UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D. C. 20549

Form 10-Q

(Mark One)

[X] Quarterly report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the quarterly period ended December 29, 1995 or

[] Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the transition period from __________ to __________

Commission file number 0-10030

APPLE COMPUTER, INC.
(Exact name of Registrant as specified in its charter)

CALIFORNIA 94-2404110
(State or other jurisdiction [I.R.S. Employer Identification No.] of incorporation or organization)

1 Infinite Loop 95014
Cupertino California [Zip Code]

[Address of principal executive offices]

Registrant's telephone number, including area code: (408) 996-1010

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes [X] No [ ]

123,656,178 shares of Common Stock Issued and Outstanding as of February 2, 1996
## Apple Computer, Inc.

**CONSOLIDATED STATEMENTS OF OPERATIONS (Unaudited)**

(Dollars in millions, except per share amounts)

### THREE MONTHS ENDED

<table>
<thead>
<tr>
<th></th>
<th>December 29, 1995</th>
<th>December 30, 1994</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net sales</td>
<td>$3,148</td>
<td>$2,832</td>
</tr>
<tr>
<td>Costs and expenses:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost of sales</td>
<td>2,673</td>
<td>2,018</td>
</tr>
<tr>
<td>Research and development</td>
<td>153</td>
<td>132</td>
</tr>
<tr>
<td>Selling, general and administrative</td>
<td>441</td>
<td>415</td>
</tr>
<tr>
<td>Restructuring costs</td>
<td>--</td>
<td>(17)</td>
</tr>
<tr>
<td></td>
<td>3,267</td>
<td>2,548</td>
</tr>
<tr>
<td>Operating income (loss)</td>
<td>(119)</td>
<td>284</td>
</tr>
<tr>
<td>Interest and other income (expense), net</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Income (loss) before income taxes</td>
<td>(109)</td>
<td>299</td>
</tr>
<tr>
<td>Income tax provision (benefit)</td>
<td>(40)</td>
<td>111</td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$(69)</td>
<td>$188</td>
</tr>
<tr>
<td>Earnings (loss) per common and common equivalent share</td>
<td>$(0.56)</td>
<td>$1.55</td>
</tr>
<tr>
<td>Cash dividends paid per common share</td>
<td>$.12</td>
<td>$.12</td>
</tr>
<tr>
<td>Common and common equivalent shares used in the calculations of earnings (loss) per share (in thousands)</td>
<td>122,994</td>
<td>121,600</td>
</tr>
</tbody>
</table>

See accompanying notes.
APPLE COMPUTER, INC.

CONSOLIDATED BALANCE SHEETS

ASSETS
(In millions)

<table>
<thead>
<tr>
<th></th>
<th>December 29, 1995</th>
<th>September 29, 1995</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Unaudited)</td>
<td></td>
</tr>
<tr>
<td>Current assets:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash and cash equivalents</td>
<td>$ 824</td>
<td>$ 756</td>
</tr>
<tr>
<td>Short-term investments</td>
<td>276</td>
<td>196</td>
</tr>
<tr>
<td>Accounts receivable, net of allowance for doubtful accounts of $92 ($87 at September 29, 1995)</td>
<td>1,944</td>
<td>1,931</td>
</tr>
<tr>
<td>Inventories:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchased parts</td>
<td>707</td>
<td>841</td>
</tr>
<tr>
<td>Work in process</td>
<td>250</td>
<td>291</td>
</tr>
<tr>
<td>Finished goods</td>
<td>990</td>
<td>643</td>
</tr>
<tr>
<td></td>
<td>1,947</td>
<td>1,775</td>
</tr>
<tr>
<td>Deferred tax assets</td>
<td>302</td>
<td>251</td>
</tr>
<tr>
<td>Other current assets</td>
<td>258</td>
<td>315</td>
</tr>
<tr>
<td>Total current assets</td>
<td>5,551</td>
<td>5,224</td>
</tr>
<tr>
<td>Property, plant, and equipment:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land and buildings</td>
<td>516</td>
<td>504</td>
</tr>
<tr>
<td>Machinery and equipment</td>
<td>646</td>
<td>638</td>
</tr>
<tr>
<td>Office furniture and equipment</td>
<td>143</td>
<td>145</td>
</tr>
<tr>
<td>Leasehold improvements</td>
<td>199</td>
<td>205</td>
</tr>
<tr>
<td></td>
<td>1,504</td>
<td>1,492</td>
</tr>
<tr>
<td>Accumulated depreciation and amortization</td>
<td>(792)</td>
<td>(781)</td>
</tr>
<tr>
<td>Net property, plant, and equipment</td>
<td>712</td>
<td>711</td>
</tr>
<tr>
<td>Other assets</td>
<td>290</td>
<td>296</td>
</tr>
<tr>
<td></td>
<td>$ 6,553</td>
<td>$ 6,231</td>
</tr>
</tbody>
</table>

See accompanying notes.

3
## CONSOLIDATED BALANCE SHEETS (Continued)

### LIABILITIES AND SHAREHOLDERS' EQUITY

(Dollars in millions)

<table>
<thead>
<tr>
<th></th>
<th>December 29, 1995</th>
<th>September 29, 1995</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Current liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Short-term borrowings</td>
<td>$ 498</td>
<td>$ 461</td>
</tr>
<tr>
<td>Accounts payable</td>
<td>1,431</td>
<td>1,165</td>
</tr>
<tr>
<td>Accrued compensation and employee benefits</td>
<td>125</td>
<td>131</td>
</tr>
<tr>
<td>Accrued marketing and distribution</td>
<td>284</td>
<td>206</td>
</tr>
<tr>
<td>Other current liabilities</td>
<td>367</td>
<td>362</td>
</tr>
<tr>
<td><strong>Total current liabilities</strong></td>
<td>2,705</td>
<td>2,325</td>
</tr>
<tr>
<td>Long-term debt</td>
<td>304</td>
<td>303</td>
</tr>
<tr>
<td>Deferred tax liabilities</td>
<td>750</td>
<td>702</td>
</tr>
<tr>
<td><strong>Shareholders' equity:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Common stock, no par value; 320,000,000 authorized; 123,118,433 shares issued and outstanding at December 29, 1995 (122,921,601 shares at September 29, 1995)</td>
<td>404</td>
<td>398</td>
</tr>
<tr>
<td>Retained earnings</td>
<td>2,380</td>
<td>2,464</td>
</tr>
<tr>
<td>Accumulated translation adjustment and other</td>
<td>10</td>
<td>39</td>
</tr>
<tr>
<td><strong>Total shareholders' equity</strong></td>
<td>2,794</td>
<td>2,901</td>
</tr>
</tbody>
</table>

$ 6,553 $ 6,231

See accompanying notes.
## CONSOLIDATED STATEMENTS OF CASH FLOWS (Unaudited)

(In millions)

### THREE MONTHS ENDED

<table>
<thead>
<tr>
<th></th>
<th>December 29, 1995</th>
<th>December 30, 1994</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and cash equivalents, beginning of the period</td>
<td>$ 756</td>
<td>$ 1,203</td>
</tr>
<tr>
<td><strong>Operations:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>(69)</td>
<td>188</td>
</tr>
<tr>
<td>Adjustments to reconcile net income (loss) to cash generated by operations:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Depreciation and amortization</td>
<td>42</td>
<td>38</td>
</tr>
<tr>
<td>Net book value of property, plant, and equipment retirements</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td><strong>Changes in assets and liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts receivable</td>
<td>(13)</td>
<td>(18)</td>
</tr>
<tr>
<td>Inventories</td>
<td>(172)</td>
<td>4</td>
</tr>
<tr>
<td>Deferred tax assets</td>
<td>(51)</td>
<td>24</td>
</tr>
<tr>
<td>Other current assets</td>
<td>57</td>
<td>77</td>
</tr>
<tr>
<td>Accounts payable</td>
<td>266</td>
<td>74</td>
</tr>
<tr>
<td>Income taxes payable</td>
<td>(67)</td>
<td>(31)</td>
</tr>
<tr>
<td>Accrued marketing and distribution</td>
<td>78</td>
<td>97</td>
</tr>
<tr>
<td>Other current liabilities</td>
<td>67</td>
<td>(66)</td>
</tr>
<tr>
<td>Deferred tax liabilities</td>
<td>48</td>
<td>61</td>
</tr>
<tr>
<td>Cash generated by operations</td>
<td>187</td>
<td>453</td>
</tr>
<tr>
<td><strong>Investments:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Purchase of short-term investments</td>
<td>(244)</td>
<td>(410)</td>
</tr>
<tr>
<td>Proceeds from sale of short-term investments</td>
<td>164</td>
<td>25</td>
</tr>
<tr>
<td>Purchase of property, plant, and equipment</td>
<td>(31)</td>
<td>(22)</td>
</tr>
<tr>
<td>Other</td>
<td>(36)</td>
<td>(12)</td>
</tr>
<tr>
<td>Cash used for investment activities</td>
<td>(147)</td>
<td>(419)</td>
</tr>
<tr>
<td><strong>Financing:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increase (decrease) in short-term borrowings</td>
<td>37</td>
<td>(83)</td>
</tr>
<tr>
<td>Increase (decrease) in long-term borrowings</td>
<td>1</td>
<td>(1)</td>
</tr>
<tr>
<td>Increases in common stock, net of related tax benefits</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td>Cash dividends</td>
<td>(15)</td>
<td>(14)</td>
</tr>
<tr>
<td>Cash generated by (used for) financing activities</td>
<td>28</td>
<td>(89)</td>
</tr>
<tr>
<td><strong>Total cash generated (used)</strong></td>
<td>68</td>
<td>(55)</td>
</tr>
<tr>
<td>Cash and cash equivalents, end of the period</td>
<td>$ 824</td>
<td>$ 1,148</td>
</tr>
</tbody>
</table>

See accompanying notes.
1. Interim information is unaudited; however, in the opinion of the Company's management, all adjustments necessary for a fair statement of interim results have been included. All adjustments are of a normal recurring nature unless specified in a separate note included in these Notes to Consolidated Financial Statements. The results for interim periods are not necessarily indicative of results to be expected for the entire year. These financial statements and notes should be read in conjunction with the Company's annual consolidated financial statements and the notes thereto for the fiscal year ended September 29, 1995, included in its Annual Report on Form 10-K for the year ended September 29, 1995 (the "1995 Form 10-K").

2. Interest and other income (expense), net, consists of the following: (In millions)

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>December 29, 1995</td>
</tr>
<tr>
<td>Interest income</td>
<td>$ 17</td>
</tr>
<tr>
<td>Interest expense</td>
<td>(17)</td>
</tr>
<tr>
<td>Gain on foreign exchange instruments</td>
<td>18</td>
</tr>
<tr>
<td>Net premiums and discounts paid on forward and option foreign exchange instruments</td>
<td>(7)</td>
</tr>
<tr>
<td>Other income (expense), net</td>
<td>(1)</td>
</tr>
<tr>
<td></td>
<td>$ 10</td>
</tr>
</tbody>
</table>

3. The Company's cash equivalents consist primarily of U.S. Government securities, Euro-dollar deposits, and commercial paper with maturities of three months or less at the date of purchase. Short-term investments consist principally of Euro-dollar deposits and commercial paper with maturities between three and twelve months. The Company's marketable equity securities consist of securities issued by U.S. corporations and are included in "Other assets" on the accompanying balance sheet. The Company's cash equivalents, short-term investments, and marketable equity securities are classified and accounted for as available-for-sale and are generally held until maturity.

The adjustments recorded to shareholders' equity for unrealized holding gains (losses) on available-for-sale cash equivalents and short-term investments were not material, either individually or in the aggregate, at December 29, 1995. The net adjustment recorded to shareholders' equity for unrealized holding gains (losses) related to marketable equity securities was an unrealized gain of approximately $18 million at December 29, 1995. The realized gains (losses) recorded to earnings on sales of available-for-sale securities, either individually or in the aggregate, were not material for the three months ended December 29, 1995.

4. U.S. income taxes have not been provided on a cumulative total of $400 million of undistributed earnings of certain of the Company's foreign subsidiaries. It is intended that these earnings will be indefinitely invested in operations outside of the United States. It is not practicable to determine the income tax liability that might be incurred if these earnings were to be distributed. Except for such indefinitely invested earnings, the Company provides for federal and state income taxes currently on undistributed earnings of foreign subsidiaries.

The Internal Revenue Service ("IRS") has proposed federal income tax deficiencies for the years 1984 through 1991, and the Company has made certain prepayments thereon. The Company contested the proposed deficiencies for the years 1984 through 1988, and most of the issues in dispute for these years have been resolved. On June 29, 1995, the IRS issued a notice of deficiency proposing increases to the amount of the Company's federal income taxes for the years 1989 through 1991. The Company has filed a petition with the United States Tax Court to contest these alleged tax deficiencies. Management believes that adequate provision has been made for any adjustments that may result from these tax examinations.

5. Earnings per share is computed using the weighted average number of common and dilutive common equivalent shares attributable to stock options outstanding during the period. Loss per share is computed using the weighted average number of common shares outstanding during the period.
6. Certain prior year amounts on the Consolidated Statements of Cash Flows have been reclassified to conform to the current period presentation.

7. No dividend has been declared for the first quarter of 1996, and the Board of Directors does not anticipate that dividends will be declared in the near future given the financial condition of the Company.

8. The information set forth in Item 1 of Part II hereof is hereby incorporated by reference.
The following information should be read in conjunction with the consolidated financial statements and notes thereto. All information is based on Apple’s fiscal calendar.

Except for historical information contained herein, the statements set forth in this Item 2 are forward-looking and involve risks and uncertainties. For information regarding potential factors that could affect the Company’s financial results refer to pages 11-15 of this Management Discussion and Analysis of Financial Condition and Results of Operations under the heading "Factors That May Affect Future Results and Financial Condition."

### Results of Operations

<table>
<thead>
<tr>
<th></th>
<th>First Quarter 1996</th>
<th>First Quarter 1995</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Net sales</td>
<td>$3,148</td>
<td>$2,832</td>
<td>11.2%</td>
</tr>
<tr>
<td>Gross margin</td>
<td>$475</td>
<td>$814</td>
<td>-41.6%</td>
</tr>
<tr>
<td>Percentage of net sales</td>
<td>15.1%</td>
<td>28.7%</td>
<td></td>
</tr>
<tr>
<td>Operating expenses (excluding restructuring costs)</td>
<td>$594</td>
<td>$547</td>
<td>8.6%</td>
</tr>
<tr>
<td>Percentage of net sales</td>
<td>18.9%</td>
<td>19.3%</td>
<td></td>
</tr>
<tr>
<td>Restructuring costs</td>
<td>--</td>
<td>$(17)</td>
<td>--</td>
</tr>
<tr>
<td>Percentage of net sales</td>
<td>--</td>
<td>-0.6%</td>
<td></td>
</tr>
<tr>
<td>Net income (loss)</td>
<td>$(69)</td>
<td>$188</td>
<td>-136.7%</td>
</tr>
<tr>
<td>Earnings (loss) per share</td>
<td>$(0.56)</td>
<td>$1.55</td>
<td>-136.1%</td>
</tr>
</tbody>
</table>

### Net Sales

Net sales for the first quarter of 1996 increased over the comparable period of 1995, primarily resulting from a combination of unit growth and slightly higher average aggregate revenue per Macintosh (registered trademark) computer unit. Total Macintosh computer unit sales increased 12% in the first quarter of 1996, over the comparable period of 1995. This unit sales growth principally resulted from strong sales of the Company's PowerPC (registered trademark) products, which accounted for over 78% of total unit shipments at the end of the first quarter of 1996, compared with 26% in the comparable period of 1995. Specifically, unit sale increases were within the Power Macintosh (trademark) and the Performa (registered trademark) families of desktop personal computers. This unit growth was partially offset by declining unit sales of certain of the Company's older product offerings. The increase in average aggregate revenue per Macintosh computer unit of approximately 7% in the first quarter of 1996 over the comparable period of 1995 was driven by a shift in mix towards the Company's newer products and products with multi-media configurations. Specifically, the Company recorded increased revenue from the sale of products within the Power Macintosh family of personal computers.

International net sales grew 19% in the first quarter of 1996, over the comparable period of 1995, primarily reflecting strong net sales growth in Japan and certain countries within Europe. International net sales represented 51% of total net sales for the first quarter of 1996, compared with 47% for the corresponding period of 1995. Domestic net sales grew approximately 4% in the first quarter of 1996, over the comparable period of 1995.

In general, the Company's resellers typically purchase products on an as-needed basis. Resellers frequently change delivery schedules and order rates depending on changing market conditions. Unfilled orders (“backlog”) can be, and often are, canceled at will. The Company attempts to fill orders on the requested delivery schedules. The Company's backlog decreased to approximately $365 million at February 2, 1996, from approximately $618 million at December 1, 1995, primarily due to the Company satisfying product backlog that existed at December 1, 1995.

In the Company's experience, the actual amount of product backlog at any particular time is not necessarily a meaningful indication of its future business prospects. In particular, backlog often increases in anticipation of or immediately following introduction of new products because of over-ordering by dealers anticipating shortages. Backlog often is reduced sharply once dealers and customers believe they can obtain sufficient supply. Because of the foregoing, as well as other factors affecting the Company’s backlog, backlog should not be considered a reliable indicator of the Company’s ability to achieve any particular level of revenue or financial performance.
Gross Margin

Gross margin represents the difference between the Company's net sales and its cost of goods sold. The amount of revenue generated by the sale of products is influenced principally by the price set by the Company for its products relative to competitive products. The cost of goods sold is based primarily on the cost of components and to a lesser extent, direct labor costs. The type and cost of components included in particular configurations of the Company's products (such as memory and disk drives) are often directly related to the need to market products in configurations competitive with other manufacturers. Competition in the personal computer industry is intense, and in the short term, frequent changes in pricing and product configuration are often necessary in order to remain competitive. Accordingly, gross margin as a percentage of net sales can be significantly influenced in the short term by actions undertaken by the Company in response to industrywide competitive pressures.

Gross margin decreased both in amount and as a percentage of net sales during the first quarter of 1996, over the comparable period of 1995. The decrease in gross margin as a percentage of net sales was primarily a result of: aggressive pricing actions in Japan in response to extreme competitive actions by other companies attempting to gain market share; pricing actions in both the U.S. and Europe on certain configurations of entry level and PowerBook (registered trademark) products in order to stimulate demand; lower of cost or market adjustments charged to cost of sales due to pricing certain products in specific markets (particularly Japan) at below manufactured cost in response to competitive actions; and implementing changes in production plans in response to lower than expected demand, which necessitated the financial write-off of components, canceling component orders and incurring cancellation charges.

Pressures on gross margin are continuing in the second quarter of 1996 as the Company has taken further initiatives to lower prices and reduce inventories. These actions could result in further inventory charges, expenses related to changes in production plans and cancellation charges.

The decrease in gross margin levels in the first quarter of 1996 compared with the corresponding period of 1995 was somewhat offset by a weaker U.S. dollar relative to certain foreign currencies. The Company's operating strategy and pricing take into account changes in exchange rates over time; however, the Company's results of operations can be significantly affected in the short term by fluctuations in foreign currency exchange rates.

It is anticipated that gross margins will continue to remain under pressure and will remain below prior years' levels due to a variety of factors, including continued industrywide pricing pressures around the world, increased competition, compressed product life cycles, and the need to reduce current inventory levels. Gross margins declined in the first quarter of 1996 compared with the fourth quarter of 1995 and are likely to decline further in the second quarter of 1996.

<table>
<thead>
<tr>
<th>Research and Development</th>
<th>First Quarter 1996</th>
<th>First Quarter 1995</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research and development</td>
<td>$153</td>
<td>$132</td>
<td>15.9%</td>
</tr>
<tr>
<td>Percentage of net sales</td>
<td>4.9%</td>
<td>4.7%</td>
<td></td>
</tr>
</tbody>
</table>

Research and development expenditures increased in amount in the first quarter of 1996 when compared with the corresponding period of 1995. This increase is primarily due to higher project and headcount related spending as the Company continues to invest in the development of new products and technologies.

As a percentage of net sales, research and development expenditures remained relatively consistent in the first quarter of 1996 when compared with the corresponding period of 1995.

The Company believes that continued investments in research and development are critical to its future growth and competitive position in the marketplace and are directly related to continued, timely development of new and enhanced products. Going forward, the Company intends to simplify its product portfolio to focus its offerings primarily on innovative, differentiated and best-of-class products in its key market segments in education, business and the home.
Selling, general and administrative expenses increased in amount in the first quarter of 1996 when compared with the corresponding period of 1995. This increase was primarily a result of increased spending related to marketing and advertising programs. Selling, general and administrative expenses decreased as a percentage of net sales in the first quarter of 1996 when compared with the corresponding period of 1995, primarily as a result of an increase in the level of net sales and the Company's ongoing efforts to manage operating expense growth as a percentage of net sales.

The Company will continue to face the challenge of managing selling, general and administrative expenses, particularly in light of the Company's expectation of continued pressure on gross margins and continued competitive pressures worldwide.

For information regarding the Company's current restructuring actions, refer to Management's Discussion and Analysis of Financial Condition and Results of Operations under the heading "Factors That May Affect Future Results and Financial Condition" under the subheading "Restructuring of Operations."

Interest and other income (expense), net decreased to $10 million in income in the first quarter of 1996 compared with $15 million in income during the same period in 1995. This $5 million decrease in interest and other income (expense), net is comprised of $14 million unfavorable variance related to:

- increased interest expense as a result of higher debt balances and borrowing rates;
- increased foreign exchange hedging costs due to higher foreign currency receivable balances; and
- decreased interest income as cash balances were lower.

The unfavorable change in interest and other income was offset in part by a $9 million increase in income related primarily to realized and unrealized foreign exchange hedging gains in the first quarter of 1996 compared with the same period in 1995. The Company expects that its cost of funds will increase as a result of the recent downgrading of its short- and long-term debt to P-3 and Baa3, respectively, by Moody's Investor Services, and to B and BB-, respectively, by Standard and Poor's Rating Agency.
Factors That May Affect Future Results and Financial Condition

The Company's future operating results and financial condition are dependent on the Company's ability to successfully develop, manufacture, and market technologically innovative products in order to meet dynamic customer demand patterns. Inherent in this process are a number of factors that the Company must successfully manage in order to achieve favorable future operating results and financial condition. Potential risks and uncertainties that could affect the Company's future operating results and financial condition include, without limitation, continued competitive pressures in the marketplace; the effect any reaction to such competitive pressures has on inventory levels and inventory valuations; the effects of significant adverse publicity; the impact of uncertainties concerning the Company's strategic direction and financial condition on revenue and liquidity; the effect of continued degradation in the Company's liquidity; and the need for and effect of any business restructuring actions.

The Company expects to report an operating loss for the second quarter of 1996 that will significantly exceed the operating loss of $69 million, after taxes, reported in the first quarter of 1996. The anticipated operating loss, which is largely attributable to declining sales due to marketplace uncertainty about the Company's strategic direction and prospects, does not include the financial impact of charges related to restructuring actions.

