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APPLE INC.

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
17 FOR THE COUNTY OF SANTA CLARA

19 APPLE INC., a California corporation,

20 Plaintiff,

21 v.

22 ANDREW AUDE, an individual,

23 Defendant.

Case No. 24CV433319

**COMPLAINT**

**(1) Breach of Contract (IPA)**

**(2) Breach of Duty of Loyalty**

**(3) Breach of Contract (RSU Agreement)**

**DEMAND FOR JURY TRIAL**

**Amount demanded exceeds \$25,000**

Action Filed:

1 Plaintiff Apple Inc. (Apple) brings this lawsuit against former employee Andrew Aude for  
2 improperly disclosing Apple’s confidential information.

### 3 **INTRODUCTION**

4 1. Apple is a world-renowned technology company and global leader in consumer  
5 electronics, mobile communications, and computing. With over 80,000 employees in the U.S.  
6 alone, Apple invests billions of dollars on research and development each year. The results of  
7 Apple’s creative labors—which include Mac, iPhone, iPad, AirPods, Apple Watch, and Apple  
8 Vision Pro—inspire and delight over a billion users around the globe.

9 2. Mr. Aude, a former Apple employee, was a highly compensated engineer who  
10 joined Apple after graduating from college in 2016. At the start of his relationship with Apple,  
11 Mr. Aude signed an Intellectual Property Agreement (IPA) in which he agreed not to disclose  
12 Apple confidential information to non-Apple employees, both during and after his employment.

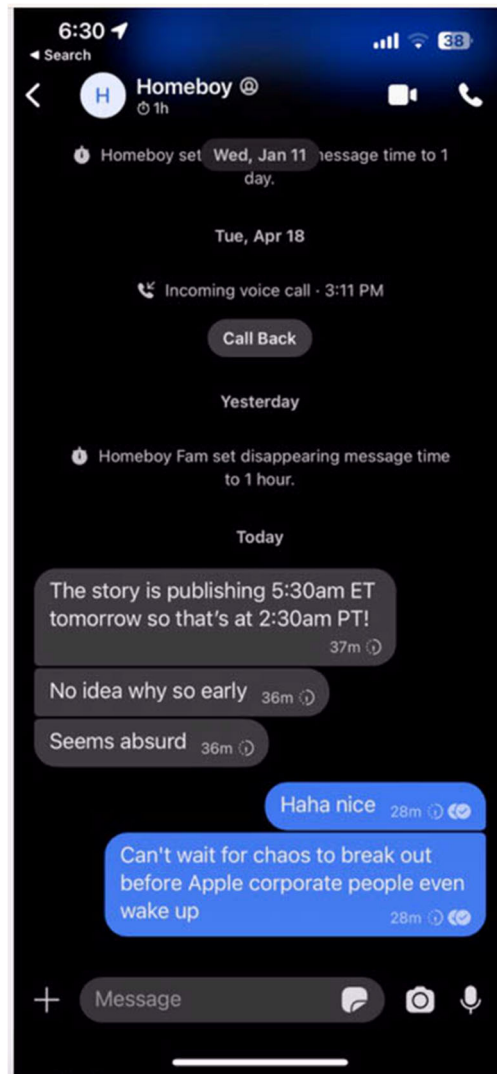
13 3. Despite his contractual and other legal obligations, Mr. Aude repeatedly flouted  
14 his promise to keep Apple’s information confidential. In clear violation of his IPA, Mr. Aude  
15 leaked highly sensitive information about Apple’s business practices, internal policies, and  
16 products—including those not yet released—with employees at other technology companies and  
17 at least three national journalists.

18 4. Over a five-year period, Mr. Aude leaked information about more than a half-  
19 dozen different Apple policies and products including (in his own words) “top secret” information  
20 without authorization to do so. The “leaked” Apple information included: details of an  
21 unannounced app; strategies for regulatory compliance; product hardware characteristics;  
22 research and development efforts in the spatial computing space; product development policies;  
23 and even corporate and department headcount.

24 5. Mr. Aude leaked Apple confidential information using his Apple-issued work  
25 iPhone—including via texts, encrypted messages, and phone calls. Between June and September  
26 2023 alone, Mr. Aude connected with a Wall Street Journal (WSJ) journalist, whom Mr. Aude  
27 codenamed “Homeboy,” over 1,400 times using an encrypted messaging app. Mr. Aude also read  
28 “Homeboy” a final feature list for an unannounced Apple product over the phone. Mr. Aude sent

1 another journalist at The Information over 10,000 text messages and traveled across the continent  
2 to meet with her.

3 6. Mr. Aude's leaks were no accident. In connection with one leak, Mr. Aude  
4 admitted that he violated his obligations to Apple so he could "kill" products and features with  
5 which he took issue. As his frequent Google searches, article shares, and screenshots saved to his  
6 Apple-issued work iPhone reveal, vanity and personal enjoyment of the media's attention also  
7 played a significant role in his malfeasance. In Mr. Aude's screenshot below memorializing his  
8 exchange with the WSJ journalist, Mr. Aude exclaimed that he could not "wait for chaos to break  
9 out" in reaction to a forthcoming article reflecting his leaked information.



1           7.       He also proclaimed, “[I] love when I get to leak to my WSJ friend.” Attempting to  
2 justify his actions to others, he explained that he intended to “[expletive] with policy and [the]  
3 press.” Mr. Aude did all this while purporting to work for Apple and promote Apple’s interests,  
4 but his actions demonstrated the opposite.

5           8.       Apple learned of Mr. Aude’s misconduct in the fall of 2023. When Apple met  
6 with him to discuss his improper disclosures, Mr. Aude promptly confirmed his guilt through his  
7 actions, if not his words. At the start of his November 7, 2023 interview, Mr. Aude repeatedly  
8 denied that he had leaked any information to anyone. He also claimed that he did not have his  
9 Apple-issued work iPhone with him. Feigning the need to visit the bathroom mid-interview, Mr.  
10 Aude then extracted his iPhone from his pocket during the break and permanently deleted  
11 significant amounts of evidence from his device. This included the Signal app, which  
12 memorialized his history of leaking information to “Homeboy” (and likely others) via encrypted  
13 communications.

14           9.       Mr. Aude finally came partially clean on December 12, 2023, when Apple  
15 confronted him about his deletion of the Signal app from his iPhone. During this follow-up  
16 interview, however, Mr. Aude offered only narrow admissions limited to the information he had  
17 not been able to destroy.

18           10.      Apple has since terminated Mr. Aude for misconduct. At no time has Mr. Aude  
19 shown remorse for his violations of his IPA or disclosure of Apple’s proprietary information,  
20 whether before his termination or after.

21           11.      Apple does not bring suit against its former employees lightly. As a result of  
22 Mr. Aude’s willful destruction of evidence, however, Apple cannot know the universe of what he  
23 disclosed to whom and when. Before filing this lawsuit, Apple reached out to Mr. Aude to  
24 potentially resolve this matter. Over a month ago, Apple contacted Mr. Aude to understand the  
25 full scope of his leaks and ask for his full cooperation in resolving this matter without litigation.  
26 Mr. Aude, however, did not commit to cooperating.

27           12.      Mr. Aude’s pattern of disclosing Apple’s highly sensitive information to others—  
28 wantonly, without regard for his legal or contractual obligations, and for the specific purpose of

1 harming Apple—and his ongoing knowledge of Apple’s confidential and proprietary information  
2 create a significant risk that the disclosures will continue. Mr. Aude’s pervasive misconduct  
3 demands that Apple act to protect its most sensitive information, which is fundamental to its  
4 ability to innovate and make products that delight and inspire others.

5 13. In addition to the information he shared with his friends at other technology  
6 companies, Mr. Aude’s leaks resulted in the publication of multiple news articles discussing  
7 Apple’s confidential and proprietary information. These disclosures have harmed Apple with  
8 respect to its competitors—who are advantaged by knowing more about Apple’s policies, product  
9 roadmap, and strategy. His disclosures also have impeded Apple’s ability to surprise and delight  
10 with its new offerings.

11 14. Apple therefore brings this lawsuit to prevent Mr. Aude from further violating his  
12 contractual obligations to Apple and for damages arising from his misconduct.

13 **JURISDICTION, VENUE, AND PARTIES**

14 15. This Court has jurisdiction over this action pursuant to California Code of Civil  
15 Procedure § 410.10 because Mr. Aude resides in California and acts from which liability arises  
16 occurred, at least in part, in California. Mr. Aude also signed an Intellectual Property Agreement  
17 “consent[ing] to personal jurisdiction of and venue in the state and federal courts within Santa  
18 Clara County, California” and agreeing that any “judicial action between the parties relating to  
19 this Agreement will take place in Santa Clara County, California.”<sup>1</sup>

20 16. Venue is proper in Santa Clara County pursuant to California Code of Civil  
21 Procedure § 395 because Mr. Aude resides in this County, the IPA was entered into at least in  
22 part in this County, the IPA provides for venue in this County, and acts from which liability arises  
23 occurred at least in part in this County.

24 17. Apple is a California corporation having its principal place of business at One  
25 Apple Park Way, Cupertino, California 95014.

26 18. Upon information and belief, Mr. Aude resides in San Francisco, California.

27  
28 <sup>1</sup> Ex. A, Apple IPA (executed by Andrew Aude) § 6.0(b).

