

JOINT STIPULATION OF SETTLEMENT

This Joint Stipulation of Settlement (“*Settlement*” or “*Settlement Agreement*”) is entered into between Plaintiffs Frank Siciliano, Kelila Green, and Melissa Bleak (“*Plaintiffs*”), individually and in their representative capacities as representatives of the certified Class, and Defendant Apple Inc. (“*Apple*” or “*Defendant*”) (collectively with Plaintiffs, “*Parties*,” or any party singularly, “*Party*”).

RECITALS

A. Apple maintains the Apple App Store, through which iTunes customers may download various applications onto their Apple devices. Through the App Store, customers may purchase automatically renewing subscriptions prepared by third-party app developers.

B. On December 13, 2013, Plaintiffs filed a complaint (“*Complaint*”) against Apple in the Superior Court of Santa Clara County, California, entitled *Siciliano, et al. v. Apple Inc.*, Case No. 2013-1-cv-257676. Plaintiffs assert individual and class claims alleging (1) Unfair Competition Law violations, Cal. Bus. & Prof. Code section 17200-17204; (2) injunctive relief and restitution, Cal. Bus. & Prof. Code section 17535; (3) Consumer Legal Remedies Act, Cal. Civ. Code sections 1750 *et seq.*; (4) Common Count for Money Had and Received; and (5) Declaratory Relief, Cal. Code Civ. Proc. Section 1060. Plaintiffs seek relief that includes restitution, injunctive and declaratory relief, damages, and attorneys’ fees and costs.

C. On April 21, 2017, the Court granted Plaintiffs’ motion for class certification in part in so far as the class claims arose from the theory that any subscription purchased under conditions that violate the ARL must be deemed an unconditional gift pursuant to Section 17603. Accordingly, the Court denied certification of Plaintiffs’ Consumer Legal Remedies Act (“CLRA”) entirely and denied certification of the remaining classwide claims premised on a fraud-based theory.

D. On August 17, 2017 and by stipulation with Apple, the Plaintiffs, through KCC Class Action Services LLC, disseminated class notice of the Court’s certification order. A supplemental distribution of the class notice was disseminated on or about February 2, 2018. Direct class notice was sent to approximately four million class members.

E. The Parties have investigated the facts and have analyzed the relevant legal issues regarding the claims and defenses asserted in the Action. In addition to extensive motion practice, the Parties have engaged in extensive formal discovery regarding certification and merits. To date, the Parties have exchanged over 150,000 pages of documents, multiple rounds of written discovery, conducted three named Plaintiff depositions, and six depositions of Apple’s corporate witnesses.

F. The Parties participated in two full-day mediation sessions with Randall W. Wulff, Esq. of Wulff Quinby Sochynsky on April 5, 2018 and again on May 2, 2018. Following the second day of mediation, the Parties reached a settlement in principle as set forth in a Memorandum of Understanding (“MOU”), fully executed on May 4, 2018. The Parties subsequently negotiated the remaining settlement terms resulting in this long form Settlement

Agreement. The Parties negotiated the amount of the Attorneys' Fees and Expenses at arms' length and only after they reached an agreement on the major substantive terms of the Settlement Agreement for class relief.

G. Based on almost five years of litigation, Plaintiffs believe the Lawsuit has merit and Apple believes the Lawsuit has no merit. The Parties also have each considered the uncertainties of trial and the benefits to be obtained under the proposed settlement, and have considered the costs, risks, and delays associated with the continued prosecution of this complex and time-consuming litigation and the likely appeals of any rulings in favor of either Plaintiffs or Apple.

H. Accordingly, it is now the intention of the Parties and the objective of this Settlement Agreement to avoid the costs of trial and settle and dispose of, fully and completely and forever, any and all claims and causes of action asserted in the Lawsuit.

SETTLEMENT AGREEMENT

1. DEFINITIONS. The following section defines terms not previously defined above. Some definitions use terms that are defined later in this section:

1.1 "*Apple Inc.*," "*Apple*," or "*Defendant*" means Defendant Apple Inc., its present or former affiliates, agents, attorneys, contractors, divisions, employees, holding companies, insurers, servants, shareholders, sister corporations, officers, directors, representatives and successors.

1.2 "*Apple's Counsel*" and "*Defendant's Counsel*" means the law firm of Morrison & Foerster LLP.

1.3 "*Attorneys' Fees and Expenses*" the maximum amount of attorneys' fees and expenses, subject to Court approval, to be paid to Class Counsel for their representation of the Class in this Lawsuit.