Restructuring of Operations

As announced on January 17, 1996, the Company is currently implementing a reorganization plan which is aimed at beginning to bring the Company's business model in line with major strategic goals and at the same time to move toward improving the cost and competitiveness of its operations. Initial actions planned to begin in the second quarter of 1996 will focus on streamlining the Company's business operations. These initial actions are expected to result in pre-tax charges of at least $125 million, and are primarily comprised of headcount reductions in the selling, general and administrative areas of at least 1,300 full-time employees, as well as evaluating the Company's various business investments. The Company expects to incur future restructuring charges as the several phases of the business reorganization are developed and implemented. These plans may include, among other actions, outsourcing of certain administrative and manufacturing functions. In addition, the Company intends to refine its product plans by reducing the number of products within certain categories in an effort to improve overall contribution. The Company's future operating results and financial condition could be adversely affected by its ability to effectively manage the transition to the new business model and cost structure.

Implementation of the Company's restructuring actions may adversely affect the Company's ability to retain and motivate employees. In addition, while the restructuring actions are expected to lower the fixed cost of operations, it could also reduce the direct control that the Company currently has over various functions which may be outsourced. As such, the Company cannot determine the ultimate effect on the quality or efficiency of work performed in the event of outsourcing various functions.

Product Introductions and Transitions

Due to the highly volatile nature of the personal computer industry, which is characterized by dynamic customer demand patterns and rapid technological advances, the Company frequently introduces new products and product enhancements. The success of new product introductions is dependent on a number of factors, including market acceptance, the Company’s ability to manage the risks associated with product transitions, the availability of application software for new products, the effective management of inventory levels in line with anticipated product demand, the manufacturing of products in appropriate quantities to meet anticipated demand, and the risk that new products may have quality or other defects in the early stages of introduction that were not anticipated in the design of those products. Accordingly, the Company cannot determine the ultimate effect that new products will have on its sales or results of operations.

The rate of product shipments immediately following introduction of a new product is not necessarily an indication of the future rate of shipments for that product, which depends on many factors, some of which are not under the control of the Company. These factors may include initial large purchases by a small segment of the user population that tends to purchase new technology prior to its acceptance by the majority of users ("early adopters"); purchases in satisfaction of pent-up demand by users who anticipated new technology and as a result deferred purchases of other products; and overordering by dealers who anticipate shortages due to the aforementioned factors. The preceding may also be offset by other factors, such as the deferral of purchases by many users until new technology is accepted as "proven" and for which commonly used software products are available; and the reduction of orders by dealers once they believe they can obtain sufficient supply of product previously in backlog.
Backlog is often volatile after new product introductions due to the aforementioned demand factors, often increasing coincident with introduction, and then decreasing once dealers and customers believe they can obtain sufficient supply of product.

The measurement of demand for newly introduced products is further complicated by the availability of different product configurations, which may include various types of built-in peripherals and software. Configurations may also require certain localization (such as language) for various markets and, as a result, demand in different geographic areas may be a function of the availability of third-party software in those localized versions. For example, the availability of European-language versions of software products manufactured by U.S. producers may lag behind the availability of U.S. versions by a quarter or more. This may result in lower initial demand for the Company's new products outside the United States, even though localized versions of the Company's products may be available.

As part of its restructuring plan, the Company may reduce the number of new product introductions and intends to reduce the number of products in certain categories within its product portfolio in order to focus its offerings on the Company's key markets and reduce required investments. This simplification within product lines may have an adverse effect on sales and on the Company's results of operations and financial condition in the future.

**Competition**

The personal computer industry is highly competitive and continues to be characterized by consolidations in the hardware and software industries, aggressive pricing practices, and downward pressure on gross margins. For example, in Japan, other companies have initiated extreme competitive actions in order to gain market share, and as a result, the Company has implemented aggressive pricing and promotional activities. In the first quarter of 1996, the Company's results of operations and financial condition were, and in the near future are expected to be, adversely affected by industrywide pricing pressures and downward pressures on gross margins.

The Company's future operating results and financial condition may also be affected by the Company's ability to offer customers competitive technologies while effectively managing the impact on inventory levels and the potential for customer confusion created by product proliferation. The Company's future operating results and financial condition may also be affected by overall demand for personal computers and general customer preferences for one platform over another or one set of product features over another.

On November 7, 1994, the Company reached an agreement with International Business Machines Corporation ("IBM") and Motorola, Inc. on a new hardware reference platform for the PowerPC microprocessor that is intended to deliver a much wider range of operating system and application choices for computer customers. As a result of this agreement, the Company is moving forward with its efforts to make the Macintosh operating system available on the common platform. In line with its efforts, on November 13, 1995, the Company, IBM, and Motorola, Inc. announced the availability of the "PowerPC Platform" specifications, which define a "unified" personal computer architecture and combine the Power Macintosh platform and the PC environment. Accordingly, the Company's future operating results and financial condition may be affected by its ability to continue to implement this agreement and to manage the risk associated with the transition to this new hardware reference platform.

The Company is currently the primary maker of hardware that uses the Macintosh operating system, and it has a minority market share in the personal computer market, which is dominated by makers of computers that run the MS-DOS (registered trademark) and Microsoft Windows (trademark) operating systems. The Company's future operating results and financial condition may be affected by its ability to increase market share in its personal computer business. As part of its efforts to increase overall market share, the Company announced the licensing of the Macintosh operating system to other personal computer vendors in January 1995, and several vendors currently sell product that utilize the Macintosh operating system. The success of the Company's efforts to increase its overall market share through licensing of the Macintosh operating system will depend in part on the Company's ability to manage the risks associated with competing with companies producing Macintosh OS-based computer systems. Accordingly, the Company cannot determine the ultimate effect that licensing of the Macintosh operating system will have on its product pricing and unit sales or future operating results and financial condition. The Company believes that licensing the operating system will result in a broader installed base on which software vendors can develop and provide technical innovations for the Macintosh platform. However, there can be no assurance that the installed base will be broadened by the licensing of the operating system or that licensing will result in an increase in the number of application software titles or the rate at which vendors will bring to market application software based on the Macintosh operating system.

The Company's principal competitor in producing operating system software, Microsoft Corporation, is a large, well-financed corporation which has a dominant position in various segments of the personal computer software industry. As a result of the introduction of Windows 95 in August 1995, the Company has taken and will continue to take steps to address the additional...
challenges to and competitive pressures on its efforts in developing and marketing the Company's products. Accordingly, the Company's future operating results and financial condition could be adversely affected should the Company be unable to effectively manage the competitive pressure and other challenges presented by the introduction of Windows 95.

Certain of the Company's personal computer products are capable of running application software designed for the MS-DOS or Windows operating systems ("Cross-Platform Products"), through software emulation of Intel Corporation microprocessor chips by use of software specifically designed for the Company's products, either those based on the Intel 68000 series of microprocessors or those based on the PowerPC microprocessor. The Company also has introduced products that include both the RISC-based PowerPC 601 microprocessor and the 486 DX2/66 microprocessor, which enable users to switch between the Macintosh and DOS or Windows computing environments.

The Company plans to supply customers who purchase Cross-Platform Products capable of running the MS-DOS or Windows 3.1 operating system with operating system software under a licensing agreement with Microsoft. This license agreement expired on December 31, 1995 (the "Old License Agreement"). The Company has attempted to license Windows 95 software from Microsoft but has been unable to do so because of the Company's unwillingness to consent to Microsoft's demand under Microsoft's proposed license agreement (the "New License Agreement") that the Company agree not to sue Microsoft if Microsoft infringes any of the Company's patents. Microsoft has also informed the Company that it will not renew the Old License Agreement unless the Company accepts the New License Agreement. Accordingly, the Company is currently unable to supply customers with any of Microsoft's operating systems on Cross-Platform Products except for such product that was in inventory as of December 31, 1995. Although customers could obtain copies of such software from other sources, the Company is unable to predict the effect of such a situation on the demand for Cross-Platform Products. Although Cross-Platform Products represented only a small portion of the Company's unit sales during 1995, the Company is unable to predict the effect of such a situation on the Company's future operating results.

Decisions by customers to purchase the Company's personal computers, as opposed to MS-DOS or Windows-based systems, are often based on the availability of third-party software for particular applications. The Company believes that the availability of third-party application software for the Company's hardware products depends in part on the third-party developers' perception and analysis of the relative benefits of developing such software for the Company's products versus software for the larger MS-DOS and Windows market. This analysis is based on factors such as the perceived strength of the Company and its products, the anticipated potential revenue that may be earned, and the costs of developing such software products. Microsoft Corporation is an important developer of application software for the Company's products. Accordingly, Microsoft's interest in producing application software for the Company's products may be influenced by Microsoft's perception of its interests as an operating system vendor.

The Company's ability to produce and market competitive products is also dependent on the ability of IBM and Motorola, Inc., the suppliers of the PowerPC RISC microprocessor for certain of the Company's products, to continue to supply to the Company microprocessors that produce superior price/performance results compared with those supplied to the Company's competitors by Intel Corporation, the developer and producer of the microprocessors used by most personal computers using the MS-DOS and Windows operating systems. IBM produces personal computers based on the Intel microprocessors as well as on the PowerPC microprocessor, and is also the developer of OS/2, a competing operating system to the Company's Macintosh operating system. Accordingly, IBM's interest in supplying the Company with improved versions of microprocessors for the Company's products may be influenced by IBM's perception of its interests as a competing manufacturer of personal computers and as a competing operating system vendor.

The Company's future operating results and financial condition may also be affected by the Company's ability to successfully expand and capitalize on its investments in other markets, such as the markets for Internet services and personal digital assistant (PDA) products.

**Global Market Risks**

A large portion of the Company's revenue is derived from its international operations. As a result, the Company's operations and financial results could be significantly affected by international factors, such as changes in foreign currency exchange rates or weak economic conditions in the foreign markets in which the Company distributes its products. When the U.S. dollar strengthens against other currencies, the U.S. dollar value of non-U.S. dollar-based sales decreases. When the U.S. dollar weakens, the U.S. dollar value of non-U.S. dollar-based sales increases. Correspondingly, the U.S. dollar value of non-U.S. dollar-based costs increases when the U.S. dollar weakens and decreases when the U.S. dollar strengthens. Overall, the Company is a net receiver of currencies other than the U.S. dollar and, as such, benefits from a weaker dollar and is adversely affected by a stronger dollar relative to major currencies.
worldwide. Accordingly, changes in exchange rates, and in particular a strengthening of the U.S. dollar, may negatively affect the Company's consolidated sales and gross margins (as expressed in U.S. dollars).

To mitigate the short-term impact of fluctuating currency exchange rates on the Company's non-U.S. dollar-based sales, product procurement, and operating expenses, the Company regularly hedges its non-U.S. dollar-based exposures. Specifically, the Company enters into foreign exchange forward and option contracts to hedge firmly committed transactions. Currently, hedges of firmly committed transactions do not extend beyond one year. The Company also purchases foreign exchange option contracts to hedge certain other probable, but not firmly committed transactions. Hedges of probable, but not firmly committed transactions currently do not extend beyond one year. To reduce the costs associated with these ongoing foreign exchange hedging programs, the Company also regularly sells foreign exchange option contracts and enters into certain other foreign exchange transactions. All foreign exchange forward and option contracts not accounted for as hedges, including all transactions intended to reduce the costs associated with the Company's foreign exchange hedging programs, are carried at fair value and are adjusted on each balance sheet date for changes in exchange rates.

While the Company is exposed with respect to fluctuations in the interest rates of many of the world's leading industrialized countries, the Company's interest income and expense is most sensitive to fluctuations in the general level of U.S. interest rates. In this regard, changes in U.S. interest rates affect the interest earned on the Company's cash, cash equivalents, and short-term investments as well as interest paid on its short-term borrowings and long-term debt. To mitigate the impact of fluctuations in U.S. interest rates, the Company has entered into interest rate swap and option transactions. Certain of these swaps are intended to better match the Company's floating-rate interest income on its cash, cash equivalents, and short-term investments with the fixed-rate interest expense on its long-term debt. The Company also enters into interest rate swap and option transactions in order to diversify a portion of the Company's exposure away from fluctuations in short-term U.S. interest rates. These instruments may extend the Company's cash investment horizon up to a maximum effective duration of three years.

To ensure the adequacy and effectiveness of the Company's foreign exchange and interest rate hedge positions, as well as to monitor the risks and opportunities of the nonhedge portfolios, the Company continually monitors its foreign exchange forward and option positions, and its interest rate swap and option positions on a stand-alone basis and in conjunction with its underlying foreign currency- and interest rate-related exposures, respectively, from both an accounting and an economic perspective. However, given the effective horizons of the Company's risk management activities, there can be no assurance that the aforementioned programs will offset more than a portion of the adverse financial impact resulting from unfavorable movements in either foreign exchange or interest rates. In addition, the timing of the accounting for recognition of gains and losses related to mark-to-market instruments for any given period may not coincide with the timing of gains and losses related to the underlying economic exposures, and as such, may adversely affect the Company's operating results and financial position. The Company generally does not engage in leveraged hedging.

Inventory and Supply

In line with the Company's efforts to redesign its business model, the Company intends to streamline its product offerings in its key market segments in education, business and the home. However, this simplification of product lines may result in inventory reserves or cancellation fees related to custom component inventory purchased for anticipated product introductions that may be canceled. Furthermore, the Company may incur lower of cost or market adjustments in order to sell through current product offerings which may be discontinued in the near term.

The Company's ability to satisfy demand for its products may be limited by the availability of key components. The Company believes that the availability from suppliers to the personal computer industry of microprocessors and ASICs presents the most significant potential for constraining the Company's ability to produce products. Specific microprocessors manufactured by Motorola, Inc. and IBM are currently available only from single sources, while some advanced microprocessors are currently in the early stages of ramp-up for production and thus have limited availability. The Company and other producers in the personal computer industry also compete for other semiconductor products with other industries that have experienced increased demand for such products, due to either increased consumer demand or increased use of semiconductors in their products (such as the cellular phone and automotive industries). Finally, the Company uses some components that are not common to the rest of the personal computer industry (including certain ASICs). Continued availability of these components may be affected if producers were to decide to concentrate on the production of common components instead of custom components. Such product supply constraints and corresponding increased costs could adversely affect the Company's future operating results and financial condition, including loss of market share. In the past, the Company's operating results and financial condition have been and may in the future be adversely affected by the Company's ability to manage inventory levels and lead times required to obtain components in order to be more responsive to short-term shifts in
customer demand patterns. In addition, if unit sales growth for current or future product offerings is not realized, the Company's results of operations and financial condition could be adversely affected.

Certain of the Company's products are manufactured in whole or in part by third-party manufacturers, either pursuant to design specifications of the Company or otherwise. As a result of the Company's restructuring plan, the proportion of its products produced under such arrangements may increase. While such arrangements may lower the fixed cost of operations, it may also reduce the direct control the Company currently has over production, and it is uncertain what the effect such lowered control will have on the quality of the products manufactured or the flexibility of the Company to respond to changing market conditions. Moreover, although arrangements with such manufacturers may contain provisions for warranty expense reimbursement, the Company remains at least initially responsible to the ultimate consumer for warranty service. Accordingly, in the event of product defects or warranty liability, the Company may remain at least primarily liable. Any unanticipated product defect or warrant liability, whether pursuant to arrangements with contract manufacturers or otherwise, could adversely affect the Company's future operating results and financial condition.

Marketing and Distribution

A number of uncertainties may affect the marketing and distribution of the Company's products. Currently, the Company's primary means of distribution is through third-party computer resellers. The Company also distributes product through consumer channels such as mass-merchandise stores, consumer electronics outlets, and computer superstores. The Company's business and financial results could be adversely affected if the financial condition of these resellers weakens or if resellers within consumer channels decide not to continue to distribute the Company's products.

Uncertainty over the demand for the Company's products may cause resellers to reduce the ordering and marketing of the Company's products. Under the Company's arrangements with its resellers, resellers have the option to reduce or eliminate unfilled orders previously placed, in most instances without financial penalty. Resellers also have the option to return products to the Company without penalty within certain limits, beyond which they may be assessed fees. In the second quarter of 1996, the Company is experiencing a reduction in ordering by resellers from historical levels in certain regions due to uncertainty concerning the Company's condition.

Other Factors

The majority of the Company's research and development activities, its corporate headquarters, and other critical business operations are located near major seismic faults. The Company's operating results and financial condition could be materially adversely affected in the event of a major earthquake.

Production and marketing of products in certain states and countries may subject the Company to environmental and other regulations which include, in some instances, the requirement that the Company provide consumers with the ability to return to the Company product at the end of its useful life, and leave responsibility for environmentally safe disposal or recycling with the Company. It is unclear what the effect of such regulation will have on the Company's future operating results and financial condition.

The Company is currently in the process of replacing its current transaction systems (which include order management, distribution, and finance) with a single integrated system as part of its ongoing effort to increase operational efficiency. The Company's future operating results and financial condition could be adversely affected if it is unable to implement and effectively manage the transition to this new integrated system.

Because of the foregoing factors, as well as other factors affecting the Company's operating results and financial condition, past financial performance should not be considered to be a reliable indicator of future performance, and investors should not use historical trends to anticipate results or trends in future periods. In addition, the Company's participation in a highly dynamic industry often results in significant volatility of the Company's common stock price.

Liquidity and Capital Resources

Cash generated by operations during the first three months of 1996 totaled $187 million. Cash was generated primarily as a result of higher accounts payable levels, reflecting longer payment terms obtained from vendors as well as growth in inventory levels. Cash generated by operations was partially offset by cash used for the purchase of inventory. Despite the higher sales level achieved during the first quarter of 1996 compared with the same period of 1995, less cash was generated by operations in 1996 primarily because of the growth in inventory and the operating loss incurred primarily due to competitive pricing actions.

Net cash used for the purchase of property, plant, and equipment totaled $31 million in the first three months of 1996, and was primarily made up of increases in manufacturing machinery and equipment and buildings. The Company anticipates that capital expenditures in 1996 will decline relative to 1995 expenditure levels.

Short-term borrowings at December 29, 1995, were approximately $37 million higher than at September 29, 1995. These borrowings were primarily made to fund expected working capital growth in certain markets worldwide. Domestically, $88 million of U.S. commercial paper was issued and $10 million of short-term borrowings were incurred from U.S. banks during the first quarter of 1996. Outside the United States, short-term borrowings decreased by $61 million. Apple Japan, Inc. and Apple Computer BV (Netherlands), subsidiaries of the Company, held short-term borrowings from several banks, totaling approximately $197 million and $203 million, respectively, at December 29, 1995. These loans mature in March 1996 and April 1996, respectively. In the second quarter of 1996, the Company largely discontinued its issuance of commercial paper.

The Company's balance of long-term debt remained relatively constant during the first quarter of 1996. Substantially the entire amount of long-term borrowings represents $300 million aggregate principal amount of 6.5% unsecured notes issued under an omnibus shelf registration statement filed with the Securities and Exchange Commission in 1994. This shelf registration was for the registration of debt and other securities for an aggregate offering amount of $500 million. The notes were sold at 99.925% of par, for an effective yield to maturity of 6.51%. The notes pay interest semi-annually and mature on February 15, 2004.

The Company expects that it will borrow in the near to intermediate term to finance its working capital needs and capital expenditures, particularly because it is unlikely that the Company will continue to generate cash from operations in this time frame.

The Internal Revenue Service has proposed federal income tax deficiencies for the years 1984 through 1991, and the Company has made certain prepayments thereon. The Company contested the proposed deficiencies for the years 1984 through 1988, and most of the issues in dispute for these years have been resolved. On June 29, 1995, the IRS issued a notice of deficiency proposing increases to the amount of the Company's federal income taxes for the years 1989 through 1991. The Company has filed a petition with the United States Tax Court to contest these alleged tax deficiencies. Management believes that adequate provision has been made for any adjustments that may result from these tax examinations.

As noted on page 10 under the subheading "Interest and other income(expense), net, the Company expects that its cost of funds will increase in 1996. In addition, the Company may be required to pledge collateral with respect to certain of its borrowings and to agree to more stringent covenants than in the past. The Company is seeking alternative sources of liquidity and is discussing financing alternatives with several financial institutions. Although the Company believes it will be able to arrange short- and intermediate-term financing that will cover its needs, it currently does not have commitments from lenders to provide such funding. The Company believes that its balances of cash, cash equivalents, and short-term investments, together with short- and long-term borrowings that the Company believes it will be able to obtain, will be sufficient to meet its short- and long-term operating cash requirements, including the impact of planned restructuring actions, on a short- and long-term basis.
PART II. OTHER INFORMATION

Item 1. Legal Proceedings

Management is not aware of any pending legal proceedings to which the Company is a party that are likely to have a material adverse effect on the Company's financial condition and results of operations as reported in the accompanying financial statements. In January 1996, two purported class action complaints naming the Company and its directors as defendants were filed in Superior Court in the state of California, styled as Abraham and Evelyn Kostick Trust v. Peter O. Crisp, et al., and Manson v. Peter O. Crisp, et al. These complaints seek injunctive relief and unspecified compensatory damages based on substantially identical allegations of acts of mismanagement resulting in a depressed price for the Company. The Company has reviewed the allegations of the complaints and believes they are without merit, and intends to defend itself vigorously.

Item 6. Exhibits and Reports on Form 8-K

a) Exhibits

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<td>10.A.25</td>
<td>Summary of Principal Terms of Employment between Registrant and Gilbert F. Amelio.</td>
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<tr>
<td>11</td>
<td>Computation of per share earnings</td>
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<tr>
<td>27</td>
<td>Financial Data Schedule</td>
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</tbody>
</table>

b) Reports on Form 8-K

None.
Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

APPLE COMPUTER, INC.
(Registrant)

DATE: February 12, 1996 BY /s/ Jeanne Seeley

Jeanne Seeley
Vice President, Finance and Corporate Controller
(Chief Accounting Officer)
<table>
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<th>Exhibit</th>
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<td>1990 Stock Option Plan, revised December 1995.</td>
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<td>1996 Senior/Executive Incentive Bonus Plan.</td>
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<td>Executive Severance Plan as amended and restated effective as of January 15, 1996.</td>
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<td>Separation Agreement dated December 1, 1995, between Registrant and Daniel Eilers.</td>
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<td>Summary of Principal Terms of Employment between Registrant and Gilbert F. Amelio.</td>
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</table>
1. Purposes of the Plan. The purposes of this 1990 Stock Option Plan are to attract and retain high quality personnel for positions of substantial responsibility, to provide additional incentive to Employees of the Company, its Subsidiaries and its Affiliated Companies and to promote the success of the Company's business. This Plan succeeds to and replaces the Company's 1981 Stock Option Plan. Options granted under the Plan may be incentive stock options (as defined under Section 422 of the Code) or non-statutory stock options, as determined by the Administrator at the time of grant of an option and subject to the applicable provisions of Section 422 of the Code, and the regulations promulgated thereunder. Stock appreciation rights ("SARs") may be granted under the Plan in connection with Options or independently of Options.