## **BACKGROUND**

### **A. Apple's Product Development**

19. Apple's success depends heavily on its ability to continually deliver new and exciting services and technologies to the marketplace. Apple spends billions of dollars annually to create new technologies, upgrade existing products and services, and expand the range of its offerings.

20. Apple's unique and innovative technologies, processes, and methodologies underpin its market leadership and competitive edge in hardware and software markets. If a competitor were to learn of Apple's proprietary information, that competitor could use that information to garner an unfair competitive advantage. For example, the competitor could redirect its product development and marketing efforts to frustrate Apple's own plans. The competitor also could accelerate its development of similar products.

21. Apple goes to great lengths to surprise and delight the public with its new products and features. For example, Apple makes substantial investments in advertising and promoting the launch of its new and upgraded products. Unauthorized leaks can cause Apple to lose control of the messaging and timing of product releases. That, in turn, may result in diminished media and consumer interest from the media. Leaked information also can impact sales of a current model negatively and lead to fewer sales when the product ultimately launches.

22. Leaked information about Apple's unannounced products further undermines the considerable time and billions of dollars that Apple invests in developing its products and services. Thousands of Apple employees work tirelessly for months—and often years—to deliver new software and hardware releases. Leaked information therefore harms not only the company as a whole, but the many individuals who bring those products and services to market quickly for customers.

### **B. Mr. Aude Joins Apple and Promises to Safeguard Its Proprietary Information**

23. Mr. Aude joined Apple in 2016 shortly after graduating from college.

1           24.     During his tenure with Apple, Mr. Aude was an iOS Software Engineer. Mr. Aude  
2 worked on optimizing battery performance, among other things. He received several promotions  
3 and was highly compensated for his work.

4           25.     Mr. Aude executed an Apple IPA on February 10, 2016. Under the IPA, Mr. Aude  
5 attested that:

6                   You understand that your employment by Apple creates a  
7 relationship of confidence and trust with respect to any confidential,  
8 proprietary, or non-public information that may be disclosed to you  
9 or otherwise learned by you in the course of employment at Apple. .  
10 . You understand and agree that your employment by Apple  
11 prohibits you, during or after employment, from using or  
12 disclosing, or permitting any other person or entity to use or  
13 disclose, any Proprietary Information without the written consent of  
14 Apple, except as necessary to perform your duties as an employee  
15 of Apple. You understand and agree to strictly comply with all of  
16 Apple's rules and policies regarding Proprietary Information and  
17 use best efforts to safeguard such Proprietary Information and  
18 protect it against disclosure, misuse, loss, or theft. Upon  
19 termination of employment with Apple, you will promptly deliver  
20 to Apple all documents and materials of any kind pertaining to your  
21 work at Apple, and you agree that you will not take with you any  
22 documents, materials, or copies thereof, whether on paper or any  
23 other medium, containing any Proprietary Information.<sup>2</sup>

24           26.     By signing the IPA, Mr. Aude agreed not to use or disclose Apple's confidential  
25 and proprietary information except as necessary in the course of his employment at Apple. The  
26 IPA "prohibit[ed] [Mr. Aude], during or after employment, from using or disclosing, or  
27 permitting any other person or entity to use or disclose, any [Apple] Proprietary Information  
28 without the written consent of Apple, except as necessary to perform [his] duties as an employee  
of Apple."<sup>3</sup>

29           27.     The IPA defines "Proprietary Information" to include:

30                   [A]ll information not generally known outside Apple and/or kept  
31 confidential by Apple, including for example but not limited to (a)  
32 trade secrets, R&D records, reports, samples, manuals, plans,  
33 specifications, inventions, ideas, designs, prototypes, software,  
34 source code, or any other materials or information relating to past,  
35 existing, and future products and services whether or not developed,

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36                   <sup>2</sup> Ex. A, § 1.

37                   <sup>3</sup> *Id.* at § 1(a).

1 marketed, used, or rejected by Apple or persons or companies  
2 dealing with Apple; (b) sales, profits organization, customer lists,  
3 pricing, sources of material, supply, costs, manufacturing,  
4 financials, forecasts, market research, or any other information  
5 relating to the business operations or affairs of Apple or persons or  
6 companies dealing with Apple; and (c) the employment and  
7 personnel information of Apple, such as compensation, training,  
8 recruiting, and other human resource information.<sup>4</sup>

9 28. By signing the IPA, Mr. Aude agreed “to strictly comply with all of Apple’s rules  
10 and policies regarding Proprietary Information[.]”<sup>5</sup>

11 29. Mr. Aude also agreed to “not use or disclose Proprietary Information without the  
12 written consent of Apple, except as necessary to perform [his] duties as an employee of Apple.”<sup>6</sup>

13 30. Mr. Aude also agreed that his “employment by Apple create[d] a relationship of  
14 confidence and trust with respect to any information of a confidential, proprietary, and secret  
15 nature that [might have] be[en] disclosed to [him] or other otherwise learned by [him] in the  
16 course of [his] employment at Apple.”<sup>7</sup>

17 31. Mr. Aude also agreed to “use [his] best efforts to safeguard [Apple’s] Proprietary  
18 Information and [to] protect it against disclosure, misuse, loss or theft.”<sup>8</sup>

19 32. Mr. Aude also agreed that any breach of his duties of confidence and trust “would  
20 cause irreparable harm and significant injury to Apple.”<sup>9</sup>

21 33. Mr. Aude never sought nor received any waiver of his obligations under the IPA.

22 **C. Mr. Aude Repeatedly Discloses Apple’s Proprietary Information with the**  
23 **Intent to Harm Apple**

24 34. Despite his contractual and ethical obligations to Apple, Mr. Aude leaked highly  
25 sensitive Apple information to individuals outside of Apple over the course of several years.  
26 These disclosures included details of an unannounced app; strategies for regulatory compliance;  
27

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28 <sup>4</sup> *Id.* at § 1.

<sup>5</sup> *Id.* at § 1(a)

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at § 4.



1 product hardware characteristics; research and development efforts in the spatial computing  
2 space; and even corporate and department headcount. He made these disclosures to employees at  
3 other technology companies and at least three different journalists via phone calls, text messages,  
4 encrypted communications, and in-person meetings. Mr. Aude often took and saved screenshots  
5 of his communications on his Apple-issued work iPhone to preserve them for posterity.

6 35. As one example, around April 2023, Mr. Aude read an e-mail containing the final  
7 feature list for an unannounced Apple app to a WSJ journalist (aka “Homeboy”) over the phone.  
8 Mr. Aude did so even though the e-mail expressly noted its “confidential” nature and that Apple  
9 “only ha[d] one shot” to make a “first impression.”

10 36. Mr. Aude specifically intended that his leaks harm Apple. His intentions in  
11 leaking the unannounced app were clear: he wanted it to be (in his own words) “killed.”  
12 Mr. Aude later characterized the leak to other colleagues as a “necessary evil”—one that he  
13 thought “serve[d] [the project] right.” Although Mr. Aude ultimately was not successful in  
14 achieving his objective, his leak led to the publication of a related WSJ article. Mr. Aude’s saved  
15 screenshots relating to this disclosure on his Apple-issued work iPhone also reveal his giddy  
16 anticipation of the “chaos” awaiting Apple in the morning after it was published.

17 37. As another example, around November 2022, Mr. Aude shared confidential details  
18 about Apple’s strategies for regulatory compliance with his interviewer at another technology  
19 company and also with a WSJ journalist. Mr. Aude knew that details about Apple’s forthcoming  
20 regulatory compliance were, in his own words, “top secret” and not for disclosure outside of  
21 Apple. Nevertheless, he disclosed them anyway.

22 38. In making this disclosure, Mr. Aude again intended to harm Apple. Mr. Aude  
23 characterized the information he disclosed about Apple’s forthcoming regulatory compliance to  
24 an employee of another technology company as involving “[A]pple[’s] dirty laundry.” Mr. Aude  
25 also shared his hope that the WSJ journalist would “print the right one liners and [raise] questions  
26 about this matter” with at least one other person outside of Apple.

27 39. As another example, an October 2020 screenshot on Mr. Aude’s Apple-issued  
28 work iPhone shows that he disclosed Apple’s development of products within the spatial

1 computing space to a non-Apple employee. Mr. Aude made this disclosure even though Apple's  
2 development efforts were confidential and not known to the public. Over the following months,  
3 Mr. Aude disclosed additional Apple confidential information—including information concerning  
4 unannounced products, and hardware information.

5 40. As another example, in August 2021 Mr. Aude corroborated a rumor about a  
6 design feature of an unreleased Apple device to a non-Apple employee. Although recognizing  
7 that the feature was “one of [Apple’s] best secret features,” Mr. Aude disclosed the information  
8 anyway.

9 41. As another example, in May 2023, Mr. Aude disclosed confidential details  
10 regarding Apple’s internal product development policies to a WSJ journalist. The journalist  
11 subsequently published an article on the same subject that month.

12 42. As another example, Mr. Aude’s saved screenshots on his Apple-issued work  
13 iPhone reveal that, around September 2023, Mr. Aude disclosed confidential details about  
14 Apple’s analysis of its product hardware characteristics to a journalist via multiple conversations.  
15 The journalist subsequently published an article on the same subject.

16 43. Mr. Aude also shared information related to Apple’s internal staffing on a specific  
17 Apple team in response to questions from a journalist at The Information. The shared  
18 information ultimately appeared in an article published by the journalist’s colleague at The  
19 Information.