1.4 "*Class*" or "*Settlement Class*" or "*Settlement Class Member*" means all persons in California who purchased a third-party developer's automatically renewing in-App subscription from Apple Inc., billed through the Apple iTunes Store from December 1, 2010 to September 13, 2016. The Settlement Class excludes Class Counsel, any employees of their firms, Apple employees, employees of Morrison & Foerster (Defendant's Counsel), the Court, the Court's staff, and individuals who filed a timely and valid opt-out in response to notice regarding the Court's order granting class certification. The Parties intend the Settlement Class to encompass those individuals who were sent notice pursuant to the July 27, 2017 stipulation and order regarding class notice plan and the January 29, 2018 stipulation and order regarding additional class notice, excluding any individuals who filed a timely and valid request to opt-out of the Lawsuit or otherwise met the exclusion criteria above. According to Apple's records, there are approximately 3,959,830 Settlement Class Members.

1.5 "*Class Counsel*" means the law firms of Goldstein Borgen Dardarian & Ho and HammondLaw, P.C.

1.6 “*Court*” means the Superior Court of Santa Clara County, California, the Honorable Brian C. Walsh presiding.

1.7 “*Email Notice*” means the legal notice summarizing the proposed settlement terms, as approved by Class Counsel, Defendant’s Counsel, and the Court, to be provided to Settlement Class Members under paragraph 3.3 by email. The Email Notice proposed by the Plaintiffs to the Court for preliminary approval will be agreed upon by both parties.

1.8 “*Fairness Hearing*” means the hearing at which the Court decides whether to approve this Agreement as a fair, reasonable, and adequate settlement.

1.9 “*Final Approval Order and Judgment*” means a proposed order and judgment approving the Settlement of this Lawsuit.

1.10 “*Effective Date*” shall mean the earliest of the following: (1) the date of entry of the Final Approval Order and Judgment if no objections are filed to the Settlement Agreement or if all objections are withdrawn prior to the Court ruling on them; or (2) sixty (60) days after the entry of the Final Approval Order and Judgment if objections are filed and overruled and no appeal is taken; or (3) if a timely appeal is made, thirty-one (31) business days after the date of the final resolution of that appeal and any subsequent appeals or petitions for certiorari from the Final Approval Order and Judgment.

1.11 “*Long-Form Notice*” means the legal notice of the proposed settlement terms, as approved by Class Counsel, Defendant’s Counsel, and the Court, to be provided to Settlement Class Members under paragraph 3.3 via publishing on the Settlement Website. The Long-Form Notice submitted by the Plaintiffs to the Court for preliminary approval will be agreed upon by both parties.

1.12 “*iTunes Account*” means the active iTunes account from which each Participating Class Member purchased an auto-renewing in-App subscription(s) during the Settlement Class Period.

1.13 “*Memorandum of Understanding*” or “*MOU*” means the written memorandum of understanding, fully executed by the Parties on May 4, 2018, that memorialized the terms of the settlement in principle and served as the basis for this long form Settlement Agreement.

1.14 “*Net Settlement Fund*” means the amount, approved by the Court, to be paid out to Participating Settlement Class Members from the Settlement Fund after deducting Court-approved Attorneys’ Fees and Expenses, Service Awards, and Settlement Administration Expenses.

1.15 “*Participating Settlement Class Members*” means all Settlement Class Members who do not file a valid and timely request to opt-out of the Lawsuit.

1.16 “*Preliminary Approval Order*” means an order preliminarily approving the Settlement of this Lawsuit and provisionally certifying the Settlement Class.

1.17 “*Postcard Notice*” means the legal notice summarizing the proposed settlement terms, as approved by Class Counsel, Defendant’s Counsel, and the Court, to be provided to Settlement Class Members under paragraph 3.3 by mailed postcard if Email Notice reaches less than 90% of the Class. The Postcard Notice proposed by the Plaintiffs to the Court for preliminary approval will be agreed upon by both parties.

1.18 “*Released Parties*” means Defendant Apple Inc., its present or former affiliates, agents, attorneys, contractors, divisions, employees, holding companies, insurers, servants, shareholders, sister corporations, officers, directors, representatives and successors, and all third-party developers who offered automatically renewing in-App subscriptions through the Apple iTunes Store from December 1, 2010 to September 13, 2016.

1.19 “*Service Awards*” means awards authorized by the Court to be paid to the Plaintiffs in recognition of their efforts in prosecuting this Lawsuit and in addition to their individual Settlement Awards.