2. Definitions. As used herein, the following definitions shall apply:

(a) "Administrator" means the Board or any of its Committees, as shall be administering the Plan from time to time pursuant to Section 4 of the Plan.

(b) "Affiliated Company" means a corporation which is not a Subsidiary but with respect to which the Company owns, directly or indirectly through one or more Subsidiaries, at least 20% of the total voting power, unless the Administrator determines in its discretion that such corporation is not an Affiliated Company.

(c) "Board" means the Board of Directors of the Company.

(d) "Common Stock" means the Common Stock, no par value, of the Company.

(e) "Company" means Apple Computer, Inc., a California corporation, or its successor.

(f) "Committee" means a Committee, if any, appointed by the Board in accordance with paragraph (a) of Section 4 of the Plan.

(g) "Code" means the Internal Revenue Code of 1986, as amended from time to time, and any successor thereto.

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"Continuous Status as an Employee" means the absence of any interruption or termination of the employment relationship with the Company or any Subsidiary or Affiliated Company. Continuous Status as an Employee shall not be considered interrupted in the case of: (i) medical leave, provided that such leave is for a period of not more than four months; (ii) military leave; (iii) family leave, provided that such leave is for a period of not more than four months; (iv) any other leave of absence approved by the Administrator, provided that such leave is for a period of not more than four months, unless reemployment upon the expiration of such leave is guaranteed by contract or statute, or unless provided otherwise pursuant to formal policy adopted from time to time by the Company and issued and promulgated to Employees in writing; or (v) in the case of transfers between locations of the Company or between the Company, its Subsidiaries, its successor or its Affiliated Companies.

(i) "Director" means a member of the Board.

(j) "Employee" means any person, including Officers and Directors, employed by and on the payroll of the Company, any Subsidiary or any Affiliated Company. The payment of Directors' fees by the Company shall not be sufficient to constitute "employment" by the Company.


(l) "Fair Market Value" means the value of Common Stock determined as follows:

(i) If the Common Stock is listed on any established stock exchange or a national market system (including without limitation the National Market System of the National Association of Securities Dealers, Inc. Automated Quotation ("NASDAQ") System), its Fair Market Value shall be the closing sales price for such stock or the closing bid if no sales were reported, as quoted on such system or exchange (or the exchange with the greatest volume of trading in Common Stock) for the last market trading day prior to the time of determination, as reported in the Wall Street Journal or such other source as the Administrator deems reliable.

(ii) If the Common Stock is regularly quoted on the NASDAQ System (but not on the National Market System) or quoted by a recognized securities dealer but selling prices are not reported, its Fair Market Value shall be the mean between the high and low asked prices for the Common Stock for the last day on which there are quoted prices prior to the time of determination.

(iii) In the absence of an established market for the Common Stock, the Fair Market Value thereof shall be determined in good faith by the Administrator.

(m) "Officer" means an officer of the Company within the meaning of Section 16 of the Exchange Act and the rules and regulations promulgated thereunder.

(n) "Nonstatutory Stock Option" means an Option that is not an Incentive Stock Option.
Incentive Stock Option” means an Option that satisfies the provisions of Section 422 of the Code and is expressly designated by the Administrator at the time of grant as an incentive stock option.

"Option" means an Option granted pursuant to the Plan.

"Optioned Stock" means the Common Stock subject to an Option or SAR.

"Optionee" means an Employee who receives an Option or SAR.

"Parent" corporation shall have the meaning defined in Section 424(e) of the Code.

"Plan" means this 1990 Stock Option Plan.

"SAR" means a stock appreciation right granted pursuant to Section 9 below.

"Share" means a share of the Common Stock, as adjusted in accordance with Section 12 of the Plan.

"Subsidiary" corporation has the meaning defined in Section 424(f) of the Code.

In addition, the terms "Rule 16b-3" and "Applicable Laws", the term "Insiders", the term "Tax Date" and the terms "Change in Control" and "Change in Control Price", shall have the meanings set forth, respectively, in Sections 4, 9, 10 and 12 below.

3. Stock Subject to the Plan. Subject to the provisions of Section 12 of the Plan, the maximum aggregate number of Shares which may be optioned and sold under the Plan or for which SARs may be granted and exercised is 51,200,000 Shares (including Shares issued under the 1981 Stock Option Plan, to which this Plan is a successor).

The Shares may be authorized but unissued or reacquired Common Stock.

In the discretion of the Administrator, any or all of the Shares authorized under the Plan may be subject to SARs issued pursuant to the Plan.
If an Option or SAR issued under this Plan or under the Company's 1981 Stock Option Plan should expire or become unexercisable for any reason without having been exercised in full, the unpurchased Shares which were subject thereto shall, unless this Plan shall have been terminated, become available for other Options or SARs under this Plan. However, should the Company reacquire Shares which were issued pursuant to the exercise of an Option or SAR, such Shares shall not become available for future grant under the Plan.

4. Administration of the Plan.

(a) Composition of Administrator.

(1) Multiple Administrative Bodies. If permitted by Rule 16b-3 promulgated under the Exchange Act or any successor rule thereto, as in effect at the time that discretion is being exercised with respect to the Plan ("Rule 16b-3"), and by the legal requirements relating to the administration of stock plans such as the Plan, if any, of applicable securities laws, California corporate law and the Code (collectively, "Applicable Laws"), the Plan may (but need not) be administered by different administrative bodies with respect to (A) Directors who are not Employees, (B) Directors who are Employees, (C) Officers who are not Directors and (D) Employees who are neither Directors nor Officers.

(2) Administration with respect to Directors and Officers. With respect to grants and awards to Employees who are also Officers or Directors of the Company, the Plan may be administered by (A) the Board, if the Board may administer the Plan in compliance with Rule 16b-3 as it applies to a plan intended to qualify thereunder as a discretionary grant or award plan, or (B) a Committee designated by the Board to administer the Plan, which Committee shall be constituted (I) in such a manner as to permit the Plan and grants and awards thereunder to comply with Rule 16b-3 as it applies to a plan intended to qualify thereunder as a discretionary grant or award plan and (II) in such a manner as to satisfy the Applicable Laws.

(3) Administration with respect to Other Persons. With respect to grants and awards to Employees who are neither Directors nor Officers of the Company, the Plan may be administered by (A) the Board or (B) a Committee designated by the Board, which Committee shall be constituted in such a manner as to satisfy the Applicable Laws.

(4) General. Once a Committee has been appointed pursuant to subsection (2) or (3) of this Section 4(a), such Committee shall continue to serve in its designated capacity until otherwise directed by the Board. From time to time the Board may increase the size of any Committee and appoint additional members thereof, remove members (with or without cause) and appoint new members in substitution therefor, fill vacancies (however caused) and remove all members of a Committee and thereafter directly administer the Plan, all to the extent permitted by the Applicable Laws and, in the case of a Committee appointed under subsection (2) to the extent permitted by Rule 16b-3 as it applies to a plan intended to qualify thereunder as a discretionary grant or award plan.
(b) Powers of the Administrator. Subject to the provisions of the Plan and, in the case of a Committee, subject to the specific duties delegated by the Board to such Committee, the Administrator shall have the authority, in its discretion: (i) to determine the Fair Market Value of the Common Stock in accordance with Section 2(l) of the Plan; (ii) to determine, in accordance with Section 8(a) of the Plan, the exercise price per Share of Options and SARs to be granted; (iii) to determine the Employees to whom, and the time or times at which, Options and SARs shall be granted and the number of Shares to be represented by each Option or SAR (including without limitation whether or not a corporation shall be excluded from the definition of Affiliated Company under Section 2(b)); (iv) to interpret the Plan; (v) to determine the terms and conditions, not inconsistent with the terms of the Plan, of any Option or SAR granted hereunder (including, but not limited to, any restriction or limitation, or any vesting acceleration or waiver of forfeiture restrictions regarding any Option or SAR and/or the Shares relating thereto, based in each case on such factors as the Administrator shall determine, in its sole discretion); (vi) to approve forms of agreement for use under the Plan; (vii) to prescribe, amend and rescind rules and regulations relating to the Plan; (viii) to modify or amend each Option or SAR (with the consent of the Optionee) or accelerate the exercise date of any Option or SAR; (ix) to reduce the exercise price of any Option or SAR to the then current Fair Market Value if the Fair Market Value of the Common Stock covered by such Option or SAR shall have declined since the date the Option or SAR was granted; (x) to authorize any person to execute on behalf of the Company any instrument required to effectuate the grant of an Option or SAR previously granted by the Administrator; and (xi) to make all other determinations deemed necessary or advisable for the administration of the Plan.

(c) Effect of Decisions by the Administrator. All decisions, determinations and interpretations of the Administrator shall be final and binding on all Optionees and any other holders of any Options.

5. Eligibility. Options and SARs may be granted only to Employees. An Employee who has been granted an Option or SAR may, if he or she is otherwise eligible, be granted an additional Option or Options, SAR or SARs. Each Option shall be evidenced by a written Option agreement, which shall expressly identify the Options as Incentive Stock Options or as Nonstatutory Stock Options, and which shall be in such form and contain such provisions as the Administrator shall from time to time deem appropriate. However, notwithstanding such designation, to the extent that the aggregate Fair Market Value of the Shares with respect to which Options designated as Incentive Stock Options and options granted under other plans of the Company or any Parent or Subsidiary that are designated as incentive stock options are exercisable for the first time by an Optionee during any calendar year exceeds $100,000, such excess Options shall be treated as Nonstatutory Stock Options. For purposes of the preceding sentence, (i) Options shall be taken into account in the order in which they were granted, and (ii) the Fair Market Value of the Shares shall be determined as of the time the Option or other incentive stock option with respect to such Shares is granted.

Without limiting the foregoing, the Administrator may, at any time, or from time to time, authorize the Company, with the consent of the respective recipients, to issue new Options or Options in exchange for the surrender and cancellation of any or all outstanding Options, other options, SARs or other stock appreciation rights.
Neither the Plan nor any Option or SAR agreement shall confer upon any Optionee any right with respect to continuation of employment by the Company (or any Parent, Subsidiary or Affiliated Company), nor shall it interfere in any way with the Optionee's right or the right of the Company (or any Parent, Subsidiary or Affiliated Company) to terminate the Optionee's employment at any time or for any reason.

6. Term of Plan. The Plan shall become effective upon its adoption by the Board or its approval by vote of the holders of a majority of the outstanding Shares of the Company entitled to vote on the adoption of the Plan, whichever is earlier. It shall continue in effect for a term of ten (10) years unless sooner terminated under Section 14 of the Plan.

7. Term of Option. The term of each Option shall be ten (10) years from the date of grant thereof or such shorter term as may be provided in the Option agreement. However, in the case of an Incentive Stock Option granted to an Optionee who, at the time the Incentive Stock Option is granted, owns stock representing more than ten percent (10%) of the voting power of all classes of stock of the Company or any Parent or Subsidiary, the term of the Option shall be five (5) years from the date of grant thereof or such shorter time as may be provided in the Option agreement.

8. Exercise Price and Consideration.

(a) Exercise Price. The per Share exercise price for the Shares issuable pursuant to an Option shall be such price as is determined by the Administrator, but shall in no event be less than 100% of the Fair Market Value of Common Stock, determined as of the date of grant of the Option. In the event that the Administrator shall reduce the exercise price, the exercise price shall be no less than 100% of the Fair Market Value as of the date of that reduction. In no event shall the per Share exercise price be less than 110% of the Fair Market Value per Share as of the date of grant in the case of an Incentive Stock Option granted to an Optionee who, immediately before the grant of such Option, owns Shares representing more than 10% of the voting power or value of all classes of stock of the Company or any Parent or Subsidiary.

(b) Method of Payment. The consideration to be paid for the Shares to be issued upon exercise of an Option, including the method of payment, shall be determined by the Administrator (and, in the case of an Incentive Stock Option, shall be determined at the time of grant) and may consist of (i) cash, (ii) check, (iii) promissory note, (iv) other Shares which (x) in the case of Shares acquired upon exercise of an Option, have been owned by the Optionee for more than six (6) months on the date of surrender, and (y) have a Fair Market Value on the date of surrender equal to the aggregate exercise price of the Shares as to which said Option shall be exercised, (v) delivery of a properly executed exercise notice together with irrevocable instructions to a broker to promptly deliver to the Company the amount of sale or loan proceeds required to pay the exercise price, (vi) if the Optionee is subject to Section 16 of the Exchange Act, by delivering an irrevocable subscription agreement for the Shares which irrevocably obligates the Optionee to take and pay for the Shares not more than twelve (12) months after the date of delivery of the subscription agreement, or (vii) any combination of the foregoing methods of payment and/or any other consideration or method of payment as shall be permitted under applicable corporate law.

(a) Granted in Connection with Options. At the sole discretion of the Administrator, SARs may be granted in connection with all or any part of an Option, either concurrently with the grant of the Option or at any time thereafter during the term of the Option. The following provisions apply to SARs that are granted in connection with Options:

(i) The SAR shall entitle the Optionee to exercise the SAR by surrendering to the Company unexercised a portion of the related Option. The Optionee shall receive in exchange from the Company an amount equal to the excess of (x) the Fair Market Value on the date of exercise of the SAR of the Common Stock covered by the surrendered portion of the related Option over (y) the exercise price of the Common Stock covered by the surrendered portion of the related Option. Notwithstanding the foregoing, the Administrator may place limits on the amount that may be paid upon exercise of an SAR; provided, however, that such limit shall not restrict the exercisability of the related Option.

(ii) When an SAR is exercised, the related Option, to the extent surrendered, shall no longer be exercisable.

(iii) An SAR shall be exercisable only when and to the extent that the related Option is exercisable and shall expire no later than the date on which the related Option expires.

(iv) An SAR may only be exercised at a time when the Fair Market Value of the Common Stock covered by the related Option exceeds the exercise price of the Common Stock covered by the related Option.

(b) Independent SARs. At the sole discretion of the Administrator, SARs may be granted without related Options. The following provisions apply to SARs that are not granted in connection with Options:

(i) The SAR shall entitle the Optionee, by exercising the SAR, to receive from the Company an amount equal to the excess of (x) the Fair Market Value of the Common Stock covered by exercised portion of the SAR, as of the date of such exercise, over (y) the Fair Market Value of the Common Stock covered by the exercised portion of the SAR, as of the date on which the SAR was granted; provided, however, that the Administrator may place limits on the amount that may be paid upon exercise of an SAR.

(ii) SARs shall be exercisable, in whole or in part, at such times as the Administrator shall specify in the Optionee's SAR agreement.

(c) Form of Payment. The Company's obligation arising upon the exercise of an SAR may be paid in Common Stock or in cash, or in any combination of Common Stock and cash, as the Administrator, in its sole discretion, may determine. Shares issued upon the exercise of an SAR shall be valued at their Fair Market Value as of the date of exercise.

(a) Procedure for Exercise; Rights as a Shareholder. Any Option or SAR granted hereunder shall be exercisable at such times and under such conditions as determined by the Administrator and as shall be permissible under the terms of the Plan.

An Option or SAR shall be deemed to be exercised when written notice of such exercise has been given to the Company in accordance with the terms of the Option or SAR by the person entitled to exercise the Option or SAR and full payment for the Shares with respect to which the Option is exercised has been received by the Company. Full payment may, as authorized by the Administrator (and, in the case of an Incentive Stock Option, determined at the time of grant) and permitted by the Option agreement, consist of any consideration and method of payment allowable under Section 8(b) of the Plan. Until the issuance (as evidenced by the appropriate entry on the books of the Company or of a duly authorized transfer agent of the Company) of the stock certificate evidencing such Shares, no right to vote or receive dividends or any other rights as a shareholder shall exist with respect to the Optioned Stock, notwithstanding the exercise of the Option. No adjustment will be made for a dividend or other right for which the record date is prior to the date the stock certificate is issued, except as provided in Section 12 of the Plan. An Option or SAR may not be exercised with respect to a fraction of a Share.

Exercise of an Option in any manner shall result in a decrease in the number of Shares which thereafter shall be available, both for purposes of the Plan and for sale under the Option, by the number of Shares as to which the Option is exercised. Exercise of an SAR in any manner shall, to the extent the SAR is exercised, result in a decrease in the number of Shares which thereafter shall be available for purposes of the Plan, and the SAR shall cease to be exercisable to the extent it has been exercised.

(b) Rule 16b-3. Options and SARs granted to Insiders must comply with Rule 16b-3 and shall contain such additional conditions or restrictions as may be required thereunder to be contained in the Plan or the agreement to qualify for the maximum exemption from Section 16 of the Exchange Act with respect to Plan transactions.

(c) Termination of Continuous Employment. Upon termination of an Optionee's Continuous Status as Employee (other than termination by reason of the Optionee's death), the Optionee may, but only within ninety (90) days after the date of such termination, exercise his or her Option or SAR to the extent that it was exercisable at the date of such termination. Notwithstanding the foregoing, however, an Option or SAR may not be exercised after the date the Option or SAR would otherwise expire by its terms due to the passage of time from the date of grant.
(d) Death of Optionee. In the event of the death of an Optionee:

(1) Who is at the time of death an Employee and who shall have been in Continuous Status as an Employee since the date of grant of the Option, the Option or SAR may be exercised at any time within six (6) months (or such other period of time not exceeding twelve (12) months as determined by the Administrator) following the date of death by the Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise that would have accrued had the Optionee continued living and terminated his or her employment six (6) months (or such other period of time not exceeding twelve (12) months as determined by the Administrator) after the date of death; or

(2) Within ninety (90) days after the termination of Continuous Status as an Employee, the Option or SAR may be exercised, at any time within six (6) months (or such other period of time not exceeding twelve (12) months as determined by the Administrator) following the date of death by the Optionee's estate or by a person who acquired the right to exercise the Option by bequest or inheritance, but only to the extent of the right to exercise that had accrued at the date of termination.

Notwithstanding the foregoing, however, an Option or SAR may not be exercised after the date the Option or SAR would otherwise expire by its terms due to the passage of time from the date of grant.

(e) Stock Withholding to Satisfy Withholding Tax Obligations. When an Optionee incurs tax liability in connection with the exercise of an Option or SAR, which tax liability is subject to tax withholding under applicable tax laws, and the Optionee is obligated to pay the Company an amount required to be withheld under applicable tax laws, the Optionee may satisfy the withholding tax obligation (including, at the election of the Optionee, any additional amount which the Optionee desires to have withheld in order to satisfy in whole or in part the Optionee's full estimated tax in connection with the exercise) by electing to have the Company withhold from the Shares to be issued upon exercise of the Option, or the Shares to be issued upon exercise of the SAR, if any, that number of Shares having a Fair Market Value equal to the amount required to be withheld (and any additional amount desired to be withheld, as aforesaid). The Fair Market Value of the Shares to be withheld shall be determined on the date that the amount of tax to be withheld is to be determined (the "Tax Date").

All elections by an Optionee to have Shares withheld for this purpose shall be made in writing in a form acceptable to the Administrator and shall be subject to the following restrictions:

(i) the election must be made on or prior to the applicable Tax Date;
(ii) once made, the election shall be irrevocable as to the particular Shares of the Option or SAR as to which the election is made unless revocation of the election is permitted by Rule 16b-3 and the Code; and
(iii) all elections shall be subject to the consent or disapproval of the Administrator.

In the event the election to have Shares withheld is made by an Optionee and the Tax Date is deferred under Section 83 of the Code because no election is filed under Section 83(b) of the Code, the Optionee shall receive the full number of Shares with respect to which the Option or SAR is exercised but such Optionee shall be unconditionally obligated to tender back to the Company the proper number of Shares on the Tax Date.

11. Non-Transferability of Options. Options and SARs may not be sold, pledged, assigned, hypothecated, transferred or disposed of in any manner other than by will or by the laws of descent or distribution or pursuant to a qualified domestic relations order as defined by the Code or Title I of the Employee Retirement Income Security Act, or the rules thereunder. The designation of a beneficiary by an Optionee or holder of an SAR does not constitute a transfer. An Option or an SAR may be exercised, during the lifetime of the Optionee or SAR holder, only by the Optionee or SAR holder or by a transferee permitted by this Section 11.

12. Adjustments Upon Changes in Capitalization or Merger.

(a) Changes in Capitalization. Subject to any required action by the shareholders of the Company, the number of Shares covered by each outstanding Option and SAR, and the number of Shares which have been authorized for issuance under the Plan but as to which no Options or SARs have yet been granted or which have been returned to the Plan upon cancellation or expiration of an Option or SAR, as well as the price per Share covered by each such outstanding Option or SAR, shall be proportionately adjusted for any increase or decrease in the number of issued Shares resulting from a stock split, reverse stock split, stock dividend, combination or reclassification of the Common Stock, or any other increase or decrease in the aggregate number of issued Shares effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration." Such adjustment shall be made by the Administrator, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issuance by the Company of shares of stock of any class, or securities convertible into shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of Shares subject to an Option or SAR.

(b) Dissolution or Liquidation. In the event of the proposed dissolution or liquidation of the Company, all outstanding Options and SARs will terminate immediately prior to the consummation of such proposed action, unless otherwise provided by the Administrator. The Administrator may, in the exercise of its sole discretion in such instances, declare that any Option or SAR shall terminate as of a date fixed by the Administrator and give each Optionee the right to exercise his or her Option or SAR as to all or any part of the Optioned Stock or SAR, including Shares as to which the Option or SAR would not otherwise be exercisable.
(c) Sale of Assets or Merger. Subject to the provisions of paragraph (d) hereof, in the event of a proposed sale of all or substantially all of the assets of the Company, or the merger of the Company with or into another corporation, each outstanding Option and SAR shall be assumed or an equivalent option or stock appreciation right shall be substituted by such successor corporation or a parent or subsidiary of such successor corporation, unless the Administrator determines, in the exercise of its sole discretion and in lieu of such assumption or substitution, that the Optionee shall have the right to exercise the Option or SAR as to all of the Optioned Stock, including Shares as to which the Option or SAR would not otherwise be exercisable. If the Administrator makes an Option or SAR fully exercisable in lieu of assumption or substitution in the event of a merger or sale of assets, the Company shall notify the Optionee that the Option or SAR shall be fully exercisable for a period of thirty (30) days from the date of such notice, and the Option or SAR will terminate upon the expiration of such period. For purposes of this paragraph, an Option granted under the Plan shall be deemed to be assumed if, following the sale of assets or merger, the Option confers the right to purchase, for each Share of Optioned Stock subject to the Option immediately prior to the sale of assets or merger, the consideration (whether stock, cash or other securities or property) received in the sale of assets or merger by holders of Common Stock for each Share held on the effective date of the transaction (and if such holders were offered a choice of consideration, the type of consideration chosen by the holders of a majority of the outstanding Shares); provided, however, that if such consideration received in the sale of assets or merger was not solely Common Stock of the successor corporation or its parent, the Administrator may, with the consent of the successor corporation and the participant, provide for the per share consideration to be received upon exercise of the Option to be solely Common Stock of the successor corporation or its parent equal in Fair Market Value to the per share consideration received by holders of Common Stock in the sale of assets or merger.

