APPLE SHORT-TERM PURCHASE AGREEMENT

1. SCOPE. If Buyer has agreed, either electronically or via a signed purchase agreement with Apple to terms and conditions applicable to this sale of product, then those terms and conditions shall apply to any purchase orders or contracts issued to Apple. Any terms on any purchase order or contract that are inconsistent with these terms shall be null and void. The terms contained herein ("Agreement") shall apply to all quotations made and contracts of sale entered into between Apple and Buyer unless incorporation by reference is mutually agreed to in a written and signed document. If incorporation by reference is used, any terms and conditions of the referenced agreement shall supersede any contrary terms and conditions of this Agreement. Any electronic agreement, confirmation of deal or any acceptance of orders or quotations by Buyer that are inconsistent with these terms shall be null and void. This Agreement may be amended or modified only in a writing signed by both parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, understandings, and agreements. Any breach of this Agreement shall result in the termination of the Agreement. Any waiver of a breach of this Agreement by either party shall not affect the rights of the other party or constitute a waiver of any future breach.

2. NO RESALE. Products purchased shall be for Buyer’s own use or in facilities in the United States (or in the case of U.S. Government agencies, in U.S. Government overseas locations, subject to U.S. export laws) and shall not be purchased for the purpose of resale to another entity or individual.

3. NO EXPORT. (A) Except in the case of U.S. Government agencies, products may not be exported for resale outside the United States; directly or indirectly. (B) For U.S. Government agencies, this Agreement is subject to all laws, regulations, orders or other limitations on the export and re-export of commodities, technical data and software. Buyer agrees that it will not export, re-export, or transfer any export controlled commodity, technical data or software (in violation of such limitations imposed by the United States or any other applicable national government authority, or to any country for which an export license or other governmental approval is required at the time of export, without first obtaining all licenses or necessary approvals).

4. PRICE AND ORDERS. (A) Prices shall be set forth on the applicable Apple price list effective on the date Buyer’s order is accepted by Apple. Apple reserves the right to accept or decline any order in whole or in part unless Buyer notified Apple otherwise. Apple may make partial shipments of Buyer’s order, Apple will not be liable for any failure to ship complete orders. Buyer will be invoiced separately for each partial shipment and will pay each invoice when due. Without regard to the timing of any partial shipment, Apple will allocate its available inventory (including partial shipments) in its sole discretion and without liability to Buyer. Apple may cancel any acceptance of Buyer’s order at any time in its sole discretion. Apple determines to be insufficient to fulfill such orders. Prices include standard freight and insurance using an Apple-selected carrier. All applicable local sales or use taxes, duties, or other impositions, if any, due on account of purchases hereunder shall be paid by Buyer. Proof of tax exempt status must be on file at Apple’s Support Center for order to be treated as a tax-exempt transaction. (B) Limited Billing Service Account. Apple will bill Buyer for a limited billing service account to use when placing service orders such as Customer Support, Parts, or Mail in and on-site repair. Buyer may be asked to submit a purchase order when placing a service order. Buyer acknowledges that Apple does not provide service CIP or Equal to Apple price list. Apple will indicate at the time of purchase pricing to Buyer prior to processing any purchase order, and Buyer will have the option to either accept or decline the quoted prices. In the event Buyer accepts the quoted pricing, Apple will process the terms of this Agreement, should Buyer decline the quoted prices, Apple will not process the purchase order.

5. TITLE AND DELIVERY. (A) Except in the case of U.S. Government agencies, title and risk of loss to all products will pass to Buyer upon shipment from Apple’s shipping location. For Products shipped to Apple’s warehouse or to a third party under the terms of this Agreement, title and risk of loss will pass to Buyer upon receipt of the Products at the point of delivery. (B) In the case of U.S. Government agencies, title and risk of loss to all products will pass to Buyer upon shipment from Apple’s warehouse or to a third party under the terms of this Agreement, title and risk of loss will pass to Buyer upon receipt of the Products at the point of delivery. (C) For U.S. Government agencies, title and risk of loss to all Products will pass to Buyer upon delivery to the point of delivery specified in the order or such other place as may be mutually agreed to by the parties. (D) Buyer will be responsible for all risks of loss to the Products until such losses are properly reported to Apple.

6. PAYMENT. Buyer will be invoiced upon shipment orders of products and payment of such invoices is due no later than thirty (30) days from the date of invoice. Apple will also charge any fees due from Buyer by regulation or statute, including, if applicable, fees due under the California Electronic Transactions Act. Any similar statutes in other states. Apple reserves the right to charge Buyer’s credit terms at any time.

7. SUPPORT PRODUCTS. Support products (such as the AppleCare Protection Plan) are subject to the terms and conditions that accompany those products.