20 44. Mr. Aude’s disclosures of Apple’s confidential and proprietary information were  
21 extensive and purposeful. As noted, according to data from his Apple-issued work iPhone, Mr.  
22 Aude had over 1,400 encrypted communications with a single WSJ journalist over a single four-  
23 month period. He also sent another journalist at The Information over 10,000 text messages from  
24 his Apple-issued work iPhone and traveled across the continent to meet with her.

25 45. At no time has Mr. Aude apologized or expressed regret to Apple for his repeated  
26 violation of the IPA and his unauthorized disclosure of Apple’s proprietary information. To the  
27 contrary, Mr. Aude apparently took great pride in his regular leaking of Apple’s highly sensitive  
28 information. After making a leak, Mr. Aude frequently searched for articles by the recipient,

1 shared articles containing leaked information, and took screenshots of his related communications  
2 on his Apple-issued work iPhone. Saved screenshots indicate his desire to “[expletive] with  
3 policy and [the] press,” to “lov[ing]” it when he “g[ot] to leak” information, and to believing that  
4 others were “beg[ging]” for his help.”

5 **D. Mr. Aude’s Conduct Violated Apple’s RSU Agreement**

6 46. During his employment at Apple, Mr. Aude received several discretionary RSU  
7 awards from Apple. Those awards were, and are, subject to specific terms and conditions  
8 outlined in the relevant Apple Employee Stock Plan and form of Restricted Stock Unit Award  
9 Agreement (RSU Agreement). The RSU Agreement for Mr. Aude’s awards was referenced in  
10 correspondence from Apple to Mr. Aude regarding his RSU awards and available in his personal  
11 RSU brokerage account with Apple’s designated broker. Mr. Aude had the opportunity to reject  
12 the terms of the RSU Agreement if he disagreed with them but did not do so. Mr. Aude therefore  
13 agreed to the terms in the RSU Agreement for each RSU award granted to him by accepting the  
14 award.

15 47. For example, Apple’s RSU Agreement for the RSUs granted to Mr. Aude on  
16 October 1, 2023, specifically provides:

17 [T]he Company may require the Participant to deliver or otherwise  
18 repay to the Company the Award and any Shares or other amount  
19 or property that may be issued, delivered or paid in respect of the  
20 Award, as well as any consideration that may be received in  
21 respect of a sale or other disposition of any such Shares or  
22 property, if the Company reasonably determines that one or more  
23 of the following has occurred. . . (b) during the Employment  
24 Period or at any time thereafter, the Participant has committed or  
25 engaged in a breach of confidentiality, or an unauthorized  
26 disclosure or use of inside information, customer lists, trade secrets  
27 or other confidential information of the Company or any of its  
28 Subsidiaries; or (c) during the Employment Period or at any time  
thereafter, the Participant has committed or engaged in an act of  
theft, embezzlement or fraud, or materially breached any  
agreement to which the Participant is a party with the Company or  
any of its Subsidiaries.<sup>10</sup>

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<sup>10</sup> Ex. B, Apple Global Restricted Stock Unit Award Agreement, § 9.

1           48.     Apple has performed all of its obligations under the RSU Agreement, including  
2 issuance of shares to Mr. Aude for any vested RSUs.

3           49.     As noted, Apple terminated Mr. Aude for disclosing Apple's confidential and  
4 proprietary information to non-Apple employees without authorization. After doing so, Apple  
5 asked that Mr. Aude return his RSUs or any shares acquired under the RSU Agreement, based on  
6 his breach of his confidentiality obligations to Apple. Apple also asked that Mr. Aude return any  
7 proceeds and profits from the sale of the shares acquired pursuant to any vested RSUs. Mr. Aude  
8 refused and thus has breached the terms of the RSU Agreement.

9           **E.     Mr. Aude Deletes Evidence of his Misconduct While Employed at Apple**

10          50.     On November 7, 2023, Apple met with Mr. Aude. During this meeting, Mr. Aude  
11 denied leaking Apple confidential or proprietary information to third parties, including  
12 journalists. He also denied having his Apple-issued work iPhone with him.

13          51.     Mid-meeting, however, Mr. Aude feigned the need to use the restroom. During  
14 the resulting break, Mr. Aude pulled out his Apple-issued work iPhone—which he had all  
15 along—and deleted evidence of his communications about Apple with third parties.

16          52.     Mr. Aude's deletions included the Signal app, which he had used to disclose  
17 Apple's confidential or proprietary information to at least one journalist. A forensic analysis of  
18 Mr. Aude's Apple-issued work iPhone reveals that, between June and September 2023, Mr. Aude  
19 had over 1,400 connections with a single journalist via Signal. Apple cannot know the content of  
20 these messages or to whom else Mr. Aude sent Apple's proprietary information because Mr.  
21 Aude deleted the Signal app and its associated encrypted messages.

22          53.     On December 12, 2023, Apple met with Mr. Aude again. During this meeting,  
23 Mr. Aude admitted that he leaked information about Apple's strategies for regulatory compliance,  
24 unannounced products, development policies, and hardware characteristics of certain released  
25 products to at least two journalists. These disclosures resulted in the publication of at least five  
26 different articles discussing Apple's confidential and proprietary information.

27          54.     Apple terminated Mr. Aude for misconduct on December 15, 2023.  
28

1           **F.     Mr. Aude's Leaks Pose an Ongoing Threat to Apple**

2           55.     Due to Mr. Aude's work on battery performance at Apple, he was privy to  
3 information regarding dozens of Apple's most sensitive projects, including Apple's development  
4 of systems-on-chips and iPhone products, among others.

5           56.     Mr. Aude poses an ongoing threat based on his knowledge of Apple's confidential  
6 and proprietary information, his long and extensive history of disclosing it to third parties  
7 intentionally and without authorization, his continued relationships with individuals at other  
8 technology companies, and journalists, and his attempts to conceal his misconduct.

9                           **FIRST CLAIM FOR RELIEF**

10                           **(Breach of IPA)**

11           57.     Apple realleges and restates paragraphs 1-56.

12           58.     The IPA that Mr. Aude signed is a valid and enforceable contract. Its  
13 confidentiality covenants and other provisions are reasonably necessary to protect legitimate  
14 protectable interests in Apple's confidential and proprietary information.

15           59.     Apple has fully performed all of its obligations under these agreements.

16           60.     The IPA prohibits Mr. Aude from disclosing Apple's confidential and proprietary  
17 information that may have been disclosed to him or otherwise learned by him in the course of his  
18 employment at Apple to third parties without Apple's written consent or unless necessary to  
19 perform his duties as an Apple employee. This obligation continues even after employment at  
20 Apple ceases.

21           61.     By signing the IPA, Mr. Aude also agreed "to strictly comply with all of Apple's  
22 rules and policies regarding Proprietary Information[.]"<sup>11</sup>

23           62.     Mr. Aude breached the IPA by disclosing Apple's confidential and proprietary  
24 information to employees of other technology companies and at least three journalists. Mr. Aude  
25 has admitted that he leaked confidential details about Apple's strategies for regulatory  
26 compliance, unannounced products, product development policies, and hardware characteristics

27  
28                   

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<sup>11</sup> *Id.* at § 1(a)

1 of certain released products to at least two journalists. Mr. Aude's saved screenshots on his  
2 Apple-issued work iPhone further confirm that he disclosed additional Apple confidential and  
3 proprietary information to individuals outside of Apple without Apple's authorization. The full  
4 scope of Mr. Aude's misconduct currently remains unknown (and may never be known) because  
5 he deleted evidence of his unauthorized disclosures.

6 63. Mr. Aude's breaches were intentional. His saved screenshots on his Apple-issued  
7 work iPhone refer to the leaked information as "confidential" and "top secret." They also  
8 characterize his disclosures as a "necessary evil" and "serv[ing] [the project] right." They further  
9 note his eager anticipation for the "chaos" that his disclosures would cause before "Apple['s]  
10 corporate people even w[o]ke up."

11 64. As a result of Mr. Aude's breaches, Apple has suffered and continues to suffer  
12 monetary and non-monetary injury and harm in an amount to be proven at trial, including lost  
13 profits from the unauthorized disclosure of its confidential information and his unwarranted  
14 receipt of discretionary bonuses, discretionary RSUs including, unvested RSUs and shares  
15 underlying vested RSUs and/or the cash equivalent, and any related proceeds and profits. Apple  
16 also has incurred and will continue to incur additional damages, costs, and expenses, including  
17 attorneys' fees and other investigation costs, from Mr. Aude's breach.

18 65. Mr. Aude has taken actions to conceal evidence of his leaking of Apple's  
19 confidential and proprietary information, and to prevent Apple from learning the extent and  
20 content of those disclosures, including deleting the Signal app, which memorialized his  
21 misconduct.

22 66. Mr. Aude poses an ongoing threat based on his knowledge of Apple's confidential  
23 and proprietary information, his long and extensive history of disclosing it to third parties  
24 intentionally and without authorization, his continued relationships with individuals at other  
25 technology companies, and journalists, and his attempts to conceal his misconduct.

