download data from My Photo Stream, but will continue to upload data to My Photo Stream. This means that iCloud-Photo-Library-enabled devices and computers will send data to devices and computers that are not enabled, while data from non-enabled devices and computers will not be uploaded to iCloud Photo Library.

**3. iCloud Photo Sharing.** By using the iCloud Photo Sharing feature, Apple may continuously store the photos and videos you share until you delete them, send those photos and videos to your other Apple devices that have iCloud Photo Sharing enabled, and send them to the Apple devices of the people you choose to share them with, including members of your Family if Family Sharing is enabled. When you use iCloud Photo Sharing, you are allowing your recipients to view, save, copy, and share your photos and videos, as well as contribute photos and videos, and leave comments. If you choose to use iCloud Photo Sharing to share photos via a web link, these photos will be publicly available to anyone who has been provided or has access to the web link. You can delete individual photos, videos, comments, or entire shared photo streams at any time to stop sharing them immediately, however, photos and videos that the viewer has previously saved to their device or computer will not be deleted.

#### **E. Public Beta**

From time to time, Apple may choose to offer new and/or updated features of the Service (the “Beta Features”) as part of a Public Beta Program (the “Program”) for the purpose of providing Apple with feedback on the quality and usability of the Beta Features. You understand and agree that your participation in the Program is voluntary and does not create a legal partnership, agency, or employment relationship between you and Apple, and that Apple is not obligated to provide you with any Beta Features. Apple may make such Beta Features available to Program participants by online registration or enrollment via the Service. You understand and agree that Apple may collect and use information from your Account, devices and peripherals in order to enroll you in a Program and/or determine your eligibility to participate. You understand that once you enroll in a Program you may be unable to revert to the earlier non-beta version of a given Beta Feature. In the event such reversion is possible, you may not be able to migrate data created within the Beta Feature back to the earlier non-beta version. Your use of the Beta Features and participation in the Program is governed by this Agreement and any additional license terms that may separately accompany the Beta Features. The Beta Features are provided on an “AS IS” and “AS AVAILABLE” basis and may contain errors or inaccuracies that could cause failures, corruption or loss of data and/or information from your device and from peripherals (including, without limitation, servers and computers) connected thereto. Apple strongly encourages you to backup all data and information on your device and any peripherals prior to participating in any Program. You expressly acknowledge and agree that all use of the Beta Features is at your sole risk. YOU ASSUME ALL RISKS AND ALL COSTS ASSOCIATED WITH YOUR PARTICIPATION IN ANY PROGRAM, INCLUDING, WITHOUT LIMITATION, ANY INTERNET ACCESS FEES, BACKUP EXPENSES, COSTS INCURRED FOR THE USE OF YOUR DEVICE AND PERIPHERALS, AND ANY DAMAGE TO ANY EQUIPMENT, SOFTWARE, INFORMATION OR DATA. Apple may or may not provide you with technical and/or other support for the Beta Features. If support is provided it will be in addition to your normal support coverage for the Service and only available through the Program. You agree to abide by any support rules or policies that Apple provides to you in order to receive any such support. Apple reserves the right to modify the terms, conditions or policies of the Program (including ceasing the Program) at any time with or without notice, and may revoke your participation in the Program at any time. You acknowledge that Apple has no obligation to provide a commercial version of the Beta Features, and that should such a commercial version be made available, it may have features or functionality different than that contained in the Beta Features. As part of the Program, Apple will provide you with the opportunity to submit comments, suggestions, or other feedback regarding your use of the Beta Features. You agree that in the absence of a separate written agreement to the contrary, Apple will be free to use any feedback you provide for any purpose.

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**Family Sharing.** If you enable Family Sharing, Apple can share certain iTunes, iBooks and App Store purchases, and iCloud content, including, for example, shared calendars, shared photos, and location (if enabled) with your family members. For more information regarding sharing your iTunes purchases, please see the iTunes terms and conditions at <http://www.apple.com/legal/internet-services/itunes>.



**G. Mail Drop.** If you are logged in to iCloud and you use OS X Mail or iCloud Webmail to send email with attachments, whether or not you use iCloud or other email services, in order to facilitate large transfers of files, you agree to allow Apple to temporarily store the attachments in iCloud for emails where the size of the message plus the size of attachments is greater than 20 MB, with an upper limit of 5 GB. You also agree to allow Apple to deliver your emails to recipients with links to your file attachments. If a recipient is using OS X 10.10 or later, OS X Mail will automatically download the attachments. As a sender, you and all recipients should not notice a significant change in the way you send and receive emails and attachments. Temporary storage of large email attachments will not count towards your storage limit. These attachments will have an expiration date. At the time of expiration, those attachments will no longer be available for downloading. You may opt out of using Mail Drop at any time.

**H. Third Party Apps.** If you sign in to certain third party Apps with your iCloud credentials, you agree to allow that App to store data in your personal iCloud account and for Apple to collect, store and process such data on behalf of the relevant third-party App Developer in association with your use of the Service and such Apps. The data that the App stores in your personal iCloud account will count towards your storage limit. Such data may be shared with another App that you download from the same App Developer.

**I. iCloud web-only account.** If you sign up for the Service with a web-only account on a non-Apple-branded device or computer, you will have access to only a limited set of Service functionality. You will receive 1 GB of free storage and you will not be able to increase this amount with a web-only account. As a condition to accessing the Service with a web-only account, you agree to all relevant terms and conditions found in this Agreement, including, without limitation, all requirements for use of the Service, limitations on use, availability, public beta, disclaimers of warranties, rules regarding your content and conduct, and termination. Terms found in this Agreement relating to features not available for web-only users will not be applicable to you. These include, for example, use of location based services and payment of fees for iCloud storage upgrades. You further agree that if you subsequently access your web-only account from an Apple-branded device or Apple-branded computer, whether or not you own such device or computer, Apple may automatically upgrade your web-only account to a full iCloud account and provide all available functionality of the Service to you, including increased free storage capacity. If you choose to access your web-only account from an Apple-branded device or Apple-branded computer and you are subsequently upgraded to full functionality of the Service, you agree that all of the terms and conditions contained herein apply to your use of the Service. If you do not want to have a full iCloud account, do not sign in to your web-only account from an Apple-branded device or computer.

**J. Two-Factor Authentication and Autodialed Calls/Texts.** If you choose to enable Two-Factor Authentication for your Apple ID, you consent to (a) provide Apple at least one telephone number; and (b) receive autodialed or prerecorded calls and text messages from Apple at any of the telephone numbers provided. We may place such calls or texts to (i) help keep your Account secure when signing in; (ii) help you access your Account when you've forgotten your password; or (iii) as otherwise necessary to service your Account or enforce this Agreement, our policies, applicable law, or any other agreement we may have with you.

### III. SUBSCRIPTION STORAGE UPGRADES

Additional storage is available for purchase on a subscription basis.

#### A. Payment.

By upgrading your storage on your device or computer, Apple will automatically charge on a recurring basis the payment method associated with your Apple ID (e.g., the payment method you use to shop on the iTunes Store, App Store, or iBookstore, if available) or the payment method associated with your Family account. If you are a Family organizer, you agree to have Apple charge your payment method on a recurring basis for members of your Family who upgrade their storage. Apple may also obtain preapproval for an amount up to the amount of the transaction and contact you periodically by email to the email address associated with your Apple ID for billing reminders and other storage account-related communications.

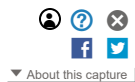
You can change your subscription by upgrading or downgrading your storage under the iCloud section of Settings on your device, or under the iCloud pane of System Preferences on your Mac or iCloud for Windows on your PC.

