

AGREEMENT

This Agreement is made the 9th day of October, 1991
Between:

APPLE CORPS LIMITED an English Company with its principal place of business at 6 Stratton Street, London W1X 5FD, its Subsidiaries, and their respective successors in business and assigns, (collectively "Apple Corps"); and

APPLE COMPUTER, INC. a California Corporation with its principal place of business at 20525 Mariani Avenue, Cupertino, California 95014, its Subsidiaries, and their respective successors in business and assigns (collectively "Apple Computer").

Whereas, the context in which this Agreement arises is the parties' desire to reserve for Apple Corps' field of use for its trademarks, the record business, The Beatles, Apple Corps' catalog and artists and related material all as set forth in section 1.3 herein and to reserve for Apple Computer's field of use for its trademarks, the computer, data processing and telecommunications business as set forth in section 1.2 herein and to coordinate the use of their respective trademarks in such fields of use as set forth in section 4 herein.

ACCORDINGLY, THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

- 1.1. "Apple Catalog" means the sound recordings, musical works, films and videos which now or hereafter cannot be released or published without Apple Corps' consent.
- 1.2. "Apple Computer Field of Use" means (i) electronic goods, including but not limited to computers, microprocessors and microprocessor controlled devices, telecommunications equipment, data processing equipment, ancillary and peripheral equipment, and computer software of any kind on any medium; (ii) data processing services, data transmission services, broadcasting services, telecommunications services; (iii) ancillary services relating to any of the foregoing, including without limitation, training, education, maintenance, repair, financing and distribution; (iv) printed matter relating to any of the foregoing goods or services; and (v) promotional merchandising relating to the foregoing.

- 1.3. "Apple Corps Field of Use" means (i) the Apple Musical Artists; the Apple Catalog; personalities or characters which appear in or are derived from the Apple Catalog; the names, likenesses, voices or musical sounds of the Apple Musical Artists; any musical works or performances of the Apple Musical Artists; (ii) any current or future creative works whose principal content is music and/or musical performances; regardless of the means by which those works are recorded, or communicated, whether tangible or intangible; (iii) promotional merchandise relating to any of the foregoing; (iv) merchandising relating to the Apple Musical Artists and the Apple Catalog and the related subject matter set forth in subsection (i), including, without limitation, the commercial exploitation of personalities, characters, names, designs, images, words, photographs, drawings, or other materials through articles such as posters, toys, games (including computer games), novelties, figures, figurines and clothing; and (v) printed matter relating to any of the foregoing goods or services.
- 1.4. "Apple Computer Marks" means (i) any design, reproduction or other depiction of an apple, in whole or in part, except for a whole green apple or a half apple (of any color(s)); and (ii) the word "Apple".
- 1.5. "Apple Corps Marks" means (i) any design, reproduction or other depiction of an apple, in whole or in part, except a "rainbow" or multicolor striped apple (in whole or in part) or any apple (of any color(s)) with a "bite" removed; and (ii) the words "Apple", and "Zapple".
- 1.6. "Apple Corps Registrations" means all trade mark applications and registrations, current or future, of Apple Corps for the Apple Corps Marks.
- 1.7. "Apple Computer Registrations" means all trade mark applications and registrations, current or future, of Apple Computer for the Apple Computer Marks.
- 1.8. "Apple Musical Artists" means (i) The Beatles and (ii) any other musical recording artists whose works are now or in the future included in the Apple Catalog.
- 1.9. "Apple Corps Specification" shall mean the following wording (or its equivalent) for purposes of registration of the Apple Corps Marks: sound records, video records and cinematographic films.

- 1.10. "The Beatles" means George Harrison, John Lennon, Paul McCartney and Richard Starkey and all or any of them whether performing together as members of The Beatles or otherwise.
- 1.11. "Subsidiary(ies)" means any company or corporate entity which is owned or controlled, directly or indirectly, by Apple Corps Limited or Apple Computer, Inc. (as the case may be).