(d) Change in Control. In the event of a "Change in Control" of the Company, as defined in paragraph (e) below, unless otherwise determined by the Administrator prior to the occurrence of such Change in Control, the following acceleration and valuation provisions shall apply:

1) Any Options and SARs outstanding as of the date such Change in Control is determined to have occurred that are not yet exercisable and vested on such date shall become fully exercisable and vested; and

2) The value of all outstanding Options and SARs shall, unless otherwise determined by the Administrator at or after grant, be cashed-out. The amount at which such Options and SARs shall be cashed out shall be equal to the excess of (x) the Change in Control Price (as defined below) over (y) the exercise price of the Common Stock covered by the Option or SAR. The cash-out proceeds shall be paid to the Optionee or, in the event of death of an Optionee prior to payment, to the estate of the Optionee or to a person who acquired the right to exercise the Option or SAR by bequest or inheritance.
(e) Definition of "Change in Control". For purposes of this Section 12, a "Change in Control" means the happening of any of the following:

(i) When any "person", as such term is used in Sections 13(d) and 14(d) of the Exchange Act (other than the Company, a Subsidiary or a Company employee benefit plan, including any trustee of such plan acting as trustee) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing fifty percent (50%) or more of the combined voting power of the Company's then outstanding securities; or

(ii) The occurrence of a transaction requiring shareholder approval, and involving the sale of all or substantially all of the assets of the Company or the merger of the Company with or into another corporation.

(f) Change in Control Price. For purposes of this Section 12, "Change in Control Price" shall be, as determined by the Administrator, (i) the highest Fair Market Value at any time within the 60-day period immediately preceding the date of determination of the Change in Control Price by the Administrator (the "60-Day Period"), or (ii) the highest price paid or offered, as determined by the Administrator, in any bona fide transaction or bona fide offer related to the Change in Control of the Company, at any time within the 60-Day Period.

13. Time of Granting Options and SARs. The date of grant of an Option or SAR shall, for all purposes, be the date on which the Administrator makes the determination granting such Option or SAR. Notice of the determination shall be given to each Employee to whom an Option or SAR is so granted within a reasonable time after the date of such grant.


(a) Amendment and Termination. The Board may at any time amend, alter, suspend or terminate the Plan, as it may deem advisable; provided that, to the extent necessary and desirable to comply with Rule 16b-3 or with Section 422 of the Code (or any other Applicable Law), the Company shall obtain shareholder approval of any Plan amendment in such a manner and to such a degree as is required.

(b) Effect of Amendment or Termination. Any such amendment, alteration, suspension or termination of the Plan shall not impair the rights of any Optionee or SAR holder under any grant theretofore made without his or her consent. Such Options and SARs shall remain in full force and effect as if this Plan had not been amended or terminated.

15. Conditions Upon Issuance of Shares. Shares shall not be issued with respect to an Option or SAR unless the exercise of such Option or SAR and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act of 1933, as amended, the Exchange Act, the rules and regulations promulgated thereunder, and the requirements of any stock exchange or quotation system upon which the Shares may then be listed or quoted, and shall be further subject to the approval of counsel for the Company with respect to such compliance.
As a condition to the exercise of an Option or SAR or the issuance of Shares upon exercise of an Option or SAR, the Company may require the person exercising such Option or SAR to represent and warrant at the time of any such exercise that the Shares are being purchased only for investment and without any present intention to sell or distribute such Shares if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned relevant provisions of law.

Inability of the Company to obtain authority from any regulatory body having jurisdiction, which authority is deemed by the Company's counsel to be necessary to the lawful issuance and sale of any Shares hereunder, shall relieve the Company of any liability in respect of the non-issuance or sale of such Shares as to which such requisite authority shall not have been obtained.

16. Reservation of Shares. The Company, during the term of this Plan, will at all times reserve and keep available such number of Shares as shall be sufficient to satisfy the requirements of the Plan.
APPLE COMPUTER, INC.
EMPLOYEE STOCK PURCHASE PLAN
(as amended through December 6, 1995)

The following constitute the provisions of the Employee Stock Purchase Plan (herein called the "Plan") of Apple Computer, Inc. (herein called the "Company").

1. Purpose. The purpose of the Plan is to provide employees of the Company and its subsidiaries with an opportunity to purchase Common Stock of the Company through payroll deductions. It is the intention of the Company to have the Plan qualify as an "Employee Stock Purchase Plan" under Section 423 of the Internal Revenue Code of 1986. The provisions of the Plan shall, accordingly, be construed so as to extend and limit participation in a manner consistent with the requirements of that section of the Code.

2. Definitions.

(a) "Board" shall mean the Board of Directors of the Company.

(b) "Common Stock" shall mean the Common Stock, no par value, of the Company.

(c) "Company" shall mean Apple Computer, Inc., a California corporation.

(d) "Compensation" shall mean all regular straight time earnings, payments for overtime, shift premium, incentive compensation, incentive payments, bonuses and commissions (except to the extent that the exclusion of any such items is specifically directed by the Board or its committee).

(e) "Designated Subsidiaries" shall mean the Subsidiaries which have been designated by the Board from time to time in its sole discretion as eligible to participate in the Plan.

(f) "Employee" means any person, including an officer, who is customarily employed for at least twenty (20) hours per week and more than five (5) months in a calendar year by the Company or one of its Designated Subsidiaries.

(g) "Plan" shall mean this Employee Stock Purchase Plan.

(h) "Section 16 Person" shall mean any person participating in the Plan who has been designated by the Board of Directors as having authority to carry out policy-making functions such that the person is subject to the reporting and short-swing profit regulations of Section 16 of the Securities Exchange Act of 1934.
(i) "Subsidiary" shall mean a corporation, domestic or foreign, of which not less than 50% of the voting shares are held by the Company or a Subsidiary, whether or not such corporation now exists or is hereafter organized or acquired by the Company or a Subsidiary.

(j) "1934 Act Section 16" shall mean Section 16 of the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder.

3. Eligibility.

(a) Any Employee as defined in Section 2 who shall be employed by the Company or one of its Designated Subsidiaries on the date his or her participation in the Plan is effective shall be eligible to participate in the Plan, subject to the limitations imposed by Section 423(b) of the Internal Revenue Code of 1986, as amended; provided that no Section 16 Person who has terminated his or her participation in any offering period shall be eligible to participate in the Plan during any offering period commencing less than six months after such election to terminate.

(b) Any provisions of the Plan to the contrary notwithstanding, no Employee shall be granted an option under the Plan (i) if, immediately after the grant, such Employee would own shares and/or hold outstanding options to purchase stock possessing five percent (5%) or more of the total combined voting power or value of all classes of shares of the Company or of any Subsidiary of the Company, or (ii) which permits his or her rights to purchase shares under all employee stock purchase plans of the Company and its Subsidiaries to accrue at a rate which exceeds Twenty-Five Thousand Dollars ($25,000) of the fair market value of the shares (determined at the time such option is granted) for each calendar year in which such stock option is outstanding at any time.

4. Offering Dates. The Plan shall be implemented by one offering during each six-month period of the Plan, commencing on or about January 1, 1981 and continuing thereafter until terminated in accordance with Section 19 hereof. The Board of Directors of the Company shall have the power to change the duration of offering periods with respect to future offerings without shareholder approval if such change is announced at least fifteen (15) days prior to the scheduled beginning of the first offering period to be affected.

5. Participation.

(a) An eligible Employee may become a participant in the Plan by completing a subscription agreement authorizing payroll deductions on the form provided by the Company and filing it with the Company's payroll office prior to the applicable offering date. Once filed, the subscription agreement shall remain effective for all subsequent offering periods until the participant withdraws from the Plan as provided in Section 10 hereof or files another subscription agreement.

(b) Payroll deductions for a participant shall commence on the first payroll following the commencement offering date and shall continue at the same rate until such time as the participant withdraws from the Plan as provided in Section 10 hereof or another subscription agreement is filed which changes the rate of payroll deductions.
6. Payroll Deductions.

(a) At the time a participant files his or her subscription agreement, he or she shall elect to have payroll deductions made on each payday during subsequent offering periods at a rate not exceeding ten percent (10%) of the Compensation which he or she received on such payday, and the aggregate of such payroll deductions during any offering period shall not exceed ten percent (10%) of his or her aggregate Compensation during said offering period.

(b) All payroll deductions made by a participant shall be credited to his or her account under the Plan. A participant may not make any additional payments into such account.

(c) A participant may discontinue his or her participation in the Plan as provided in Section 10, or may lower, but not increase, the rate of his or her payroll deductions (within the limitations set forth in subsection (a) above) during an offering period by completing and filing with the Company a new authorization for payroll deductions. The change in rate shall be effective within fifteen (15) days following the Company's receipt of the new authorization; except in the case of a change in the rate of participation of a Section 16 Person, in which case the change shall be effective no earlier than the offering period commencing on or after the end of such fifteen-day period.

(d) A participant may increase his or her rate of payroll deductions (within the limitations set forth in subsection (a) above) to be effective for the next offering period by completing and filing with the Company a new authorization for payroll deductions at least fifteen (15) days before the beginning of said offering period.

7. Grant of Option.

(a) At the beginning of each six-month offering period, each eligible Employee participating in the Plan shall be granted an option to purchase (at the per share option price) up to a number of shares of the Company's Common Stock determined by dividing the Employee's accumulated payroll deductions (not to exceed an amount equal to ten percent (10%) of his or her Compensation during the applicable offering period) by the lower of (i) eighty-five percent (85%) of the fair market value of a share of the Company's Common Stock on the date of the commencement of said offering period, or (ii) eighty-five percent (85%) of the fair market value of a share of the Company's Common Stock on the date of the expiration of the offering period, subject to the limitations set forth in Sections 3(b) and 12 hereof, and subject to the following limitation: The number of shares of the Company's Common Stock subject to any option granted to an Employee pursuant to this Plan shall not exceed two hundred percent (200%) of the number of shares of the Company's Common Stock determined by dividing an amount equal to ten percent (10%) of the Employee's semi-annual Compensation as of the date of the commencement of the applicable offering period by eighty-five percent (85%) of the fair market value of a share of the Company's Common Stock on the date of the commencement of said offering period. Fair market value of a share of the Company's Common Stock shall be determined as provided in Section 7(b) herein.
(b) The option price per share of such shares shall be the lower of: (i) 85% of the fair market value of a share of the Common Stock of the Company at the commencement of the six-month offering period; or (ii) 85% of the fair market value of a share of the Common Stock of the Company at the time the option is exercised at the termination of the six-month offering period. The fair market value of the Company's Common Stock on a given date shall be the mean of the reported bid and asked prices for that date, or if the Common Stock is listed on an exchange or quoted on the Nasdaq National Market, the closing sale price on such exchange or quotation system for that date.

8. Exercise of Option. Unless a participant withdraws from the Plan as provided in Section 10, his or her option for the purchase of shares will be exercised automatically at the end of the offering period, and the maximum number of full shares subject to option will be purchased for him or her at the applicable option price with the accumulated payroll deductions in his or her account. During his or her lifetime, a participant’s option to purchase shares hereunder is exercisable only by him or her.

9. Delivery; Roll-Over of Fractional Share Interests.

(a) As promptly as practicable after the termination of each offering, the Company shall arrange for the delivery to each participant, as appropriate, of a certificate representing the number of full shares purchased upon exercise of his or her option. No fractional shares shall be issued. Any cash remaining to the credit of a participant's account under the Plan after a purchase by him or her of shares at the termination of each offering period which is insufficient to purchase a full share of Common Stock of the Company subject to option shall remain in such participant's account and shall be applied to the next succeeding offering period unless the participant has withdrawn as to future offering periods, in which case such cash shall be returned to said participant. Any cash attributable to shares in excess of the number of shares subject to option to the participant (as determined in accordance with Section 7(a) hereof) shall be returned to the participant.

(b) A Section 16 Person purchasing shares pursuant to this Plan in any offering period shall not directly nor indirectly sell such shares or any beneficial interest in such shares for a period of six months following the end of such offering period where such sale would constitute a violation under 1934 Act Section 16.

10. Withdrawal; Termination of Employment.

(a) A participant may withdraw all but not less than all the payroll deductions credited to his or her account under the Plan at any time prior to the end of the offering period by giving written notice to the Company. All of the participant's payroll deductions credited to his or her account will be paid to him or her promptly after receipt of his or her notice of withdrawal and his or her option for the current period will be automatically terminated, and no further payroll deductions for the purchase of shares will be made during the offering period.
(b) Upon termination of the participant's employment prior to the end of the offering period for any reason, including retirement or death, the payroll deductions credited to his or her account will be returned to him or her or, in the case of his or her death, to the person or persons entitled thereto under Section 14, and his or her option will be automatically terminated.

(c) In the event an Employee fails to remain in the continuous employ of the Company or one of its Designated Subsidiaries for at least twenty (20) hours per week during the offering period in which the employee is a participant, he or she will be deemed to have elected to withdraw from the Plan and the payroll deductions credited to his or her account will be returned to him or her and his or her option terminated.

(d) Except as provided in Section 3(a) with respect to Section 16 Persons, a participant's withdrawal from an offering will not have any effect upon his or her eligibility to participate in a succeeding offering or in any similar plan which may hereafter be adopted by the Company. However, a new subscription agreement will have to be filed in such case.

11. No Interest. No interest shall accrue on the payroll deductions of a participant in the Plan.

12. Stock.

(a) The maximum number of shares of the Company's Common Stock which shall be made available for sale under the Plan shall be eleven million five hundred thousand (11,500,000) shares, subject to adjustment upon changes in capitalization of the Company as provided in Section 18. The shares to be sold to participants under the Plan may, at the election of the Company, be either treasury shares or shares authorized but unissued. If at the termination of any offering period the total number of shares which would otherwise be subject to options granted pursuant to Section 7(a) hereof exceeds the number of shares then available under the Plan (after deduction of all shares for which options have been exercised or are then outstanding), the Company shall promptly notify the participants, and shall, in its sole discretion (i) make a pro rata allocation of the shares remaining available for option grant in as uniform a manner as shall be practicable and as it shall determine to be equitable,

(ii) terminate the offering period without issuance of any shares or (iii) obtain shareholder approval of an increase in the number of shares authorized under the Plan such that all options could be exercised in full. The Company may delay determining which of (i), (ii) or (iii) above it shall decide to effect, and may accordingly delay issuances of any shares under the Plan, for such time as is necessary to attempt to obtain shareholder approval of any increase in shares authorized under the Plan. The Company shall promptly notify participants of its determination to effect (i), (ii) or (iii) above upon making such decision. A participant may withdraw all but not less than all the payroll deductions credited to his or her account under the Plan at any time prior to such notification from the Company. In the event the Company determines to effect (i) or (ii) above, it shall promptly upon such determination return to each participant all payroll deductions not applied towards the purchase of shares.

(b) The participant will have no interest or voting right in shares covered by his or her option until such option has been exercised.
(c) Shares to be delivered to a participant under the Plan will be registered in the name of the participant or in the name of the participant and the spouse of the participant.

13. Administration. The Plan shall be administered by a committee of members of the Board of Directors, which committee shall be appointed by the Board. The administration, interpretation or application of the Plan by such committee shall be final, conclusive and binding upon all participants. Members of the committee shall not be permitted to participate in the Plan.


(a) A participant may indicate in his or her subscription agreement, or may file a written designation of beneficiary with respect to, a person who is to receive any shares and cash, if any, from the participant's account under the Plan in the event of such participant's death subsequent to the end of the offering period but prior to delivery to him or her of such shares and cash. In addition, a participant may file a written designation of a beneficiary who is to receive any cash from the participant's account under the Plan in the event of such participant's death prior to the end of the offering period.

(b) Such designation of beneficiary may be changed by the participant at any time by written notice. In the event of the death of a participant and in the absence of a beneficiary validly designated under the Plan who is living at the time of such participant's death, the Company shall deliver such shares and/or cash to the executor or administrator of the estate of the participant, or if no such executor or administrator has been appointed (to the knowledge of the Company), the Company, in its discretion, may deliver such shares and/or cash to the spouse or to any one or more dependents or relatives of the participant, or if no spouse, dependent or relative is known to the Company, then to such other person as the Company may designate.

15. Transferability. Neither payroll deductions credited to a participant's account nor any rights with regard to the exercise of an option or to receive shares under the Plan may be assigned, transferred, pledged or otherwise disposed of in any way (other than by will, the laws of descent and distribution or as provided in Section 14 hereof) by the participant. Any such attempt at assignment, transfer, pledge or other disposition shall be without effect, except that the Company may treat such act as an election to withdraw funds in accordance with Section 10.

16. Use of Funds. All payroll deductions received or held by the Company under the Plan may be used by the Company for any corporate purpose, and the Company shall not be obligated to segregate such payroll deductions.

17. Reports. Individual accounts will be maintained for each participant in the Plan. Statements of account will be given to participating Employees semi-annually within a reasonable period of time following the stock purchase date, which statements will set forth the amounts of payroll deductions, the per share purchase price, the number of shares purchased, the amount of cash rolled over into the next offering period and the remaining cash balance, if any.
18. Adjustments Upon Changes in Capitalization. Subject to any required action by the shareholders of the Company, the number of shares of Common Stock covered by each option under the Plan which has not yet been exercised and the number of shares of Common Stock which have been authorized for issuance under the Plan but have not yet been placed under option (collectively, the "Reserves"), as well as the price per share of Common Stock covered by each option under the Plan which has not yet been exercised, shall be proportionately adjusted for any increase or decrease in the number of issued shares of Common Stock resulting from a stock split or the payment of a stock dividend (but only on the Common Stock) or any other increase or decrease in the number of shares of Common Stock effected without receipt of consideration by the Company; provided, however, that conversion of any convertible securities of the Company shall not be deemed to have been "effected without receipt of consideration". Such adjustment shall be made by the Board, whose determination in that respect shall be final, binding and conclusive. Except as expressly provided herein, no issue by the Company of shares of stock of any class, or securities convertible into or exercisable for shares of stock of any class, shall affect, and no adjustment by reason thereof shall be made with respect to, the number or price of shares of Common Stock subject to an Option.

The Board may, if it so determines in the exercise of its sole discretion, also make provision for adjusting the Reserves, as well as the price per share of Common Stock covered by each outstanding option under the Plan, in the event that the Company effects one or more reorganizations, recapitalizations, rights offerings or other increases or reductions of shares of its outstanding Common Stock, and in the event of the Company being consolidated with or merged into any other corporation.

19. Amendment and Termination of the Plan.

(a) Amendment and Termination. The Board may at any time amend, alter, suspend or discontinue the Plan, but no amendment, alteration, suspension or discontinuation shall be made which would impair the rights of any participant under any option theretofore granted without his or her consent.

(b) Shareholder Approval. The Company shall obtain shareholder approval of any Plan amendment to the extent necessary and desirable to comply with Rule 16b-3 promulgated under the Securities Exchange Act of 1934, as amended, or with Section 423 of the Internal Revenue Code of 1986, as amended (or any successor statute or rule or other applicable law, rule or regulation), such shareholder approval to be obtained in such a manner and to such a degree as is required by the applicable law, rule or regulation.

(c) Effect of Amendment or Termination. Any such amendment or termination of the Plan shall not affect options already granted hereunder and such options shall remain in full force and effect as if this Plan had not been amended or terminated.
20. Notices. All notices or other communications by a participant to the Company under or in connection with the Plan shall be deemed to have been duly given when received in the form specified by the Company at the location, or by the person, designated by the Company for the receipt thereof. All notices or other communications to a participant by the Company shall be deemed to have been duly given when sent by the Company by regular mail to the address of the participant on the human resources records of the Company or when posted on Applelink or any substitute general electronic messaging and bulletin board system utilized by the Company.

21. Conditions Upon Issuance of Shares. Shares shall not be issued with respect to an option unless the exercise of such option and the issuance and delivery of such shares pursuant thereto shall comply with all applicable provisions of law, domestic or foreign, including, without limitation, the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, the rules and regulations promulgated thereunder, and the requirements of any stock exchange or automated quotation system upon which the shares may then be listed or quoted, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

As a condition to the exercise of an option, the Company may require the person exercising such option to represent and warrant at the time of any such exercise that (i) the shares are being purchased only for investment and without any present intention to sell or distribute such shares if, in the opinion of counsel for the Company, such a representation is required by any of the aforementioned applicable provisions of law, and (ii) in the case of a Section 16 Person, (a) the acquisition of such shares will not cause a violation of the 1934 Act Section 16 and (b) he or she will not directly or indirectly sell such shares or any beneficial interest in such shares for a period of six months following the end of such offering period where such sale would constitute a violation of the 1934 Act Section 16.
PURPOSE

The purpose of the Senior/Executive Incentive Bonus Plan "The Plan" is to focus the efforts of Senior Management towards predetermined, specific goals and objectives which are of critical importance to the success of the organization.

The program specifically:
- encourages participants to achieve outstanding results toward company and individual objectives,
- strengthens the ability of the organization to attract and retain high caliber, key management personnel, and
- provides a leveraged compensation program that is based on performance towards objectives, with superior performance resulting in aggressive compensation levels.

ELIGIBILITY

The following employees are eligible to participate in the Senior/Executive Bonus Plan:

- Chief Executive Officer
- Vice Presidents
- Geography Presidents
- Senior Directors
- Senior Vice Presidents
- Directors

Full year participants in the Senior/Executive Incentive Bonus Plan may not participate in other bonus plans without the approval of the Division President and the HR Director. However, nominal gift certificates and awards are acceptable, provided they are less than $500.

INCENTIVE BONUS GUIDELINES

Bonus targets for eligible participants in the Senior/Executive Incentive Bonus Plan will be set individually and expressed as a percent of base salary as of the beginning of the fiscal year according to salary grade. If an individual's salary grade changes between the beginning and the end of the year, the bonus target may be adjusted on a prorated basis (see Administrative Procedures).

PERFORMANCE MEASUREMENTS

There are two main components used to determine the bonus payout amounts after the end of the applicable biannual payment period (see Bonus Payouts): the Financial Performance Measurements and the Individual Performance Measurements. Details of these measurements are described below.

- Financial Performance Measurements The Financial Performance Measurements consist of Market Share, Operating Margin, Inventory Turns, Day Sales Outstanding, Corporate Return on Capital Employed (ROCE), and Time to Market. All Plan participants will be measured on either Corporate or Division Business Measurements as described in the Weighting of Performance Measurements section.
- Individual Performance Measurements

The Individual Performance Measurement is based on the participant's performance against two to four objectives that are aligned with Corporate/Division strategic objectives.