The applicable storage fee for an upgraded storage plan will take effect immediately; downgrades to your storage plan will take effect on the next annual or monthly billing date. YOU ARE RESPONSIBLE FOR THE TIMELY PAYMENT OF ALL FEES AND FOR PROVIDING APPLE WITH VALID CREDIT CARD OR PAYMENT ACCOUNT DETAILS FOR PAYMENT OF ALL FEES. If Apple is unable to successfully charge your credit card or payment account for fees due, Apple reserves the right to revoke or restrict access to your stored Content, delete your stored Content, or terminate your Account. If you want to designate a different credit card or payment account or if there is a change in your credit card or payment account status, you must change your information online in the Account Information section of iCloud; this may temporarily disrupt your access to the Services while Apple verifies your new payment information. We may contact you via email regarding your account, for reasons including, without limitation, reaching or exceeding your storage limit.

https://www.apple.com/legal/Internet-services/itunes-terms.html Your total price will include the price of the upgrade plus any applicable credit card fees and any sales tax or other services (GST), value added (VAT), or other similar tax, under applicable law and based on the tax rate in effect at the time you purchase the upgrade. We will charge tax when required to do so under the tax rules applicable to the Service.

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## B. Right of Withdrawal

If you choose to cancel your subscription following its initial purchase, you may do so by informing Apple with a clear statement (see applicable address details in section "General" below) within 14 days from when you received your e-mail confirmation by contacting Customer Support. You do not need to provide a reason for cancellation.

To meet the cancellation deadline, you must send your communication of cancellation before the 14-day period has expired.

Customers in the EU and Norway also have the right to inform us using the model cancellation form below:

To: iTunes S.à r.l., 31-33, rue Sainte Zithe, L-2763 Luxembourg;

I hereby give notice that I withdraw from my contract for the following:

[SUBSCRIPTION AMOUNT AND PERIOD, e.g., 200 GB MONTHLY iCloud SUBSCRIPTION STORAGE UPGRADE]

Ordered on [INSERT DATE]

Name of consumer

Address of consumer

Date

## Effects of cancellation

We will reduce your storage back to 5 GB and reimburse you no later than 14 days from the day on which we receive your cancellation notice. If you have used more than 5GB of storage during this period, you may not be able to create any more iCloud backups or use certain features until you have reduced your storage. We will use the same means of payment as you used for the transaction, and you will not incur any fees for such reimbursement.

## IV. Your Use of the Service

### A. Your Account

As a registered user of the Service, you must establish an Account. Don't reveal your Account information to anyone else. You are solely responsible for maintaining the confidentiality and security of your Account and for all activities that occur on or through your Account, and you agree to immediately notify Apple of any security breach of your Account. You further acknowledge and agree that the Service is designed and intended for personal use on an individual basis and you should not share your Account and/or password details with another individual. Provided we have exercised reasonable skill and due care, Apple shall not be responsible for any losses arising out of the unauthorized use of your Account resulting from you not following these rules.

In order to use the Service, you must enter your Apple ID and password to authenticate your Account. You agree to provide accurate and complete information when you register with, and as you use, the Service ("Service Registration Data"), and you agree to update your Service Registration Data to keep it accurate and complete. Failure to provide accurate, current and complete Service Registration Data may result in the suspension and/or termination of your Account. You agree that Apple may store and use the Service Registration Data you provide for use in maintaining and billing fees to your Account.

### B. Use of Other Apple Products and Services

Particular components or features of the Service provided by Apple and/or its licensors, including but not limited to the ability to download previous purchases and iTunes Match and/or iCloud Music Library (additional fees apply), require separate software or other license agreements or terms of use. You must read, accept, and agree to be bound by any such separate agreement as a condition of using these particular components or features of the Service.

### C. No Conveyance

Nothing in this Agreement shall be construed to convey to you any interest, title, or license in an Apple ID, email address, domain name, iChat ID, or similar resource used by you in connection with the Service.

### D. No Right of Survivorship

Unless otherwise required by law, You agree that your Account is non-transferable and that any rights to your Apple ID or Content within your Account terminate upon your death. Upon receipt of a copy of a death certificate your Account may be terminated and all Content within your Account deleted. Contact iCloud Support at [www.apple.com/support/icloud](http://www.apple.com/support/icloud) for further assistance.

### E. No Resale of Service



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You agree that you will not reproduce, copy, duplicate, sell, resell, rent or trade the Service (or any part thereof) for any purpose.

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## V. Content and Your Conduct

### A. Content

“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. You understand that all Content, whether publicly posted or privately transmitted on the Service is the sole responsibility of the person from whom such Content originated. This means that you, and not Apple, are solely responsible for any Content you upload, download, post, email, transmit, store or otherwise make available through your use of the Service. You understand that by using the Service you may encounter Content that you may find offensive, indecent, or objectionable, and that you may expose others to Content that they may find objectionable. Apple does not control the Content posted via the Service, nor does it guarantee the accuracy, integrity or quality of such Content. You understand and agree that your use of the Service and any Content is solely at your own risk.

### B. Your Conduct

You agree that you will NOT use the Service to:

- a. upload, download, post, email, transmit, store or otherwise make available any Content that is unlawful, harassing, threatening, harmful, tortious, defamatory, libelous, abusive, violent, obscene, vulgar, invasive of another’s privacy, hateful, racially or ethnically offensive, or otherwise objectionable;
- b. stalk, harass, threaten or harm another;
- c. if you are an adult, request personal or other information from a minor (any person under the age of 18 or such other age as local law defines as a minor) who is not personally known to you, including but not limited to any of the following: full name or last name, home address, zip/postal code, telephone number, picture, or the names of the minor’s school, church, athletic team or friends;
- d. pretend to be anyone, or any entity, you are not — you may not impersonate or misrepresent yourself as another person (including celebrities), entity, another iCloud user, an Apple employee, or a civic or government leader, or otherwise misrepresent your affiliation with a person or entity (Apple reserves the right to reject or block any Apple ID or email address which could be deemed to be an impersonation or misrepresentation of your identity, or a misappropriation of another person’s name or identity);
- e. engage in any copyright infringement or other intellectual property infringement (including uploading any content to which you do not have the right to upload), or disclose any trade secret or confidential information in violation of a confidentiality, employment, or nondisclosure agreement;
- f. post, send, transmit or otherwise make available any unsolicited or unauthorized email messages, advertising, promotional materials, junk mail, spam, or chain letters, including, without limitation, bulk commercial advertising and informational announcements;
- g. forge any TCP-IP packet header or any part of the header information in an email or a news group posting, or otherwise putting information in a header designed to mislead recipients as to the origin of any Content transmitted through the Service (“spoofing”);
- h. upload, post, email, transmit, store or otherwise make available any material that contains viruses or any other computer code, files or programs designed to harm, interfere or limit the normal operation of the Service (or any part thereof), or any other computer software or hardware;
- i. interfere with or disrupt the Service (including accessing the Service through any automated means, like scripts or web crawlers), or any servers or networks connected to the Service, or any policies, requirements or regulations of networks connected to the Service (including any unauthorized access to, use or monitoring of data or traffic thereon);
- j. plan or engage in any illegal activity; and/or
- k. gather and store personal information on any other users of the Service to be used in connection with any of the foregoing prohibited activities.

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**D. Updates.** From time to time, Apple may update the Software used by the Service. In order to continue your use of the Service, such updates may be automatically downloaded and installed onto your device or computer. These updates may include bug fixes, feature enhancements or improvements, or entirely new versions of the Software.