2. PAYMENT

Apple Computer shall pay to Apple Corps the sum of One Hundred Thousand Dollars (\$100,000) (exclusive of VAT), the receipt of which is hereby acknowledged by Apple Corps. Apple Computer shall be responsible for any VAT that may be levied as a consequence of such payment and will indemnify and hold harmless Apple Corps if any VAT is due but not paid and any attempt is made by the relevant authority to levy such upon Apple Corps. Apple Corps shall be responsible for any income or similar tax payable by Apple Corps as a consequence of the receipt of such payment and will indemnify and hold harmless Apple Computer if such tax is not paid and any attempt is made by the relevant fiscal authority to levy such upon Apple Computer. If there is any attempt to levy any VAT or income tax on the payment set forth herein, the indemnified party shall cooperate fully with the indemnifying party and the indemnifying party shall have the right to contest or control any proceeding arising in connection thereto.

3. REPRESENTATIONS AND WARRANTIES

- 3.1. Apple Corps represents and warrants that it has not and shall not enter into any licenses or other contracts or take any other action which conflicts with this Agreement.
- 3.2. Apple Computer represents and warrants that it has not and shall not enter into any licenses or other contracts or take any other action which conflicts with this Agreement.
- 3.3. Apple Corps represents and warrants that it has done everything necessary (including the passing of all necessary Board resolutions) to authorize the execution of this Agreement and that Neil Aspinall is duly authorized on behalf of Apple Corps to sign on its behalf and to bind it to the obligations herein.
- 3.4. Apple Computer represents and warrants that it has done everything necessary (including the passing of all

necessary Board resolutions) to authorize the execution of this Agreement and that Joseph Graziano is duly authorized on behalf of Apple Computer to sign on its behalf and to bind it to the obligations herein.

4. RIGHTS TO USE TRADEMARKS

- 4.1. Apple Computer shall have the exclusive worldwide right, as between the parties, to use and authorize others to use the Apple Computer Marks on or in connection with goods and services within the Apple Computer Field of Use.
- 4.2. Apple Corps shall have the exclusive worldwide right, as between the parties, to use and authorize others to use the Apple Corps Marks on or in connection with goods and services within the Apple Corps Field of Use.
- 4.3. The parties acknowledge that certain goods and services within the Apple Computer Field of Use are capable of delivering content within the Apple Corps Field of Use. In such case, even though Apple Corps shall have the exclusive right to use or authorize others to use the Apple Corps Marks on or in connection with content within subsection 1.3(i) or (ii), Apple Computer shall have the exclusive right to use or authorize others to use the Apple Computer Marks on or in connection with goods or services within subsection 1.2 (such as software, hardware or broadcasting services) used to reproduce, run, play or otherwise deliver such content provided it shall not use or authorize others to use the Apple Computer Marks on or in connection with physical media delivering pre-recorded content within subsection 1.3(i) or (ii) (such as a compact disc of the Rolling Stones music).
- 4.4. Notwithstanding Section 4.2, Apple Computer shall have the right to use or authorize others to use the Apple Computer Marks on or in connection with goods within Section 1.3(ii) (but not within Section 1.3(i)) which are not charged for separately (other than for costs of shipping and handling) for the bona fide purpose of training, advertising, promoting, or demonstrating the use of goods within the Apple Computer Field of Use.
- 4.5. Except in connection with the other party's exclusive fields of use and as otherwise provided herein, either party may use and authorize the use of its Marks on or in connection with any goods or services, except where such use causes or is likely to cause confusion with the use of the other party's Marks. No such confusion

shall in any way restrict either party's exclusive rights under subsections 4.1 and 4.2.

- 4.6 Both parties shall have the non-exclusive right to use and authorize others to use their respective Marks on or in connection with any current or future creative works whose principal subject matter is music or musical performances of artists or composers (provided, in the case of Apple Computer, that such works do not fall within either subsections 1.3(i) or (ii)).
- 4.7. The rights of use contained in this Section 4 shall apply notwithstanding any registrations, trade marks or other rights of either party.
- 4.8. Apple Corps agrees not to use or authorize others to use a "rainbow" or multicolor striped apple or any apple (of any color(s)) with a "bite" removed and Apple Computer agrees not to use or authorize others to use a whole green apple or a half apple (of any color(s)) or the word mark "Zapple."
- 4.9. Except as provided in subsection 4.4, neither party shall use or authorize others to use their respective Marks on or in connection with the other party's exclusive field of use hereunder.

