

1 KAMALA D. HARRIS
Attorney General of California
2 MARGARITA PADILLA
Supervising Deputy Attorney General
3 REED SATO
Deputy Attorney General
4 State Bar No. 87635
1300 I Street, Suite 125
5 P.O. Box 944255
6 Sacramento, CA 94244-2550
7 Telephone: (916) 445-5442
8 Fax: (916) 322-5609
E-mail: Reed.Sato@doj.ca.gov

9 *Attorneys for People of the State of California, ex*
10 *rel. Barbara A. Lee, Director of the Department of*
11 *Toxic Substances Control*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF SANTA CLARA

14
15 **PEOPLE OF THE STATE OF**
16 **CALIFORNIA, *ex rel.* BARBARA A. LEE,**
17 **DIRECTOR OF THE DEPARTMENT OF**
TOXIC SUBSTANCES CONTROL,
18 **Plaintiff,**
19 **v.**
20 **APPLE INC., a California corporation,**
21 **Defendant.**
22

Case No.

**[PROPOSED] FINAL JUDGMENT
PURSUANT TO STIPULATION**

23
24 Good cause appearing herein, the Court finds that the Stipulation for Settlement and Entry
25 of Judgment and Permanent Injunction ("Stipulation") between the Plaintiff, the People of the
26 State of California, *ex rel.* Barbara A. Lee, Director of the Department of Toxic Substances
27 Control, and Defendant Apple Inc., which is attached as Exhibit A, is fair and in the public

1 interest. The Stipulation is approved, and its terms are incorporated into this judgment by
2 reference. Accordingly, final judgment is entered.

3 IT IS SO ORDERED:
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6 Date: _____

Judge of the Santa Clara County Superior Court

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

PEOPLE OF THE STATE OF
CALIFORNIA, *ex rel.* BARBARA A. LEE,
DIRECTOR OF THE DEPARTMENT OF
TOXIC SUBSTANCES CONTROL,

Plaintiff,

v.

APPLE INC., a California corporation,

Defendant.

Case No.

STIPULATION FOR SETTLEMENT
AND ENTRY OF JUDGMENT AND
PERMANENT INJUNCTION

Plaintiff, the People of the State of California, *ex rel.* Barbara A. Lee, Director of the
Department of Toxic Substances Control, ("Department") and Defendant Apple Inc. ("Apple")
enter into this Stipulation for Settlement and Entry of Judgment ("Stipulation"), and agree as
follows:

1 **1. COMPLAINT**

2 Concurrently with this Stipulation, the Department filed a Complaint for Civil Penalties
3 and Injunctive Relief (“Complaint”) against Apple for violations of the California Hazardous
4 Waste Control Law, Health and Safety Code sections 25100 *et seq.* (“HWCL”), and
5 implementing regulations, Cal. Code Regs, tit. 22, Division 4.5, sections 66000 *et seq.* (“Title
6 22”), in connection with processing electronic waste for disposal and recycling at facilities owned
7 and operated by Apple in Santa Clara County.

8 **2. JURISDICTION AND VENUE**

9 The Department and Apple (together, the “Parties” and individually, “Party”) agree that
10 for purposes of this Stipulation, the Court has both subject matter over the allegations in the
11 Complaint and personal jurisdiction over the parties to the Complaint. The Parties also agree that
12 venue is proper in this Court under Health and Safety Code section 25183.

13 **3. STIPULATION AND SETTLEMENT FOR ENTRY OF FINAL JUDGMENT**

14 The Department and Apple enter into the Stipulation pursuant to a compromise and
15 settlement of disputed claims. Each of the Parties consents to the entry by the Superior Court of
16 Santa Clara County (the “Court”) of a Final Judgment Pursuant to Stipulation which incorporates
17 the terms of the Stipulation by reference. The Stipulation was negotiated and executed in good
18 faith and at arms’ length by each of the Parties, with their respective counsel, to avoid expensive
19 and protracted litigation regarding violations of the HWCL and Title 22 alleged by the
20 Department in the Complaint. The Department enters into this Stipulation to further the public
21 interest. Nothing herein shall inure to the benefit of any persons not Parties to this Stipulation.

22 **4. WAIVER OF HEARING AND TRIAL**

23 By signing and entering into this Stipulation, Apple waives its right to a hearing and trial
24 on matters alleged in the Complaint and to appeal. Further, the Parties each request entry of the
25 Final Judgment on the terms set forth in this Stipulation.

