

**PLEASE SCROLL DOWN AND READ ALL OF THE FOLLOWING TERMS AND CONDITIONS OF THIS CUSTOMER SEED AND CONFIDENTIALITY AGREEMENT ("AGREEMENT") CAREFULLY. IF YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK ON THE "ACCEPT" BUTTON. IF YOU DO NOT AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK ON THE "DECLINE" BUTTON AND YOU WILL BE INELIGIBLE TO PARTICIPATE IN THE APPLE ENTERPRISE BETA PROGRAM.**

**CUSTOMER SEED AND CONFIDENTIALITY AGREEMENT  
APPLE SOFTWARE ENGINEERING  
APPLE INC.  
One Infinite Loop MS: 303-1CS  
Cupertino, California 95014**

1. **Participation In The Seed Program.** The purpose of the iPhone Enterprise Beta Program ("**Program**") is to make alpha, beta, and other pre-release software and related documentation and information (collectively the "**Pre-Release Software**") available to Program participants for the purpose of providing Apple with feedback on the quality and usability of the Pre-Release Software. You understand and agree that participation in the Program is voluntary and does not create a legal partnership, agency, or employment relationship between you and Apple, and neither you nor Apple has any authority to bind the other. You understand that your participation in the Program does not obligate Apple to provide you with any Pre-Release Software. Should Apple decide to provide you with Pre-Release Software, you agree to use and evaluate the Pre-Release Software diligently. Apple reserves the right to modify the terms, conditions, and policies of this Program at any time without notice, and to revoke your participation in this Program at any time.

2. **Use of iPhone Device.** You must provide your own iPhone device to participate in the Program, and you agree to register such device with Apple and provide Apple with certain necessary information from such device, including, without limitation, unique device identifier numbers. You understand that to participate in the Program you will need to remove certain pre-loaded, commercial Apple software from your device in order to load certain Pre-Release Software onto your device. You further understand that once you load such Pre-Release Software onto your device, you will be unable to (a) revert back to the pre-loaded, commercial Apple software or any earlier release of the Pre-Release Software, and (b) use your device for any purposes other than testing and development unless or until Apple releases a commercial version of the Pre-Release Software. In addition, the Pre-Release Software may contain errors 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 back-up all data and information on your device and any peripherals prior to your participation in the Program. **YOU ASSUME ALL RISKS AND ALL COSTS ASSOCIATED WITH TESTING, INSTALLATION, OR USE OF THE PRE-RELEASE SOFTWARE, INCLUDING, WITHOUT LIMITATION, ANY CARRIER BILLS, BACK-UP EXPENSES, COSTS INCURRED FOR THE USE OF YOUR DEVICE AND PERIPHERALS, AND ANY DAMAGE TO ANY EQUIPMENT, SOFTWARE, INFORMATION OR DATA.**

3. **Pre-Release Software.** You understand that Apple may make Pre-Release Software available to Program participants for downloading online and/or on physical media. All use of such Pre-Release Software shall be pursuant to the terms and conditions of this Agreement and/or another license agreement accompanying such Pre-Release Software. If the Pre-Release Software is accompanied by a separate license agreement, you agree that the license agreement accompanying the Pre-Release Software, in addition to Sections 6 and 7 of this Agreement, shall govern your use of the Pre-Release Software. Any inconsistencies between the provisions of the license agreement accompanying the Pre-Release Software and Sections 6 and 7 of this Agreement shall be governed by this Agreement. If there is no license agreement accompanying

the Pre-Release Software, your use of the Pre-Release Software will be subject to the provisions of this Agreement.

4. **License Grant and Restrictions.** Subject to your compliance with this Agreement, Apple hereby grants you a personal, limited license to use the Pre-Release Software solely for testing and evaluation purposes and only in connection with this Program. You understand certain Pre-Release Software may only be used on the iPhone device that you registered with Apple. **USE OF SUCH PRE-RELEASE SOFTWARE ON ANY NON-REGISTERED IPHONE DEVICE IS UNAUTHORIZED AND WILL RESULT IN SUCH DEVICE BECOMING INOPERABLE.** Except as otherwise permitted under Section 14, this license does not grant you the right to use the Pre-Release Software for any other purpose, or to disclose, reproduce, distribute, modify or create derivative works of the Pre-Release Software. You agree not to decompile, reverse engineer, disassemble, or otherwise attempt to derive the source code of any Pre-Release Software (except as and only to the extent the foregoing restrictions are prohibited by applicable law, or to the extent as may be permitted by licensing terms governing use of open-sourced components included with any such Pre-Release software). Unless otherwise permitted under Section 14 below, you certify that the Pre-Release Software will only be used for testing and evaluation purposes, and will not be rented, sold, leased, sublicensed, assigned, distributed or otherwise transferred. Apple retains ownership of all Pre-Release Software, and except as expressly set forth herein, no other rights or licenses are granted or to be implied under any Apple intellectual property.