26 67. Apple faces irreparable harm from Mr. Aude's past and potential future breaches  
27 of the IPA. By signing the IPA, Mr. Aude acknowledged that its breach would cause irreparable  
28 harm and significant injury to Apple. Mr. Aude's past and potential future breaches also threaten

1 Apple with the loss of its competitive advantage, proprietary information, customers, and  
2 technological goodwill in amounts for which it would be difficult or impossible to calculate  
3 absent injunctive relief from this Court.

## 4 **SECOND CLAIM FOR RELIEF**

### 5 **(Breach of Duty of Loyalty)**

6 68. Apple realleges and restates paragraphs 1-56.

7 69. Mr. Aude was a highly compensated engineer employed by Apple.

8 70. By virtue of his employment with Apple, Mr. Aude owed a duty of loyalty to  
9 Apple under the common law and California Labor Code §§ 2860 and 2863.

10 71. Mr. Aude's duty of loyalty forbade him from, among other things, acting in a  
11 manner which is inimical to Apple's best interests.

12 72. Mr. Aude breached his duty of loyalty by, among other things, while employed by  
13 Apple, disclosing Apple confidential and proprietary information to third parties without Apple's  
14 authorization. Mr. Aude's correspondence demonstrates that he leaked certain Apple confidential  
15 and proprietary information with the goal of harming Apple.

16 73. Mr. Aude has admitted that he leaked confidential details about strategies for  
17 regulatory compliance, unannounced products, product development policies, and hardware  
18 characteristics of certain released products to at least two journalists. Mr. Aude's saved  
19 screenshots on his Apple-issued work iPhone further confirm that he disclosed additional Apple  
20 confidential and proprietary information to individuals outside of Apple without Apple's  
21 authorization. The full scope of Mr. Aude's misconduct currently remains unknown (and may  
22 never be known) because he deleted evidence of his unauthorized disclosures.

23 74. Mr. Aude's leaks were intended to harm Apple. His saved screenshots on his  
24 Apple-issued work iPhone refer to the leaked information as "confidential" and "top secret."  
25 They also characterize disclosures he made as a "necessary evil" and "serv[ing] [the project]  
26 right." They further note his eager anticipation for the "chaos" that his disclosures would cause  
27 before "Apple['s] corporate people even w[o]ke up." Mr. Aude's intentions in leaking  
28

1 information about unannounced app were clear: he had expressed that he wanted the app to be (in  
2 his own words) “killed.”

3 75. Mr. Aude has taken actions to conceal evidence of his leaking of Apple’s  
4 confidential and proprietary information, and to prevent Apple from learning the extent and  
5 content of those disclosures, including deleting the Signal app, which memorialized his  
6 misconduct.

7 76. Mr. Aude used Apple’s time, facilities, and resources to disclose Apple’s  
8 confidential and proprietary information to third parties without Apple’s authorization and with  
9 the intent to harm Apple. He did so over a period of years, during which he was employed by  
10 Apple and purportedly working to further Apple’s interests, while doing the opposite behind  
11 Apple’s back.

12 77. As a direct and proximate result of Mr. Aude’s breaches of his duty of loyalty,  
13 Apple has suffered and continues to suffer monetary and non-monetary injury and harm in an  
14 amount to be proven at trial, including lost profits from the unauthorized disclosure of its  
15 proprietary information. Apple also has incurred, and will continue to incur, additional damages,  
16 costs, and expenses, including attorneys’ fees, as a result of Mr. Aude’s improper conduct.

17 78. Apple also is entitled to the disgorgement of Mr. Aude’s discretionary bonuses,  
18 discretionary RSUs including, unvested RSUs and shares underlying vested RSUs and/or the cash  
19 equivalent, and any related proceeds and profits.

20 79. Mr. Aude’s conduct has been willful and malicious, justifying an award of  
21 punitive damages.

### 22 **THIRD CLAIM FOR RELIEF**

#### 23 **(Breach of RSU Agreement)**

24 80. Apple realleges and restates paragraphs 1-56.

25 81. The RSU Agreement is a valid and enforceable contract. Its confidentiality  
26 covenants and other provisions are reasonably necessary to protect legitimate protectable interests  
27 in Apple’s confidential and proprietary information.

28 82. Mr. Aude agreed to terms of the RSU Agreement by accepting an RSU award.



1           83.     Apple has fully performed all of its obligations pursuant to the RSU Agreement,  
2 including by issuing shares to Mr. Aude.

3           84.     The RSU Agreement allows Apple to recoup Mr. Aude's RSU awards and related  
4 proceeds and profits, should Apple reasonably determine that he disclosed its confidential and  
5 proprietary information without its authorization.

6           85.     Mr. Aude breached his confidentiality obligations to Apple by disclosing its  
7 confidential and proprietary information without authorization. Mr. Aude admitted that he leaked  
8 confidential details about strategies for regulatory compliance, unannounced products, product  
9 development policies, and hardware characteristics of certain released products to at least two  
10 journalists. Mr. Aude's saved screenshots on his Apple-issued work iPhone further confirm that  
11 he disclosed additional Apple confidential and proprietary information to individuals outside of  
12 Apple without Apple's authorization. The full scope of Mr. Aude's disclosures currently remains  
13 unknown (and may never be known) because he deleted evidence of his unauthorized disclosures.

14          86.     Apple terminated Mr. Aude for disclosing Apple's confidential and proprietary  
15 information to non-Apple employees without authorization. After doing so, Apple asked that Mr.  
16 Aude return his RSU awards under the RSU Agreement, based on his breach of his  
17 confidentiality obligations to Apple. Apple also asked that Mr. Aude return any proceeds and  
18 profits from the sale of those RSUs. Mr. Aude refused and thus has breached the RSU  
19 agreement.

20          87.     Mr. Aude has taken actions to conceal evidence of his leaking of Apple's  
21 confidential and proprietary information, and to prevent Apple from learning the extent and  
22 content of those disclosures, including deleting the Signal app, which memorialized his  
23 misconduct.

24          88.     As a result of Mr. Aude's actions, Apple is entitled to the disgorgement of Mr.  
25 Aude's discretionary bonuses, discretionary RSUs including, unvested RSUs and shares  
26 underlying vested RSUs and/or the cash equivalent, and any related proceeds and profits.

27                   **PRAYER FOR RELIEF**

28           NOW, THEREFORE, Plaintiff Apple prays for judgment and relief against Defendant as

1 follows:

- 2 a. Judgment in Apple's favor and against Mr. Aude on all causes of action alleged  
3 herein;  
4 b. Injunctive relief;  
5 c. Damages in an amount to be proven at trial;  
6 d. Punitive damages based on Mr. Aude's willful and malicious misconduct;  
7 e. An order directing Mr. Aude not to disclose Apple's confidential and proprietary,  
8 information to third parties without its written consent;  
9 f. Pre-judgment and post-judgment interest at the maximum legal rate as applicable,  
10 as an element of damages that Apple has suffered as a result of Mr. Aude's  
11 wrongful and unlawful acts;  
12 g. Restitution and/or disgorgement of Mr. Aude's discretionary bonuses,  
13 discretionary RSUs including, unvested RSUs and shares underlying vested RSUs  
14 and/or the cash equivalent, and any related proceeds and profits;  
15 h. Reasonable attorneys' fees and costs incurred; and  
16 i. Such other relief as the Court deems just and proper.

17 **DEMAND FOR JURY TRIAL**

18 Apple demands a trial by jury for all causes of action, claims, or issues in this action that  
19 are triable as a matter of right to a jury.

20  
21 Dated: March 18, 2024

MORRISON & FOERSTER LLP

22  
23 By /s/ Richard Hung  
24 RICHARD HUNG

25 Attorneys for Plaintiff  
26 APPLE INC.  
27  
28

# **EXHIBIT A**



# Confidentiality and Intellectual Property Agreement

This Confidentiality and Intellectual Property Agreement ("Agreement" or "IPA Agreement") is entered into between you (also referred to as "Employee") and Apple Inc., a California corporation having its principal place of business at 1 Infinite Loop, Cupertino, California 95014 USA (collectively and severally with its affiliates and subsidiaries, "Apple") (Employee and Apple collectively, the "parties"). Apple has agreed to employ you (or continue to employ you if this Agreement is signed after you have already been employed by Apple) on the condition that you agree to and abide by all of the following terms and conditions for the duration of your employment by Apple, including but not limited to during any leave of absence or other time off, and thereafter.

Apple's business includes the research & development, design, engineering, programming, assembly, manufacture, distribution, retail, and sale of electronic goods, software, content, and services. As a full-time or part-time employee, intern, or temporary or contingent worker employed by Apple, you will have access to various types of confidential information that is owned by Apple or to which Apple has separately committed to one or more third parties to maintain as confidential. Therefore, to protect Apple's intellectual property rights and business and technical secrets and safeguard both parties' interests, the parties hereby agree as follows in consideration of the above premises, the mutual promises contained herein, and the compensation paid to you in connection with your at-will employment by Apple.