## VII. Termination

### A. Voluntary Termination by You

You may delete your Apple ID and/or stop using the Service at any time. If you wish to stop using iCloud on your device, you may disable iCloud from a device by opening Settings on your device, tapping iCloud, and tapping "Sign Out". To terminate your Account and delete your Apple ID, contact Apple Support at <http://apple.com/support/appleid/contact>. If you terminate your Account and delete your Apple ID, you will not have access to other Apple products and services with that Apple ID. This action may be non-reversible. Any fees paid by you prior to your termination are nonrefundable (except as expressly permitted otherwise by this Agreement), including any fees paid in advance for the billing year during which you terminate. Termination of your Account shall not relieve you of any obligation to pay any accrued fees or charges.

### B. Termination by Apple

Apple may at any time, under certain circumstances and without prior notice, immediately terminate or suspend all or a portion of your Account and/or access to the Service. Cause for such termination shall include: (a) violations of this Agreement or any other policies or guidelines that are referenced herein and/or posted on the Service; (b) a request by you to cancel or terminate your Account; (c) a request and/or order from law enforcement, a judicial body, or other government agency; (d) where provision of the Service to you is or may become unlawful; (e) unexpected technical or security issues or problems; (f) your participation in fraudulent or illegal activities; or (g) failure to pay any fees owed by you in relation to the Service. Any such termination or suspension shall be made by Apple 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 of your Account and/or access to the Service. In addition, Apple may terminate your Account upon prior notice via email to the address associated with your Account if (a) your Account has been inactive for one (1) year; or (b) there is a general discontinuance or material modification to the Service or any part thereof. Any such termination or suspension shall be made by Apple 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 of your Account and/or access to the Service, though it will refund pro rata any pre-paid fees or amounts.

### C. Effects of Termination

Upon termination of your Account you may lose all access to the Service and any portions thereof, including, but not limited to, your Account, Apple ID, email account, and Content. In addition, after a period of time, Apple will delete information and data stored in or as a part of your account(s). Any individual components of the Service that you may have used subject to separate software license agreements will also be terminated in accordance with those license agreements.

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You agree to defend, indemnify and hold Apple, its affiliates, subsidiaries, directors, officers, employees, agents, partners, contractors, and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by a third party, relating to or arising from: (a) any Content you submit, post, transmit, or otherwise make available through the Service; (b) your use of the Service; (c) any violation by you of this Agreement; (d) any action taken by Apple as part of its investigation of a suspected violation of this Agreement or as a result of its finding or decision that a violation of this Agreement has occurred; or (e) your violation of any rights of another. This means that you cannot sue Apple, its affiliates, subsidiaries,

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directors, officers, employees, agents, partners, contractors, and licensors as a result of its decision to suspend or terminate your access to the Service, or to take any other action during the investigation of a suspected violation or as a result of a violation of this Agreement. This waiver and indemnity provision applies to all violations described in or contemplated by this Agreement. This obligation shall survive the termination or expiration of this Agreement and/or your use of the Service. You acknowledge that you are responsible for all use of the Service using your Account, and that this Agreement applies to any and all usage of your Account. You agree to comply with this Agreement and to defend, indemnify and hold harmless Apple from and against any and all claims and demands arising from usage of your Account, whether or not such usage is expressly authorized by you.

## X. GENERAL

### A. Notices

Apple may provide you with notices regarding the Service, including changes to this Agreement, by email to your iCloud email address (and/or other alternate email address associated with your Account if provided), iMessage or SMS, by regular mail, or by postings on our website and/or the Service.

### B. Governing Law

Except to the extent expressly provided in the following paragraph, this Agreement and the relationship between you and Apple shall be governed by the laws of the State of California, excluding its conflicts of law provisions. You and Apple agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Santa Clara, California, to resolve any dispute or claim arising from this Agreement. If (a) you are not a U.S. citizen; (b) you do not reside in the U.S.; (c) you are not accessing the Service from the U.S.; and (d) you are a citizen of one of the countries identified below, you hereby agree that any dispute or claim arising from this Agreement shall be governed by the applicable law set forth below, without regard to any conflict of law provisions, and you hereby irrevocably submit to the non-exclusive jurisdiction of the courts located in the state, province or country identified below whose law governs:

If you are a citizen of any European Union country or Switzerland, Norway or Iceland, the governing law and forum shall be the laws and courts of your usual place of residence.

Specifically excluded from application to this Agreement is that law known as the United Nations Convention on the International Sale of Goods.

### C. Entire Agreement

This Agreement constitutes the entire agreement between you and Apple, 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. 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. You agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this agreement.

### D. "Apple" as used herein means:

- Apple Inc., located at 1 Infinite Loop, Cupertino, California, for users in North, Central, and South America (excluding Canada), as well as United States territories and possessions; and French and British possessions in North America, South America, and the Caribbean;
- Apple Canada Inc., located at 120 Bremner Blvd., Suite 1600, Toronto ON M5J 0A8, Canada for users in Canada or its territories and possessions;
- iTunes K.K., located at Roppongi Hills, 6-10-1 Roppongi, Minato-ku, Tokyo 106-6140, Tokyo for users in Japan;
- Apple Pty Limited, located at Level 13, Capital Centre, 255 Pitt Street, Sydney NSW 2000, Australia, for users in Australia, New Zealand, including island possessions, territories, and affiliated jurisdictions; and
- Apple Distribution International, located at Hollyhill Industrial Estate, Hollyhill, Cork, Republic of Ireland, for all other users. For users in territories where Apple means Apple Distribution International, iTunes S.à r.l. located at 31-33, rue Sainte Zithe, L-2763 Luxembourg, shall be the seller of subscription storage upgrade services for the Services offered by Apple Distribution International. Apple Distribution International shall be the operator and data controller of the Services."

## ELECTRONIC CONTRACTING

Your use of the Service includes the ability to enter into agreements and/or to make transactions electronically. YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH AGREEMENTS AND TRANSACTIONS. YOUR AGREEMENT AND

https://www.apple.com/legal/internet-services/itunes/us/terms.html

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INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS KEPT BY APPLE, INCLUDING TRANSACTIONS YOU ENTER INTO ON THIS SERVICE, INCLUDING NOTICES OF CANCELLATION POLICIES, CONTRACTS, AND APPLICATIONS. In order to access and retain your records, you may be required to have certain hardware and software, which are your sole responsibility.

Last revised: September 16, 2015

2013 2014 2015 2016 2017

▼ About this capture

**EXHIBIT 3 TO CLASS ACTION COMPLAINT**

***Williams, et al. v. Apple, Inc.***



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[Sales & Support](#)
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[Intellectual Property](#)
[More Resources](#)

# iCloud operated by GCBD

## Terms and Conditions

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Welcome to iCloud operated by GCBD

THIS LEGAL AGREEMENT BETWEEN YOU AND AIPO CLOUD (GUIZHOU) TECHNOLOGY CO., LTD. ("GCBD") GOVERNS YOUR USE OF THE ICLOUD PRODUCT, SOFTWARE, SERVICES, AND WEBSITES (COLLECTIVELY REFERRED TO AS THE "SERVICE"). APPLE TECHNOLOGY SERVICES (GUIZHOU) LTD., OR A SUCCESSOR OR ASSIGNEE OF APPLE TECHNOLOGY SERVICES (GUIZHOU) LTD., MAY FROM TIME TO TIME PROVIDE SUPPORT TO GCBD IN ITS PROVISION OF THE SERVICE. IN ADDITION TO APPLE TECHNOLOGY SERVICES (GUIZHOU) LTD. AND ANY OF ITS SUCCESSORS OR ASSIGNEES, OTHER APPLE ENTITIES INCLUDING APPLE DISTRIBUTION INTERNATIONAL AND APPLE INC. MAY PROVIDE ASSISTANCE IN THE PROVISION OF THE SERVICES, OR CERTAIN RIGHTS AND LICENSES HEREUNDER (APPLE TECHNOLOGY SERVICES (GUIZHOU) LTD., APPLE DISTRIBUTION INTERNATIONAL, APPLE INC. AND ANY OTHER APPLE ENTITY ARE COLLECTIVELY REFERRED TO HEREIN AS "APPLE"). IN SUCH CASES (I) APPLE SHALL HAVE A LEGAL POSITION EQUIVALENT TO AN ADDITIONAL PARTY TO THIS AGREEMENT, SUBJECT TO ALL TERMS AND CONDITIONS CONTAINED HEREIN; AND (II) REFERENCES TO GCBD SHALL BE DEEMED A REFERENCE TO GCBD AND APPLE TO THE EXTENT OF THE SUPPORT PROVIDED BY APPLE, INCLUDING THE DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY. IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THE FOLLOWING TERMS. BY CLICKING "AGREE," YOU ARE AGREEING THAT THESE TERMS WILL APPLY IF YOU CHOOSE TO ACCESS OR USE THE SERVICE.