5. **Feedback.** As part of the Program, Apple will provide you with the opportunity to complete and return progress reports, enhancement requests, issue reports, and/or support information (collectively, "Feedback") to Apple. Except as otherwise set forth in Section 8, 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.

6. **Definition of Confidential Information.** You agree that the Pre-Release Software and any information concerning the Pre-Release Software (including its nature and existence, features, functionality, and screen shots), and any other information disclosed by Apple to you in connection with this Agreement, including but not limited to information learned by you from Apple employees, agents or through inspection of Apple's property, that relates to Apple's products, designs, business plans, business opportunities, finances, research, development, know-how, personnel, or third-party confidential information disclosed to you by Apple, will be considered and referred to collectively in this Agreement as "**Confidential Information.**" Information that otherwise would be deemed Confidential Information but (a) is generally available to the public through no fault or breach of this Agreement by you, (b) is independently developed by you without the use of any Confidential Information, (c) was rightfully obtained from a third party who had the right to transfer or disclose it to you without limitation, or (d) any third party software and/or documentation provided to you by Apple and accompanied by licensing terms that do not impose confidentiality obligations on the use or disclosure of such software and/or documentation will not be considered Confidential Information under this Agreement. All Confidential Information remains the sole property of Apple. You have no implied licenses or other rights in the Confidential Information not specifically granted in Section 4.

7. **Nonuse and Nondisclosure of Confidential Information.** Except as expressly permitted in this Section 7, you agree that you will not disclose, publish, or otherwise disseminate any Confidential Information to anyone other than those employees and contractors working for the same entity as you who are accepted into the Program and enrolled in the same individual seeding program as you. You further agree to take reasonable precautions to prevent any unauthorized use, disclosure, publication, or dissemination of Confidential Information, including preventing access to or display of the Pre-Release Software to third parties. You agree to accept Confidential Information for the sole purpose of effecting the permitted uses of the Pre-Release Software as set forth in Section 4 above. You agree not to use Confidential Information otherwise for your own or any third party's benefit without the prior written approval of an authorized representative of Apple in each instance. You hereby acknowledge that unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to Apple that may be difficult to ascertain. Accordingly, you agree that Apple will have the right to obtain immediate injunctive relief to enforce obligations under this Agreement in addition to any other rights and remedies it may have.

**8. Consent to Use of Data.** You agree that Apple and its subsidiaries may collect technical and related information, including but not limited to technical information about your device, computer, system and application software, and peripherals, as long as such information is in a form that does not personally identify you. Such information may be gathered periodically to facilitate the provision of software updates, product support and other services to you (if any) related to the Pre-Release Software. Apple will be free to use such technical and related information to improve our products or to provide services or technologies to you. In addition, you will have the option of manually attaching detailed device logs, which may include personally identifiable information, including, without limitation, your account name, information regarding your contacts, calendar events, and email correspondence (“**Device Logs**”) to the issue reports that you submit to Apple. Providing these Device Logs is voluntary, but if you do provide them, you acknowledge that Apple may use them internally for diagnostic purposes.

**9. Support and Maintenance; Future Products.** During your participation in the Program, Apple will provide you with technical and other support for the Pre-Release Software in accordance with the Program documentation. Such support will be provided in addition to your normal warranty coverage for your device, which is available exclusively through the Program while you are a Program participant. You acknowledge that Apple has no express or implied obligation to announce or make available a commercial version of the Pre-Release Software to anyone in the future. Should a commercial version be made available, it may have features or functionality that are different from those found in the Pre-Release Software licensed hereunder.

**10. No Warranty.** The Pre-Release Software may be designated as alpha, beta, development, pre-release, untested, or not fully tested versions. THE PRE-RELEASE SOFTWARE MAY BE INCOMPLETE OR CONTAIN ERRORS OR INACCURACIES AND COULD CAUSE FAILURES, CORRUPTION OR LOSS OF DATA AND/OR INFORMATION. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT ALL USE OF THE PRE-RELEASE SOFTWARE IS AT YOUR SOLE RISK. APPLE IS PROVIDING ALL CONFIDENTIAL INFORMATION, INCLUDING THE PRE-RELEASE SOFTWARE, TO YOU SOLELY ON AN “AS IS” BASIS AND WITHOUT ANY WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, ACCURACY, COMPLETENESS, PERFORMANCE, AND FITNESS FOR A PARTICULAR PURPOSE. You acknowledge that Apple has not publicly announced the availability of the Pre-Release Software, that Apple has not promised or guaranteed to you that such Pre-Release Software will be announced or made available to anyone in the future, and that Apple has no express or implied obligation to you to announce or introduce the Pre-Release Software or any similar or compatible product, or to continue to offer or support the Pre-Release Software in the future.