1.20 “*Settlement Administrator*” means KCC Class Action Services, LLC.

1.21 “*Settlement Administrator Expenses*” means the reasonable expenses incurred by the Settlement Administrator in providing class notice and settlement administration services.

1.22 “*Settlement Award(s)*” means the pro-rata amount Participating Settlement Class Members shall each receive from the Net Settlement Fund.

1.23 “*Settlement Class Period*” means the period starting on December 1, 2010 and ending on September 13, 2016, inclusive.

1.24 “*Settlement Fund*” means the maximum total sum of \$16,500,000.00 that Apple shall pay out for the payment of Settlement Awards, Attorneys’ Fees and Expenses, Service Awards, and Settlement Administration Expenses. The Settlement Fund shall be non-reversionary. In the event that postcard notice is required (see Section 3.3(d)), Apple will separately pay for the additional costs of postcard notice to the Settlement Administrator, so long as the costs do not exceed the Settlement Administration Expenses estimates below (see Section 2.5).

1.25 “*Settlement Website*” means a publicly accessible website set up and maintained by the Settlement Administrator for the sole purpose of providing the Class with notice of and information about the Settlement Agreement.

2. SETTLEMENT TERMS.

2.1 Total Settlement Fund. Subject to Court approval, Apple shall pay the Settlement Fund totaling \$16,500,000.00. The payment of the Settlement Fund shall fully satisfy

Apple's obligations for payments, fees, and expenses identified in this Settlement Agreement, including payments to the Class for Settlement Awards, Service Awards, Settlement Administration Expenses, and Class Counsel's Attorneys' Fees and Expenses, in the amounts and by the procedures specified in this Settlement Agreement. This Settlement Fund is non-reversionary. In the event that postcard notice is required (see section 3.3(d)), Apple will separately pay for the additional costs of postcard notice to the Settlement Administrator, so long as the costs do not exceed the Settlement Administration Expenses estimates below (see Section 2.5).

(a) Funding Deadline of Settlement Fund. No later than ten (10) business days after the Effective Date, Apple shall transmit the Court-approved Service Awards, Settlement Administration Expenses, Attorneys' Fees and Expenses, and any Settlement Funds to be mailed to Class Members pursuant to paragraph 2.2(c) to the Settlement Administrator, for deposit into an interest-bearing escrow account established and maintained by the Settlement Administrator.

2.2 Relief Provided to the Settlement Class. From the Net Settlement Fund, Participating Class Members who do not seek exclusion pursuant to paragraph 3.7 below will automatically receive a Settlement Award in the form of a monetary credit to their iTunes Account. This automatic credit shall be good for the purchase of products or subscriptions from Apple offered through its App, iTunes, and/or iBooks Stores, including subscriptions, songs, books, and other content offered on these online stores.

(a) Final Calculations of Settlement Awards. Apple shall, within ten (10) business days after the Effective Date, make the final calculations for each Participating Class Members' Settlement Award from the Net Settlement Fund and shall provide its final calculations of the Settlement Awards to Class Counsel for review. To the extent possible, the Parties will meet and confer in advance of this deadline to confirm the accuracy of the Class' calculated Settlement Awards.

(b) Manner of Transmission and Nature of the Automatic Credit. Apple shall automatically deposit credits into the iTunes Accounts of Participating Class Members. These credits shall not expire. The Parties will not offer or provide any tax advice to Class Members concerning their responsibility for taxes, if any, on payments they receive. The Settlement Administrator shall issue email notifications confirming deposit of a credit into the iTunes Account of all Participating Class Members for whom Apple has a valid email address.

(c) Undeliverable Credits. In the event that a Participating Class Member does not have an iTunes Account, the Settlement Administrator shall mail a check for the value of the credit if a valid mailing address is on record. If a Participating Class Member does not have an iTunes Account and the Settlement Administrator does not have a valid mailing address for that Participating Class Member, the value of that person's credit will be returned to the Class Fund, and shall be included in the total calculation of credit to be distributed to Participating Class Members. Apple shall identify and notify Class Counsel of any Participating Settlement Class Members who

have an inactive iTunes Account on or before ten (10) business days after the Effective Date.

(d) Timing of Transmission of the Credit or Mailed Awards. Credits shall be deposited into Participating Class Members' iTunes Accounts by Apple on or before fifteen (15) business days after the Effective Date. If a credit cannot be delivered to a Participating Class Member's iTunes Account, the Settlement Administrator shall mail a check for the value of the credit to that person on or before fifteen (15) calendar days after the Effective Date.