## I. CONFIDENTIAL AND PROPRIETARY INFORMATION

You understand that your employment by Apple creates a relationship of confidence and trust with respect to any confidential, proprietary, or non-public information that may be disclosed to you or otherwise learned by you in the course of employment at Apple, including but not limited to any confidential information of third parties disclosed to Apple. As referred to herein, "Proprietary Information" means all information not generally known outside Apple and/or kept confidential by Apple, including for example but not limited to (a) trade secrets, R&D records, reports, samples, manuals, plans, specifications, inventions, ideas, designs, prototypes, software, source code, or any other materials or information relating to past, existing, and future products and services whether or not developed, marketed, used, or rejected by Apple or persons or companies dealing with Apple; (b) sales, profits, organization, customer lists, pricing, sources of material, supply, costs, manufacturing, financials, forecasts, market research, or any other information relating to the business operations or affairs of Apple or persons or companies dealing with Apple; and (c) the employment and personnel information of Apple, such as compensation, training, recruiting, and other human resource information.<sup>1</sup>

**A. Treatment of Proprietary Information.** You understand and agree that your employment by Apple prohibits you, during or after employment, from using or disclosing, or permitting any other person or entity to use or disclose, any Proprietary Information without the written consent of Apple, except as necessary to perform your duties as an employee of Apple. You understand and agree to strictly comply with all of Apple's rules and policies regarding Proprietary Information and use best efforts to safeguard such Proprietary Information and protect it against disclosure, misuse, loss, or theft. Upon termination of employment with Apple, you will promptly deliver to Apple all documents and materials of any kind pertaining to your work at Apple, and you agree that you will not take with you any documents, materials, or copies thereof, whether on paper or any other medium, containing any Proprietary Information.

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<sup>1</sup> Nothing in this Agreement should be interpreted as restricting your rights to speak freely about your wages, hours, or working conditions as legally permitted.

- B. **Information of Others.** You agree that you have not brought, and during your employment with Apple will not bring, any confidential, proprietary, or secret information or intellectual property of your former employer(s) or any other person(s) or entity(ies) onto Apple property. You further agree you have not improperly used or disclosed (or induced the same), and during your employment with Apple will not improperly use or disclose (or induce the same), any confidential, proprietary, or secret information or intellectual property of your former employer(s) or any other person(s) or entity(ies).

## II. INVENTIONS

- A. **Definition of Invention.** As used in this Agreement, "Inventions" means any and all inventions, ideas, and discoveries, including improvements, original works of authorship, designs, formulas, processes, specifications, technology, computer programs or portions thereof, databases, mask works, results, know-how, trade secrets and proprietary information, documentation, and materials made, created, conceived, or reduced to practice by you, alone or jointly with others.
- B. **Prior Inventions.** In the space provided below, or on a separate sheet attached to this Agreement, you may list all Inventions that you made prior to your employment with Apple and that you claim an ownership or any other legal right or title in ("Prior Inventions"). If you do not claim an ownership or other legal right or title in a Prior Invention because you assigned all rights to a previous employer, then you should not list the Prior Invention. You should not include any information that is subject to a confidentiality obligation to a third party.

You agree that you will not incorporate, or permit to be incorporated, any Prior Inventions in any Apple product, service, process, or method (collectively "Apple Product") without Apple's prior written consent. You further agree to grant and do hereby grant to Apple a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license without any additional compensation to make, have made, use, offer to sell, sell, import, export, reproduce, modify, display, perform, transmit, and otherwise distribute and exploit any listed Prior Invention(s) that is incorporated or used in or for an Apple Product, (i) with your knowledge, involvement, acquiescence, or permission, (ii) if you were involved in the development or implementation of the relevant part of the Apple Product, or (iii) if you do not promptly object to the public use or commercialization of the relevant part of the Apple Product in a written notice to an Apple Vice President.

If you do not list a Prior Invention, you acknowledge and agree that no such Prior Inventions exist, and, to the extent such Prior Inventions do exist, you waive any and all past, present, and future claims against Apple relating to such Prior Inventions. You understand that your listing of any Prior Inventions here does not constitute an acknowledgment by Apple of the existence or extent of such Prior Inventions, nor of any ownership of such Prior Inventions. Please do not use this space to disclose an ongoing business or project, or a product that you are developing and/or distributing; such ongoing activity must be disclosed and presented to your manager in writing, and approved in advance by your Apple Vice President.

Prior Inventions (description and identifying number of patent or patent application, if applicable):

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Title

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Date

---

Brief description of invention

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☐ A separate sheet listing Prior Inventions is attached.

- C. **Apple Ownership of Inventions.** You confirm and agree that all Inventions that (a) are developed using any equipment, supplies, facilities or Proprietary Information provided by Apple; (b) result from or are suggested by work performed by you for Apple or Proprietary Information provided by Apple; or (c) are conceived of or reduced to practice during the time you are employed by Apple and relate to any aspect of Apple's business or products, or Apple's actual or anticipated research and development (collectively "Apple Inventions") are the sole and exclusive property of Apple. You agree to make a full written disclosure promptly to Apple of any and all Apple Inventions. You agree that no additional compensation or remuneration is or will become due to you in consideration for Apple's ownership of the Apple Inventions, and that any award or bonus provided to you (for example pursuant to a patent award program) will be at Apple's sole discretion and is not a condition for Apple's ownership of any Inventions. You acknowledge and agree that you have no right to, and will not directly or indirectly use Apple Inventions except as authorized by Apple for your work at Apple. For example, you agree not to:
- (a) reproduce, manufacture, market, publish, distribute, sell, license, or sublicense, transfer, rent, lease, transmit, broadcast, display, or use the Apple Inventions, or any portion or copy thereof, in any form;
  - (b) apply for, or apply to register, any patent, copyright, trademark, mask work, or other industrial property right or intellectual property right in or related to the Apple Inventions, anywhere in the world; or (c) cause other persons, companies, or organizations to do any of the above.

**Assignment, License, and/or Waiver of Rights to Apple Inventions.** If any applicable laws and regulations provide that certain rights in any Apple Inventions vest in Employee, you hereby agree to assign and do hereby assign such rights to Apple to the fullest extent legally permitted, including any "moral" rights that you may have in any Apple Invention(s) under the copyright or other law, whether U.S. or foreign, and Apple hereby accepts such assignment (the "Assigned Inventions"). You acknowledge that all original works of authorship that are made by you (solely or jointly with others) within the scope of your employment by Apple, and that are protectable by copyright, are works made for hire, as that term is defined in the United States Copyright Act (17 U.S.C. §101). In the event that any rights to an Apple Invention are not effectively assigned to Apple, then you hereby grant Apple a license to make, have made, use, offer to sell, sell, import, export, reproduce, modify, display, perform, transmit and otherwise distribute and exploit, in its sole discretion, the Apple Inventions (and modified and derivative works thereof). The license rights under this clause shall be free of charge, perpetual, irrevocable, exclusive (you shall not use or otherwise exploit the Apple Inventions nor appoint other licensees), worldwide, and transferable, and Apple shall have the right to sublicense. In the event that there are any rights to an Apple Invention that are not effectively assigned or licensed to Apple pursuant to the foregoing provisions, then you irrevocably waive and agree not to exercise or assert any rights to any such Apple Inventions worldwide, including but not limited to all moral rights, rights of attribution, identification of authorship, limitation on subsequent modification or other "personal rights" in the Apple Inventions, during or after the termination of your employment by Apple. You agree that Apple and its licensees are not required to designate you as the author of any Apple Inventions when distributed.

**Protection of Apple Inventions.** You agree, during and after termination of employment, whether voluntary or involuntary, to assist Apple or any party designated by Apple (at Apple's expense) in every proper way to obtain, perfect, confirm, realize rights in, and/or enforce all of Apple's ownership and other rights to Apple Inventions in any and all countries. This includes promptly executing any documents that Apple may reasonably request for use in obtaining or enforcing such patents, copyrights, and other legal protections.

- D. **Excluded Employee Inventions.** Apple acknowledges and agrees, in accordance with any applicable law,<sup>2</sup> that any Inventions (a) that you develop entirely on your own time; and (b) that you develop without using Apple's equipment, supplies, facilities, or trade secret information; and (c) that do not result from any work performed by you for Apple; and (d)<sup>3</sup> that do not relate, at the time of conception or reduction to practice, to Apple's business or products, or to Apple's actual or demonstrably anticipated research or development, will be owned entirely by you, even if developed by you during the time period in which you are employed by Apple.

### III. NO CONFLICTING OBLIGATIONS

- A. **No Conflicting Outside Interests.** You agree that during your employment by Apple, you will not plan or engage in any other employment, occupations, consulting, or other business activities or commitments competitive with or directly related to Apple's business or products, or to its actual or demonstrably anticipated research or development, nor will you engage in any other activities that conflict with any employment obligations to Apple. Activities and commitments as used herein do not include passive investments in stocks or other financial instruments.
- B. **No Conflicting Agreements.** You represent to Apple that you have no other commitments that would hinder or prevent the full performance of your duties as an Apple employee or your obligations under this Agreement, and you agree not to enter into any such conflicting agreement during the tenure of employment by Apple.
- C. **Disclosure of Agreement.** You hereby authorize Apple to notify others, including customers of Apple, and any future employers you may have, of the terms of this Agreement and your responsibilities under this Agreement.
- D. **No Solicitation.** To the fullest extent permitted by applicable law, during your employment and for a period of one (1) year following your termination (whether voluntary or involuntary), you will not, directly or indirectly, on your own behalf or on behalf of any person or entity, solicit, recruit, or take any action intended to induce Apple employees or contractors to terminate their relationship with Apple.