GCBD is the provider of the Service in the Mainland of China, which permits you to utilize certain Internet services, including storing your personal content (such as contacts, calendars, photos, notes, reminders, documents, app data, and iCloud email) and making it accessible on your compatible devices and computers, and certain location based services, only under the terms and conditions set forth in this Agreement. iCloud is automatically enabled when you are running devices on iOS 9 or later and sign in with your Apple ID during device setup, unless you are upgrading the device and have previously chosen not to enable iCloud. You can disable iCloud in Settings. When iCloud is enabled, your content will be automatically sent to and stored by GCBD, so you can later access that content or have content wirelessly pushed to your other iCloud-enabled devices or computers.

### I. REQUIREMENTS FOR USE OF THE SERVICE

A. Age. The Service is only available to individuals aged 13 years or older (or equivalent minimum age in the relevant jurisdiction), unless you are under 13 years old and your Apple ID was provided to you as a result of a request by an approved educational institution or established as part of the Family Sharing feature by your parent or guardian. We do not knowingly collect, use or disclose personal information from children under 13, or equivalent minimum age in the relevant jurisdiction, without verifiable parental consent. Parents and guardians should also remind any minors that conversing with strangers on the Internet can be dangerous and take appropriate precautions to protect children, including monitoring their use of the Service.

To use the Service, you cannot be a person barred from receiving the Service under the laws of the People's Republic of China. By accepting this Agreement, you represent that you understand and agree to the foregoing.

B. Devices and Accounts. Use of the Service may require compatible devices, Internet access, and certain software, including software provided by third parties, e.g. Apple Inc. (fees may apply); may require periodic

updates; and may be affected by the performance of these factors. The number of Accounts that may be created from a device and the number of devices associated with an Account may be limited. The latest version of required software may be required for certain transactions or features. You agree that meeting these requirements is your responsibility.

C. Limitations on Use. You agree to use the Service only for purposes permitted by this Agreement, and only to the extent permitted by Chinese law. Your Account is allocated 5GB of storage capacity as described in Apple's iCloud feature pages. Additional storage is available for purchase, as described below. Exceeding any applicable or reasonable limitation of bandwidth, or storage capacity (for example, backup or email account space) is prohibited and may prevent you from backing up to iCloud, adding documents, or receiving new email sent to your iCloud email address. If your use of the Service or other behavior intentionally or unintentionally threatens our ability to provide the Service or other systems, we shall be entitled to take all reasonable steps to protect the Service and our systems, which may include suspension of your access to the Service. Repeated violations of the limitations may result in termination of your Account.

D. Changing the Service. We reserve the right at any time to modify this Agreement and to impose new or additional terms or conditions on your use of the Service, provided that we will give you 30 days' advance notice of any material adverse change to the Service or applicable terms of service, unless it would not be reasonable to do so due to circumstances arising from legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or due to a natural disaster, catastrophic event, war, or other similar occurrence outside of our reasonable control. With respect to paid cloud storage services, we will not make any material adverse change to the Service before the end of your current paid term, unless a change is reasonably necessary to address legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or to avoid issues resulting from a natural disaster, a catastrophic event, war, or other similar occurrence outside of our reasonable control. In the event that we do make material adverse changes to the Service or terms of use, you will have the right to terminate this Agreement and your account, in which case we will provide you with a pro rata refund of any pre-payment for your then-current paid term. We shall not be liable to you for any modifications to the Service or terms of service made in accordance with this Section ID.

## II. FEATURES AND SERVICES

### A. Use of Location-based Services

You may be provided certain features or services (e.g., Find My iPhone, Find My Friends) that rely upon device-based location information using GPS (where available) and crowd-sourced Wi-Fi hotspot and cell tower locations. To provide such features or services, where available, we or our partners (including Apple Inc.), must collect, use, transmit, process and maintain your location data, including but not limited to the geographic location of your device and information related to your iCloud account ("Account") and any devices registered thereunder, including but not limited to your Apple ID, device ID and name, and device type.

You may withdraw consent to our collection, use, transmission, processing and maintenance of location and Account data at any time by not using the location-based features and turning off the Find My iPhone, Find My Friends, or Location Services settings (as applicable) on your device. When using third party services that use or provide location data as part of the Service, you are subject to and should review such third party's terms and privacy policy on use of location data by such third party services. Any location data provided by the Service is not intended to be relied upon in situations where precise location information is needed or where erroneous, inaccurate, time-delayed or incomplete location data may lead to death, personal injury, property or environmental damage. We shall use reasonable skill and due care in providing the Service, but we do not guarantee the availability, accuracy, completeness, reliability, or timeliness of location data or any other data displayed by the Service. LOCATION-BASED SERVICES ARE NOT INTENDED OR SUITABLE FOR USE AS AN EMERGENCY LOCATOR SYSTEM.

### B. Find My iPhone

Find My iPhone is automatically enabled on iOS devices running iOS 8 or later, and any other Apple accessory paired with your iPhone, when iCloud is enabled. When Find My iPhone is enabled on iOS devices running iOS 7 or later, your iOS device will be automatically linked to your Apple ID. Your Apple ID password will be required

before anyone (including you) can turn off Find My iPhone, sign out of iCloud, erase or activate the device. Apple and its authorized agents, may not perform hardware or software support services, including services under Apple's limited warranty, unless you disable Find My iPhone prior to service. Neither Apple nor GCBD shall bear responsibility for your failure to protect your iOS device with a passcode, enable Lost Mode, and/or receive or respond to notices and communications. We shall also bear no responsibility for returning your iOS device to you or for any loss of data on your iOS device.

#### C. Backup

iCloud periodically creates automatic backups for iOS devices, when the device is screen locked, connected to a power source, and connected to the Internet via a Wi-Fi network. If a device has not backed up to iCloud for a period of one hundred and eighty (180) days, we reserve the right to delete any backups associated with that device. Backup may include device settings, device characteristics, photos and videos, documents, your messages, ringtones, Health app data and other app data. For additional information, please go to <https://support.apple.com/en-us/HT207428>. The following content is not included in your iCloud backup: content purchased from certain stores, including the iTunes Store or App Store, media synced from your computer, and your photo library if you have enabled iCloud Photo Library. GCBD shall use reasonable skill and due care in providing the Service, but, TO THE GREATEST EXTENT PERMISSIBLE BY APPLICABLE LAW, WE DO NOT GUARANTEE OR WARRANT THAT ANY CONTENT YOU MAY STORE OR ACCESS THROUGH THE SERVICE WILL NOT BE SUBJECT TO INADVERTENT DAMAGE, CORRUPTION, LOSS, OR REMOVAL IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, AND WE SHALL NOT BE RESPONSIBLE SHOULD SUCH DAMAGE, CORRUPTION, LOSS, OR REMOVAL OCCUR. It is your responsibility to maintain appropriate alternate backup of your information and data.