(e) Updates and Declaration of Class Award Distribution. No later than fifteen (15) business days after Apple completes the requirements of paragraph 2.2(a)-(e), Apple shall provide the Court and Class Counsel a declaration, under the penalty of perjury, describing the steps taken to distribute the Class Awards and attesting that all distribution requirements of this Settlement Agreement under paragraphs 2.2(a)-(e) have been satisfied or, if not fully satisfied, actions Apple took to cure them. In addition, Apple shall timely update and otherwise notify Class Counsel of the distribution process and any issues that arise. The Parties agree to make good faith efforts to implement jointly approved solutions to any distribution issues.

2.3 Attorneys' Fees and Expenses. Subject to Court approval, the Settlement Administrator shall pay Class Counsel Attorneys' Fees and Expenses of up to \$4,000,000.00 from the Settlement Fund, which represents less than 25% of the total Settlement Fund. Class Counsel will apply to the Court for approval of payment of those amounts of reasonable expenses and attorneys' fees. Apple agrees not to oppose Class Counsel's application for Attorneys' Fees and Expenses provided it does not exceed \$4,000,000.00. Any amounts not approved by the Court will be added to the Net Settlement Amount. The Settlement Administrator shall pay Class Counsel any Court-approved Attorneys' Fees and Expenses award no later than fifteen (15) business days after the Effective Date.

2.4 Service Awards to Plaintiffs. Subject to Court approval, the Settlement Administrator shall pay a Service Award of \$2,500 each to Plaintiffs Frank Siciliano, Kelila Green, and Melissa Bleak from the Settlement Fund in recognition of their efforts and time expended on behalf of the Class. Apple agrees not to oppose Plaintiffs' application for service awards of up to \$2,500 for each Plaintiff, which shall be in addition to their respective Settlement Awards. The Settlement Administrator shall pay any Court-approved Service Awards within fifteen (15) business days after the Effective Date. For tax purposes, these Service Awards will be treated as 100% non-wage claim payments. Apple shall issue, through the Settlement Administrator, IRS Form Misc. 1099s for the Service Award payments to Plaintiffs.

2.5 Settlement Administration Expenses. Subject to Court approval, the Settlement Administrator shall pay to itself all reasonable Settlement Administration Expenses from the Settlement Fund to provide Class notice and fully administer this Settlement Agreement. The Settlement Administration Expenses for administering this Settlement Agreement shall not exceed \$290,500.00 without Postcard Notice or \$691,500.00 with Postcard Notice as set forth by the Settlement Administrator's bid. The Settlement Administrator shall

withdraw any Court-approved Settlement Administration Expenses from the Settlement Fund no later than fifteen (15) business days after the Effective Date.

2.6 Distributions from the Settlement Fund. Within fifteen (15) business days after the Effective Date, distributions from Settlement Fund shall be made (1) to each Participating Settlement Class Member for their Settlement Awards; (2) to Plaintiff for their Service Awards (up to \$2,500.00 each); (3) to the Settlement Administrator for its Settlement Administration Expenses; and (4) to Class Counsel for the full amount of reasonable and actual Attorneys' Fees and Expense (up to \$4,000,000.00).

2.7 Distribution of Residual. Should there remain any residual from the Net Settlement Fund after all payments are made under this Settlement Agreement, for example, any undeliverable funds, the residual amount shall be paid into a *cy pres* fund jointly selected by the Parties. Funds are considered "undeliverable" if, after Settlement Funds are distributed, Apple learns it does not have within its records a valid email address or mailing address for a Participating Class Member, or, if a check is mailed and is either returned or not cashed within 180 calendar days from mailing.

(a) Cy pres beneficiary. The Parties agree, subject to Court approval, that the *cy pres* beneficiary shall be either: (1) the National Center for Youth Law (a child advocacy program) and/or (2) Public Counsel (a nonprofit organization that provides legal services to the indigent). Both are either a nonprofit organization or foundation that supports projects that will benefit the Class or similarly situated persons or that promotes the law consistent with the objectives and purposes of the underlying cause of action, or is a "nonprofit organization providing civil legal services to the indigent" or is child advocacy program *cy pres* beneficiary per California Code of Civil Procedure § 384(b). If, for any reason, the Court does not approve the proposed *cy pres* beneficiary, the Parties shall agree upon and propose, as *cy pres* recipient(s), no more than five alternative organizations that satisfy the requirements of California Code of Civil Procedure § 384(b).