**Weighting of Performance Measurements**

The annual bonus target for Vice Presidents and above is weighted 100% on Financial Performance Measurements. The annual bonus target for Directors is weighted 70% on Financial Performance Measurements and 30% on Individual Performance Measurements. These weightings are shown in the table below. The financial results used in determining financial performance are based on the participant's position and area of responsibility and will be either a Corporate or Division measurement. Functional Staff (e.g., Finance, Human Resources, Information Systems and Legal) within a Division will be measured on the overall Division's Business Measurements. Other line or staff participants within a division may be measured on the Division's Business Measurements which are specific to their area of responsibility (e.g., Entry Mac Products, Power Books, Imaging, etc.). Details of the weighting of Financial and Individual Performance Measurements are as follows:

### FINANCIAL PERFORMANCE MEASUREMENTS (1) TOTL TOTL

<table>
<thead>
<tr>
<th>Mkt</th>
<th>Corp</th>
<th>Oper</th>
<th>Inv</th>
<th>DaySales</th>
<th>Time</th>
<th>Fin</th>
<th>Ind</th>
<th>Mkt</th>
<th>Meas</th>
<th>Meas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shr</td>
<td>ROCE</td>
<td>Mar</td>
<td>Turns</td>
<td>O/S</td>
<td>To</td>
<td>Perf</td>
<td>Perf</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Apple Leadership Team (ALT)

- CEO-CFO-SVPHR-General Counsel 50% 50% 100%
- WWOps - Head 50% 50% 100%
- Research & Development - Head 50% 50% 100%
- GEO Pres. (Americas,Eur,Pac) 50% 50% 100%

**Vice Presidents (Corp. & Div.)**

- Corporate Staff - All VP's 50% 50% 100%
- WWOps - All VP's (2) 40% 30% 30% 100%
- R & D - All VP's 40% 20% 40% 100%
- Entertainment & NM - All VP's 50% 50% 100%
- GEO VP's (Americas,Eur,Pac) 50% 20% 15% 15% 100%

**Directors & SIA's (Corp. & Div.)**

- Corp Staff - All Dirs & SIA's 35% 35% 70% 30%
- WWOps - All Dirs & SIA's (2) 30% 20% 20% 70% 30%
- R & D - All Dirs & SIA's 30% 15% 25% 70% 30%
- Ent & NM - All Dirs & SIA's 35% 35% 70% 30%
- GEO Dirs&SIA's(Amer,Eur,Pac) 30% 20% 10% 10% 70% 30%

(1) Financial Performance Measurements may be based on Worldwide, Geography, Regional or Functional levels depending upon the area of responsibility. For example, Market Share Measurements will be at a Worldwide, Geography, Regional or Country level. Operating Margin may be at a Functional Level such as Mac Desktops or Servers and Technology, etc.

(2) WWOPS will be measured on Corporate or Geography Measurements. Geo. Measurements apply to those with specific geographic responsibility (e.g., Cork will use Europe Measurements, Singapore will use Pacific Measurements, and Fountain and Sacramento will use Americas Measurements).

Any exceptions to using these financial performance measurements must be approved by the Senior Vice President of Human Resources.

**DETAILS OF AWARD DETERMINATION:**

Target payouts (less deductions and withholdings) will be based on the expectation of meeting financial and, if applicable, individual performance goals. If the thresholds are met, period-end payouts will be calculated in each segment as described below.
FINANCIAL PERFORMANCE MEASUREMENTS

- Corporate Performance Measurements Corporate Performance Measurements will be Market Share, Return on Capital Employed (ROCE) and Inventory Turns. If the threshold is met, the bonus target will be multiplied by a percentage from 50% through 175% depending on Corporate Performance. If the threshold is not met, there will be no payout for that performance segment.

- Division/Geography Performance Measurements Division/Geography Performance Measurements will be Market Share, Operating Margin, Inventory Turns, Day Sales Outstanding, and Time to Market. If the threshold is met, the bonus target will be multiplied by a minimum percentage which varies by Performance Measurement (see Payout Table in each segment) through a maximum percentage of 175% depending on Division/Geography Performance. If the threshold is not met, there will be no payout for that performance segment. Plan numbers and actual performance will be monitored by the Worldwide Planning Group and the Worldwide Market Tracking Group.

If for any reason there is a significant change in a Division's/Geography's plan during the plan payment period, upon joint recommendation of Human Resources and Worldwide Planning or Worldwide Market Tracking and with the approval of the Chief Executive Officer, plan targets may be changed or another alternative may be implemented.

If for any reason, including reorganization, a Division/Geography Business Measurement is no longer applicable for the entire payment period, the Division Business Measurement will be replaced by the higher Division, Geography or Corporate Business Measurement.

PAYOUT TABLES:

The bonus payouts at various achievements to plan for the Financial Measures are shown in the following tables. Actual payouts in between the values shown in the tables will be calculated on the actual incremental % achievement to plan. With the exception of Market Share and Time to Market, Accelerators and Decelerators are used when achievement to plan is above or below 100%. For Market Share and Time to Market, Accelerators and Decelerators are used when achievement to plan is above or below 110%.

Market Share Segment
This Segment will measure Market Share Percentage Achievement of Reported Market Share Gain versus Target Market Share Gain as shown in the Market Share Payout Table below:

FIRST HALF FY96 Market Share Payout Table

<table>
<thead>
<tr>
<th>% Achievement</th>
<th>% Report Market Share Gain vs. Target</th>
<th>% Bonus Payout</th>
<th>% Point Per Market Share Gain</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAXIMUM</td>
<td>150%</td>
<td>175.0%</td>
<td>1.30%</td>
</tr>
<tr>
<td></td>
<td>140%</td>
<td>162.0%</td>
<td>1.30%</td>
</tr>
<tr>
<td></td>
<td>130%</td>
<td>149.0%</td>
<td>1.30%</td>
</tr>
<tr>
<td></td>
<td>120%</td>
<td>136.0%</td>
<td>1.30%</td>
</tr>
<tr>
<td></td>
<td>110%</td>
<td>123.0%</td>
<td>1.30%</td>
</tr>
<tr>
<td>PLAN</td>
<td>100%</td>
<td>110.0%</td>
<td>Accelerators</td>
</tr>
<tr>
<td></td>
<td>90%</td>
<td>103.3%</td>
<td>0.67%</td>
</tr>
<tr>
<td></td>
<td>80%</td>
<td>96.7%</td>
<td>0.67%</td>
</tr>
<tr>
<td></td>
<td>70%</td>
<td>90.0%</td>
<td>0.67%</td>
</tr>
<tr>
<td></td>
<td>60%</td>
<td>83.3%</td>
<td>0.67%</td>
</tr>
<tr>
<td></td>
<td>50%</td>
<td>76.7%</td>
<td>0.67%</td>
</tr>
<tr>
<td></td>
<td>40%</td>
<td>70.0%</td>
<td>0.67%</td>
</tr>
<tr>
<td></td>
<td>30%</td>
<td>63.3%</td>
<td>0.67%</td>
</tr>
<tr>
<td></td>
<td>20%</td>
<td>56.7%</td>
<td>0.67%</td>
</tr>
<tr>
<td>THRESHOLD</td>
<td>10%</td>
<td>50.0%</td>
<td>0.67%</td>
</tr>
</tbody>
</table>

Below 10% 0.0%
First Half FY96 Supplemental Market Share Payout Table (This table to be used only for Target Market Share Gain Goals of Less Than 0.20 of a point.)

<table>
<thead>
<tr>
<th>Market Share Points</th>
<th>Bonus Payout</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAXIMUM</td>
<td></td>
</tr>
<tr>
<td>0.50</td>
<td>175.00%</td>
</tr>
<tr>
<td>0.40</td>
<td>158.75%</td>
</tr>
<tr>
<td>0.30</td>
<td>142.50%</td>
</tr>
<tr>
<td>0.20</td>
<td>126.25%</td>
</tr>
<tr>
<td>0.10</td>
<td>110.00%</td>
</tr>
<tr>
<td>0.00</td>
<td>93.75%</td>
</tr>
<tr>
<td>-0.10</td>
<td>80.00%</td>
</tr>
<tr>
<td>-0.20</td>
<td>66.67%</td>
</tr>
<tr>
<td>-0.30</td>
<td>55.56%</td>
</tr>
<tr>
<td>-0.40</td>
<td>44.44%</td>
</tr>
<tr>
<td>-0.50</td>
<td>33.33%</td>
</tr>
<tr>
<td>-0.60</td>
<td>22.22%</td>
</tr>
<tr>
<td>THRESHOLD</td>
<td></td>
</tr>
<tr>
<td>-0.02</td>
<td>80.00%</td>
</tr>
<tr>
<td>-0.12</td>
<td>66.67%</td>
</tr>
<tr>
<td>-0.22</td>
<td>55.56%</td>
</tr>
<tr>
<td>-0.33</td>
<td>44.44%</td>
</tr>
<tr>
<td>-0.44</td>
<td>33.33%</td>
</tr>
<tr>
<td>-0.55</td>
<td>22.22%</td>
</tr>
<tr>
<td>-0.66</td>
<td>11.11%</td>
</tr>
<tr>
<td>Below -0.02</td>
<td></td>
</tr>
<tr>
<td>-0.12</td>
<td>80.00%</td>
</tr>
<tr>
<td>-0.22</td>
<td>66.67%</td>
</tr>
<tr>
<td>-0.33</td>
<td>55.56%</td>
</tr>
<tr>
<td>-0.44</td>
<td>44.44%</td>
</tr>
<tr>
<td>-0.55</td>
<td>33.33%</td>
</tr>
<tr>
<td>-0.66</td>
<td>22.22%</td>
</tr>
<tr>
<td>0.00</td>
<td>0.00%</td>
</tr>
</tbody>
</table>

For example, a country has a Target Market Share Goal of -0.10 and achieves a Reported Market Share Gain above target of 0.05. The Bonus Payout percentage would be 134.375%.

Apple Market Share Targets

Apple market share targets will be based on Apple's semi-annual market share goals as approved by Apple's Board of Directors preceding the measurement period. The Apple Leadership Team will be responsible for allocating overall targets to individual countries/regions.

Reported Apple Market Share Gain (Loss)

Market share gain or (loss) will be based on Apple Market Share data for the total first half fiscal year 1995 (Q1 and Q2 FY95) as compared to Apple Market Share data for the total first half fiscal year 1996 (Q1 and Q2 FY96) as reported by Apple's Market Tracking Group. The Apple Market Share Gain or (Loss) will be the difference between the Apple Market Share over the two periods (first half FY95 versus first half FY96). Apple Market Share is defined as Apple's actual CPU's (including servers) sold during the Bonus Metric Measurement period divided by the reported market CPU’s (including servers) sold during the same period (as tracked by the Corporate Market Tracking group).

For examples of Market Share calculations refer to the Reported Market Share section in the Market Share Examples table below.

Market share gain or (loss) calculations for countries or regions that are not measured quarterly by Apple’s Market Tracking Group (all countries/regions excluding U.S., Japan, and Western European countries) will be sized by Apple's Market Tracking Group based on the most recent market data available. If there is no new data available, the original market size will be used to calculate the reported Market Share.

Apple Total Geography Market Share

Apple Total Geography Market Share is a roll-up of all the countries and/or regions market share numbers within the total geography being measured.

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Time To Market Segment

This segment will measure achievement of product delivery commitments in the Research & Development Organization. Time to Market is defined as the Golden Master Target (software) or the Introduction Date (hardware) as defined and approved through the Apple New Product Production (ANPP) Product Proposal Review (PPR). If the achievement is 8 or more weeks ahead of schedule, the maximum bonus of 175% is payable. If the achievement is 8 or more weeks behind schedule, no bonus is payable. The bonus payable will be determined based on the following table.

Time To Market Payout Table (Division Only)

<table>
<thead>
<tr>
<th>ACHIEVEMENT</th>
<th># WEEKS TO TARGET</th>
<th>PAYOUT</th>
<th>% PER WEEK</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAXIMUM</td>
<td>&gt; - 8</td>
<td>175.0%</td>
<td>8.125%</td>
</tr>
<tr>
<td></td>
<td>7</td>
<td>166.9%</td>
<td>8.125%</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>158.8%</td>
<td>8.125%</td>
</tr>
<tr>
<td># Weeks</td>
<td>5</td>
<td>150.6%</td>
<td>8.125%</td>
</tr>
<tr>
<td>Ahead Of -&gt;</td>
<td>4</td>
<td>142.5%</td>
<td>8.125%</td>
</tr>
<tr>
<td>Target Date</td>
<td>3</td>
<td>134.4%</td>
<td>8.125%</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>126.3%</td>
<td>8.125%</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>118.1%</td>
<td>8.125%</td>
</tr>
<tr>
<td>PLAN</td>
<td>0</td>
<td>110%</td>
<td>Accelerators</td>
</tr>
<tr>
<td></td>
<td>- 1</td>
<td>96.1%</td>
<td>Decelerators</td>
</tr>
<tr>
<td># Weeks</td>
<td>- 2</td>
<td>82.1%</td>
<td>13.929%</td>
</tr>
<tr>
<td>Slipped From -&gt;</td>
<td>- 3</td>
<td>68.2%</td>
<td>13.929%</td>
</tr>
<tr>
<td>Target Date</td>
<td>- 4</td>
<td>54.3%</td>
<td>13.929%</td>
</tr>
<tr>
<td></td>
<td>- 5</td>
<td>40.4%</td>
<td>13.929%</td>
</tr>
<tr>
<td></td>
<td>- 6</td>
<td>26.4%</td>
<td>13.929%</td>
</tr>
<tr>
<td>THRESHOLD</td>
<td>- 7</td>
<td>12.5%</td>
<td>13.929%</td>
</tr>
<tr>
<td></td>
<td>&lt; - - 8</td>
<td>0.0%</td>
<td>13.929%</td>
</tr>
</tbody>
</table>

NOTE: Actual payouts in between the values shown will be calculated on the actual incremental % achievement to plan based on a seven day week. For example, if achievement is 1 day ahead of schedule, the payout would be 111.16%.

Corporate ROCE and Operating Margin Segments

- Corporate ROCE Segment

This segment measures Return on Capital Employee achieved to Plan. ROCE is defined as Operating Profit less Cash Taxes Paid, divided by Average Capital Employed (Total Assets excluding Cash, less Current Liabilities (excluding Short Term Notes Payable) plus Capitalized Operating Leases).

- Operating Margin Segment

This segment measures Operating Margin achieved to Plan. Operating Margin is defined as Gross Margin Less Operating Expenses.
Once minimum thresholds are met, bonus payouts for both Corporate ROCE and Operating Margin can range from 50% to 175% based on the following payout table:

**Corporate ROCE and Operating Margin Payout Table**

<table>
<thead>
<tr>
<th>% To Plan</th>
<th>% Bonus Payout</th>
<th>% Per Each Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAXIMUM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>125%</td>
<td>175%</td>
<td>3.00%</td>
</tr>
<tr>
<td>120%</td>
<td>160%</td>
<td>3.00%</td>
</tr>
<tr>
<td>115%</td>
<td>145%</td>
<td>3.00%</td>
</tr>
<tr>
<td>110%</td>
<td>130%</td>
<td>3.00%</td>
</tr>
<tr>
<td>105%</td>
<td>115%</td>
<td>3.00%</td>
</tr>
<tr>
<td>PLAN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>100%</td>
<td>100%</td>
<td>Accelerators</td>
</tr>
<tr>
<td>95%</td>
<td>75%</td>
<td>Decelerators</td>
</tr>
<tr>
<td>THRESHOLD</td>
<td></td>
<td></td>
</tr>
<tr>
<td>90%</td>
<td>50%</td>
<td>5.00%</td>
</tr>
<tr>
<td>&lt; 90%</td>
<td>0%</td>
<td></td>
</tr>
</tbody>
</table>

**Inventory Turns Segment**

This segment measures Inventory Turns achieved to Plan. Inventory Turns is defined as the number of times inventory is converted into cost of goods sold (excluding all service business). Plan participants employed in a worldwide operations role with worldwide responsibilities are measured on worldwide inventory turns. Most participants employed in a Geography are measured on Geography inventory turns. Regional operations groups and manufacturing site participants are measured on regional inventory turns. Please refer to the Glossary of Terms section of this document for more details of how the Inventory Turns metric is defined. Once the minimum threshold is met, bonus payouts for Inventory Turns can range from 50% to 175% based on the following payout table:

**Inventory Turns Payout Table**

<table>
<thead>
<tr>
<th>% To Plan</th>
<th>% Bonus Payout</th>
<th>% Per Each Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAXIMUM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>123%</td>
<td>175%</td>
<td>3.26%</td>
</tr>
<tr>
<td>115%</td>
<td>150%</td>
<td>3.26%</td>
</tr>
<tr>
<td>105%</td>
<td>116%</td>
<td>3.26%</td>
</tr>
<tr>
<td>PLAN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>100%</td>
<td>100%</td>
<td>Accelerators</td>
</tr>
<tr>
<td>95%</td>
<td>75%</td>
<td>Decelerators</td>
</tr>
<tr>
<td>THRESHOLD</td>
<td></td>
<td></td>
</tr>
<tr>
<td>90%</td>
<td>50%</td>
<td>5.00%</td>
</tr>
<tr>
<td>&lt; 90%</td>
<td>0%</td>
<td></td>
</tr>
</tbody>
</table>
Day Sales Outstanding Segment

This segment measures Day Sales Outstanding (DSO) achieved to Plan. Day Sales Outstanding is defined as the measure for average length of time Apple must wait after making a sale before receiving payment. Once the minimum threshold is met, bonus payouts for DSO can range from 50% to 175% based on the following payout table:

Day Sales Outstanding Payout Table

<table>
<thead>
<tr>
<th>% To Plan</th>
<th>% Bonus Payout</th>
<th>% Per Each Point</th>
</tr>
</thead>
<tbody>
<tr>
<td>MAXIMUM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>115%</td>
<td>175%</td>
<td>5.0%</td>
</tr>
<tr>
<td>110%</td>
<td>150%</td>
<td>5.0%</td>
</tr>
<tr>
<td>105%</td>
<td>125%</td>
<td>5.0%</td>
</tr>
<tr>
<td>PLAN</td>
<td></td>
<td></td>
</tr>
<tr>
<td>100%</td>
<td>100%</td>
<td>Accelerators</td>
</tr>
<tr>
<td>95%</td>
<td>75%</td>
<td>5.0%</td>
</tr>
<tr>
<td>THRESHOLD</td>
<td></td>
<td></td>
</tr>
<tr>
<td>90%</td>
<td>50%</td>
<td>5.0%</td>
</tr>
<tr>
<td>&lt; 90%</td>
<td>0%</td>
<td></td>
</tr>
</tbody>
</table>

INDIVIDUAL PERFORMANCE MEASUREMENT (Directors only):

The Individual Performance measurement is based on the participant’s performance against two to four key strategic, predetermined objectives. The Individual Performance Measurement objectives are determined jointly by the participant and the supervising manager. Each goal is weighted as to its importance. The overall weighting must equal 100%. Individual performance is determined by the supervising manager and is subject to approval by the Compensation Committee of the Board of Directors before any actual payout is issued. Individual performance is measured as follows:

<table>
<thead>
<tr>
<th>% of Individual Achievement</th>
<th>Target Award Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONSISTENTLY EXCEEDED Individual Performance Goals</td>
<td>121% - 150%</td>
</tr>
<tr>
<td>CONSISTENTLY MET ALL Individual Performance Goals</td>
<td>100% - 120%</td>
</tr>
<tr>
<td>MET MOST Individual Performance Goals</td>
<td>80% - 99%</td>
</tr>
<tr>
<td>DID NOT MEET Individual Performance Goals</td>
<td>No Award Paid</td>
</tr>
</tbody>
</table>

The overall assessment of the individual performance segment is calculated by multiplying the targeted dollar amount by the % achievement for each category as shown in the example below:

Target Bonus = $40,000
Individual Performance segment = $12,000 (30% of Target Bonus) Weighting is calculated as shown below for each of the performance areas

Overall individual performance weighting of 103% = a payout of $12,360

<table>
<thead>
<tr>
<th>Weighting</th>
<th>Individual Achievement</th>
<th>Individual %</th>
<th>Individual Target x</th>
<th>Individual Payout</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quality Management</td>
<td>40%</td>
<td>Met Most</td>
<td>85%</td>
<td>$12,000 = $12,360</td>
</tr>
<tr>
<td>Customer Satisfaction</td>
<td>30%</td>
<td>Exceeded</td>
<td>130%</td>
<td></td>
</tr>
<tr>
<td>Employee Alignment</td>
<td>30%</td>
<td>Met all</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>Overall</td>
<td>100%</td>
<td>103%</td>
<td>$12,000 = $12,360</td>
<td></td>
</tr>
</tbody>
</table>

The percentage award achieved under the Individual Performance Measurement is then applied to the portion of the Target Bonus, i.e. 30%, to determine the actual Individual Performance portion of the award.
The target will be multiplied by a percentage up to a maximum of 150% depending on the supervising manager's overall assessment of the individual's performance against objectives. Ratings of all participants will then be reviewed at higher levels of management within the organization to ensure equity. This information will then be reviewed by the Compensation Committee of the Board of Directors and, depending on overall financial performance, individual percentage payouts may then be adjusted.

If the Individual Performance portion of the bonus is determined to be zero, no Financial portion of the bonus will be payable. Exceptions to zero payment for Individual Performance below 80%, and/or paying the Financial portion of the bonus when the Individual Performance is below 80%, must be approved by the Division Head or Sr. Vice President, and the Division Human Resources Manager. (Note: Also see the Corrective Action/Disciplinary Situations section.)

**BONUS PAYOUT**

Senior/Executive Incentive Bonus Plan payouts (less deductions and withholdings) will be paid biannually. The first payment will be based on "1st Half" (Q1 and Q2) Financial Performance results and will be paid as soon as practicable, usually during May/June after the close of Q2. The second payment will be based on "2nd Half" (Q3 and Q4) Financial Performance results as well as Individual Performance results for the entire fiscal year (Q1 through Q4) and will be paid as soon as practicable, usually during November/December following the end of the plan year. Both awards are paid out of the Senior/Executive Bonus Pool Fund.

There will be no Senior/Executive Incentive Bonus Plan payout on Financial or Individual performance if there is no Corporate operating profit or if there is a Corporate operating loss. In either case, the CEO has the option to recommend to the Compensation Committee of the Board of Directors appropriate individual awards.

**ADMINISTRATIVE PROCEDURES**

The purpose of administrative procedures is to provide for consistency of administration of the incentive plans. The following guidelines apply only when previously stated plan requirements have been met.

Foreign Exchange
Non U.S. operations are measured on a local currency basis. Foreign currency Plan rates will be used to determine both the Planned and actual performance of the entity for bonus calculation purposes.

New Hires, Promotions and Transfers An employee who is hired, promoted or transferred into a position in which he or she is newly eligible to become a participant may receive a prorated award based on the months in the position (see Payout Proration Criteria section). Employees promoted or transferred from one eligible position into another eligible position will require a determination of whether a new target award and new objectives should be set. If the new target is different, awards will be prorated based on the number of months of service in each position during the plan year. (see Payout Proration Criteria section).