5. REGISTRATIONS

- 5.1. If any Apple Corps Registrations are now or in the future cited by any trademark authority against any Apple Computer application for any Apple Computer Marks, the parties agree to take the following steps:
 - 5.1.1. If such Apple Computer application includes any of the Apple Corps Specification, Apple Computer agrees to part-cancel or amend such application to exclude the Apple Corps Specification.
 - 5.1.2. If the procedure in subsection 5.1.1 fails to overcome the citation, Apple Corps shall, within twenty-eight (28) days of written request of Apple Computer, accompanied by all relevant documents in a form reasonably acceptable to Apple Corps' counsel and ready for execution, provide written consent to the registration of said Apple Computer application.

- 5.1.3. If the procedure in subsection 5.1.2 fails to overcome the citation, upon written request, Apple Corps shall use best efforts to part-cancel or amend the cited Apple Corps Registrations to exclude all goods necessary to facilitate the registration provided that it shall have no obligation to exclude the Apple Corps Specification.
- 5.1.4. If such part-cancellation or amendment is not allowed or if it shall fail to enable the registration of the Apple Computer application:
- 5.1.4.1. Except as provided in subsection 5.1.4.3, for Apple Computer applications for computer hardware filed prior to the date of this Agreement in Spain only:
- (a) Apple Corps shall assign to Apple Computer the applicable cited Apple Corps Registration(s) within twenty-eight (28) days of Apple Computer's written request.
 - (b) Thereafter, and to the extent allowed or possible under the trademark laws of the relevant jurisdiction, Apple Computer shall assign back to Apple Corps said Apple Corps Registration(s) no later than ninety (90) days after the issuance of Apple Computer's registration or if, as of the date of issuance, there is an outstanding action undertaken by Apple Computer under the assigned Apple Corps Registration(s) against a third party in the relevant jurisdiction, such reassignment shall take place no later than ninety (90) days after the final judgment in such action; provided, however, that if at such date Apple Computer shall be prohibited from making such reassignment, then it shall assign the said Registration back to Apple Corps within ninety (90) days after Apple Corps' written request subsequent to the

trademark laws being changed to permit such re-assignment.

- (c) Apple Computer shall grant to Apple Corps an exclusive, royalty-free license in perpetuity to use or authorize others to use the Apple Corps Marks, pursuant to the assigned Apple Corps Registration, on or in connection with the Apple Corps Field of Use in that jurisdiction, in accordance with the terms and conditions of this Agreement, which license shall be effective for so long as it holds such Registration.

5.1.4.2. Except as provided in subsection 5.1.4.3, for all other past and future Apple Computer applications (including without limitation computer software) in all other countries:

- (a) Apple Computer shall assign to Apple Corps the applicable Apple Computer application(s). Apple Corps shall provide Apple Computer or its authorized agent with a Power of Attorney to enable Apple Computer to prosecute the Apple Computer application(s) under Apple Corps' name.
- (b) Upon the registration of the Apple Computer application in the name of Apple Corps, and to the extent allowed or possible under the trademark laws of the relevant jurisdiction, Apple Corps shall assign back to Apple Computer said Apple Computer Registration(s), but only insofar as such assignment may be made without adversely affecting Apple Corps' pre-existing registrations.
- (c) Apple Corps shall grant to Apple Computer an exclusive, royalty free license in perpetuity to use or authorize others to use the Apple Computer Marks, pursuant to the assigned Apple Computer applica-

tion(s), on or in relation to the Apple Computer Field of Use in that jurisdiction, in accordance with the terms and conditions of this Agreement, which license shall be effective for so long as it holds such Registration.

- 5.1.4.3 For Apple Computer applications for computer hardware filed prior to the date of this Agreement in Sweden, Portugal and Brazil only the parties shall discuss whether the procedure set forth in subsection 5.1.3 and/or 5.1.4.2 would be sufficient for Apple Computer to secure registration and if it is agreed that such a course of action would succeed then the provisions of subsection 5.1.3 and/or 5.1.4.2 shall apply to such applications. If it is agreed that such a course of action would not succeed then the provisions of subsection 5.1.4.1 shall apply to such applications.
- 5.1.5. All actions undertaken pursuant to this Section 5.1 shall be at the expense of Apple Computer, which shall fully indemnify and hold harmless Apple Corps for all costs and expenses (including attorneys' fees) arising from such actions.
- 5.2. If any Apple Computer Registrations are now or in the future cited by any trademark authority against any Apple Corps application for any Apple Corps Marks, the parties agree to take the following steps:
 - 5.2.1. Apple Corps agrees to part-cancel or amend such application to exclude all goods or services other than the Apple Corps Specification.
 - 5.2.2. If the procedure in subsection 5.2.1 fails to overcome the citation, Apple Computer shall, within twenty-eight (28) days of written request of Apple Corps, accompanied by all relevant documents in a form reasonably acceptable to Apple Computer's counsel and ready for execution, provide written consent to the registration of said Apple Corps application.