(b) Residual Distribution Deadline, Costs and Documentation. No later than one hundred ninety-five (195) calendar days after Apple and the Settlement Administrator have distributed all deliverable Settlement Awards, each shall pay over any residual to the *cy pres* beneficiary designated by the process described above. Both Apple and the Settlement Administrator shall provide separate declarations of payment to the *cy pres* beneficiary, which will be served on Class Counsel no later than ten (10) calendar days after the payment of the residual to such beneficiary. Class Counsel shall timely file the declarations from Apple and the Settlement Administrator regarding the distribution of the Net Settlement Fund and any residual funds with the Court.

3. CLASS SETTLEMENT PROCEDURES.

3.1 Cooperation to Obtain Court Approval. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Agreement, including but not limited to, executing such documents and taking such other action as may reasonably be necessary to implement the terms of this Settlement Agreement. The Parties shall use their best

efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court or otherwise to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of Apple and its counsel, take all necessary steps to secure the Court's preliminary and final approval of this Settlement Agreement.

3.2 Preliminary Approval and Provisional Class Certification. By June 27, 2018, Plaintiffs shall move for preliminary approval of the Settlement Agreement to be heard by the Court on July 20, 2018. The application shall seek an order:

(a) preliminarily approving this Settlement Agreement as being within the range of possible approval as fair, reasonable, and adequate;

(b) preliminarily approving the form, method of providing notice and content of the Long-Form Notice, Email Notice, and Postcard Notice described in paragraph 3.3 and in a format that will be agreed upon by both parties;

(c) staying all proceedings in the Lawsuit until the Court renders a final decision on approval of the settlement;

(d) setting the date and time of the Fairness Hearing approximately one hundred and twenty (120) calendar days after entry of the Preliminary Approval Order, subject to the Court's availability;

3.3 Notice. Subject to the Court entering the proposed Preliminary Approval Order, the Parties agree that the Settlement Administrator will provide the Class with notice of the Settlement Agreement by the following methods.

(a) **Class Data.** No later than ten (10) calendar days after entry of the Preliminary Approval Order, Apple shall provide contact information for the Class to the Settlement Administrator.

(b) **Settlement Website.** No later than ten (10) calendar days after entry of the Preliminary Approval Order, the Settlement Administrator will create and operate a publicly accessible website solely for the purposes of providing the Class notice of the Settlement. The Settlement Website will contain the Long-Form Notice, Frequently Asked Questions regarding the Settlement Agreement and approval process, the Third Amended Complaint, the Preliminary Approval Order, and other Lawsuit documents agreed upon by the Parties. Subject to Court approval, the Long-Form Notice will be agreed upon by both parties. The Parties will jointly provide the Settlement Administrator with the content required for the Settlement Website.

(c) **Email Notice.** Upon the Settlement Website being activated and no later than fourteen (14) calendar days after entry of the Preliminary Approval Order, the Settlement Administrator shall send the Email Notice to Class Members at the most recent email address for the Class Members that is either contained in Apple's records or

was used in distributing Class Notice on August 17, 2017 and/or around February 2, 2018. Subject to Court approval, Email Notice will be agreed upon by both parties, and will provide the web address of the Settlement Website and a mailing address to contact the Settlement Administrator. The Settlement Administrator shall calculate the percentage of emails that are hard bounces, i.e., permanently undeliverable, and shall provide the Parties with a report of the percentage and number of hard bounces within five (5) calendar days after the completion of the Email Notice campaign.

(d) Postcard Notice. If the Email Notice fails to reach 90% of the Class, determined by the percentage of emails that are hard bounces, the Settlement Administrator shall mail a postcard to the most recent mailing address contained in Apple's records for the Class Members whose Email Notices returned hard bounces. Subject to Court approval, the Postcard Notice will be agreed upon by both parties. If necessary, the Settlement Administrator shall mail Postcard Notice on or before twenty (20) calendar days after date Email Notice is sent. If any Postcard Notices are returned with forwarding address information, the Settlement Administrator shall promptly re-mail the Postcard Notice to the updated address provided within three (3) calendar days of its return. The Settlement Administrator shall also track all Postcard Notices that are returned as undeliverable and provide the Parties with periodic updates on the status of any Postcard Notice.