1 **5. APPLICABILITY**

2 Unless otherwise expressly provided herein, the terms of this Stipulation and the Final
3 Judgment shall apply to and be binding on (a) Apple its successors, and its officers, directors, and
4 employees, and all persons acting within the control of Apple including, but not limited to Sims
5 Recycling Solutions, Inc., at any facility in California owned or operated by Apple at which
6 electronic waste or any other hazardous waste is treated, or recycled ("Apple Facility") and (b)
7 the Department and any successor agency of the Department that may have responsibility for, and
8 jurisdiction over, the subject matter of the Complaint and Final Judgment.

9 **6. MATTERS COVERED**

10 This Stipulation is a final and binding resolution and settlement of all violations that the
11 Department alleged in its inspection reports stemming from the inspections of Apple Facilities
12 conducted on June 13, 2013 and subsequent information requests, and the violations and causes
13 of action that were specifically alleged in the Complaint against Apple. ("Matters Covered").

14 **7. INJUNCTION**

15 Apple shall be enjoined and ordered as follows:

- 16 a. Apple shall ensure that its officers, directors, and employees, representatives, and all
17 persons acting within the control of Apple at any Apple Facility comply with all of the laws and
18 regulations specifically identified in the violations alleged in Paragraph 31 of the Complaint.
- 19 b. Any officer or employee of Apple assuming responsibility for, or oversight of,
20 hazardous waste management at Apple, including Apple's Facility manager, primary and
21 secondary emergency coordinators, and the technicians responsible for baghouse maintenance
22 and operations, must attend and successfully complete Modules I-V relating to hazardous waste at
23 California Compliance School within six months of their hire, promotion, or assumption of
24 responsibility unless they have attended the California Compliance School and passed the
25 relevant modules within the last five years before the date of their hiring, promotion, or
26 assumption of responsibility.
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1 c. Apple shall ensure that e-waste labeled as Universal Waste, including shredded e-
2 waste, is not mixed or otherwise placed in containers with dust derived from its shredding
3 operations.

4 d. Apple shall conduct weekly inspections of all areas of its facilities where hazardous
5 waste is generated or accumulated, including an inspection of all municipal waste containers and
6 e-waste containers to inspect for improper management of hazardous waste. Apple shall maintain
7 a written log on-site of the inspections required by Cal. Code of Regs, tit. 22, section 66265.15.
8 The log shall be furnished upon request, and shall be made available at all reasonable times for
9 inspection, to any officer, employee or representative of DTSC or the local Certified Unified
10 Program Agency ("CUPA").

11 e. Apple must submit to the Department documentation demonstrating financial
12 assurance for the Closure/Post Closure Plan in accordance with title 22, section 66265.143. The
13 document submittals shall be submitted annually to DTSC by no later March 16 of each year.

14 f. Within 30 days of the Effective Date of the Judgment, the Senior Director of Real
15 Estate and Development shall be responsible for ensuring that all required financial assurance
16 documentation is submitted to the Department.

17 **8. PENALTY**

18 Apple shall pay the Department a civil penalty of \$450,000 (four hundred-fifty thousand
19 dollars) on or before fifteen days after the Effective Date (as defined in Paragraph 21, below) of
20 the Judgment.

21 Apple shall pay the penalty by cashier's check made payable to "California Department of
22 Toxic Substances Control" and bearing the notation "Apple Inc.," and shall send it to:

23 Cashier
24 Accounting Office, MS-21 A
25 Department of Toxic Substances Control
26 P.O. Box 806
27 Sacramento, CA 95812-0806

28 An electronic copy or paper photocopy of the cashier's check for payment of the penalty
shall be sent, at the same time, to Department and Office of Attorney General personnel specified
in Section 10 ("Notices"), below.

1 **9. ENFORCEMENT**

2 If the Department determines that Apple has violated the terms of this Stipulation or the
3 Final Judgment, the Department will provide Apple with written notice of the default to its
4 representatives identified in Section 11 (“Notices”) below. If Apple fails to come into
5 compliance within 30 calendar days of receiving the Department’s notice, or another time frame
6 specified by the Department (whichever is later), the Department may pursue all its rights and
7 remedies to enforce the Final Judgment. Nothing in this section shall limit the Department’s right
8 to enforce the HWCL or Title 22 concerning violations not alleged in Paragraph 31 of the
9 Complaint. The Department reserves its right to assert a claim, separate and independent of, and
10 in addition to, any claim made to enforce this Final Judgment, for violations of the underlying
11 statutory or regulatory requirements. In the event that the Department files any motion pursuant to
12 this paragraph or brings an independent enforcement action, Defendants reserve and retain all
13 rights and defenses to oppose the Department’s motion or independent enforcement action.