8. LIMITED WARRANTY. (A) The limited warranty for Apple-branded product shall be Apple’s standard limited warranty as set forth in the documentation that accompanies each Apple product. (B) All products, other than Apple-branded products, are sold “as is” and without warranty from Apple, but may be accompanied by a manufacturer’s warranty, or as more particularly provided in any written documentation accompanying the product. (C) Apple MAKES NO WARRANTY TO BUYER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE PRODUCTS, APPLE EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. SOFTWARE RIGHTS. (A) Buyer acknowledges that programs often contain not only hardware but also software, including but not limited to operating systems and applications. Software may be included in ROMS or other semiconductor chips embedded in hardware; or it may be contained separately in disks or other media. If such software is proprietary, it is copyrighted and may also contain valuable trade secrets and be protected by patents. Buyer, as an end user, is licensed to use the software only in connection with the use of the product. All rights to the software and other incidental rights shall be reserved to Apple or the copyright owner. Buyer may not make copies of any part of the software for any purpose, or copy from the software, except to backup or for archival purposes, and Buyer may not attempt to remove, disassemble, decompile, reverse engineer, copy, modify, create derivative works thereof, or otherwise change any of the software or its form. Buyer represents and warrants that it will comply with all applicable laws and regulations, including, but not limited to, those regarding export control, antitrust, and intellectual property.

10. END USER INDEMNIFICATION. (A) Apple will defend any proceeding or action brought by a third party against Buyer to the extent based on a claim that: (1) the marketing or licensed use of any Apple-branded product sold by Apple that has paid to acquire licenses or other proprietary rights of a third party, or (2) a defective Apple product directly caused death, personal injury, or damage to tangible property (provided the product at issue has not been altered, modified, or otherwise changed by Buyer). (B) Apple will indemnify Buyer for damages awarded to third parties solely as a result of such claims. Apple’s obligation to so defend and indemnify Buyer is contingent on Buyer’s compliance with the following Notice/Defense clause: (C) Notice/Defense. Buyer shall promptly notify Apple of any claim or threat of claim against Buyer for which Apple may be liable under this Section 10(A). Apple shall have the right to assume the defense and settle such claims. Buyer shall cooperate fully with Apple in connection with any such defense or settlement. (D) Notice to Third Parties. Buyer shall promptly notify the third party of the claim or threat of claim. Buyer shall also promptly notify Apple of any settlement or dismissal of any claim or threat of claim. Records of any such notice shall be maintained by Buyer and made available to Apple on request. (E) Limitation of Liability. Buyer will not be liable to Apple for any fees, costs, or expenses incurred in connection with any claims or threats to claims, except as expressly provided otherwise in this Section 10(A).

11. LIMITATION OF LIABILITY AND REMEDIES. DIRECT DAMAGES FOR ALL CLAIMS MADE BY BUYER ARISING WITH RESPECT TO ANY PRODUCT PURCHASED FROM APPLE SHALL BE LIMITED TO THREE HUNDRED THOUSAND DOLLARS ($300,000) FOR ALL CLAIMS ARISING OUT OF THIS AGREEMENT. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT, DIRECT LIABILITY, STATUTE OR OTHERWISE, SHALL APPLE BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, CLAIMS FOR LOST BUSINESS PROFITS OR REVENUE, LOSS OF DATA, INTERRUPTION IN USE, UNAVAILABILITY OF DATA, OR THE COST OF THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES) OR FOR PUNITIVE OR EXEMPLARY DAMAGES. This limitation is a critical element of the parties’ bargaining for consideration and will be effective even in the event Apple is informed in advance of the possibility of such damages. The remedies set forth in this Agreement shall be Buyer’s sole and exclusive remedies for any claims against Apple under or related to this Agreement.

12. TERM AND TERMINATION. SURVIVORSHIP. Unless terminated as provided in this Agreement, this Agreement will continue in effect from the date Buyer signs it until March 28 of the calendar year in which it is signed (whichever occurs first after the date of signing). Termination of this Agreement will not reduce the obligations of the parties hereunder unless otherwise agreed. If Buyer terminates this Agreement, the parties shall agree to the terms of the termination.

13. GENERAL TERMS. (A) Governing Law; Venue; Limitation of Claims. These Terms and Conditions of Sale will be governed and interpreted in accordance with the laws and judicial practices of the state of California. Any action arising out of or related to this Agreement must be brought within one (1) year from the date such action could have been brought. If a longer period is provided by statute, the parties expressly waive it. (B) For public educational institutions or state/local government entities, this Agreement will be governed and interpreted in accordance with federal law. (C) Severability. If a court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement will remain in full force and effect, and the parties will restore the intended effect, if possible, by modifying this Agreement. (D) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior communications, understandings, conditions, covenants, and representations made between Buyer and Apple. Neither Buyer for Apple will be liable for any agreements, warranties, representations or descriptions not expressly set forth or referenced in this Agreement. Buyer acknowledges that Apple refuses any additional or alternative provisions in purchase orders, invoices, or similar documents, and such refusal shall not be conclusive. (E) Mediation/Arbitration. Any dispute or controversy arising out of or relating to this Agreement shall be resolved through mediation or arbitration as provided in the Agreement. (F) Binding Effect. The parties agree to the binding effects of the terms and conditions of this Agreement. Buyer agrees to hold Apple harmless for any losses, liabilities, damages, costs, or expenses, including, but not limited to, reasonable attorney fees and costs, that arise out of or are related to the performance or non-performance of this Agreement. Buyer agrees to pay all costs and expenses of any mediation or arbitration of any dispute or controversy arising out of or relating to this Agreement.

Caution to Signatory

The person signing this Agreement certifies that he or she has authority to contractually bind his or her organization to the terms and conditions of this Agreement. Please check to make certain that you have that authority.