(e) Automated, Toll-free Telephone Support. No later than ten (10) calendar days after entry of the Preliminary Approval Order, the Settlement Administrator will secure and operate a toll-free automated telephone support system whereby Class Members can access information about the Settlement Agreement and the Settlement Administrator can receive requests for Email Notice. The Parties will jointly provide the Settlement Administrator with the script for the content and menu of the automated, toll-free telephone support system.

3.4 Proof of Notice. No later than five (5) calendar days before the filing date for Plaintiffs' motion in support of the Final Order and Judgment, the Settlement Administrator must serve a declaration(s) on Class Counsel and Apple's Counsel confirming that the Settlement Administrator provided the Class with notice of the Settlement Agreement in accordance with paragraph 3.3.

3.5 Automatic Distribution of Settlement Awards. Unless a Class Member submits a valid and timely Request for Exclusion (as described in paragraph 3.7), he or she will automatically become a Participating Settlement Class Member. In other words, Class Members shall not be required to take any action to receive payment from the Net Settlement Fund.

3.6 Objections. Any Class Member who has not requested exclusion from the Class and who wants to object to the Settlement Agreement must mail a written objection to Settlement Administrator, no later than fifty (50) calendar days after the initial distribution of Email Notice. The delivery date is deemed to be the date the objection is deposited in the U.S. Mail as evidenced by the postmark. Written objections must include: (a) the name of the Lawsuit, "*Siciliano et al. v. Apple Inc.*"; (b) the full name, address, and email address of the

person objecting; (c) the words “Notice of Objection,” “Formal Objection” or words to that effect; and (d) in clear and concise terms, the legal and factual arguments supporting the objection, including an attestation of facts demonstrating that the person objecting is a Class Member, and any supporting documentation. Any Class Member that mails a written objection as described in this paragraph has the option to appear at the Fairness Hearing, either in person or through counsel hired at the Class Member’s expense, to object to the Settlement Agreement, provided the Class Members or their attorneys indicated their intent to appear in their written objection. Only Class Members who timely mail objections clearly indicating an intent to appear may speak at the Fairness Hearing unless otherwise ordered by the Court. Class Members who fail to submit written objections as described in this paragraph will be deemed to have waived any objections and will be foreclosed from making any objections (whether by a subsequent objection, intervention, appeal, or any other process) to the Settlement Agreement and the Class Member asserting such an objection shall be bound by the final determination of the Court.

3.7 Exclusion Requests. Class Members may elect not to be part of the Class and not to be bound by this Agreement. To make this election, Class Members must each send an individual stand-alone, written exclusion request to the Settlement Administrator stating (a) the name of the Lawsuit, “*Siciliano et al. v. Apple Inc.*”; (b) the full name, address, and email address of the person requesting exclusion; and (c) a clear statement that he/she does not wish to participate in the Settlement, postmarked no later than fifty (50) calendar days after the initial distribution of Email Notice. Class Members may not request exclusion and raise a valid, written objection to the Settlement Agreement. If a Class Member submits both, the Settlement Administrator will treat the submissions as a request for exclusion and process them accordingly.

3.8 Proof of Objection/Exclusion. The Settlement Administrator shall (a) date stamp all original requests for exclusion, objections to the Settlement that it receives; and (b) serve copies on Class Counsel and Apple’s Counsel no later than five (5) business days after receipt, or immediately if received within five (5) business days of the Final Approval Hearing. Class Counsel shall provide the Court with copies of any requests for exclusion, written objections as part of Plaintiffs’ motion for final approval.

3.9 Final Approval Motion and Final Approval Hearing. Prior to the Final Approval Hearing and consistent with the rules imposed by the Court and applicable law, Plaintiffs shall move the Court for entry of the Final Order and Judgment and, at the same time, move the Court for an award of Attorneys’ Fees and Expenses and Service Awards. To the extent possible, the motions seeking entry of the Order of Final Approval shall be noticed for the same day as the Final Approval Hearing. The Parties shall take all reasonable efforts to secure entry of the Order of Final Approval.