- 5.2.3. If the procedure in subsection 5.2.2 fails to overcome the citation, upon written request, Apple Computer shall use best efforts to part-cancel or amend the cited Apple Computer Registrations to exclude the goods set forth in the Apple Corps Specification.
- 5.2.4. If such part-cancellation or amendment is not allowed or if it shall fail to enable the registration of the Apple Corps application(s):
- 5.2.4.1. Apple Corps shall assign to Apple Computer the applicable Apple Corps application(s) or file such applications in the name of Apple Computer. Apple Computer shall provide Apple Corps or its authorized agent, with a Power of Attorney to enable Apple Corps to prosecute the Apple Corps application(s) under Apple Computer's name.
- 5.2.4.2. Upon the registration of the Apple Corps application in the name of Apple Computer, and to the extent allowed or possible under the trademark laws of the relevant jurisdiction, Apple Computer shall assign back to Apple Corps said Apple Corps Registration(s) but only insofar as such assignment may be made without adversely affecting Apple Computer's pre-existing registrations.
- 5.2.4.3. Apple Computer shall grant to Apple Corps an exclusive, royalty free license in perpetuity to use or authorize others to use the Apple Corps Marks, pursuant to the assigned Apple Corps application(s), on or in connection with the Apple Corps Field of Use in that jurisdiction, in accordance with the terms and conditions of this Agreement, which license shall be effective for so long as it holds such Registration.
- 5.2.5. All actions undertaken pursuant to this Section 5.2 shall be at the expense of Apple Corps, which shall fully indemnify and hold harmless Apple Computer for all costs and expenses (including attorneys' fees) arising from such actions.

- 5.3. The assignee of any Registration pursuant to subsections 5.1.4.1(a), 5.1.4.2(a) or 5.2.4.1 shall permit the assignor to enforce its rights against third parties by virtue of such registration as if the assignor had remained the owner of the relevant registration; and the assignor shall indemnify and hold harmless the assignee for all liabilities, costs and expenses (including legal fees) arising from any such enforcement of the assignor's rights.
6. NO CHALLENGE; LIMITS ON USE/RESTRICTIONS IN EEC
- 6.1. Neither party shall challenge the other party's trademark registrations or applications for registration in any part of the world with respect to that other party's Field of Use.
- 6.2. Apple Corps' rights of use and the restrictions on Apple Computer's rights of use of their respective trade marks (including the restrictions on challenging Apple Corps' trademark registrations and applications for registration) hereunder shall cease in relation to the European Economic Community if within ninety (90) days of a reasonably grounded request from Apple Computer, Apple Corps fails to satisfy the following test of use. Apple Corps shall satisfy the test of use if Apple Corps or its authorized licensees has used the Apple Corps Marks or any of them on or in relation to goods or services within the Apple Corps Field of Use anywhere within the European Economic Community at any time during the five (5) year period ending with the date of the request.
- 6.3. Apple Computer's rights of use and the restrictions on Apple Corps' rights of use of their respective trade marks (including the restrictions on challenging Apple Computer's trademark registrations and applications for registration) hereunder shall cease in relation to the European Economic Community if within ninety (90) days of a reasonably grounded request from Apple Corps, Apple Computer fails to satisfy the following test of use. Apple Computer shall satisfy the test of use if Apple Computer or its authorized licensees has used the Apple Computer Marks or any of them on or in relation to goods or services within the Apple Computer Field of Use anywhere within the European Economic Community at any time during the five (5) year period ending with the date of the request.
- 6.4. Neither subsection 6.2 nor 6.3 shall be effective until the question of the relevant party's compliance with the test of use has been finally resolved by mutual

agreement or judgment by a court of competent jurisdiction.

7. NO LICENSE

This Agreement does not constitute a license.

8. INTEGRATION

This Agreement represents the entire agreement between the parties with respect to the subject matter hereof. This Agreement may not be varied except by written agreement of the parties.