### IV. NON-COMPLIANCE

You acknowledge and agree that the limitations set forth herein are reasonable with respect to scope and duration, and are properly required for the protection of the legitimate interest of Apple. If you breach any part of this Agreement, Apple is entitled to take any action to the extent permissible under applicable laws and this Agreement, including but not limited to terminating employment, initiating a legal proceeding, filing a

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<sup>2</sup> For employees in California: Labor Code §2870 provides: "(a) Any provision in an employment agreement which provides that an employee shall assign, or offer to assign, any of his or her rights in an invention to his or her employer shall not apply to an invention that the employee developed entirely on his or her own time without using the employer's equipment, supplies, facilities, or trade secret information, except for those inventions that either: (1) Relate at the time of conception or reduction to practice of the invention to the employer's business, or actual or demonstrably anticipated research or development of the employer, or (2) Result from any work performed by the employee for the employer. (b) To the extent a provision in an employment agreement purports to require an employee to assign an invention otherwise excluded from being required to be assigned under subdivision (a) the provision is against the public policy of this state and is unenforceable."

<sup>3</sup> For employees in the states of Kansas, Minnesota, or Washington, in accordance with Section 44-130 of the Kansas Statute, Section 181.78(3) of the Minnesota Statute, and Section 49.44.140(3) of the Washington State Code, respectively: Section II.D(d) reads as follows: "(d) that do not directly relate, at the time of conception or reduction to practice, to Apple's business or products, or actual or demonstrably anticipated research or development of Apple, will be owned entirely by you, even if developed by you during the time period in which you are employed by Apple."

complaint to relevant administrative departments, and assisting the relevant judicial authorities to pursue your liabilities in case that your breach of this Agreement has violated any criminal laws.

You acknowledge and agree that any breach of this Agreement could give rise to irreparable harm to Apple for which money damages may not be an adequate remedy. Because such harm and injury may not be compensable by damages, you agree that Apple will have the right to enforce this Agreement by injunction, specific performance, or other equitable relief without posting of a bond or security and without prejudice of any other rights and remedies available. Accordingly, Apple may apply to any court of competent jurisdiction for any interim or conservatory measures, including temporary or permanent injunctive relief or to compel arbitration.

## V. NO IMPLIED EMPLOYMENT RIGHTS

You understand and agree that no term or provision of this Agreement confers upon you any rights to continued employment by Apple and that no term or provision of this Agreement obligates Apple to employ you for any specific period of time or interferes with or restricts your right or, to the fullest extent permitted by applicable law, Apple's right to terminate your employment at will, at any time for any reason with or without cause or prior notice.

## VI. GENERAL PROVISIONS

- A. **Severability.** If one or more of the provisions of this Agreement are deemed void or unenforceable by law, then the remaining provisions will continue in full force and effect and the Parties or a tribunal of competent jurisdiction shall substitute suitable provisions having like effect.
- B. **Governing Law.** This agreement will be governed in accordance with the laws of the state where you are currently or were most recently employed by Apple. If this Agreement is executed in the U.S., any judicial action between the parties relating to this Agreement will take place in Santa Clara County, California, and you consent to the personal jurisdiction of and venue in the state and federal courts within Santa Clara County, California.
- C. **Successors and Assigns.** This Agreement will be binding upon your heirs, executors, administrators, and other legal representatives, and will be for the benefit of Apple, its successors, and assigns. You may not assign or transfer this Agreement, in whole or in part, to any other person or entity.
- D. **Entire Agreement.** This Agreement sets forth the entire agreement between you and Apple relating to the subject matter of this Agreement. No modification to or amendment of this Agreement, nor any waiver of any rights under this Agreement, will be effective unless in writing signed by both you and an Apple Vice President. Any subsequent changes in your duties, salary, or compensation will not affect the validity or scope of this Agreement.
- E. **Compliance with Laws.** You agree that you will comply, and do all things necessary for Apple to comply, with the laws and regulations of all governments where Apple do business, and with provisions of contracts between any such government or its contractors and Apple.

## VII. VOLUNTARY AGREEMENT

You acknowledge that you have read this Agreement carefully, that you understand all of its terms, that all agreements between you and Apple relating to the subjects covered in this Agreement are contained in it, and that you have entered into this Agreement voluntarily and not in reliance upon any promises or representations other than those contained in this Agreement itself.



You further acknowledge that you have had the opportunity to discuss this Agreement with private legal counsel.

This Agreement is and will be effective on and after the first day of your employment.

Understood and agreed by:

Andrew Aude  
Employee's signature

02-10-2016  
Date

Andrew Aude  
Printed Employee's full name

Please make and retain a copy of this agreement for your records.

# **EXHIBIT B**

APPLE INC.  
2022 EMPLOYEE STOCK PLAN  
GLOBAL RESTRICTED STOCK UNIT AWARD AGREEMENT

GLOBAL TERMS AND CONDITIONS OF RESTRICTED STOCK UNIT AWARD

1. **General.** These Global Terms and Conditions of Restricted Stock Unit Award (these "**Terms**") apply to a particular restricted stock unit award (the "**Award**") granted by Apple Inc., a California corporation (the "**Company**"), and are incorporated by reference in the Notice of Grant (the "**Grant Notice**") corresponding to that particular grant. The recipient of the Award identified in the Grant Notice is referred to as the "**Participant**." The effective date of grant of the Award as set forth in the Grant Notice is referred to as the "**Award Date**." The Award was granted under and is subject to the provisions of the Apple Inc. 2022 Employee Stock Plan, as amended from time to time (the "**Plan**"). Capitalized terms are defined in the Plan if not defined herein. The Award is discretionary and has been granted to the Participant in addition to, and not in lieu of, any other benefit or compensation otherwise payable or to be paid to the Participant. The Grant Notice and these Terms (including the country-specific Attachment A) are collectively referred to as the "**Award Agreement**" applicable to the Award.

2. **RSUs.** As used herein, the term "**RSU**" shall mean a non-voting unit of measurement which is deemed for bookkeeping purposes to be equivalent to one Share solely for purposes of the Plan and this Award Agreement. The RSUs shall be used solely as a device for the determination of the payment to eventually be made to the Participant if such RSUs vest pursuant to this Award Agreement. The RSUs shall not be treated as property or as a trust fund of any kind.

3. **Vesting.** Subject to Sections 4 and 8 below, the Award shall vest and become nonforfeitable as set forth in the Grant Notice. (Each vesting date set forth in the Grant Notice is referred to herein as a "**Vesting Date**".) Unless and until the Company elects to issue fractional Shares in settlement of a vested RSU, any fractional RSUs that vest on a Vesting Date shall be carried forward and vest when such combined fractional RSUs result in a full RSU and any fractional RSU that is not carried forward as a result of a termination of the Award prior to the next subsequent Vesting Date shall be forfeited.

4. **Continuance of Employment.** Except as provided in this Section 4 and in Section 8 below, vesting of the Award requires continued active service through each applicable Vesting Date as a condition to the vesting of the applicable installment of the Award and the rights and benefits under this Award Agreement. Active service for only a portion of the period between the Vesting Commencement Date and the first Vesting Date or between subsequent Vesting Dates, even if a substantial portion, will not entitle the Participant to any proportionate vesting of the Award. For purposes of this Award Agreement, active service shall include (a) the duration of an approved leave of absence (other than a personal leave of absence) and (b) the first thirty (30) days of an approved personal leave of absence, in each case as approved by the

Company, in its sole discretion. The vesting of the Award shall be tolled beginning on the thirty-first (31st) day of a personal leave of absence.

Nothing contained in this Award Agreement or the Plan constitutes an employment or service commitment by the Company or any Subsidiary, affects the Participant's employment status, confers upon the Participant any right to remain employed by or in service to the Company or any Subsidiary, interferes in any way with the right of the Company or any Subsidiary at any time to terminate such employment or services with or without cause, or affects the right of the Company or any Subsidiary to increase or decrease the Participant's compensation or benefits. Nothing in this Section 4, however, is intended to adversely affect any independent contractual right of the Participant without the Participant's consent thereto.

**5. Dividend and Voting Rights.**

(a) **Limitations on Rights Associated with RSUs.** The Participant shall have no rights as a shareholder of the Company, no dividend rights (except as expressly provided in Section 5(b) with respect to Dividend Equivalent Rights) and no voting rights, with respect to the RSUs or any Shares underlying or issuable in respect of such RSUs until such Shares are actually issued to and held of record by the Participant. No adjustments will be made for dividends or other rights of a holder for which the record date is prior to the date of issuance of the stock certificate or book entry evidencing such Shares.

(b) **Dividend Equivalent Rights Distributions.** As of any date that the Company pays an ordinary cash dividend on its Shares, the Company shall credit the Participant with a U.S. dollar amount equal to (i) the per share cash dividend paid by the Company on its Shares on such date, multiplied by (ii) the total number of RSUs (with such total number adjusted pursuant to Section 11 of the Plan) subject to the Award that are outstanding immediately prior to the record date for that dividend (a "**Dividend Equivalent Right**"). Any Dividend Equivalent Rights credited pursuant to the foregoing provisions of this Section 5(b) shall be subject to the same vesting terms, conditions and restrictions as the original RSUs to which they relate; provided, however, that the amount of any vested Dividend Equivalent Rights shall be paid in cash or, at the Company's discretion, in a number of Shares equal to (x) the U.S. dollar amount of the Dividend Equivalent Rights to be paid, divided by (y) the Fair Market Value of a Share on the Vesting Date, less any Tax-Related Items (as defined below) withholding. No crediting of Dividend Equivalent Rights shall be made pursuant to this Section 5(b) with respect to any RSUs which, immediately prior to the record date for that dividend, have either been paid pursuant to Section 7 or terminated pursuant to Section 8.