3.10 Lawsuit Status if Settlement Agreement Not Approved. This Settlement Agreement is being entered into for settlement purposes only. If the Court conditions its approval of either the Preliminary Approval Order or the Final Order and Judgment on any modifications of this Settlement Agreement that are not acceptable to all Parties, or if the Court does not approve the Settlement Agreement or enter the Final Order and Judgment, or if the Effective Date does not occur for any reason, then this Settlement Agreement will be deemed null and void *ab initio*. In that event (a) the Preliminary Approval Order and/or Final Order and

Judgment and all of its or their provisions will be vacated by its or their own terms; (b) the Lawsuit will revert to the status that existed before the Settlement Agreement's execution date, including the need to reset a new trial date; (c) no term or draft of this Settlement Agreement, or any part of the Parties' settlement discussions, negotiations or documentation will have any effect or be admissible into evidence for any purpose in the Lawsuit or any other proceeding; and (d) Apple shall have no obligation to make any payments under the Settlement Agreement, except that the Apple shall each be responsible for the costs of, and any payments due to, the Settlement Administrator for services performed up to that time.

4. ENTRY OF JUDGMENT AND RELEASES.

4.1 Judgment and Enforcement. The Parties agree that should the Court grant final approval of the proposed settlement and enter judgment, the judgment shall include a provision for the retention of the Court's jurisdiction over the Parties to enforce the terms of the judgment.

4.2 Class Members' Release. Upon entry of the Final Order and Judgment following the Fairness Hearing, all Class Members who have not timely requested exclusion pursuant to Section 3.7, and each of their successors, assigns, heirs, and personal representatives, release and forever discharge the Released Parties from all manner of claims, including all actions, causes of action, claims, demands, rights, suits, as well as remedies, including obligations, debts, contracts, agreements, promises, liabilities, damages, charges, penalties, losses, costs, expenses, and attorneys' fees, (a) as they were alleged in the complaints, including those based on alleged violations of the Automatic Renewal Law, including claims for Unfair Competition Laws, money had and received, and declaratory and injunctive relief, or (b) that arise from the factual allegations in Plaintiffs' Third Amended Complaint.

This Settlement Agreement is made and given in accordance with the provisions of California Civil Code Section 1542 which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Although the releases granted under this Settlement Agreement are not general releases, Plaintiffs, on behalf of themselves and of all Class Members, nonetheless expressly acknowledge that Plaintiffs and the Class Members are waiving the protections of section 1542 as to the Class Members' Release only.

5. ADDITIONAL PROVISIONS.

5.1 No Admission of Liability. Neither this Settlement Agreement nor the MOU shall constitute an admission on behalf of Apple of any form of liability or the accuracy of any allegation made in this Lawsuit.

5.2 Confidentiality. Other than to a court in any case filing, Plaintiffs and Class Counsel agree that the terms of this Settlement Agreement, the MOU, and all subsequently generated documents, including the negotiations leading to the execution of the Settlement Agreement and the MOU, and the Settlement Agreement and the MOU themselves shall not be disclosed by Plaintiffs and their attorneys without the advance written consent of Apple. This prohibition includes, but is not limited to: (1) publications on any website of the amount of the settlement, with or without identifying information; and (2) the submission of information to Jury Verdicts. The Parties intend this paragraph to prohibit Plaintiffs and their attorneys from discussing, answering questions about, promoting or publicizing the MOU, the Settlement Agreement, or their terms, or the negotiations leading to the MOU or the Settlement Agreement with anyone other than a court, Class Members, or those individuals necessary to effectuate the terms of the Settlement Agreement. Notwithstanding the foregoing, the Parties: (1) may respond to inquiries from the press, and may tell the public in general only that this action “has been resolved between the parties;” and (2) may disclose the terms of the MOU or Settlement Agreement: (i) where required by law (e.g., income tax returns); and (ii) to accountants or other tax professionals for the purpose of preparing tax forms. This Settlement Agreement shall remain confidential until it is filed with the Court, at which point its terms will become public. After the Settlement Agreement is filed with the Court, this paragraph and its provisions will continue to apply only to (1) the terms of the MOU; (2) the negotiations leading to the execution of the MOU; and (3) the negotiations leading to the execution of the Settlement Agreement.

5.3 Change of Time Periods. All time periods and dates described in this Settlement Agreement are subject to the Court’s approval. These time periods and dates may be changed by the Court or by the Parties’ written agreement without notice to the Class. The Parties reserve the right, subject to the Court’s approval, to make any reasonable extensions of time that might be necessary to carry out any provisions of this Settlement Agreement.

5.4 Good Faith. The Parties agree that the Settlement Agreement and MOU reflect their good faith compromise of the claims raised in the Lawsuit, based upon their assessment of the mutual risks and costs of further litigation and the assessments of their respective counsel.