#### D. Photos

1. iCloud Photo Library. When you enable iCloud Photo Library, your photos, videos, metadata and any edits that you make in the Photos App on your iOS device, macOS computer, or Windows PC will be automatically uploaded and stored in iCloud, and then pushed to all of your other iCloud Photo Library-enabled devices and computers. The photo and video resolution may vary depending on your device settings and available storage. You may download full resolution photos and videos at any time.

2. iCloud Photo Sharing. When you use iCloud Photo Sharing, we store any photos and videos you share until you delete them. You can access your shared photos and videos from any of your Apple devices that have iCloud Photo Sharing enabled. People you invite to shared albums may view, save, copy, and share these photos and videos, as well as contribute photos and videos, and comments. If you choose to use iCloud Photo Sharing to share photos via a web link, these photos will be publicly available to anyone who has been provided or has access to the web link. If you want to stop sharing individual photos, videos, comments or entire shared albums, you may delete them at any time. However, any content previously copied from a shared album to another device or computer will not be deleted.

3. My Photo Stream. When you use My Photo Stream, we store photos taken on your iOS Device or uploaded from your computer for a limited period of time and automatically pushes the photos to your other Apple devices that have My Photo Stream enabled. A limited number of photos may be stored in iCloud or on your devices at any one time, and older photos will be automatically deleted from My Photo Stream over time. To keep these photos permanently, you must save them to the camera roll on your iOS Device or the photo library on your computer.

E. Family Sharing. With Family Sharing, you can share certain content and services including iTunes Store and App Store purchases, an Apple Music subscription, and an iCloud storage subscription with members of your family. You may also share a calendar, a shared photo album, and your location with your family members. For more information regarding sharing your content purchases, please see the Apple Media Services Terms and Conditions at <https://www.apple.com/legal/internet-services/itunes/www/>.

F. File Sharing. When you use iCloud File Sharing, we store any files you share until you delete them. You can access your shared files from any of your Apple devices with iCloud Drive enabled. You may give access to people to view, save, copy or edit these files. You have the option to give people the right to edit the files or to only view them. If you use iCloud File Sharing to share files via a web link, these files will be publicly accessible to

anyone who has been provided the web link. You can stop sharing files at any time. If you stop sharing, files will be removed from iCloud Drive on everyone's devices. However, any file previously copied to another device or computer will not be deleted.

G. Mail Drop. If you are logged in to iCloud and you use the macOS X Mail app or iCloud Mail on the web to send emails with large attachments, you will have the option of using Mail Drop. With Mail Drop, your large attachments will be temporarily stored on iCloud servers in order to facilitate their delivery. We will either send a link or a preview of the attachment to recipients, depending on your recipient's email client application. Temporary storage of large email attachments will not count towards your iCloud storage quota. For more information about Mail Drop, please go to <https://support.apple.com/en-us/HT203093>.

H. Third Party Apps. If you sign in to certain third party Apps with your iCloud credentials, you agree to allow that App to store data in your personal iCloud account and for us to collect, store and process such data on behalf of the relevant third-party App Developer in association with your use of the Service and such Apps. The data that the App stores in your personal iCloud account will count towards your storage limit. Such data may be shared with another App that you download from the same App Developer.

I. iCloud web-only account. If you sign up for the Service with a web-only account on a non-Apple-branded device or computer, you will have access to only a limited set of Service functionality. You will receive 1 GB of free storage and you will not be able to increase this amount with a web-only account. As a condition to accessing the Service with a web-only account, you agree to all relevant terms and conditions found in this Agreement, including, without limitation, all requirements for use of the Service, limitations on use, availability, public beta, disclaimers of warranties, rules regarding your content and conduct, and termination. Terms found in this Agreement relating to features not available for web-only users will not be applicable to you. These include, for example, use of location based services and payment of fees for iCloud storage upgrades. You further agree that if you subsequently access your web-only account from an Apple-branded device or Apple-branded computer, whether or not you own such device or computer, we may automatically upgrade your web-only account to a full iCloud account and provide all available functionality of the Service to you, including increased free storage capacity. If you choose to access your web-only account from an Apple-branded device or Apple-branded computer and you are subsequently upgraded to full functionality of the Service, you agree that all of the terms and conditions contained herein apply to your use of the Service. If you do not want to have a full iCloud account, do not sign in to your web-only account from an Apple-branded device or computer.

J. Two-Factor Authentication and Autodialed Calls/Texts. If you choose to enable Two-Factor Authentication for your Apple ID, you consent to (a) provide us at least one telephone number; and (b) receive autodialed or prerecorded calls and text messages from us at any of the telephone numbers provided. We may place such calls or texts to (i) help keep your Account secure when signing in; (ii) help you access your Account when you've forgotten your password; or (iii) as otherwise necessary to service your Account or enforce this Agreement, our policies, applicable law, or any other agreement we may have with you.

### III. SUBSCRIPTION STORAGE UPGRADES

Additional storage is available for purchase on a subscription basis.

#### A. Payment.

By upgrading your storage on your device or computer, we will automatically charge on a recurring basis the payment method associated with your Apple ID (e.g., the payment method you use to shop on the iTunes Store or App Store, if available) or the payment method associated with your Family account. If you are a Family organizer, you agree to have us charge your payment method on a recurring basis for members of your Family who upgrade their storage. We may also obtain preapproval for an amount up to the amount of the transaction and contact you periodically by email to the email address associated with your Apple ID for billing reminders and other storage account-related communications.

You can change your subscription by upgrading or downgrading your storage under the iCloud section of Settings on your device, or under the iCloud pane of System Preferences on your Mac or iCloud for Windows on your PC.

The applicable storage fee for an upgraded storage plan will take effect immediately; downgrades to your storage plan will take effect on the next annual or monthly billing date. YOU ARE RESPONSIBLE FOR THE TIMELY

PAYMENT OF ALL FEES AND FOR PROVIDING APPLE WITH VALID CREDIT CARD OR PAYMENT ACCOUNT DETAILS FOR PAYMENT OF ALL FEES. If we are unable to successfully charge your credit card or payment account for fees due, we reserve the right to revoke or restrict access to your stored Content, delete your stored Content, or terminate your Account. If you want to designate a different credit card or payment account or if there is a change in your credit card or payment account status, you must change your information online in the Account Information section of iCloud; this may temporarily disrupt your access to the Services while we verify your new payment information. We may contact you via email regarding your account, for reasons including, without limitation, reaching or exceeding your storage limit.

Your total price will include the price of the upgrade plus any applicable credit card fees and any sales, use, goods and services (GST), value added (VAT), or other similar tax, under applicable law and based on the tax rate in effect at the time you purchase the upgrade. We will charge tax when required to do so under the tax rules applicable to the Service.

#### B. Right of Withdrawal

If you choose to cancel your subscription following its initial purchase or, if you are on an annual payment plan, following the commencement of any renewal term, you may do so by informing us with a clear statement (see applicable address details in section "General" below) within 14 days from when you received your e-mail confirmation by contacting Customer Support. You do not need to provide a reason for cancellation.

To meet the cancellation deadline, you must send your communication of cancellation before the 14-day period has expired.

#### Effects of cancellation

We will reduce your storage back to 5 GB and reimburse you no later than 14 days from the day on which we receive your cancellation notice. If you have used more than 5GB of storage during this period, you may not be able to create any more iCloud backups or use certain features until you have reduced your storage. We will use the same means of payment as you used for the transaction, and you will not incur any fees for such reimbursement.