Employees transferred into a position not eligible for participation in the Senior/Executive Bonus Plan will receive a prorated payment at the end of the plan year based on the number of months worked in the eligible position. If the employee transfers during the first biannual period, the employee will receive payment of the prorated Financial portion of the bonus with the normal payout in May/June. The prorated Individual portion (if applicable) will be paid at the end of the plan year provided the participant is employed by Apple on the last day of the year end payment period. (see next section)

**Payout Proration Criteria**

- New Hires and Promotions If eligibility for participation occurs on the 1st through the 14th of the month, any bonus payout will be based on the full month. If eligibility for participation occurs on or after the 15th of the month, no bonus is payable for that month.

For example, if an eligible employee is hired on March 11th, any payout will be based on participation beginning March 1st. If the employee is hired on March 15th, any payout will be based on participation beginning April 1st.
Transfers If a plan participant transfers from one organization to another, the respective organizational measurement will be prorated by the number of months the plan participant was in each organization. If the participant transfers before the 15th of the month, credit for that month will be assigned to the new organization. If the participant transfers on or after the 15th of the month, credit for that month will be assigned to the previous organization.

Transfers between the SIA Bonus Plan and the Senior/Executive Bonus Plan If a plan participant transfers between the SIA Bonus Plan and Senior/Executive Bonus Plan because of a promotion, demotion or other reason, the respective Plan measurement will be prorated by the number of months the plan participant was in each Plan. If the participant transfers before the 15th of the month, credit for that month will be assigned to the new Plan. If the participant transfers on or after the 15th of the month, credit for that month will be assigned to the previous Plan in which the employee was a participant.

Ineligibility Participants who become ineligible for participation in the Plan before the 15th of the month, will receive no credit for that month toward their bonus proration. Participants who become ineligible on or after the 15th of the month will receive a full-month credit towards their bonus proration.

Terminations

Plan participants who terminate their employment and are not employed by Apple on the last day of the first biannual payment period are not eligible to receive any award. If a plan participant terminates after the close of the first biannual payment period but prior to the actual distribution of the bonus payout such participant will be eligible to receive the Financial portion of the bonus award with the normal payout in May/June. They will not be eligible for the individual portion of the bonus award, nor will they be eligible for an award for the second biannual period. Plan participants who terminate their employment and are not employed by Apple on the last day of the plan year are not eligible to receive an award for the second biannual period, nor will they be eligible for the individual portion of the award. If a plan participant terminates after the end of the Plan Year but prior to the actual distribution of the bonus payout such participant will be eligible to receive a bonus plan award according to the terms of the Plan.

Rehires

Plan participants who terminate their employment during the Plan year, and who are rehired and are employed by Apple on the last day of the biannual payment period, are eligible to receive an award. Such an award will be prorated to reflect only the period of time the participant was employed by Apple and according to the above Payout Proration Criteria measured from the most recent rehire date.

Disability or Death

Awards will normally be prorated at the end of the plan year based on the amount of time the employee was an active participant (see Payout Proration Criteria section). In the case of a participant's death, any such award will be paid to the beneficiary as determined pursuant to the participant's designation of beneficiary under the employee's Apple life insurance plan.

Corrective Actions/Disciplinary Situations

If, during the applicable biannual bonus period or any time before the biannual bonus has actually been paid to the employee, management has determined that corrective action, discipline or demotion of an employee is appropriate, management may, in its discretion and in consultation with Human Resources, reduce or eliminate entirely the amount of bonus the employee would otherwise be eligible to receive. If, at the time a biannual bonus would otherwise be payable, such corrective action, discipline or demotion is being considered but has not yet been implemented, the entire bonus, or any portion of it, may be withheld until a decision on such action has been finalized and implemented.
Other Provisions

Participation in this Plan is not an agreement (express or implied) between the Plan participant and Apple that the participant will be employed by Apple for any specific period of time, nor is there any agreement for continuing or long-term employment. The Plan participant and Apple each have the right to terminate the employment relationship at any time and for any reason. This at-will employment relationship can only be modified by an agreement signed by the participant and Apple's Senior Vice President of Human Resources.

Any determination of performance, payment or other matters under this Plan by management and/or the Board of Directors is binding on all interested persons.

Apple Computer Inc.'s obligation to pay out a Senior/Executive Incentive Bonus Plan award shall be unfunded and all payment of benefits shall be made from the general assets of Apple Computer, Inc. Title to and beneficial ownership of any assets of the 1996 Accrued Senior/Executive Incentive Bonus Plan accounts or any other assets which Apple Computer, Inc. may designate to pay bonuses under the Plan shall remain in and with Apple Computer, Inc. until payment to participants.

This summary highlights the principle features of the bonus plan, but it does not describe every situation that can occur. Apple Computer, Inc. retains the right to interpret, revise, modify or delete the plan at its sole discretion at any time.
-- Day Sales Outstanding: Measure For Average Length Of Time Apple Must Wait After Making A Sale Before Receiving Payment

-- Inventory Turns: The number of times inventory is converted into cost of goods sold (excluding all service business). Most participants employed in a Geography are measured on Geography inventory turns. Operations groups and manufacturing site participants in Geographies are measured on regional inventory turns. Plan participants employed in a worldwide operations role are measured on worldwide inventory turns. Everyone else in a Geography is measured on Geography inventory turns.

Geography inventory turns
1H Turns = Standard Cost of Goods Sold for 1H divided by average gross finished goods inventory for current & 2 prior fiscal quarter ends. Where the standard Cost of Goods Sold is the cost of goods sold at standard cost excluding other cost of goods sold (warranty, scrap, reserves etc.), and gross finished goods inventory is finished goods inventory at standard cost before reserves in-transits from OEM vendors.

Regional inventory turns
1H Turns = Standard Cost of Goods Sold for 1H divided by average gross inventory for current & 2 prior fiscal quarter ends. Where standard Cost of Goods Sold is the cost of goods sold at standard cost excluding other cost of goods sold (warranty, scrap, reserves etc.), and gross inventory is raw materials, work-in-process, finished goods including in-transits from OEM vendors at standard cost before reserves.

Worldwide inventory turns
Current & prior 3 fiscal quarter's Total Cost of Goods Sold divided by average net inventory for current & 4 prior fiscal quarter ends. Where total Cost of Goods Sold is the total cost of goods sold including other cost of goods sold (warranty, scrap, reserves etc.), net inventory is total inventory at standard cost after reserves.

-- Market Share Gain (Loss) The difference between Apple Market Share for a specified period in one fiscal year and Apple Market Share for the corresponding period of another fiscal year.

-- Operating Margin: Gross Margin Less Operating Expenses

-- Return On Capital Employed: (ROCE) Operating Profit Less Cash Taxes Paid Divided By Average Capital Employed (Total Assets Excluding Cash, Less Current Liabilities (Excluding Short Term Notes) Plus Capitalized Operating Leases)

-- Time To Market: The Golden Master Target (software) or the Introduction Date (hardware) as defined and approved through the Apple New Product Production (ANPP) Product Proposal Review (PPR).
APPLE COMPUTER, INC.

EXECUTIVE SEVERANCE PLAN

(Established Effective as of June 1, 1991)

(As Amended and Restated Effective as of January 15, 1996)

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SUPPLEMENT TO THE APPLE COMPUTER, INC. EXECUTIVE SEVERANCE PLAN (EFFECTIVE AS OF JUNE 9, 1995)
1. ESTABLISHMENT AND PURPOSE.

1.1 Establishment.

The Apple Computer, Inc. Executive Severance Plan was established effective as of June 1, 1991. The Plan was amended and restated effective as of January 15, 1996 to read as set forth herein; provided, however, that the amendments reflected in this restatement shall not apply to any Eligible Employee who was advised in writing prior to January 15, 1996 that he or she would be designated as a Participant, even if the Participant's Notification Date occurred on or after January 15, 1996.

1.2 Purpose.

The purpose of the Plan is to establish the rules by which Apple will pay benefits provided under the Plan upon the designation of an Eligible Employee for termination. The Plan is intended to be, and shall be maintained and operated as, an employee welfare benefit plan under ERISA.

1.3 Supersession.

This Plan supersedes any plan, program or practice previously in effect by which Apple may have provided separation allowances, termination allowances or other severance benefits to Employees, other than a written contract of employment or a written separation agreement providing such benefits.
The Plan specifically supersedes benefits provided under the Apple Computer, Inc. Redeployment Plan and the Apple Computer, Inc. Layoff Plan.

An employee designated for termination under this Plan shall receive benefits under this Plan in lieu of any and all benefits to which the employee may claim to be entitled under Apple’s Redeployment Plan or Layoff Plan.
SECTION 2. DEFINITIONS.

SECTION 2.1 "Apple"


SECTION 2.2 "Apple Disability Plan"

"Apple Disability Plan" means any plan maintained by Apple for the purpose of providing short-term or long-term disability benefits for its employees.

SECTION 2.3 "Cash Out Payment"

"Cash Out Payment" means the benefit described in Sections 6 and 7.4.

SECTION 2.4 "Company"

"Company" means Apple Computer, Inc., a California corporation and those of its subsidiaries that it designates, in writing, to participate in the Plan.

SECTION 2.5 "Domestic Partner"

"Domestic Partner" means a Domestic Partner for Apple medical benefits as defined in the Apple Benefits Book.

SECTION 2.6 "Early Termination Date"

"Early Termination Date" means the date prior to a Participant's Termination Date on which the Participant voluntarily terminates his or her employment with the Company.

SECTION 2.7 "Election and Release"

"Election and Release" means the written Executive Severance Plan Election and Release agreement described in Section 5.2.
SECTION 2.7 "Eligible Employee"

"Eligible Employee" means an Employee who is employed in any job with a grade designation of 94 or above or the equivalent thereof and who is not eligible to receive severance benefits under a written contract of employment or written separation agreement with the Company or under any other plan, program or practice by which Apple provides any separation allowance or under any federal, state, local or foreign law or regulation.

SECTION 2.8 "Employee"

"Employee" means a Regular Employee of the Company who is not hired for a fixed period of employment.

SECTION 2.9 "Employer Group"

"Employer Group" means Apple and all corporations owned 100%, directly or indirectly, by Apple.

SECTION 2.10 "ERISA"

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and includes regulations promulgated thereunder by the Secretary of Labor.

SECTION 2.11 "Extended Benefit Coverage"

"Extended Benefit Coverage" means the benefit described in Sections 5.1 and 7.3.

SECTION 2.12 "Family Leave of Absence"

"Family Leave of Absence" means a leave of absence granted to allow an Employee to care for a newborn or newly adopted child, or to care for a family member with a serious health condition, as defined in the "Personal Time" section of the Apple Benefits Book.

SECTION 2.13 "Month of Pay"

"Month of Pay" means the Participant's Regular Salary, divided by the number of working hours per year (2080) and multiplied by the Participant's Standard Hours Worked Per Month. For purposes of this Section 2.14, a Participant's "Standard Hours Worked Per Month" is defined to be either (i) 173.33, in the case of an Eligible Employee regularly scheduled at his or her Notification
Date to work 40 hours per week or classified by Apple as a full-time
Employee, or (ii) in the case of an Eligible Employee regularly scheduled
at his or her Notification Date to work less than 40 hours per week or
classified by Apple as a part-time Employee, the average number of hours
he or she was scheduled to work per month (not to exceed 173.33) at Apple
during the five years preceding the Participant's Notification Date, as
shown on the Participant's personnel action notice(s).

SECTION 2.14 "Notification Date"
"Notification Date" means the date upon which a Participant receives
notification of his or her participation in the Plan as described in
Section 3.2.

SECTION 2.15 "Participant"
"Participant" means an Eligible Employee who has been designated as a
Participant in the Plan pursuant to Section 3.

SECTION 2.16 "Personal Leave of Absence"
"Personal Leave of Absence" means an unpaid leave of absence granted for
pursuits that are beneficial to the Company, extended vacations or other
compelling personal reasons, as defined in Section 7 of the Apple Benefits
Book.

SECTION 2.17 "Plan"
"Plan" means this Apple Computer, Inc. Executive Severance Plan, as adopted
effective as of June 1, 1991, and as it may be amended (or terminated) from
time to time.

SECTION 2.18 "Plan Year"
"Plan Year" means a period of 12 consecutive months beginning on April 1 and
ending on March 31.

SECTION 2.19 "Prorated Bonus"
"Prorated Bonus" means the benefit, if any, described in Sections 5.1 and 7.2.

SECTION 2.20 "Regular Employee"
"Regular Employee" means an individual who is a common law employee of the
Company and who is not a flexible workforce employee, co-op intern, college
intern, independent contractor, consultant or temporary agency worker employed by an outside agency. An individual's status as a "Regular Employee" shall be determined by Apple. Subject to Section 10.2 relating to Review of Denied Claims, all such determinations shall be conclusive and binding on all persons.

SECTION 2.21 "Regular Salary" "Regular Salary" means the Participant's monthly base salary determined as of his or her Notification Date.

SECTION 2.22 "Severance Benefits"

"Severance Benefits" means, collectively, the Severance Payment, the Prorated Bonus, if any, and the Extended Benefit Coverage.

SECTION 2.23 "Severance Payment"

"Severance Payment" means the benefit described in Sections 5.1 and 7.1.

SECTION 2.24 "Termination Date"

"Termination Date" means the date specified as the Termination Date in an Eligible Employee's written notice of participation in the Plan, and is the date used to determine a Participant's Severance Benefits.

SECTION 2.25 "Termination Notice Period"

"Termination Notice Period" means the period described in Section 4.1.

SECTION 2.26 "Years of Service"

"Years of Service" means the number of days elapsed from the Participant's date of hire, measured from the earlier of a Participant's most recent hire date or adjusted hire date, through the Participant's Termination Date, divided by 365. For purposes of this Section 2.27, a Participant's "adjusted hire date" means his or her most recent hire date adjusted for eligible past service with the Company.
SECTION 3. PARTICIPATION.

SECTION 3.1 Limited to Designated Eligible Employees

Only an Eligible Employee who receives the written notification described in Section 3.2 may participate in the Plan. No other person shall be a Participant in the Plan.

SECTION 3.2 Commencement of Participation

An Eligible Employee may become a Participant only if he or she receives written notification that he or she is a Participant. The notice shall be approved by the Division President and the Human Resources Vice President/Director of the Eligible Employee's division, or the designees of such persons, and shall state the Eligible Employee's Termination Date. The Eligible Employee's participation in the Plan and Termination Notice Period will begin on his or her Notification Date or such other plan participation date as may be provided in such written notice.

SECTION 3.3 Persons Who Shall Not Be Designated as Participants

An Eligible Employee shall not be designated as a Participant in the Plan or receive benefits under the Plan if:

(a) Employment Termination

A decision has been made to terminate his or her employment for any reason not related to the Company's decision to terminate the Employee because of business conditions;

(b) Resignation

He or she has resigned or has given notice of his or her resignation;
(c) Written Employment Contract

He or she is employed under a written employment contract that provides
greater severance or similar benefits than are provided by the Plan;

(d) Redeployment or Layoff Plan

He or she is currently a participant in any Apple Computer Inc.
redeployment or layoff plan;

(e) Host Country

He or she is eligible to receive compensation or benefits under the
laws of any other country (including, but not limited to, his or her
host country) or under Company policy or guidelines established pursuant
thereo, and those laws, policies, or guidelines require payments or
benefits greater than or similar to those provided by the Plan;

(f) Expatriate Employee

If he or she is an expatriate Employee employed by the Company in the
United States and has retained the United States as his or her "home
country:" provided, however, that any such Employee who is repatriated
in accordance with his or her assignment contract may be designated as a
Participant under this Plan after such repatriation; or

(g) Personal Leave of Absence

He or she is on a Personal Leave of Absence.

Whether benefits as described in Subsections 3(c) or (e) are greater than
the benefits provided under the Plan shall be determined by Apple and such
determinations shall be conclusive and binding on all persons.

SECTION 3.4 Termination of Participation

A Participant's Plan Participation shall terminate as of the earliest of the
following dates:
(a) The date the Participant’s employment with the Company is terminated for any reason (other than death) not related to the Company's decision to terminate the Participant because of business conditions;

(b) The date the Participant accepts an offer of employment with any member of the Employer Group; or,

(c) The date no further benefits are payable to the Participant under the Plan.

SECTION 3.5 Ineligible for Personal Leave

When an Eligible Employee becomes a Participant in the Plan, he or she will not be eligible to take a Personal Leave of Absence.

SECTION 3.6 Family Leave Limitations

When an Eligible Employee becomes a Participant in the Plan, he or she may still apply for a Family Leave of Absence. If an Eligible Employee is granted such a leave to care for a seriously ill family member or in connection with the birth of a child, his or her leave shall not extend beyond his or her Termination Date.
SECTION 4 . TERMINATION NOTICE PERIOD.

SECTION 4.1 Term of Termination Notice Period

For each Participant, the Termination Notice Period is the period beginning
on the Participant's Notification Date or such other plan participation date
as may be provided in the Participant's written notification of his or her
participation in the Plan as described in Section 3.2, and, subject to Sections
4.2 and 4.3, ending upon then earliest of the following dates:

(a) The Participant's Termination Date;
(b) The Participant's Early Termination Date;
(c) The date of the Participant's death;
(d) The date the Participant accepts an offer of employment
with any member of the Employer Group. If a Participant receives an
offer of employment from any member of the Employer Group, the
Participant must accept the offer before the end of the Termination
Notice Period or the offer will be deemed to be rejected;
(e) The date the Participant's employment is terminated for
any reason not related to the Company's decision to terminate the
Participant because of business conditions (including, without
limitation, the Participant's misuse of confidential or proprietary
information or violations of the standards described in Apple's Global
Ethics brochure or any other Apple policy or guideline; or
(f) Three months after the Participant's Notification Date
or such other plan participation date as may be provided in the
Participant's written notification of his or her participation in the
Plan as described in Section 3.2.
SECTION 4.2 Suspension of Termination Notice Period

Notwithstanding the provisions of Section 4.1, a Participant's Termination Notice Period shall be suspended if and during such time as one of the following conditions exists:

(a) Disability. The Participant is eligible to receive or is receiving disability benefits under an Apple Disability Plan. (For this purpose, a Participant shall not be considered eligible to receive benefits under an Apple Disability Plan if he or she has failed to make timely application for such benefits following the onset of disability.) If the Participant is released to return to work with the Company within two years of the date his or her disability leave begins, the suspension shall end on the effective date of such release and the Participant's Termination Notice Period will resume. If the Participant is not released to return to work with the Company within two years of the date his or her disability leave begins, then the Termination Notice Period shall immediately end and the Participant will not be eligible to receive a Cash-Out Payment or Severance Benefits pursuant to Section 5.

(b) Temporary Assignment. The Company, in its sole discretion, determines that the Participant's services are required in order to perform or complete an assignment. Upon actual completion of such a temporary assignment, the Participant's Termination Notice Period shall resume. The Participant's Termination Notice Period shall be suspended no more than six months under this Subsection (b); any exceptions must be approved in advance by the Senior Vice President of Human Resources or his or her designee.
(c) Restart. The Participant is receiving benefits under the Apple Restart Plan. The Participant's Termination Notice period shall be suspended for up to six weeks under this Subsection (c), provided that the Participant became eligible for sabbatical benefits under the Apple Restart Plan before or during the Termination Notice Period and applied for and received approval of such sabbatical benefits before his or her Termination Date.

SECTION 4.3 Extension of Termination Notice Period Under Limited Circumstances.

Notwithstanding the provisions of Section 4.1, a Participant may request an extension of his or her Termination Notice Period for up to a maximum of 14 additional calendar days. A request for such an extension must be made to the Corporate Employee Relations Director and will be approved only if the following conditions are satisfied:

(a) The Participant first signs the Election and Release agreement described in Section 5.2 (and does not revoke such agreement during the seven days following its signing);

(b) The Participant agrees in writing to the adjustment described in Section 7.1;

(c) The extension sought is necessary and no longer than necessary:

(i) To allow the Participant to become vested in a stock option granted under the terms of the Apple Computer, Inc. 1981 or 1990 Stock Option Plans;

(ii) To allow the Participant to become vested in the Apple Executive Long Term Stock Option Plan;
(iii) To allow the Participant to become vested in and eligible for a distribution from Apple's Profit Sharing Plan;

(iv) To enable the Participant to purchase stock under the Apple Employee Stock Purchase Plan for the purchase period in which the Participant's employment would otherwise terminate; or

(v) To enable the Participant to deal with circumstances that Apple determines in its sole discretion to be so extraordinary as to warrant an extension. No extension shall be granted pursuant to this Section 4.3(c)(v) without the prior, written approval of the Participant's Division President or Vice President and the Senior Vice President of Human Resources. In no event may an extension granted under this Section 4.3(c)(v), when added to extensions under Section 4.3(c)(i), (ii), (iii) or (iv), total more than 14 calendar days.

In no event shall any Participant who meets the eligibility requirements for the Apple Restart Plan as a result of an extension pursuant to this Section 4.3 be eligible to receive benefits under the Apple Restart Plan.

SECTION 4.4 Continuation of Employment and Employee Benefits During Termination Notice Period.

A Participant will continue to be an Employee and to receive his or her Regular Salary for the Termination Notice Period, but he or she will not be required to perform any work for the Company. The Participant's coverage under or participation in Apple's employee benefit plans or programs (if any) shall also continue during the Termination Notice Period, but coverage as an Employee shall terminate at the end of the Termination Notice Period in accordance with Section 4.6. During the Termination Notice Period the
Participant will have access, as appropriate, to Apple's Career Resource Center, Company Store, Cupertino Fitness Center and Child Care Center, as long as those facilities remain in operation.

SECTION 4.5 Additional Benefits During Termination Notice Period.
During the Termination Notice Period, a Participant may be eligible to receive certain job placement assistance or counseling, in accordance with procedures established by Apple. The availability of such assistance may vary depending upon business conditions at the time of the termination, the Participant's job location and such other factors as may be determined by Apple in its sole discretion.

SECTION 4.6 Termination of Employee Benefits at End of Termination Notice Period.
Except as otherwise required by law or as provided in Section 7.3 of the Plan, a Participant's coverage under or participation in any of Apple's employee benefit plans or programs that continues during the Termination Notice Period pursuant to this Plan shall cease as of the close of the Participant's Termination Notice Period.
SECTION 5. ELECTION TO RECEIVE SEVERANCE BENEFITS.

SECTION 5.1 Availability of Severance Benefits

A Participant may elect, subject to the requirements of Section 5.2, to receive a Severance Payment, a Prorated Bonus, if any, and/or Extended Benefit Coverage under the Plan; provided, however, that a Participant whose employment is involuntarily terminated as described in Subsection 4.1(e) or who accepts another job with any member of the Employer Group during the Termination Notice Period shall not be eligible to elect such Severance Benefits. The election to receive Severance Benefits must be made during the Termination Notice Period or within twelve months after the last day of the Participant's employment.

SECTION 5.2 Must Sign Election and Release.