14 At any time after the Final Judgment has been in effect for four (4) years, and Apple has
15 paid all amounts due hereunder, Apple may, with notice to the Department, file a motion
16 requesting that the Court order that the Permanent Injunction provisions of Paragraph 7 shall have
17 no prospective force or effect based on Apple’s demonstrated history of compliance with the
18 Final Judgment. Within thirty (30) days of the filing of Apple’s motion, the Department may file
19 a response in opposition. If the Department agrees that Apple has complied with the obligations
20 set forth in the Final Judgment, the Department may file a statement of non-opposition to
21 Apple’s motion or file no response. Within fifteen (15) days of any filing by the Department,
22 Apple may file a response to the opposition, and the matter shall be set for hearing as soon as
23 reasonably possible thereafter. The Parties agree that the Court may grant Apple’s request upon
24 determining that Apple has complied with the obligations set forth herein.

1 **10. NOTICES**

2 All notices under this Stipulation and the Judgment shall be in writing and shall be sent to:

3 For the Attorney General:

4 **Reed Sato**

5 Deputy Attorney General
6 1300 I Street, Suite 125
7 P.O. Box 944255
8 Sacramento, CA 94244-2550
9 Reed.sato@doj.ca.gov

10 For the Department:

11 **Alex Baillie**

12 Department of Toxic Substances Control
13 8800 Cal Center Drive
14 Sacramento, CA 95826
15 Alex.Baillie@dtsc.ca.gov

16 **Christopher Cho**

17 Office of Legal Counsel, MS-23A
18 Department of Toxic Substances Control
19 P.O. Box 806
20 Sacramento, CA 95812-0806
21 Christopher.Cho@dtsc.ca.gov

22 For Apple:

23 **James C. Fowler**

24 Associate General Counsel, Real Estate
25 Apple Inc.
26 1 Infinite Loop, M/S 4-DLAW
27 Cupertino, California 95014
28 jfowler@apple.com

29 **Kristina E. Raspe**

30 Senior Director, Real Estate
31 Apple Inc.
32 1 Infinite Loop, M/S 119-REF
33 Cupertino, California 95014
34 kraspe@apple.com

35 With a copy to:

36 **William F. Tarantino**

37 Morrison & Foerster LLP
38 425 Market Street, Suite 3300
39 San Francisco, California 94105
40 WTarantino@mof.com

1 Each Party may change its respective representative(s) for purposes of notice by providing
2 the name and address of the new representative, in writing, to both Parties. Any such change will
3 take effect within seven calendar days of the date of the written notice.

4 **11. AUTHORITY TO ENTER STIPULATION**

5 Each signatory to this Stipulation certifies that he or she is fully authorized by the Party he
6 or she represents to enter into this Stipulation, to execute it on behalf of the Party represented, and
7 to legally bind that Party.

8 **12. EFFECT OF STIPULATION AND JUDGMENT**

9 Except as expressly provided in this Stipulation, nothing in this Stipulation or the
10 Judgment is intended nor shall it be construed to preclude the Department, or any state, county, or
11 local agency, department, board or entity from exercising its authority under any law, statute, or
12 regulation.

13 **13. NO WAIVER OF RIGHT TO ENFORCE**

14 Should the Department decline to enforce any provision of the Stipulation or the
15 Judgment, that shall neither be deemed a waiver of such provision, nor in any way affect the
16 validity of the Stipulation or Judgment or the Department's enforcement authority, nor shall it
17 preclude the Department from later enforcing the same or other provisions. No oral advice,
18 guidance, suggestions, or comments by employees or officials of the Department, or
19 conversations between employees or officials of the Department and employees or representatives
20 of Apple, or people or entities acting on behalf of Apple, shall be construed to relieve Apple of its
21 obligations under this Stipulation or the Judgment.

22 **14. NO LIABILITY OF THE DEPARTMENT**

23 The Department shall not be liable for any injury or damage to persons or property
24 resulting from acts or omissions by Apple or its agents, servants, employees, representatives, or
25 other persons acting in concert or participating with Apple, in carrying out Apple's obligations
26 pursuant to this Stipulation or the Judgment.

1 **15. FUTURE REGULATORY CHANGES**

2 Nothing in this Stipulation or the Judgment shall excuse Apple from meeting more
3 stringent requirements that may be imposed by changes in the applicable law. It is the
4 responsibility of Apple to remain informed as to any and all applicable statutory and/or regulatory
5 changes, and to remain in compliance with all applicable statutory and regulatory provisions.

6 **16. INTEGRATION**

7 This Stipulation and the Judgment constitute the entire agreement between the Parties, and
8 may not be amended or supplemented except as provided for in this Stipulation or in the
9 Judgment. No oral representations have been made or relied on other than as expressly set forth
10 herein.