**11. Disclaimer of Liability.** APPLE WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING ANY LIABILITY THAT STEMS FROM ANY USE OF THE PRE-RELEASE SOFTWARE ON YOUR DEVICE AND/OR ANY PERIPHERALS CONNECTED THERETO, AND/OR FROM ANY OTHER CONFIDENTIAL INFORMATION, AND/OR APPLE’S PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, EVEN IF APPLE HAS BEEN ADVISED OR IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL APPLE’S TOTAL LIABILITY TO YOU FOR ALL DAMAGES (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE AMOUNT OF FIFTY DOLLARS (\$50.00). THE FOREGOING LIMITATIONS WILL APPLY EVEN IF THE ABOVE STATED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**12. Term and Termination.** This Agreement will continue in effect until terminated in accordance with this Section 12. You may terminate this Agreement or an individual seeding project at any time, for any reason, but only by returning or destroying any and all Confidential Information that is in your possession or control (including, without limitation, any Pre-Release Software); provided however that if you are unable to purge certain Pre-Release Software from your own device, then you agree that you will not use such device (or any Pre-Release Software loaded thereon) unless or until Apple makes available a commercial version of the Pre-Release Software available. At Apple’s request, you agree to provide certification of your compliance with the foregoing requirements upon any termination. Apple may terminate this Agreement or an

individual seeding project at any time, with or without cause, immediately upon written notice to you, and may terminate this Agreement immediately for any breach of the confidentiality provisions set forth herein. Within seven (7) days of your receipt of Apple's termination notice, or earlier if requested by Apple, you will return, cease all use of, and/or destroy the Pre-Release Software and all other Confidential Information as provided in this Section. Following termination of this Agreement or an individual seeding project for any reason, the provisions of Sections 2, 3, the restrictions of Section 4, 5-8, the last two sentences of Section 9, and 10-19, inclusive, will continue to bind the parties.

13. **No Export.** You agree that you will not export or re-export any of the Pre-Release Software or Confidential Information received from Apple (a) into (or to a national or resident of) any U.S. embargoed country (currently Cuba, Iran, Libya, North Korea, Serbia, Sudan, or Syria); 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 Confidential Information, you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list.

14. **Third Party Software & Information.** Portions of the Pre-Release Software may include third party software and other copyrighted material. Acknowledgements, licensing terms, and disclaimers for such material are contained in the "online" electronic documentation for the Pre-Release Software, and your use of such material is governed by such respective terms. Mention of third parties and third party products in any materials, advertising, promotions or coupons provided to program members is for informational purposes only and constitutes neither an endorsement nor a recommendation. All third party product specifications and descriptions are supplied by the respective vendor or supplier, and Apple shall have no responsibility with regard to the selection, performance, or use of these vendors or products. All understandings, agreements, or warranties, if any, take place directly between the vendors and the prospective users.

15. **No Waiver or Assignment.** No delay or failure to take action under this Agreement will constitute a waiver unless expressly waived in writing, signed by a duly authorized representative of Apple, and no single waiver will constitute a continuing or subsequent waiver. This Agreement may not be assigned by you in whole or in part. Any contrary assignment shall be null and void.

16. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of California, as applied to agreements entered into and to be performed entirely within California between California residents. The parties further submit to and waive any objections to personal jurisdiction of and venue in any of the following forums: U.S. District Court for the Northern District of California, California Superior Court for Santa Clara County, Santa Clara County Municipal court, or any other forum in Santa Clara County, for any litigation arising out of this Agreement.

17. **Government End Users.** If the Pre-Release Software is supplied to the United States Government, the Pre-Release Software is classified as "restricted computer software" as defined in clause 52.227-19 of the FAR. The United States Government's rights to the Pre-Release Software are as provided in clause 52.227-19 of the FAR.

18. **Agreement in English.** The parties hereto confirm that they have requested that this Agreement and all related documents be drafted in English. Les parties ont exigé que le présent contrat et tous les documents connexes soient rédigés en anglais.

19. **Severability; Complete Understanding.** If any provision of this Agreement is found to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. This Agreement, including any appendices made effective pursuant to this Agreement and any additional licenses accompanying the Pre-Release Software, constitutes the entire agreement with respect to the Confidential Information disclosed herein and supersedes all prior or contemporaneous oral or written agreements concerning such Confidential Information. Except to the extent provided under Section 2 above, any inconsistencies between this Agreement and any license agreement accompanying the Pre-Release Software will be governed by the license

agreement accompanying the Pre-Release Software. Except as expressly set forth herein, any waiver or amendment of any provision of this Agreement shall be effective only if in writing and signed by authorized representatives of both parties.