No Participant shall be entitled to receive Severance Benefits under the Plan unless he or she first has properly completed and executed the Executive Severance Plan Election and Release agreement provided to the Participant under the Plan, and does not revoke such agreement during the seven days following its signing. The Election and Release agreement shall provide that execution of such Election and Release agreement by the Participant will constitute a waiver and release of every claim the Participant might otherwise have against Apple, its subsidiaries, or any of their officers, directors or employees arising out of his or her employment or the termination of his or her employment with the Company.

SECTION 5.3 Effect of Failure To Elect Severance Benefits

If a Participant fails to elect Severance Benefits by signing and returning the Election and Release agreement described in Section 5.2 to the Corporate Employee Relations Director or the designee of such person during the period

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described in Section 5.1, or if a Participant who has signed the Election and Release agreement revokes it within seven days, such Participant shall cease to be a Participant under the Plan.
SECTION 6. CASH OUT PAYMENT.

SECTION 6.1 Availability of Cash Out Payment

A Cash Out Payment shall be paid to a Participant who elects to terminate his or her employment with the Company before the Participant's Termination Date; provided, however, that a Participant whose employment is involuntarily terminated as described in Section 4.1(e) or who accepts another job with any member of the Employer Group during the Termination Notice Period shall not be eligible for a Cash Out Payment.

SECTION 6.2 Effect of Election To Receive a Cash Out Payment

If a Participant makes the election described in Section 6.1, his or her Termination Notice Period shall end on the effective date of his or her termination of employment. The benefits described in Section 4.4 shall cease to be effective upon the termination of the Participant's Termination Notice Period.

SECTION 6.3 Ineligible for Rehire

In general, a Participant who receives a Cash Out Payment shall not be eligible for rehire by any member of the Employer Group before 60 days after his or her Termination Date. Any exceptions must be approved by the Division Senior Executive and the Division Human Resources Vice President or Director. If the Participant is rehired by the Company within 60 days after his or her Termination Date, Apple, in its sole discretion, may require the Participant to repay to Apple the entire amount of his or her Severance Payment and Prorated Bonus, if any. If the Participant is rehired by the Company prior to his or her Termination Date, Apple, in its sole
discretion, may require the Participant also to repay to Apple the entire amount of his or her Cash Out payment.

SECTION 6.4 Ineligible for Temporary or Contract Work.

A Participant shall not be eligible to work as a temporary employee or independent contractor for any member of the Employer Group before 60 days after his or her Termination Date. Notwithstanding the foregoing, no Participant may work as a temporary employee or independent contractor in the same position he or she held when his or her Layoff Notice Period commenced.
SECTION 7. AMOUNT AND PAYMENT OF BENEFITS UNDER THE PLAN.

SECTION 7.1 Severance Payment
The amount of Severance Payment payable to a Participant who elects to receive it pursuant to Section 5, shall be determined with reference to the Participant's Termination Date and shall be equal to the number of Months of Pay determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Years of Service*</th>
<th>Months of Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 or less</td>
<td>4</td>
</tr>
<tr>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>6</td>
<td>7</td>
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<td>7</td>
<td>8</td>
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<td>8</td>
<td>9</td>
</tr>
<tr>
<td>9</td>
<td>10</td>
</tr>
<tr>
<td>10</td>
<td>11</td>
</tr>
<tr>
<td>11 or more</td>
<td>12 (maximum)</td>
</tr>
</tbody>
</table>

Partial years of service in excess of three years shall be prorated by full month to determine a Participant's total Severance Payment. A Participant's Severance Payment shall be reduced by the compensation the Participant received with respect to any period during which his or her Termination Notice Period was extended pursuant to Section 4.3.

SECTION 1.1 Prorated Bonus
The amount of Prorated Bonus, if any, payable to a Participant who elects to receive it pursuant to Section 5, shall be determined with reference to the Participant's Termination Date and shall be equal to the Participant's actual bonus under the Company's Senior/Executive Incentive Bonus Plan or, if applicable, the Participant's actual bonus prorated for the amount of time from the beginning of Apple's fiscal year (generally, October 1) to the Participant's Termination Date. A Participant whose Termination Date falls...
between the 1st and 14th day of any month shall receive a one-half-month credit towards their bonus proration. A Participant whose Notification Date occurs during one fiscal year but whose Termination Date occurs in the next fiscal year shall receive his or her actual bonus, if any, for the first fiscal year and the prorated portion of his or her actual bonus, if any, for the second fiscal year.

SECTION 1.2 Extended Benefit Coverage

A Participant who elects to receive Extended Benefit Coverage pursuant to Section 5 shall be eligible to continue to receive the same Company paid Medical and Dental coverages the Participant is receiving as of his or her Termination Date or, if applicable, Early Termination Date, extended as follows:

<table>
<thead>
<tr>
<th>Participant's Grade Level</th>
<th>Period of Extended Company-Paid Coverage From Termination Date or Early Termination Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>97-100</td>
<td>12 Months</td>
</tr>
<tr>
<td>94-96</td>
<td>9 Months</td>
</tr>
</tbody>
</table>

Notwithstanding the foregoing, a Participant's period of extended Benefit Coverage shall end if and when the Participant becomes eligible for similar coverage through another employer, including the employer of the Participant's spouse or Domestic Partner. Each Participant shall be given the opportunity to purchase continuing medical and dental coverage, as required under section 602 of ERISA and section 4980B of the Code, prior to the expiration of the Participant's current coverage or Extended Benefit Coverage, if elected.
SECTION 1.1 Cash Out Payment

The Cash Out Payment is an amount equal to the Regular Salary that the Participant would have been paid had the Participant remained employed by the Company until the Participant's Termination Date.

SECTION 1.2 Offset for Amounts Owed.

The Company reserves the right to deduct from any lump sum Severance Benefit and/or Cash Out Payment payable to a Participant under the Plan any and all amounts owed by the Participant to the Company, including but not limited to overpayment of commissions or salary, unreimbursed cash, salary and travel advances, taxes, amounts due to the Company Store for purchases or Loan to Own Equipment, Custom Coverage, any other employee benefit plan deductions, and any unpaid loans.

SECTION 1.3 Time of Payment of Benefits Under the Plan

(a) Payment Before Termination

No Participant shall be entitled to receive a Cash Out Payment under the Plan before the last day of his or her employment with the Company. No Participant shall be entitled to receive a Severance Payment, Prorated Bonus or Extended Benefit Coverage under the Plan until his or her employment with the Company has terminated and until the eighth day after the Participant has signed the Election and Release Agreement pursuant to Section 5.2, provided that the Participant has not subsequently revoked such agreement.

(b) Form and Time of Payment.

A Participant's Severance Payment and Cash Out Payment, if any, shall be paid as soon as reasonably practicable after the Participant's termination of employment. A Participant's Prorated Bonus, if any, shall be paid at or about the time that bonus payments are made to active employees who are eligible to receive bonuses under the Company's Senior/Executive Incentive Bonus Plan for the same year for which the Prorated Bonus is paid. The Company shall withhold appropriate federal, state and local income and
employment taxes and shall make all applicable employee benefit plan and other deductions from any payments under the Plan; provided, however, that the Company shall not make Apple Computer, Inc. Savings and Investment Plan deductions from any Plan payments.

SECTION 1.4 Death.

If a Participant dies before his or her participation has terminated pursuant to Section 3.4, any Severance Payment, Prorated Bonus or Cash Out Payment to which the Participant would have been entitled under the Plan had the Participant voluntarily terminated employment with the Company on the date of his or her death shall be paid to the Participant's surviving spouse, or if there is no surviving spouse, to the Participant's designated beneficiary under Apple's group term life insurance plan, or if there is no such designated beneficiary, to the Participant's estate. Such Payments shall be made at the time and in the form determined pursuant to Section 7.6(b) and shall be made regardless of whether the Participant has signed an Election and Release. Extended Benefit Coverage will continue to be provided to the Participant's surviving eligible dependents in accordance with the terms of the Participant's coverage and Section 7.3.
SECTION 2 . SOURCE OF PAYMENTS AND EXPENSES.

SECTION 2.1 Source of Benefits

Any benefit payable under the Plan shall be unfunded and payable only from Apple's general assets.

SECTION 2.2 Expenses.

The expenses of operating and administering the Plan shall be borne entirely by Apple.
SECTION 3 . ADMINISTRATION AND PLAN FIDUCIARIES.

SECTION 3.1 Plan Sponsor and Administrator

Apple is the "plan sponsor" and the "administrator" of the Plan, within the meaning of ERISA.

SECTION 3.2 Administrative Responsibilities

Apple shall be the named fiduciary with the power and sole discretion to determine who is eligible for benefits under the Plan, to interpret the Plan and to prescribe such forms, make such rules, regulations and computations and prescribe such guidelines as it may determine are necessary or appropriate for the operation and administration of the Plan, to change the terms of such rules, regulations or guidelines, and to rescind such rules, regulations or guidelines. Such determinations of eligibility, rules, regulations, interpretations, computations and guidelines shall be conclusive and binding upon all persons. In administering the Plan, Apple shall at all times discharge its duties with respect to the Plan in accordance with the standards set forth in section 404(a)(1) of ERISA.

SECTION 3.3 Allocation and Delegation of Responsibilities

Apple may allocate any of its responsibilities for the operation and administration of the Plan among its officers, employees and agents. It may also delegate any of its responsibilities under the Plan by designating, in writing, another person to carry out such responsibilities. Any such written delegation shall become effective when executed by Apple's Corporate Employee Relations Manager or his or her designee, and the designated person shall then be responsible for carrying out the responsibilities described in such writing.
SECTION 3.4 No Individual Liability.

It is declared to be the express purpose and intent of Apple that no individual liability shall attach to or be incurred by any member of the Board of Directors of Apple, by any officer of Apple, or by any employee, representative or agent of Apple, under, or by reason of the operation of, the Plan.
SECTION 4. CLAIMS AND APPEALS.

SECTION 4.1 Claims for Benefits

A Participant shall be entitled to receive his or her benefits under the Plan upon filing with the Company the applicable documents as prescribed by Apple. Any Participant (or the surviving spouse or duly authorized representative of a deceased Participant) who believes himself or herself to be entitled to receive benefits that are different from the benefits that he or she has received or who believes that he or she has a claim to other relief arising out of the Company's decision to terminate the Participant may make a claim for benefits or such other relief under this Section 10.1. Such claim should be directed to the Participant's Division President or to the Division Vice President or Director of Human Resources. Apple's Corporate Employee Relations Director or his or her designee shall exercise oversight responsibility with respect to the claims and appeal processes.

(a) Time Limits for Submission of Initial Claim

No claim by a Participant (or by the surviving spouse or duly authorized representative of a deceased Participant) shall be valid unless it is made immediately and in no event later than 60 days following the receipt of the disputed benefit, a denial of a benefit or, in the case of a claim to other relief arising out of the Company's decision to terminate the Participant, the date on which the Participant's employment terminated.

(b) Time Limits for Decision on Initial Claim

If any claim is denied, in whole or in part, notice of such denial shall be given to the claimant in writing within 90 days, except that if special circumstances require that the time for consideration of the claim be
extended, notice of the extension shall be given in writing within 90
days, and notice of such denial shall thereafter be given within 180 days.

Each period of 90 or 180 days referred to in the preceding sentence shall
begin to run on the day the claim is received by the Participant's
Division President or the Division Vice President or Director of Human
Resources. A written notice of denial shall set forth, in a manner
calculated to be understood by the claimant, specific reasons for the
denial, specific references to the relevant Plan provisions on which
it is based, a description of any information or material necessary to
perfect the claim, an explanation of why such material is necessary
and an explanation of the Plan's review procedure. A notice that
additional time is necessary for consideration of a claim shall
indicate the special circumstances requiring the extension of time and
the date by which Apple expects to render its decision on the claim.

(c) Deemed Denial

If written notice of the denial of a claim for benefits or of the fact
that an extension of time is necessary for processing the claim is not
furnished within the time period specified in Section 10.1(b), the claim
shall be deemed to have been denied, and the claimant shall be permitted
to appeal such denial in accordance with the review procedure set forth
in Section 10.2.
SECTION 4.2 Review of Denied Claims

(a) Request for Review.

A claimant whose application for benefits is denied in whole or in part, or the claimant's duly authorized representative, may appeal from the denial by submitting to Apple's Senior Vice President of Human Resources or his or her designee a request for a review of the application within 90 days after receiving written notice of the denial from Apple. Upon the request of a Claimant or his or her representative, Apple shall give the claimant or the representative an opportunity to review pertinent materials that pertain to his or her plan benefits, other than legally privileged documents, in preparing the request for a review. The request for a review shall be in writing and sent to the address set forth in the Summary Plan Description distributed to Participants or in later Plan information. The request for a review shall set forth all of the grounds on which it is based, all facts in support of the request and any other matters which the claimant deems pertinent. The Senior Vice President of Human Resources or designee may require the claimant to submit such additional facts, documents or other material as he or she may deem necessary or appropriate in making his or her review.

(b) Decision on Review.

The Senior Vice President of Human Resources or his or her designee shall act on each request for a review within 60 days after receipt, unless special circumstances require further time for processing and the claimant is advised of the extension. In no event shall the decision on review be rendered more than 120 days after the Senior Vice President of Human Resources or designee receives the request for a review. The Senior Vice
President of Human Resources or designee shall give prompt, written notice of his or her decision to the claimant and to Apple. In the event that the Senior Vice President of Human Resources or his or her designee confirms the denial of the application for benefits in whole or in part, the notice shall set forth, in a manner calculated to be understood by the claimant, the specific reasons for the decision and specific references to the relevant Plan provisions on which the decision is based.

(c) Rules and Interpretations

The Corporate Employer Relations Director and Senior Vice President of Human Resources shall adopt such rules, procedures and interpretations of the Plan as they deem necessary or appropriate in carrying out their responsibilities under this Section 10.

SECTION 4.3 Exhaustion of Remedies

Decisions of the Senior Vice President of Human Resources or his or her designee shall be conclusive and binding on all persons. No legal action for benefits under the Plan or arising out of the Company's decision to terminate the Participant shall be brought unless and until the claimant (i) has submitted a claim in accordance with Section 10.1, (ii) has been notified by Apple that the claim is denied or the claim is deemed to be denied under Section 10.1(c), (iii) has filed a written request for review of the claim in accordance with Section 10.2, and (iv) has been notified in writing that the Senior Vice President of Human Resources or his or her designee has affirmed the denial of the claim; provided that legal action may be brought after Apple has failed to take any action on the claim within the time prescribed by Sections 10.1(b) and 10.2(c) above, respectively.
SECTION 5. GENERAL PROVISIONS.

SECTION 5.1 Legal Construction of the Plan

The Plan shall be governed and construed in accordance with ERISA.

SECTION 5.2 Relation of the Plan to Other Employee Benefit Plans

Except as provided in Section 1.3, the benefits provided under the Plan shall be provided in addition to, and not in place of, any other benefit to which a Participant is or may be entitled under the terms of any other employee benefit plan established or maintained by Apple. The terms of this Plan shall not be construed to change, amend or modify the terms of any other such employee benefit plan. No term of any other employee benefit plan shall be construed to change, amend or modify any term of this Plan.

SECTION 5.3 No Rights Created or Accrued

Nothing in the Plan shall be construed as creating a contract of employment or as giving to an employee or agent of the Company a right to receive any benefit other than the benefits specifically provided under the terms of the Plan or a right to continue in the employment of the Company. Nothing in the Plan shall be construed to limit in any manner the right of the Company to discharge, demote, reclassify, transfer, relocate, or in any other manner treat or deal with any person in its employ, including, without limitation, any person who might otherwise have become (or remained) a Participant in the Plan absent such treatment or dealing, which right is hereby reserved. Nothing in this Plan shall be construed to change the at-will nature of the Participant's employment. No benefits shall be deemed to
accrue under the Plan at any time except the time at which they become payable under the Plan, and no right to a benefit under the Plan (other than the benefits under any employee benefit plans or programs in which the Participant continues to participate pursuant to Section 4.4) shall be deemed to vest prior to the termination of the Participant's employment.

SECTION 5.4 Relation of the Plan to Descriptive Matter
The Plan shall contain no terms or provisions except those set forth herein, or as hereafter amended in accordance with the provisions of Section 12. The provisions of the Plan shall control, and any description made in any other document shall not control, if ever any such description is deemed to be in conflict with any provision of the Plan.

SECTION 5.5 Non-alienation of Benefits
No benefits payable under the Plan shall be subject to anticipation, alienation, sale, transfer, assignment, pledge or other encumbrance, and any attempt to do so shall be void.
SECTION 6. AMENDMENT AND TERMINATION.

SECTION 6.1 Amendment.
Apple may amend the Plan at any time, by a written instrument executed by Apple's Senior Vice President of Human Resources.

SECTION 6.2 Termination.
Apple may terminate the Plan, at any time and for any reason, by a written instrument executed by Apple's Senior Vice President of Human Resources.

SECTION 6.3 Effect of Amendment or Termination.
If a Participant's employment has terminated and the Participant is entitled to receive benefits under the Plan, no amendment to the Plan, and no termination of the Plan, shall thereafter operate to diminish or eliminate such Participant's entitlement to such benefits.
SECTION 7. EXECUTION.

To record the amendment and restatement of the Plan effective as of January 15, 1996, Apple's Senior Vice President of Human Resources has executed this document this 13th day of January, 1996.

APPLE COMPUTER, INC.

By /s/ Kevin J. Sullivan
Kevin J. Sullivan
Senior Vice President
Human Resources
SECTION 1. ESTABLISHMENT AND PURPOSE.

This Supplement (the "Supplement") to the Apple Computer, Inc. Executive Severance Plan (the "Plan") is hereby established effective as of the date it is approved by the Board of Directors of Apple (the "Board").

The purpose of this Supplement is to set forth the terms and provisions of the Plan that will apply in the event of a Change in Control of Apple.

Capitalized words not otherwise defined herein shall have the meanings assigned to such words in the Plan.

SECTION 2. ADDITIONAL BENEFITS.

(a) Each Eligible Employee (i) whose employment with the Company is involuntary terminated by the Company for any reason during the Supplement Term, other than due to such Employee's misuse of confidential or proprietary information or a violation of the standards described in Apple's Global Ethics brochure or any other Apple policy or guideline or (ii) who resigns during the Supplement Term for Good Reason shall automatically become a Participant, whether or not such person is designated as a Participant in accordance with Section 3.1 of the Plan (hereinafter, a "Section 2(a) Participant"); provided, however, that no Eligible Employee described in
Section 3.3(c), (d), (e) or (f), or an Eligible Employee described in
Section 3.3(b) who resigns other than for Good Reason, shall become a
Section 2(a) Participant. In addition, during the Supplement Term, the
definition of "Eligible Employee" in the Plan is revised to exclude
reference to "any other plan, program or practice by which Apple provides
any separation allowance" which is established on or after the Change in
Control Date or which is implemented at any time with the intention,
express or implied, of eliminating Apple's obligations under the Plan or
this Supplement. Employees of the Company who are otherwise Eligible
Employees and who are parties to a Retention Agreement shall continue to be
eligible to be designated as Participants in the Plan if their employment
terminates prior to the Change in Control Date or after the expiration of
the term of their Retention Agreement.

(b) Section 4.1(e) of the Plan is revised to prohibit the Company
from ending the Termination Notice Period for any such Termination Notice
Period that begins within the Supplement Term for any reason other than the
Section 2(a) Participant's misuse of confidential or proprietary
information or a violation of the standards described in Apple's Global
Ethics brochure or any other Apple policy or guideline.

(c) Section 4.3 of the Plan is revised to substitute "30 additional
calendar days" for "14 additional calendar days" for any Termination Notice
Period that begins during the Supplemental Term.
(d) Section 4.5 of the Plan is revised to require the Company to provide job placement assistance or counseling to each Section 2(a) Participant who requests such assistance; provided, however, that the individual Participant cost to Apple of providing such benefits to a Section 2(a) Participant need not exceed $7,500.

(e) Section 7.1 of the Plan is revised for each Section 2(a) Participant as follows:

<table>
<thead>
<tr>
<th>Years of Service*</th>
<th>Months of Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 or less</td>
<td>8</td>
</tr>
<tr>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>5</td>
<td>12</td>
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<td>6</td>
<td>14</td>
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<td>16</td>
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<td>8</td>
<td>18</td>
</tr>
<tr>
<td>9</td>
<td>20</td>
</tr>
<tr>
<td>10</td>
<td>22</td>
</tr>
<tr>
<td>11 or more</td>
<td>24 (maximum)</td>
</tr>
</tbody>
</table>

* Years of Service will be determined as of the Participant's Termination Date.
Section 7.2 of the Plan is revised for each Section 2(a) Participant as follows: In lieu of the Prorated Bonus, each Section 2(a) Participant shall receive a special severance bonus (the "Severance Bonus") equal to the greater of (i) the target annual bonus amount payable to the Section 2(a) Participant for the fiscal year in which the Notification Date occurs, or (ii) the target annual bonus amount payable to the Section 2(a) Participant for the last fiscal year ended prior to the Change in Control Date, in either case, calculated on the assumption that all applicable performance targets had been achieved. The Severance Bonus shall not be subject to any proration and shall otherwise be payable at such time and manner as the Prorated Bonus.

Section 7.3 of the Plan is revised for each Section 2(a) Participant as follows: The additional payments and benefits provided by this Section 2 of the Supplement are subject to the condition that the Section 2(a) Participant execute a release in the form and manner contemplated by Section 5.2 of the Plan.

<table>
<thead>
<tr>
<th>Participant's Grade Level on Termination Date or Early Termination Date</th>
<th>Period of Extended Coverage from Termination Date or Early Termination Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>97-100</td>
<td>24 months</td>
</tr>
<tr>
<td>94-96</td>
<td>18 months</td>
</tr>
</tbody>
</table>

(h) The additional payments and benefits provided by this Section 2 of the Supplement are subject to the condition that the Section 2(a) Participant execute a release in the form and manner contemplated by Section 5.2 of the Plan.
SECTION 3. GROSS-UP PAYMENT.

A new Section 7.8 is added to the Plan as follows:

7.8 Gross-Up Payment.

(a) Right to Payment. Notwithstanding anything in the Plan or the
Supplement to the contrary, if it is determined that any Payment to an
Eligible Employee (whether or not such employee qualifies for benefits
under the Plan or the Supplement and whether or not such employee is a
Section 2(a) Participant at the time of determination) would be subject to
the excise tax imposed by Section 4999 of the Code or any interest or
penalties with respect to such excise tax (such excise tax, together with
any interest or penalties thereon, is herein referred to as an "Excise
Tax"), then such Eligible Employee shall be entitled to an additional
payment (a "Gross-Up Payment") in an amount that will place such Eligible
Employee in the same after-tax economic position that such employee would
have enjoyed if the Excise Tax had not applied to the Payment. The amount
of the Gross-Up Payment shall be determined by the Accounting Firm in
accordance with the formula \((E \times (1 - M)/(1 - T)) - E\) (or such other
formula as the Accounting Firm deems appropriate which is intended to
achieve the same result), where

E equals the Payments which are determined to be "excess parachute
payments" within the meaning of Section 280G(b)(1) of the Code;
M equals the sum of the highest marginal rates for Taxes applicable to the Eligible Employee at the time of the Payment;

and

T equals M plus the rate of Excise Tax applicable to the Payment.