### IV. Your Use of the Service

#### A. Your Account

As a registered user of the Service, you must establish an Account. Don't reveal your Account information to anyone else. You are solely responsible for maintaining the confidentiality and security of your Account and for all activities that occur on or through your Account, and you agree to immediately notify us of any security breach of your Account. You further acknowledge and agree that the Service is designed and intended for personal use on an individual basis and you should not share your Account and/or password details with another individual. Provided we have exercised reasonable skill and due care, we shall not be responsible for any losses arising out of the unauthorized use of your Account resulting from you not following these rules.

In order to use the Service, you must enter your Apple ID and password to authenticate your Account. You agree to provide accurate and complete information when you register with, and as you use, the Service ("Service Registration Data"), and you agree to update your Service Registration Data to keep it accurate and complete. Failure to provide accurate, current and complete Service Registration Data may result in the suspension and/or termination of your Account. You agree that GCBD may store and use the Service Registration Data you provide for use in maintaining and billing fees to your Account.

#### B. Use of Other Apple Products and Services

Particular components or features of the Service, including but not limited to the ability to download previous purchases and iTunes Match and/or iCloud Music Library (additional fees apply), require separate software or other license agreements or terms of use, including software, license agreements and/or terms of use from third parties, such as Apple Inc. You must read, accept, and agree to be bound by any such separate agreement as a condition of using these particular components or features of the Service.

#### C. No Conveyance

Nothing in this Agreement shall be construed to convey to you any interest, title, or license in an Apple ID, email address, domain name, iChat ID, or similar resource used by you in connection with the Service.

D. No Right of Survivorship

Unless otherwise required by law, You agree that your Account is non-transferable and that any rights to your Apple ID or Content within your Account terminate upon your death. Upon receipt of a copy of a death certificate your Account may be terminated and all Content within your Account deleted. Contact iCloud Support at Electronic Information Industry Park of Gui An New Area, Guizhou province, P.R. China for further assistance.

E. No Resale of Service

You agree that you will not reproduce, copy, duplicate, sell, resell, rent or trade the Service (or any part thereof) for any purpose.

V. Content and Your Conduct

A. Content

"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. You understand that all Content, whether publicly posted or privately transmitted on the Service is the sole responsibility of the person from whom such Content originated. This means that you are solely responsible for any Content you upload, download, post, email, transmit, store or otherwise make available through your use of the Service. You understand that by using the Service you may encounter Content that you may find offensive, indecent, or objectionable, and that you may expose others to Content that they may find objectionable. We do not control the Content posted via the Service, nor does it guarantee the accuracy, integrity or quality of such Content. You understand and agree that your use of the Service and any Content is solely at your own risk.

B. Your Conduct

You agree that you will NOT use the Service to:

- a. upload, download, post, email, transmit, store or otherwise make available any Content that is unlawful, harassing, threatening, harmful, tortious, defamatory, libelous, abusive, violent, obscene, vulgar, invasive of another's privacy, hateful, racially or ethnically offensive, or otherwise objectionable;
- b. stalk, harass, threaten or harm another;
- c. if you are an adult, request personal or other information from a minor (any person under the age of 18 or such other age as local law defines as a minor) who is not personally known to you, including but not limited to any of the following: full name or last name, home address, telephone number, picture, or the names of the minor's school, athletic team or friends;
- d. pretend to be anyone, or any entity, you are not — you may not impersonate or misrepresent yourself as another person (including celebrities), entity, another iCloud user, an Apple or GCBG employee, or a civic or government leader, or otherwise misrepresent your affiliation with a person or entity (we reserve the right to reject or block any Apple ID or email address which could be deemed to be an impersonation or misrepresentation of your identity, or a misappropriation of another person's name or identity);
- e. engage in any copyright infringement or other intellectual property infringement (including uploading any content to which you do not have the right to upload), or disclose any trade secret or confidential information in violation of a confidentiality, employment, or nondisclosure agreement;
- f. post, send, transmit or otherwise make available any unsolicited or unauthorized email messages, advertising, promotional materials, junk mail, spam, or chain letters, including, without limitation, bulk commercial advertising and informational announcements;



g. forge any TCP-IP packet header or any part of the header information in an email or a news group posting, or otherwise putting information in a header designed to mislead recipients as to the origin of any Content transmitted through the Service ("spoofing");

h. upload, post, email, transmit, store or otherwise make available any material that contains viruses or any other computer code, files or programs designed to harm, interfere or limit the normal operation of the Service (or any part thereof), or any other computer software or hardware;

i. interfere with or disrupt the Service (including accessing the Service through any automated means, like scripts or web crawlers), or any servers or networks connected to the Service, or any policies, requirements or regulations of networks connected to the Service (including any unauthorized access to, use or monitoring of data or traffic thereon);

j. plan or engage in any illegal activity; and/or

k. gather and store personal information on any other users of the Service to be used in connection with any of the foregoing prohibited activities.

#### C. Removal of Content

You acknowledge that we are not responsible or liable in any way for any Content provided by others and have no duty to pre-screen such Content. However, we reserve the right at all times to determine whether Content is appropriate and in compliance with this Agreement, and may pre-screen, move, refuse, modify and/or remove Content at any time, without prior notice and in our sole discretion, if such Content is found to be in violation of this Agreement or is otherwise in violation of applicable laws or objectionable.

#### D. Back up Your Content

You are responsible for backing up, to your own computer or other device, any important documents, images or other Content that you store or access via the Service. We shall use reasonable skill and due care in providing the Service, but we do not guarantee or warrant that any Content you may store or access through the Service will not be subject to inadvertent damage, corruption or loss.

#### E. Access to Your Account and Content

We reserve the right to take steps we believe are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement. You acknowledge and agree that we may, without liability to you, access, use, preserve and/or disclose your Account information and Content to law enforcement authorities, government officials, and/or a third party, as we believe is reasonably necessary or appropriate, if legally required to do so or if we have a good faith belief that such access, use, disclosure, or preservation is reasonably necessary to: (a) comply with legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of GCBBD, its users, Apple, a third party, or the public as required or permitted by applicable law. You understand and agree that Apple and GCBBD will have access to all data that you store on this service, including the right to share, exchange and disclose all user data, including Content, to and between each other under applicable law.

#### F. Violations of this Agreement

If while using the Service, you encounter Content you find inappropriate, or otherwise believe to be a violation of any copyrights, or of this Agreement, you may report it by contacting GCBBD at Electronic Information Industry Park of Gui An New Area, Guizhou province, P.R. China.

#### G. Content Submitted or Made Available by You on the Service

1. Changes to Content. You understand that in order to provide the Service and make your Content available thereon, we may transmit your Content across various public networks, in various media, to third parties, and modify or change your Content to comply with technical requirements of connecting networks or devices or computers. You agree that the license herein permits us to take any such actions.



2. Trademark Information. Apple, the Apple logo, iCloud, the iCloud 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 PRC and/or other countries. A list of Apple's trademarks can be found here - <https://www.apple.com/legal/trademark/appletmlist.html>. Other trademarks, service marks, graphics, and logos used in connection with the Service may be the trademarks of their respective owners. You are granted no right or license in any of the aforesaid trademarks, and further agree that you shall not remove, obscure, or alter any proprietary notices (including trademark and copyright notices) that may be affixed to or contained within the Service.

#### VI. Software

A. Apple's Proprietary Rights. You acknowledge and agree that Apple and/or its licensors own all legal right, title and interest in and to the Service, including but not limited to graphics, user interface, the scripts and software used to implement the Service, and any software provided to you as a part of and/or in connection with the Service (the "Software"), including any and all intellectual property rights that exist therein, whether registered or not, and wherever in the world they may exist. You further agree that the Service (including the 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. You agree that you will not use such proprietary information or materials in any way whatsoever except for use of the Service in compliance with this Agreement. No portion of the Service may be reproduced in any form or by any means, except as expressly permitted in these terms.