**6. Restrictions on Transfer.** Neither the Award, the Dividend Equivalent Rights nor any interest therein or amount or Shares payable in respect thereof may be sold, assigned, transferred, pledged or otherwise disposed of, alienated or encumbered, either voluntarily or involuntarily.

**7. Timing and Manner of Payment of RSUs.** On or as soon as administratively practical following each vesting event pursuant to Section 3 or Section 8 (and in all events not

later than two and one-half (2 ½) months after such vesting event), the Company shall deliver to the Participant a number of Shares (either by delivering one or more certificates for such Shares or by entering such Shares in book entry form, as determined by the Company in its discretion) equal to the number of RSUs that vest on the applicable Vesting Date, less Tax-Related Items, unless such RSUs terminate prior to the given Vesting Date pursuant to Section 8. The Company's obligation to deliver Shares or otherwise make payment with respect to vested RSUs is subject to the condition precedent that the Participant or other person entitled under the Plan to receive any Shares with respect to the vested RSUs deliver to the Company any representations or other documents or assurances required pursuant to Section 13(c) of the Plan. The Participant shall have no further rights with respect to any RSUs that are paid or that terminate pursuant to Section 8.

**8. Effect of Termination of Service.** Except as expressly provided in this Section 8, the Participant's RSUs (as well as the related Dividend Equivalent Rights) shall terminate to the extent such RSUs have not become vested prior to the Participant's Termination of Service, meaning the date the Participant is no longer actively providing services to the Company or one of its Subsidiaries (the "**Severance Date**"), regardless of the reason for the Participant's Termination of Service, whether with or without cause, voluntarily or involuntarily, or whether the Participant was in active service for a portion of the vesting period prior to a Vesting Date and even if the Participant's Termination of Service is later determined to be invalid and the Participant's employment is reinstated and the Participant will have no right to the terminated RSUs, any underlying Shares or the cash equivalent. Notwithstanding the foregoing, in the event the Participant's Termination of Service is due to the Participant's Disability at a time when RSUs remain outstanding and unvested under the Award, (a) the Award shall vest with respect to the number of RSUs determined by multiplying (i) the number of then-outstanding and unvested RSUs as well as the related Dividend Equivalent Rights subject to the Award that would have otherwise vested pursuant to Section 3 on the next Vesting Date following the Severance Date but for such Termination of Service, by (ii) a fraction, the numerator of which shall be the number of days that have elapsed between the Vesting Date that immediately preceded the Severance Date (or, in the case of a Termination of Service prior to the initial Vesting Date, the Vesting Commencement Date) and the Severance Date, and the denominator of which shall be the number of days between the Vesting Date that immediately preceded the Severance Date (or, in the case of a Termination of Service prior to the initial Vesting Date, the Vesting Commencement Date) and the next Vesting Date following the Severance Date that would have occurred but for such Termination of Service; and (b) any RSUs (as well as the related Dividend Equivalent Rights) that are not vested after giving effect to the foregoing clause (a) shall terminate on the Severance Date. Further, in the event the Participant's Termination of Service is due to the Participant's death, any then-outstanding and unvested RSUs subject to the Award shall be fully vested as of the Severance Date, and any Dividend Equivalent Rights credited to the Participant shall be paid. For the sake of clarity, the Severance Date does not include any contractual notice period in which the Participant does not actively provide services or any active or inactive period of "garden leave" or similar period mandated under employment laws in the jurisdiction where the Participant is employed or the terms of the Participant's employment agreement, if any. Except as expressly provided in Section 4 above, the

Committee shall have the exclusive discretion to determine when the Participant is no longer actively providing services for purposes of the Participant's Award. If any unvested RSUs are terminated hereunder, such RSUs (as well as the related Dividend Equivalent Rights) shall automatically terminate and be cancelled as of the applicable Severance Date without payment of any consideration by the Company and without any other action by the Participant, or the Participant's personal representative, as the case may be.

**9. Recoupment.** Notwithstanding any other provision herein, the Award and any Shares or other amount or property that may be issued, delivered or paid in respect of the Award, as well as any consideration that may be received in respect of a sale or other disposition of any such Shares or property, shall be subject to any recoupment, "clawback" or similar provisions of Applicable Laws relevant to the Company's Shares. In addition, the Company may require the Participant to deliver or otherwise repay to the Company the Award and any Shares or other amount or property that may be issued, delivered or paid in respect of the Award, as well as any consideration that may be received in respect of a sale or other disposition of any such Shares or property, if the Company reasonably determines that one or more of the following has occurred:

(a) during the period the Participant provides active services to the Company or any of its Subsidiaries through the Severance Date (the "**Employment Period**"), the Participant has committed a felony (under the laws of the United States or any relevant state, or a similar crime or offense under the applicable laws of any relevant non-US jurisdiction); or

(b) during the Employment Period or at any time thereafter, the Participant has committed or engaged in a breach of confidentiality, or an unauthorized disclosure or use of inside information, customer lists, trade secrets or other confidential information of the Company or any of its Subsidiaries; or

(c) during the Employment Period or at any time thereafter, the Participant has committed or engaged in an act of theft, embezzlement or fraud, or materially breached any agreement to which the Participant is a party with the Company or any of its Subsidiaries.

For purposes of the foregoing, the Participant expressly and explicitly authorizes the Company to issue instructions, on the Participant's behalf, to any brokerage firm or third party administrator holding the Participant's Shares and other amounts acquired under the Plan to re-convey, transfer, or otherwise return such Shares and other amounts to the Company. This Section 9 is not the Company's exclusive remedy with respect to such matters.

**10. Adjustments Upon Specified Events.** Upon the occurrence of certain events relating to the Company's Shares contemplated by Section 11 of the Plan (including, without limitation, an extraordinary cash dividend on such stock), the Committee shall make adjustments in accordance with such section in the number of RSUs then outstanding and the number and kind of securities that may be issued in respect of the Award. No such adjustment shall be made with respect to any ordinary cash dividend for which Dividend Equivalent Rights are credited pursuant to Section 5(b).

11. **Responsibility for Taxes.** The Participant acknowledges that, regardless of any action the Company or the Participant's employer (the "**Employer**") take with respect to any Tax-Related Items, the ultimate liability for all Tax-Related Items is and remains the Participant's responsibility and may exceed the amount, if any, actually withheld by the Company or the Employer. The Participant further acknowledges that the Company and the Employer (i) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Award, including the grant of the RSUs, the vesting of the RSUs, the delivery of Shares, the subsequent sale of any Shares acquired at vesting, and the receipt of any dividends or Dividend Equivalent Rights; and (ii) do not commit to and are under no obligation to structure the terms of the grant or any aspect of the Award to reduce or eliminate the Participant's liability for Tax-Related Items or achieve any particular tax result. Further, if the Participant is or becomes subject to tax in more than one jurisdiction, the Participant acknowledges that the Company or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

Prior to the relevant taxable or tax withholding event, as applicable, the Participant shall pay or make arrangements satisfactory to the Company or the Employer to satisfy all Tax-Related Items. In this regard, the Participant authorizes the Company or the Employer, or their respective agents, at their discretion and pursuant to such procedures as they may specify from time to time, to satisfy any applicable withholding obligations with regard to all Tax-Related Items by one or a combination of the following:

- (a) withholding from any wages or other cash compensation payable to the Participant by the Company or the Employer;
- (b) withholding otherwise deliverable Shares and from otherwise payable Dividend Equivalent Rights to be issued or paid upon vesting or settlement of the Award;
- (c) arranging for the sale of Shares otherwise deliverable to the Participant (on the Participant's behalf and at the Participant's direction pursuant to this authorization), including selling Shares as part of a block trade with other Participants in the Plan;
- (d) withholding from the proceeds of the sale of Shares acquired upon vesting/settlement of the Award; or
- (e) any other method of withholding determined by the Company to be permitted under the Plan and, to the extent required by Applicable Law or under the Plan, approved by the Committee.

The Company may withhold or account for Tax-Related Items by considering statutory withholding amounts or other withholding rates, including maximum rates applicable in the Participant's jurisdiction(s). If the maximum rate is used, any over-withheld amount may be refunded to the Participant in cash by the Company or Employer (with no entitlement to the Share equivalent) or if not refunded, the Participant may seek a refund from the local tax authorities. In the event of under-withholding, the Participant may be required to pay additional

Tax-Related Items directly to the applicable tax authority or to the Company or the Employer. If the obligation for Tax-Related Items is satisfied by withholding a number of Shares as described herein, for tax purposes, the Participant is deemed to have been issued the full number of Shares subject to the vested RSUs, notwithstanding that a number of the Shares are held back solely for the purpose of paying the Tax-Related Items. The Company may refuse to issue or deliver to the Participant any Shares or the proceeds of the sale of Shares if the Participant fails to comply with the Participant's obligations in connection with the Tax-Related Items.

**12. Electronic Delivery and Acceptance.** The Company may, in its sole discretion, deliver any documents related to the Award by electronic means or request the Participant's consent to participate in the Plan by electronic means. The Participant hereby consents to receive all applicable documentation by electronic delivery and to participate in the Plan through an on-line or voice activated system established and maintained by the Company or a third party vendor designated by the Company.