11 **17. RETENTION OF JURISDICTION**

12 The Parties agree that the Court has continuing jurisdiction to interpret and enforce the
13 provisions of this Stipulation and the Judgment.

14 **18. EQUAL AUTHORSHIP**

15 This Stipulation shall be deemed to have been drafted equally by the Parties hereto. The
16 Parties agree that the rule of construction holding that ambiguity is construed against the drafting
17 party shall not apply to the interpretation of this Stipulation.

18 **19. AMENDMENTS TO THIS STIPULATION AND THE JUDGMENT**

19 This Stipulation and the Judgment may be amended only pursuant to a written agreement
20 signed by all the Parties, followed by written approval by the Court, or by order of the Court
21 following the filing of a duly noticed motion.

22 **20. COUNTERPARTS**

23 This Stipulation may be executed in several counterpart originals, all of which taken
24 together shall constitute an integrated original document.

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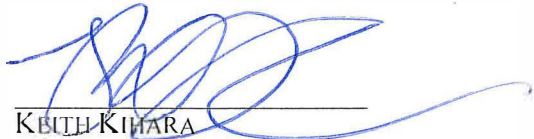
1 **21. ENTRY OF JUDGMENT AND EFFECTIVE DATE OF JUDGMENT**

2 The Parties further stipulate that upon approval of this Stipulation by the Court, the Court
3 may enter the Final Judgment in this matter. The “Effective Date” of the Judgment is the date
4 the Judgment is entered by the Court. If the Court does not approve this Stipulation and the Final
5 Judgment in the form and substance proposed in Exhibit A hereto, each Party reserves the right to
6 withdraw both the Stipulation and the Judgment upon written notice to all Parties and the Court.

7 **IT IS SO STIPULATED.**

8 Dated: 11/29, 2016

9 FOR THE DEPARTMENT OF TOXIC
 SUBSTANCES CONTROL

10 
11 _____
12 KEITH KIHARA
13 Division Chief
14 Enforcement and Emergency Response
15 Division
16 Department of Toxic Substances Control

17 Dated: _____, 2016

18 FOR APPLE, INC.

19 _____
20 JAMES C. FOWLER
21 Associate General Counsel
22 Apple Inc.

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21. ENTRY OF JUDGMENT AND EFFECTIVE DATE OF JUDGMENT

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IT IS SO STIPULATED.

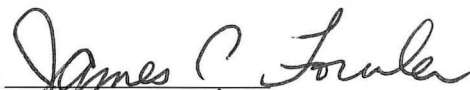
Dated: _____, 2016

FOR THE DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

KEITH KIHARA
Division Chief
Enforcement and Emergency Response
Division
Department of Toxic Substances Control

Dated: 11/17, 2016

FOR APPLE INC.



JAMES C. FOWLER
Associate General Counsel
Apple Inc.

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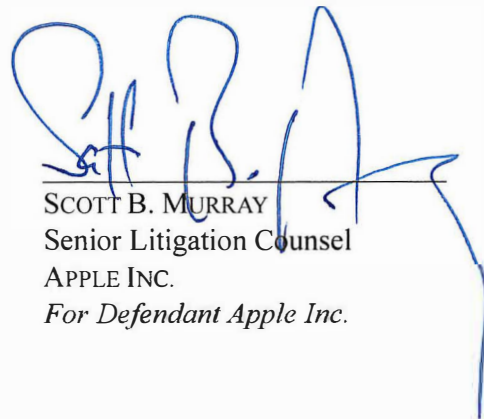
Dated: December 1, 2016

KAMALA D. HARRIS
Attorney General of California
SALLY MAGNANI
Senior Assistant Attorney General



REED SATO
Deputy Attorney General
*Attorneys for Plaintiff People of the State of
California, ex rel. Department of Toxic
Substances Control*

Dated: NOVEMBER 17, 2016



SCOTT B. MURRAY
Senior Litigation Counsel
APPLE INC.
For Defendant Apple Inc.

1 KAMALA D. HARRIS
Attorney General of California
2 MARGARITA PADILLA
Supervising Deputy Attorney General
3 REED SATO
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9 *Attorneys for People of the State of California, ex*
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11 *Toxic Substances Control*

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13 COUNTY OF SANTA CLARA

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17 **DIRECTOR OF THE DEPARTMENT OF**
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Case No.

**FINAL JUDGMENT PURSUANT TO
STIPULATION**

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24 Good cause appearing herein, the Court finds that the Stipulation for Settlement and Entry
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1 interest. The Stipulation is approved, and its terms are incorporated into this judgment by
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Judge of the Santa Clara County Superior Court

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