B. License From Apple. THE USE OF THE SOFTWARE OR ANY PART OF THE SERVICE, EXCEPT FOR USE OF THE SERVICE AS PERMITTED IN THIS AGREEMENT, IS STRICTLY PROHIBITED AND INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS AND MAY SUBJECT YOU TO CIVIL AND CRIMINAL PENALTIES, INCLUDING POSSIBLE MONETARY DAMAGES, FOR COPYRIGHT INFRINGEMENT.

C. Public Beta. From time to time, we may choose to offer new and/or updated features of the Service (the "Beta Features") as part of a Public Beta Program (the "Program") for the purpose of providing us with feedback on the quality and usability of the Beta Features. You understand and agree that your participation in the Program is voluntary and does not create a legal partnership, agency, or employment relationship between you and us, and that we are not obligated to provide you with any Beta Features. We may make such Beta Features available to Program participants by online registration or enrollment via the Service. You understand and agree that we may collect and use information from your Account, devices and peripherals in order to enroll you in a Program and/or determine your eligibility to participate. You understand that once you enroll in a Program you may be unable to revert to the earlier non-beta version of a given Beta Feature. In the event such reversion is possible, you may not be able to migrate data created within the Beta Feature back to the earlier non-beta version. Your use of the Beta Features and participation in the Program is governed by this Agreement and any additional license terms that may separately accompany the Beta Features. The Beta Features are provided on an "AS IS" and "AS AVAILABLE" basis and may contain errors or inaccuracies that could cause failures, corruption or loss of data and/or information from your device and from peripherals (including, without limitation, servers and computers) connected thereto. We strongly encourage you to backup all data and information on your device and any peripherals prior to participating in any Program. You expressly acknowledge and agree that all use of the Beta Features is at your sole risk. YOU ASSUME ALL RISKS AND ALL COSTS ASSOCIATED WITH YOUR PARTICIPATION IN ANY PROGRAM, INCLUDING, WITHOUT LIMITATION, ANY INTERNET ACCESS FEES, BACKUP EXPENSES, COSTS INCURRED FOR THE USE OF YOUR DEVICE AND PERIPHERALS, AND ANY DAMAGE TO ANY EQUIPMENT, SOFTWARE, INFORMATION OR DATA. We may or may not provide you with technical and/or other support for the Beta Features. If support is provided it will be in addition to your normal support coverage for the Service and only available through the Program. You agree to abide by any support rules or policies that we provide to you in order to receive any such support. We reserve the right to modify the terms, conditions or policies of the Program (including ceasing the Program) at any time with or without notice, and may revoke your participation in the Program at any time. You acknowledge that we have no obligation to provide a commercial version of the Beta Features, and that should such a commercial version be made available, it may have features or functionality different than that contained in the Beta Features. As part of the Program, we will provide you with the opportunity to submit comments, suggestions, or other feedback regarding

your use of the Beta Features. You agree that in the absence of a separate written agreement to the contrary, we will be free to use any feedback you provide for any purpose.

D. Export Control. Use of the Service and Software, including transferring, posting, or uploading data, information, technology, 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. government's Consolidated Screening List (CSL) located at [https://build.export.gov/main/ecr/eg\\_main\\_023148](https://build.export.gov/main/ecr/eg_main_023148). 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, information, technology or software that is either controlled under U.S. International Traffic in Arms Regulations (ITAR) or cannot be exported without prior written government authorization, including, but not limited to, certain types of encryption software, without first obtaining that authorization. This assurance and commitment shall survive termination of this Agreement.

E. Updates. From time to time, The Software used by the Service may be updated. In order to continue your use of the Service, such updates may be automatically downloaded and installed onto your device or computer. These updates may include bug fixes, feature enhancements or improvements, or entirely new versions of the Software.

## VII. Termination

### A. Voluntary Termination by You

You may delete your Apple ID and/or stop using the Service at any time. If you wish to stop using iCloud on your device, you may disable iCloud from a device by opening Settings on your device, tapping iCloud, and tapping "Sign Out". To terminate your Account and delete your Apple ID, contact GCBD Support at Electronic Information Industry Park of Gui An New Area, Guizhou province, P.R. China. If you terminate your Account and delete your Apple ID, you will not have access to other Apple products and services with that Apple ID. This action may be non-reversible. Any fees paid by you prior to your termination are nonrefundable (except as expressly permitted otherwise by this Agreement), including any fees paid in advance for the billing year during which you terminate. Termination of your Account shall not relieve you of any obligation to pay any accrued fees or charges.

### B. Termination by GCBD

GCBD may at any time, under certain circumstances and without prior notice, immediately terminate or suspend all or a portion of your Account and/or access to the Service. Cause for such termination shall include: (a) violations of this Agreement or any other policies or guidelines that are referenced herein and/or posted on the Service; (b) a request by you to cancel or terminate your Account; (c) a request and/or order from law enforcement, a judicial body, or other government agency; (d) where provision of the Service to you is or may become unlawful; (e) unexpected technical or security issues or problems; (f) your participation in fraudulent or illegal activities; or (g) failure to pay any fees owed by you in relation to the Service, provided that in the case of non-material breach, GCBD will be permitted to terminate only after giving you 30 days' notice and only if you have not cured the breach within such 30-day period. Any such termination or suspension shall be made by GCBD in its sole discretion and we will not be responsible to you or any third party for any damages that may result or arise out of such termination or suspension of your Account and/or access to the Service. In addition, we may terminate your Account upon 30 days' prior notice via email to the address associated with your Account if (a) your Account has been inactive for one (1) year; or (b) there is a general discontinuance of the Service or any part thereof. Notice of general discontinuance of service will be provided as set forth herein, unless it would not be reasonable to do so due to circumstances arising from legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or due to a natural disaster, a catastrophic event, war, or other similar occurrence outside of our reasonable control. In the event of such termination, we will provide you with a pro rata refund of any pre-payment for your then-current paid term. We shall not be liable to you for any modifications to the Service or terms of service in accordance with this Section VIIB.

#### C. Effects of Termination

Upon termination of your Account you may lose all access to the Service and any portions thereof, including, but not limited to, your Account, Apple ID, email account, and Content. In addition, after a period of time, we will delete information and data stored in or as a part of your account(s). Any individual components of the Service that you may have used subject to separate software license agreements will also be terminated in accordance with those license agreements.

#### VIII. 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. Because GCBD may have no control over such third party sites and/or materials, you acknowledge and agree that neither GCBD or third parties with whom GCBD works to provide the Service (including, without limitation, Apple Inc.) are responsible for the availability of such sites or resources, and do not endorse or warrant the accuracy of any such sites or resources, and shall in no way be liable or responsible for any Content, advertising, products or materials on or available from such sites or resources. You further acknowledge and agree that we shall not be responsible or liable in any way for any damages you incur or allege to have incurred, either directly or indirectly, as a result of your use and/or reliance upon any such Content, advertising, products or materials on or available from such sites or resources.

#### IX. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY

GCBD DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND YOU AGREE THAT FROM TIME TO TIME GCBD MAY REMOVE THE SERVICE FOR INDEFINITE PERIODS OF TIME, OR CANCEL THE SERVICE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. GCBD AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS 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, GCBD AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS MAKE NO WARRANTY THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS; (II) YOUR USE OF THE SERVICE WILL BE TIMELY, UNINTERRUPTED, SECURE OR ERROR-FREE; (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.

GCBD DOES NOT REPRESENT OR GUARANTEE THAT THE SERVICE WILL BE FREE FROM LOSS, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING, OR OTHER SECURITY INTRUSION, AND GCBD DISCLAIMS ANY LIABILITY RELATING THERETO.