5.5 Voluntary Agreement. The Parties executed this Agreement voluntarily and without duress or undue influence.

5.6 Parties Represented by Competent Counsel. The Parties acknowledge that: (a) they have been represented by independent, competent counsel of their own choosing during the negotiation and preparation of this Settlement Agreement; (b) they have read this Settlement Agreement and are fully aware of its contents; and (c) their respective counsel fully explained to them the Settlement Agreement and its legal effect.

5.7 Appeals. As part of the Settlement Agreement, the Parties waive their right to file an appeal and/or a writ or any challenge whatsoever to the terms of the Final Order and Judgment.

5.8 Entire Agreement. This Settlement Agreement contains the entire agreement between the Parties and constitute the complete, final, and exclusive embodiment of

their agreement with respect to the Lawsuit. This Settlement Agreement is executed without reliance on any promise, representation, or warranty by any Party or any Party's representative other than those expressly set forth in this Settlement Agreement.

5.9 Construction and Interpretation. Neither a Party nor any of the Parties' respective attorneys will be deemed the drafter of this Settlement Agreement for purposes of interpreting any provision in this Settlement Agreement in any judicial or other proceeding that may arise between them. This Settlement Agreement has been, and must be construed to have been, drafted by all the Parties to it, so that any rule that construes ambiguities against the drafter will have no force or effect.

5.10 Headings and Formatting of Definitions. The various headings used in this Settlement Agreement are solely for the Parties' convenience and may not be used to interpret this Settlement Agreement. Similarly, bolding and italicizing of definitional words and phrases is solely for the Parties' convenience and may not be used to interpret this Settlement Agreement. The headings and the formatting of the text in the definitions do not define, limit, extend, or describe the Parties' intent or the scope of this Settlement Agreement.

5.11 Modifications and Amendments. No amendment, change, or modification to this Settlement Agreement will be valid unless in writing signed by the Parties or their counsel.

5.12 Execution Date. This Settlement Agreement is deemed executed on the date the Agreement is signed by all of the undersigned.

5.13 Counterparts. This Settlement Agreement may be executed in one or more counterparts by facsimile or email which for purposes of this Settlement Agreement shall be accepted as an original. All executed counterparts will be deemed to be one and the same instrument and will be admissible in evidence to prove the existence and contents of this Settlement Agreement

5.14 Recitals. The Recitals are incorporated by this reference and are part of the Agreement.

5.15 Severability. If any provision of this Settlement Agreement is declared by the Court to be invalid, void, or unenforceable, the remaining provisions of this Settlement Agreement will continue in full force and effect, unless the provision declared to be invalid, void, or unenforceable is material, at which point the Parties shall attempt to renegotiate the Settlement Agreement or, if that proves unavailing, either Party can terminate the Settlement Agreement without prejudice to any Party.

5.16 Notices. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

To Class Counsel:

Laura L. Ho
GOLDSTEIN BORGEN DARDARIAN & HO
300 Lakeside Drive, Suite 1000
Oakland, CA 94612
Tel: (510) 763-9800
Fax: (510) 835-1417
Email: AutorenewLawsuit@gbdhlegal.com

To Defendants:

Penelope Prevolos
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, CA 94105-2482
Tel: (415) 268-7187
Fax: (415) 268-7522
Email: pprevolos@mofoc.com

If the identity of the person(s) to be notified for any party change or their address changes, that party shall notify all other Parties of said change in writing

The Parties have agreed to the terms of this Settlement Agreement and have signed below.

Dated: June 21, 2018

DocuSigned by:
Frank Siciliano
844225B820A3435...

Plaintiff

Dated: June 21, 2018

DocuSigned by:
Kalena
1F457B902BE847E...

Plaintiff

Dated: June 21, 2018

DocuSigned by:
Melissa Bleak
868A7CC25B3A472...

Plaintiff

Dated: June 21, 2018

APPLE INC.

By: 

Noreen Krall

Vice President, Chief Legal Counsel

Approved as to form by:

Dated: June 21, 2018

GOLDSTEIN BORGEN DARDARIAN & HO

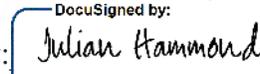
By:  _____
DocuSigned by:
D38AB8A9832E47E...

Laura E. Ho

Counsel for Plaintiffs and Class

Dated: June 21, 2018

HAMMONDLAW, P.C.

By:  _____
DocuSigned by:
689C2D929D9E422...

Julian Hammond, Esq.

Counsel for Plaintiffs and Class

MORRISON & FOERSTER LLP

Dated: June 21, 2018

By:  _____

Penelope Preovolos

Counsel for Apple Inc.