9. SEVERABILITY

If any part or parts of this Agreement shall be determined to be void, invalid or unenforceable by any Court or competent authority in any jurisdiction, such determination shall not affect the validity or enforceability of any other part or parts of this Agreement all of which shall remain in full force and effect. The part or parts of this Agreement rendered or declared void, invalid or unenforceable shall be void, invalid or unenforceable as the case may be in that jurisdiction only, and this Agreement shall remain in full force and effect in all other jurisdictions.

10. CONFIDENTIALITY

This Agreement shall be deemed confidential and shall not be disclosed by the parties except to their respective legal and/or other professional advisers from time to time and except as may be required under any applicable law or regulation or in order to implement the terms of this Agreement in which event such disclosure shall be limited to the extent required. However, the parties shall be permitted to disclose to their shareholders so many of the terms of this Agreement as may be necessary or desirable. Notwithstanding the generality of the foregoing, nothing herein shall preclude any party making any necessary disclosure to their auditors or accountants or where necessary to prosecute or defend any legal action concerning this Agreement or as required by law or in litigation between the parties or any of them or as otherwise ordered by a Court or Tribunal of competent jurisdiction.

11. NOTICES

Notices required hereunder shall be in writing and shall be sent by personal delivery or express courier to the following address or as either party may subsequently designate.

- 11.1. To Apple Computer at 20525 Mariani Avenue, Cupertino, California 95014, U.S.A. for the attention of Chief Executive Officer and the General Counsel.
- 11.2. To Apple Corps at 6 Stratton Street, London W1X 5FD, England, with copies to Frere Cholmeley, 28 Lincoln's Inn Fields, London WC2A 3HH, England (attention Nicholas Valner) and Frank B. Dehn & Co., Imperial House, 15/19 Kingsway, London WC2B, 6UZ, England (attention Michael Butler).

All notices shall be deemed to have been received when delivered (if by personal delivery) or on the third business day after dispatch (if by express courier).

12. ASSIGNMENTS

- 12.1. Apple Corps may assign or transfer all or any of its rights hereunder and any of its registrations, applications or other rights in respect of the Apple Corps Marks, provided that it shall first obtain from the intended assignee or transferee a binding undertaking to Apple Corps and Apple Computer to perform and be subject to all of the obligations of this Agreement (so far as the same have not already been discharged by performance). No such assignment or transfer by Apple Corps shall have effect or confer any rights upon the intended assignee or transferee unless and until such undertaking has been provided. The foregoing requirement to obtain an undertaking shall not apply to grants of licenses in the ordinary course of business other than licenses to companies whose principal activity is the computer or data processing business and not the record, film or video business.
- 12.2. Apple Computer may assign or transfer all or any of its rights hereunder and any of its registrations, applications or other rights in respect to the Apple Computer Marks provided that it shall first obtain from the intended assignee or transferee a binding undertaking to Apple Computer and Apple Corps to perform and be subject to all of the obligations of this Agreement (so far as the same have not already been discharged by performance). No such assignment or transfer by Apple Computer shall have effect or confer any rights upon the intended assignee or transferee unless and until such undertaking has been provided. The foregoing requirement to obtain an undertaking shall not apply to grants of licenses in connection with merchandising in the ordinary course of business.

13. NOTIFICATION

- 13.1. The parties shall as soon as possible after execution hereof jointly notify this Agreement to The Commission of the European Communities for negative clearance and/or exemption under Council Regulation 17 of 6th February 1962, and shall jointly take all reasonably necessary steps and cooperate with each other with a view to obtaining such clearance and/or exemption.
- 13.2. No provision of this Agreement (including any agreement or arrangement of which it forms part) being a restriction by virtue of which this Agreement is subject to registration under Section 35 of the Restrictive Trade Practices Act 1976 shall take effect until the day after particulars of this Agreement have been furnished to the Director General of Fair Trading under that Act. Both parties shall use all reasonable endeavors to procure that the said particulars are so furnished as soon as possible after execution of this Agreement and, in any event, within three (3) months thereafter.

14. IMPLEMENTATION

Except as provided in subsection 13.2, implementation of this Agreement is not subject to the fulfillment of any conditions of any kind.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Agreement on the date first above written.

Signed


 Name
 Title General Manager

ON BEHALF OF APPLE CORPS
 LIMITED

Signed


 Name
 Title EVP & CFO

ON BEHALF OF APPLE COMPUTER,
 INC.