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.

#### LIMITATION OF LIABILITY

YOU EXPRESSLY UNDERSTAND AND AGREE THAT GCBD AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE

LOSSES (EVEN IF GCBD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (I) THE USE OR INABILITY TO USE 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 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; AND (VI) ANY OTHER MATTER RELATING TO THE SERVICE.

#### INDEMNIFICATION

You agree to defend, indemnify and hold GCBD, its affiliates, subsidiaries, directors, officers, employees, agents, partners, contractors, and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by a third party, relating to or arising from: (a) any Content you submit, post, transmit, or otherwise make available through the Service; (b) your use of the Service; (c) any violation by you of this Agreement; (d) any action taken by GCBD as part of its investigation of a suspected violation of this Agreement or as a result of its finding or decision that a violation of this Agreement has occurred; or (e) your violation of any rights of another. This means that you cannot sue GCBD, its affiliates, subsidiaries, directors, officers, employees, agents, partners, contractors, and licensors as a result of its decision to remove or refuse to process any information or Content, to warn you, to suspend or terminate your access to the Service, or to take any other action during the investigation of a suspected violation or as a result of GCBD's conclusion that a violation of this Agreement has occurred. This waiver and indemnity provision applies to all violations described in or contemplated by this Agreement. This obligation shall survive the termination or expiration of this Agreement and/or your use of the Service. You acknowledge that you are responsible for all use of the Service using your Account, and that this Agreement applies to any and all usage of your Account. You agree to comply with this Agreement and to defend, indemnify and hold harmless GCBD from and against any and all claims and demands arising from usage of your Account, whether or not such usage is expressly authorized by you.

#### X. GENERAL

##### A. Notices

GCBD may provide you with notices regarding the Service, including changes to this Agreement, by email to your iCloud email address (and/or other alternate email address associated with your Account if provided), iMessage or SMS, by regular mail, or by postings on our website and/or the Service. You acknowledge and agree that GCBD may at any time assign or transfer this Agreement to a wholly owned subsidiary of GCBD and that this Agreement will remain in full force and effect, with such successor entity assuming all rights and obligations of GCBD.

##### B. Governing Law

The construction, validity and performance of this Agreement shall be governed by the laws of the People's Republic of China. With regard to any disputes arising from or relating to this Agreement, GCBD and You agree that such disputes will be submitted to the China International Economic and Trade Arbitration Commission (CIETAC) for binding arbitration in Beijing under the CIETAC Arbitration Rules in force when arbitration is submitted. The subsequent arbitral awards shall be final and binding to both parties.

##### C. Entire Agreement

This Agreement constitutes the entire agreement between you and GCBD, governs your use of the Service and completely replaces any prior agreements between you and GCBD or 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. 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 GCBD to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. You agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this agreement.

#### ELECTRONIC CONTRACTING

Your use of the Service includes the ability to enter into agreements and/or to make transactions electronically. YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH AGREEMENTS AND TRANSACTIONS. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO ON THIS SERVICE, INCLUDING NOTICES OF CANCELLATION, POLICIES, CONTRACTS, AND APPLICATIONS. In order to access and retain your electronic records, you may be required to have certain hardware and software, which are your sole responsibility.

ð Legal Internet Services iCloud GCBD Terms

#### Hardware and Software

Hardware Warranties

Software License Agreements

RF Exposure

#### More Resources

Overview

Government Information Requests

Contact Apple Legal

Global Trade Compliance

Supplier Provisions

Filemaker Legal Information

#### Sales & Support

Overview

AppleCare

Repair Terms and Conditions

Express Replacement Service

Remote Support Terms and Conditions (PDF)

Sales Policies

Certification Agreements and Policies

Training Service Terms and Conditions

Support Communities Terms of Use

#### Internet Services

Overview

Apple Media Services Terms and Conditions

iTunes Gift Cards and Codes Terms and Conditions

Game Center Terms and Conditions

iCloud Terms of Service

Privacy Policy

Website Terms of Use

iChat Account Terms of Service

Print Services Sales Policies

Print Services Terms of Use

#### Intellectual Property

Overview

Guidelines for Using Apple Trademarks and Copyrights

Trademarks

Rights and Permissions

Piracy Prevention

Unsolicited Idea Submission Policy

#### Education

Apple School Manager

#### Enterprise

Apple Business Manager

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United States

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
**ANDREA M. WILLIAMS AND JAMES STEWART, On Behalf Of**  
Themselves And All Others Similarly Situated  
**(b) County of Residence of First Listed Plaintiff** Broward  
(EXCEPT IN U.S. PLAINTIFF CASES)  
  
**(c) Attorneys (Firm Name, Address, and Telephone Number)**  
  
The Katriel Law Firm, PC, 4660 La Jolla Village Dr. Ste 200, San Diego, CA 92122; Tel: 858-546-4435

**DEFENDANTS**  
**APPLE, INC.**  
  
County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)  
  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  
  
Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)  
  
☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)  
  
☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)  

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)  

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment Of Veteran's Benefits 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excludes Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract 195 Contract Product Liability 196 Franchise	<b>PERSONAL INJURY</b> 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Personal Injury -Medical Malpractice  <b>CIVIL RIGHTS</b> 440 Other Civil Rights 441 Voting 442 Employment 443 Housing/ Accommodations 445 Amer. w/Disabilities-Employment 446 Amer. w/Disabilities-Other 448 Education	<b>PERSONAL INJURY</b> 365 Personal Injury - Product Liability 367 Health Care/ Pharmaceutical Personal Injury Product Liability 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability  <b>PRISONER PETITIONS</b> <b>HABEAS CORPUS</b> 463 Alien Detainee 510 Motions to Vacate Sentence 530 General 535 Death Penalty  <b>OTHER</b> 540 Mandamus & Other 550 Civil Rights 555 Prison Condition 560 Civil Detainee-Conditions of Confinement	625 Drug Related Seizure of Property 21 USC § 881 690 Other  <b>LABOR</b> 710 Fair Labor Standards Act 720 Labor/Management Relations 740 Railway Labor Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> 462 Naturalization Application 465 Other Immigration Actions	422 Appeal 28 USC § 158 423 Withdrawal 28 USC § 157  <b>PROPERTY RIGHTS</b> 820 Copyrights 830 Patent 835 Patent-Abbreviated New Drug Application 840 Trademark  <b>SOCIAL SECURITY</b> 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS-Third Party 26 USC § 7609	375 False Claims Act 376 Qui Tam (31 USC § 3729(a)) 400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced & Corrupt Organizations 480 Consumer Credit 485 Telephone Consumer Protection Act 490 Cable/Sat TV 850 Securities/Commodities/Exchange 890 Other Statutory Actions 891 Agricultural Acts 893 Environmental Matters 895 Freedom of Information Act 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)  
☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation-Transfer ☐ 8 Multidistrict Litigation-Direct File

**VI. CAUSE OF ACTION**  
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC 1332(d) - Class Action Fairness Act  
Brief description of cause:  
Breach of contract regarding Apple iCloud subscription

**VII. REQUESTED IN COMPLAINT:** ☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ 5,000,001  
CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S), IF ANY** (See instructions): JUDGE DOCKET NUMBER

**IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)**  
(Place an "X" in One Box Only) ☐ SAN FRANCISCO/OAKLAND ☒ SAN JOSE ☐ EUREKA-MCKINLEYVILLE

DATE 08/12/2019 SIGNATURE OF ATTORNEY OF RECORD /s/ Roy A. Katriel



## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

**Authority For Civil Cover Sheet.** The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
  - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
  - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
  - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
  - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
  - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.



# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Apple Lied to iCloud Subscribers About Who Actually Stores Their Data](#)

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