**13. Nature of Grant.** In accepting the Award, the Participant acknowledges, understands, and agrees that:

(a) the Plan is established voluntarily by the Company, it is discretionary in nature, and may be modified, amended, suspended, or terminated by the Company at any time, to the extent permitted by the Plan;

(b) the Award is an exceptional, discretionary, one-time grant, is voluntary, and occasional and does not create any contractual or other right to receive future awards of RSUs, or benefits in lieu of RSUs, even if RSUs have been awarded in the past;

(c) all decisions with respect to future awards, if any, will be at the sole discretion of the Company;

(d) the Participant's participation in the Plan is voluntary;

(e) the RSUs and the Shares subject to the Award, and any related income and value, are not intended to replace any pension rights or compensation;

(f) the RSUs and the Shares subject to the Award, and any related income and value, are extraordinary items that do not constitute compensation of any kind for services of any kind rendered to the Company or the Employer, and are outside the scope of the Participant's employment or service agreement, if any;

(g) the RSUs and the Shares subject to the Award, and any related income and value, are not part of normal or expected compensation or salary for purposes of, including, but not limited to, calculation of any severance, resignation, termination, redundancy, dismissal, end of service payments, bonuses, holiday pay, long-service awards, pension, retirement, welfare benefits, or similar payments;



(h) the Award and the Participant's participation in the Plan shall not create a right to employment or be interpreted as forming an employment or service contract with the Company, the Employer or any Subsidiary, nor do they amend any legal relationship or legal entitlement between the Participant and the Employer;

(i) the future value of the Shares underlying the RSUs is unknown, indeterminable, and cannot be predicted with certainty;

(j) no claim or entitlement to compensation or damages shall arise from (i) forfeiture or termination of the Award resulting from the Participant's Termination of Service as described in Section 8 and in the Plan (for any reason whatsoever, whether or not later found to be invalid or in breach of employment laws in the jurisdiction where the Participant is employed or the terms of the Participant's employment agreement, if any) and/or (ii) forfeiture, termination of the Award or recoupment of any Shares or other amount, property or benefits acquired in respect of the Award resulting from the application of Section 9 above;

(k) unless otherwise agreed with the Company, the RSUs and the Shares subject to the Award, and any related income and value, are not granted as consideration for, or in connection with, the service the Participant may provide as a director of a Subsidiary;

(l) unless otherwise provided in the Plan or by the Company in its discretion, the Award and the Participant's participation in the Plan do not create any entitlement to have the Award or any such benefits transferred to, or assumed by, another company, nor to be exchanged, cashed out, or substituted for, in connection with any corporate transaction affecting the Shares of the Company; and

(m) neither the Company, the Employer, nor any Subsidiary shall be liable for any foreign exchange rate fluctuation between the Participant's local currency and the U.S. dollar that may affect the value of the Award, or of any amounts due to the Participant pursuant to the settlement of the Award, or the subsequent sale of any Shares acquired upon settlement.

**14. No Advice Regarding Grant.** The Company is not providing any tax, legal, or financial advice, nor is the Company making any recommendations regarding the Participant's participation in the Plan, or the Participant's acquisition or sale of the underlying Shares. The Participant understands that the Participant should consult with the Participant's own personal tax, legal, and financial advisors regarding the Participant's participation in the Plan before taking any action related to the Plan.

**15. Notices.** Any notice to be given under the terms of this Award Agreement shall be in writing and addressed to the Company at its principal office to the attention of the Secretary, and to the Participant at the Participant's last address reflected on the Company's records, or at such other address as either party may hereafter designate in writing to the other. Any such notice shall be given only when received, but if the Participant is no longer an Employee of the Company, shall be deemed to have been duly given by the Company when enclosed in a properly sealed envelope addressed as aforesaid, registered or certified, and

deposited (postage and registry or certification fee prepaid) in a post office or branch post office regularly maintained by the United States Government or the foreign equivalent.

16. **Plan.** The Award and all rights of the Participant under this Award Agreement are subject to the terms and conditions of the provisions of the Plan, incorporated herein by reference. The Participant agrees to be bound by the terms of the Plan and this Award Agreement. The Participant acknowledges having read and understood the Plan, the Prospectus for the Plan, and this Award Agreement. Unless otherwise expressly provided in other sections of this Award Agreement, provisions of the Plan that confer discretionary authority on the Board or the Committee do not (and shall not be deemed to) create any rights in the Participant unless such rights are expressly set forth herein or are otherwise in the sole discretion of the Board or the Committee so conferred by appropriate action of the Board or the Committee under the Plan after the date hereof.

17. **Entire Agreement.** This Award Agreement and the Plan together constitute the entire agreement and supersede all prior understandings and agreements, written or oral, of the parties hereto with respect to the subject matter hereof. The Plan and this Award Agreement may be amended pursuant to Section 15 of the Plan. Such amendment must be in writing and signed by the Company. The Company may, however, unilaterally waive any provision hereof in writing to the extent such waiver does not adversely affect the interests of the Participant hereunder, but no such waiver shall operate as or be construed to be a subsequent waiver of the same provision or a waiver of any other provision hereof.

18. **Limitation on the Participant's Rights.** Participation in the Plan confers no rights or interests other than as herein provided. This Award Agreement creates only a contractual obligation on the part of the Company as to amounts payable and shall not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. The Participant shall have only the rights of a general unsecured creditor of the Company with respect to amounts credited and benefits payable, if any, with respect to the RSUs, and rights no greater than the right to receive the Shares as a general unsecured creditor with respect to RSUs, as and when payable hereunder.

19. **Section Headings.** The section headings of this Award Agreement are for convenience of reference only and shall not be deemed to alter or affect any provision hereof.

20. **Governing Law.** This Award Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California and applicable U.S. federal laws without regard to conflict of law principles thereunder.

21. **Choice of Venue.** For purposes of litigating any dispute that arises directly or indirectly from the relationship of the parties evidenced by this grant or this Award Agreement, the parties hereby submit to the exclusive jurisdiction of the State of California and agree that such litigation shall be conducted only in the courts of Santa Clara County, California, or the federal courts for the Northern District of California, and no other courts, where this grant is made or to be performed.

22. **Severability.** The provisions of this Award Agreement are severable and if any one or more provisions are determined to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.

23. **Construction.** It is intended that the terms of the Award will not result in the imposition of any tax liability pursuant to Section 409A of the Code. This Award Agreement shall be construed and interpreted consistent with that intent.

24. **Language.** The Participant acknowledges and represents that the Participant is proficient in the English language, or has consulted with an advisor who is sufficiently proficient in English, so as to allow the Participant to understand the terms of this Award Agreement, and any other documents related to the Award. If the Participant has received this Award Agreement or any other document related to the Plan translated into a language other than English and if the meaning of the translated version is different than the English version, the English version will control, unless otherwise required by Applicable Laws.

25. **Insider-Trading Restrictions / Market-Abuse Laws.** The Participant acknowledges that, depending on the Participant's country or the broker's country or where the Shares are listed, the Participant may be subject to insider-trading restrictions or market-abuse laws, which may affect the Participant's ability to accept, acquire, sell, or otherwise dispose of Shares or rights to Shares (*e.g.*, the RSUs) or rights linked to the value of Shares under the Plan during such times as the Participant is considered to have "inside information" regarding the Company (as defined by laws or regulations in the applicable jurisdictions). Further, the Participant acknowledges that local insider trading laws and regulations may prohibit the cancellation or amendment of orders the Participant placed before the Participant possessed inside information and that the Participant may be prohibited from disclosing inside information to any third party and "tipping" third parties or causing them to otherwise buy or sell securities. Third parties include fellow employees. Any restrictions under these laws or regulations are separate from and in addition to any restrictions that may be imposed under the Company's insider-trading policy. The Participant should consult the Participant's personal legal advisor for details regarding any insider-trading restrictions or market-abuse laws in the Participant's country.

26. **Foreign Asset / Account or Tax Reporting; Exchange Control.** The Participant acknowledges that there may be certain exchange control, foreign asset/account, or tax reporting requirements which may affect the Participant's ability to acquire or hold Shares acquired under the Plan or cash received from participating in the Plan (including from any dividends paid on Shares acquired under the Plan or Dividend Equivalent Rights) in a brokerage or bank account outside the Participant's country. The Participant may be required to report such accounts, assets or transactions to the tax or other authorities in the Participant's country. The Participant also may be required to repatriate sale proceeds or other funds received as a result of the Participant's participation in the Plan to the Participant's country through a designated bank or broker within a certain time after receipt. The Participant acknowledges that it is the Participant's responsibility to be compliant with such regulations, and the Participant should consult the Participant's personal legal advisor for any details.

27. **Attachment A.** Notwithstanding any provisions in these Terms, the RSU grant shall be subject to any special terms and conditions set forth in Attachment A to these Terms for the Participant's country. Moreover, if the Participant relocates to one of the countries included in Attachment A, the special terms and conditions will apply to the Participant, to the extent the Company determines that the application of such terms and conditions is necessary or advisable for legal or administrative reasons. Attachment A constitutes part of this Award Agreement.

28. **Imposition of Other Requirements.** The Company reserves the right to impose other requirements on the Participant's participation in the Plan, on the RSUs and on any Shares acquired under the Plan, to the extent the Company determines it is necessary or advisable for legal or administrative reasons, and to require the Participant to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.