No Gross-Up Payments shall be payable to an Eligible Employee hereunder if the Accounting Firm determines that the Payments to such Eligible Employee are not subject to an Excise Tax.

(b) Determination of Gross-Up Payment. Subject to the provisions of Section 7.8(c), all determinations required under this Section 7.8, including whether a Gross-Up Payment is required, the amount of the Payments constituting excess parachute payments, and the amount of the Gross-Up Payment, shall be made by the Accounting Firm, which shall provide detailed supporting calculations both to the Eligible Employee and the Company within fifteen days of the Change in Control Date, the date of the Eligible Employee's termination of employment with the Company and its subsidiaries or any other date reasonably requested by the Eligible Employee or the Company on which a determination under this Section 3 is necessary or advisable. The Company shall pay each Eligible Employee the initial Gross-Up Payment within 5 days of the receipt by the Company of the Accounting Firm's determination. If the Accounting Firm determines that no Excise Tax is payable to an Eligible Employee (or class of Eligible Employees), the Company shall cause
the Accounting Firm to provide such Eligible Employee (or each member of the class of Eligible Employees) with an opinion that the Accounting Firm has substantial authority under the Code and Regulations not to report an Excise Tax on the Eligible Employee’s federal income tax return. Any determination by the Accounting Firm shall be binding upon the Eligible Employee and the Company. If the initial Gross-Up Payment is insufficient to cover the amount of the Excise Tax that is ultimately determined to be owing by the Eligible Employee with respect to any Payment (hereinafter an "Underpayment"), the Company, after exhausting its remedies under Section 7.8(c) below, shall promptly pay to the Eligible Employee an additional Gross-Up Payment in respect of the Underpayment.

(c) Procedures. As a condition to Apple’s obligations hereunder to an Eligible Employee, each Eligible Employee shall be required to notify Apple in writing of any claim by the Internal Revenue Service that, if successful, would require the payment by Apple of a Gross-Up Payment by such Eligible Employee. Such notice shall be given as soon as practicable after the Eligible Employee knows of such claim and shall apprise Apple of the nature of the claim and the date on which the claim is requested to be paid. An Eligible Employee shall agree not to pay the claim until the expiration of the thirty-day period following the date on which the Eligible Employee notifies Apple, or such shorter period ending on the date the Taxes with respect to such claim are due (the "Notice Period"). If Apple notifies the Eligible Employee in writing prior to the expiration of the Notice Period that it desires to contest the claim, the Eligible Employee shall: (i) give Apple any information reasonably requested by Apple relating to the claim;
(ii) take such action in connection with the claim as Apple may reasonably request, including, without limitation, accepting legal representation with respect to such claim by an attorney reasonably selected by Apple and reasonably acceptable to the Eligible Employee; (iii) cooperate with Apple in good faith in contesting the claim; and (iv) permit Apple to participate in any proceedings relating to the claim. An Eligible Employee shall permit Apple to control all proceedings related to the claim and, at its option, permit Apple to pursue or forgo any and all administrative appeals, proceedings, hearings, and conferences with the taxing authority in respect of such claim. If requested by Apple, an Eligible Employee shall agree either to pay the tax claimed and sue for a refund or contest the claim in any permissible manner and to prosecute such contest to a determination before any administrative tribunal, in a court of initial jurisdiction and in one or more appellate courts as Apple shall determine; provided, however, that, if Apple directs such Eligible Employee to pay such claim and pursue a refund, Apple shall advance the amount of such payment to the Eligible Employee on an after-tax and interest-free basis (the "Advance").

Apple's control of the contest related to the claim shall be limited to the issues related to the Gross-Up Payment and the Eligible Employee shall be entitled to settle or contest, as the case may be, any other issues raised by the Internal Revenue Service or other taxing authority. If Apple does not notify the Eligible Employee in writing prior to the end of the Notice Period of its desire to contest the claim, Apple shall pay to the Eligible Employee an additional Gross-Up Payment in respect of the excess parachute payments that are the subject of the claim, and the Eligible Employee shall be required to pay the amount of the Excise Tax that is the subject of the claim to the applicable taxing authority in accordance with applicable law.
(d) Repayments. If, after receipt by an Eligible Employee of an
Advance, the Eligible Employee becomes entitled to a refund with respect to
the claim to which such Advance relates, the Eligible Employee shall pay
Apple the amount of the refund (together with any interest paid or credited
thereon after Taxes applicable thereto). If, after receipt by Eligible
Employee of an Advance, a determination is made that the Eligible Employee
shall not be entitled to any refund with respect to the claim and Apple
does not promptly notify the Eligible Employee of its intent to contest the
denial of refund, then the amount of the Advance shall not be required to
be repaid by Eligible Employee and the amount thereof shall offset the
amount of the additional Gross-Up Payment then owing to the Eligible

Employee.

(e) Further Assurances. Apple shall indemnify each Eligible
Employee and hold each Eligible Employee harmless, on an after-tax basis,
from any costs, expenses, penalties, fines, interest or other liabilities
("Losses") incurred by the Eligible Employee with respect to the exercise
by Apple of any of its rights under this Section 7.8, including, without
limitation, any Losses related to Apple's decision to contest a claim or
any imputed income to the Eligible Employee resulting from any Advance or
action taken on the Eligible Employee's behalf by Apple hereunder. Apple
shall pay all legal fees and expenses incurred under this Section 7.8, and
shall promptly reimburse each Eligible Employee for the reasonable expenses
incurred by the Eligible Employee in connection with any actions taken by
Apple or required to be taken by the Eligible Employee hereunder. Apple
shall also pay all of the fees and expenses of the Accounting Firm,
including, without limitation, the fees and expenses related to the opinion
referred to in Section 7.8(b).
(f) Combined Payments. Anything in this Section 7.8 to the contrary notwithstanding, Apple shall have no obligation to pay an Eligible Employee a required Gross-Up Payment under this Section 7.8 if the aggregate amount of all Combined Payments has at the time such payment is due exceeded the Limit. If the amount of a Gross-Up Payment to an Eligible Employee under this Section 7.8 would result in the Combined Payments exceeding the Limit, Apple shall pay the Eligible Employee the portion, if any, of the Gross-Up Payment which can be paid to such employee without causing the aggregate amount of all Combined Payments to exceed the Limit. In the event that an Eligible Employee is entitled to a Gross-Up Payment under this Section 7.8 and other employees or former employees of the Company are also entitled to gross-up payments under this Section 7.8 or under the corresponding provisions of any other applicable Combined Arrangement and the aggregate amount of all such payments would cause the Limit on Combined Payments to be exceeded, Apple shall allocate the amount of the reduction necessary to comply with the Limit among all such payments in the proportion that the amount of each such gross-up payment bears to the aggregate amount of all such payments. Nothing in this Section 7.8(f) shall require any Eligible Employee to repay to Apple any amount that was previously paid to such employee under this Section 7.8.
SECTION 4. AMENDMENT AND ASSUMPTION.

(a) Section 12.1 of the Plan is revised as follows: The Plan and this Supplement may not be amended or terminated by Apple on and after the occurrence of the Change in Control Date in any way that would reduce or eliminate the payments and benefits owing under the Plan and this Supplement to any Section 2(a) Participant. In addition, no amendment or termination which would be precluded under the previous sentence if made on or after the Change in Control Date shall be effective if made or first effective within the twelve month period ending on the Change in Control Date.

(b) Apple will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of Apple expressly to assume and to agree to perform this Agreement in the same manner and to the same extent that Apple would be required to perform it if no such succession had taken place; provided, however, that no such assumption shall relieve Apple of its obligations hereunder.

SECTION 5. DEFINITIONS.

For purposes of the Plan and this Supplement, the following capitalized words shall have the meanings set forth below:

"Accounting Firm" shall mean Ernst & Young or, if such firm is unable or unwilling to perform such calculations, such other national accounting firm as shall be designated by Apple in accordance with the terms of the Retention Agreements.
"Change in Control" shall mean a change in control of Apple of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Exchange Act, whether or not Apple is then subject to such reporting requirement; provided, however, that, anything in the Plan or this Supplement to the contrary notwithstanding, a Change in Control shall be deemed to have occurred if:

(i) any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity or person, or any syndicate or group deemed to be a person under Section 14(d)(2) of the Exchange Act, is or becomes the "beneficial owner" (as defined in Rule 13d-3 of the General Rules and Regulations under the Exchange Act), directly or indirectly, of securities of Apple representing 30% or more of the combined voting power of Apple's then outstanding securities entitled to vote in the election of directors of Apple;

(ii) during any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constituted the Board and any new directors, whose election by the Board or nomination for election by Apple's stockholders was approved by a vote of at least three-fourths (3/4ths) of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved (the "Incumbent Directors"), cease for any reason to constitute a majority thereof;
(iii) there occurs a reorganization, merger, consolidation or
other corporate transaction involving the Company (a "Transaction"),
in each case, with respect to which the stockholders of the Company
immediately prior to such Transaction do not, immediately after the
Transaction, own more than 50 percent of the combined voting power of
the Company or other corporation resulting from such Transaction;
(iv) all or substantially all of the assets of Apple are sold,
liquidated or distributed; or
(v) there is a "change in control" of Apple within the meaning
of Section 280G of the Code and the Regulations.

"Change in Control Date" shall mean the earliest of (i) the date on
which the Change in Control occurs, (ii) the date on which Apple executes
an agreement, the consummation of which would result in the occurrence of a
Change in Control, (iii) the date the Board approves a transaction or
series of transactions, the consummation of which would result in a Change
in Control and (iv) the date Apple fails to satisfy its obligations to have
the Plan and this Supplement assumed by any successor to Apple in
accordance with Section 4(b) of this Supplement. If the Change in Control
Date occurs as a result of an agreement described in clause (ii) of the
previous sentence or as a result of the approval of the Board described in
clause (iii) of the previous sentence and the Change in Control to which
such agreement or approval relates (the "Contemplated Change in Control")
subsequently does not
occur, then the Supplement Term shall expire on the sixtieth day (the
"Reset Date") following the date the Board certifies by resolution duly
adopted by three-fourths (3/4ths) of the Incumbent Directors then in office
that the Contemplated Change in Control is not reasonably likely to occur;
provided, however, that this sentence shall not apply (A) to any Section
2(a) Participant whose termination of employment with Apple has occurred on
and after the Change in Control Date and on or prior to the Reset Date or
(B) if the Contemplated Change in Control subsequently occurs within three
months of the Reset Date. Following the Reset Date, the provisions of the
Plan and this Supplement shall remain in effect and a new Supplement Term
shall commence upon the occurrence of a subsequent Change in Control Date.
Notwithstanding the first sentence of this section, if an individual's
employment with the Company terminates prior to the Change in Control Date
and it is reasonably demonstrated that such termination of employment (i)
was at the request of the third party who has taken steps reasonably
calculated to effect the Change in Control or (ii) otherwise arose in
connection with or in anticipation of the Change in Control, then, solely
with respect to the affected Participant, the Change in Control Date shall
mean the date immediately prior to the date of such Participant's
termination of employment.
"Combined Arrangements" shall mean this Supplement to the Plan (as the
same may be amended from time to time) and the Retention Agreements.
"Combined Payments" shall mean the aggregate cash amount of (i) severance payments made to employees or former employees under Section 3(a) of the Retention Agreements or the corresponding provisions of the applicable Combined Arrangement, (ii) severance payments made to Section 2(a) Participants under Sections 2(e) and 2(f) of the Supplement or to any other employee or former employee under the corresponding provisions of the applicable Combined Arrangement, (iii) Gross-up Payments made to an Eligible Employee under Section 3 of the Supplement or to any other employee or former employee under the corresponding provisions of the applicable Combined Arrangement, (iv) fees and expenses which are paid or reimbursed to employees or former employees under Section 6 of the Retention Agreements or to any other employee or former employee under the corresponding provisions of the applicable Combined Arrangement, (v) payments made to employees or former employees under Section 5 of the Retention Agreements or to any other employee or former employee under the corresponding provisions of the applicable Combined Arrangement and (vi) costs incurred by Apple in respect of a Section 2(a) Participant under Section 2(d) of the Supplement or to any other employee or former employee under the corresponding provisions of the applicable Combined Arrangement.

"Code" shall mean the Internal Revenue Code of 1986, as amended, and any successor provisions thereto.

"Common Stock" shall mean the common stock of Apple.

"Good Reason" shall mean:

(i) The relocation of the office of the Company where an Eligible Employee is employed immediately prior to the Change in Control Date (the "CIC Location") to a location which is more than fifty (50) miles away from the CIC Location or the Company's requiring an Eligible Employee to be based more than fifty (50) miles away from the CIC Location (except for required travel on the Company's business to an extent substantially consistent with the Eligible Employee's customary business travel obligations in the ordinary course of business prior to the Change in Control Date); or

(ii) The Company's assignment of an Eligible Employee to a job with significantly reduced duties and responsibilities and which involves either (A) a reduction in the Eligible Employee's base salary or target bonus opportunity or (B) a drop of two grade designations or more; provided, however, that clause (B) shall not apply if the reduction in employee's grade designation causes such employee to cease to qualify as an Eligible Employee for purposes of the Plan and this Supplement;

provided, however, that an event described above shall not constitute Good Reason unless it is communicated by the Eligible Employee to the Company in writing and is not corrected by the Company in a manner which is reasonably satisfactory to the Eligible Employee (including full retroactive correction with respect to any monetary matter) within 10 days of the Company's receipt of such written notice.
"Limit" shall mean the dollar amount determined in accordance with the formula \[ A \times B \times C \], where

A equals 0.02;

B equals the number of issued and outstanding shares of Common Stock of Apple immediately prior to the Change in Control Date;

and

C equals the greater of (i) (A) if the Common Stock is listed on any established stock exchange or national market system (including, without limitation, the National Market System of the National Association of Securities Dealers, Inc. Automated Quotation ("NASDAQ") System, the highest closing sale price (or closing bid price, if no sales are reported) of a share of Common Stock, or (B) if the Common Stock is regularly quoted on the NASDAQ System (but not on a national market system) or quoted by a recognized securities dealer but selling prices are not reported, the highest mean between the high and low asked prices for the Common Stock, in each case, on any day during the ninety-day period ending on the Change in Control Date, and (ii) the highest price paid or offered, as determined by the Accounting Firm, in any bona fide transaction or bona fide offer related to the Change in Control.
"Notification Date" shall mean, during the Supplement Term, the date an Eligible Employee is notified of his or her termination of employment or the end of the date on which the cure period referred to in the definition of Good Reason expires without the Company effecting the cure contemplated by such definition.

"Payment" means (i) any amount due or paid to an Eligible Employee under the Plan or this Supplement, (ii) any amount that is due or paid to an Eligible Employee under any plan, program or arrangement of the Company, and (iii) any amount or benefit that is due or payable to an Eligible Employee under the Plan or this Supplement or under any plan, program or arrangement of the Company not otherwise covered under clause (i) or (ii) hereof which must reasonably be taken into account under Section 280G of the Code and the Regulations in determining the amount of the "parachute payments" received by the Eligible Employee, including, without limitation, any amounts which must be taken into account under the Code and Regulations as a result of (A) the acceleration of the vesting of any option, restricted stock or other equity award granted under Apple's equity-based incentive plans or otherwise, (B) the acceleration of the time at which any payment or benefit is receivable by an Eligible Employee or (C) any contingent severance or other amounts that are payable to an Eligible Employee.

"Regulations" shall mean the proposed, temporary and final regulations under Section 280G of the Code or any successor provision thereto.
"Retention Agreements" means the Retention Agreements, dated as of the date of this Supplement, to which Apple is a party and any Retention Agreement entered into after the date hereof which is specifically designated in the terms thereof as one of the Combined Arrangements.

"Supplement Term" shall mean the period commencing on the Change in Control Date and ending on the second anniversary thereof.

"Transaction Date" shall mean the date described in clause (i) of the definition of Change in Control Date.

* Years of Service will be determined as of the Participant's Termination Date.

1 To be expressed in up to three decimal places. For example, a combined federal, state and local marginal rate of 56% would be expressed as .560.
Separation Agreement

In consideration of the mutual agreements set forth below, Daniel Eilers ("Eilers") and Apple Computer, Inc. ("Apple") agree to the following terms and conditions of this Separation Agreement (the "Agreement"): 

1. Nature of Business. Apple is in the business of designing, developing, producing, selling and marketing computer systems, related products and services. The business practices of Apple and the market conditions in which Apple operates change rapidly and these changes have necessitated prompt changes in management, and/or managers’ responsibilities. These changes are needed from time to time in the high level management positions such as those for which Eilers has been employed. 

2. Resignation from Office and Rescission of Retention Agreement. Employee shall resign from his position as Senior Vice President, World Wide Marketing & Customer Solutions of Apple, effective as of December 1, 1995. Eilers hereby resigns from all other positions he holds on behalf of Apple, its subsidiaries and affiliates effective as of December 1, 1995 (except as an employee), which positions are set forth at Exhibit A hereto. Eilers agrees to sign all appropriate and mutually agreeable documentation prepared by Apple to facilitate these resignations. 

Eilers and Apple agree that in exchange for the terms and conditions of this Agreement, the June 9, 1995 Retention Agreement between Eilers and Apple, a copy of which is attached hereto as Exhibit B, is hereby rescinded and that neither party has any further rights or obligations under the Retention Agreement.
3. Employment Status/Termination. Subject to paragraph 11 below, from the date of this Agreement through February 1, 1996 ("Termination Date") or such earlier date as a result of an event under paragraph 11, Eilers will continue to devote his best efforts to Apple and will remain an employee of and fiduciary to Apple reporting to Edward B. Stead. On and after December 1, 1995, Eilers will not be required to perform any duties for or on behalf of Apple. Until Termination Date, Eilers shall continue to receive his regular salary and receive full employee benefits. Apple will designate Eilers as a participant in Apple's Executive Severance Plan ("Plan"), on or about December 1, 1995, and Eilers will become eligible to receive the appropriate compensation and benefits under that Plan valued as of February 1, 1996.

4. Compensation and Benefits Upon Termination. Subject to paragraph 11 below, at or before Termination Date, Apple will pay the following:

a. Severance Payments. Under this Agreement and the Plan, Eilers is eligible to receive a lump sum severance payment based on 13 years and 6 months of employment and a proration of his FY '96 Senior/Executive Incentive Bonus Plan ("Bonus Plan"), less deductions, and a payout of his accrued vacation. Subject to paragraph 11 below, Apple will pay Eilers five hundred fifteen thousand, seven hundred fifty dollars ($515,750), less payroll tax deductions, and an additional amount equal to Eilers' accrued vacation through Termination Date, less payroll tax deductions, in full satisfaction of all Apple's obligations under the Plan, Bonus Plan and otherwise. Eilers shall be paid on or before Termination Date and such payment constitutes full compensation under the Plan, Bonus Plan and otherwise. There shall be no other payments to Eilers except as stated in this paragraph 4(a) and in paragraph 3 above and the amount of such payments shall at all times remain subject to paragraph 11.
b. Stock Options. Apple's Board of Directors (the "Board") previously granted Eilers options to purchase shares of Apple Common Stock under Apple's 1981 and 1990 Stock Option Plans (the "1981 and 1990 Plans") and options to purchase shares of stock under Apple's 1987 Executive Long Term Stock Option Plan ("ELTSOP"). Such options shall continue to vest and be exercisable in accordance with the terms of the grant agreement issued to Eilers with respect to such grants, and the terms of the 1981 and 1990 Stock Option Plans and the ELTSOP administered by the Board.

c. Receipt of Documentation. Eilers acknowledges that he has previously received from Apple copies of pertinent portions of Apple's Executive Severance Plan, Apple's Senior/Executive Bonus Program, Apple's 1981 and 1990 Stock Option Plans, Apple's ELTSOP, Apple's Vacation and Holiday Policies, and Apple's Benefit Plans relating to health care, life insurance, accidental death and disability, short and long term disability and Savings Plans. Eilers understands and agrees to be bound by the written terms and conditions of these various plans, policies or programs, and agrees that Apple has reserved the right and option, in its sole discretion, to change, interpret, modify or terminate these and all other plans, policies or programs at any time without Eilers's consent so long as such action does not conflict with or reduce Eiler's rights under this Agreement.

d. Outplacement. Apple will provide Eilers with the following outplacement benefits:

(1) Until August 1, 1996, or such earlier date as the parties may agree, Apple will maintain as active Eilers' phone number and phone line at (408) 974-2303 so that Eilers may continue to receive calls with voice mail box access. Eilers agrees that his voice mail greeting will refer callers of a personal nature to another number and will instruct callers with Apple business to either leave a message or to another Apple phone number. Eilers agrees to forward to Edward B. Stead any calls for and on behalf of Apple. Apple will maintain Eilers' name and number in Apple's directory so that Apple operators will continue to be able to transfer calls to Dan Eilers' phone number and phone line.
(2) Until August 1, 1996, Apple will forward any personal mail directed to Eilers but received by Apple to Eilers' home address.

(3) Apple will provide Eilers with a non-employee AppleLink account, at Apple's expense, through August 1, 1996.

(4) Apple will provide Eilers with an outplacement office through December 1, 1996, or such earlier date as the parties may agree to, otherwise in accordance with the outplacement benefits under the Plan.

e. No Other Benefits. Eilers will not be entitled to receive any other compensation, bonus or benefits provided by, through or on behalf of Apple, its affiliates or subsidiaries, other than benefits that are vested as of Termination Date and that are payable in accordance with the terms of any applicable Benefit Plan, or otherwise provided for herein.

5. Confidentiality. The terms of this Agreement are confidential. Neither Eilers nor Apple will at any time disclose to any third party the fact or terms of this Agreement, except as authorized by this agreement or as required by law. Eilers may also make such disclosure to his immediate family members, his tax advisor and/or lawyer, all of whom shall be instructed to keep the information disclosed to them confidential; any disclosure by any such party shall be deemed a disclosure by Eilers. Apple and Eilers shall not disparage each other in their communications in response to all inquiries from the press, public media or any other third parties regarding this Agreement or Eilers's employment termination.

6. Trade Secrets, Proprietary and Confidential Information. Eilers agrees to comply with Apple's "Proprietary Rights and Information Agreement" which is attached hereto as Exhibit C to this Agreement.

In addition, Eilers agrees to continue to abide by the principles and guidelines in Apple's Global Ethics brochure, the terms of which are incorporated herein to the extent it applies to employees through Termination Date and to former employees thereafter.
On or before Termination Date, Eilers agrees to promptly return to Apple or its records retention designee all Apple proprietary and confidential information, including but not limited to all business plans, financial records, inventions, discoveries, improvements, computer programs, designs, documentation, notes, plans, drawings and copies thereof to Apple. Apple hereby gives to Eilers the equipment identified at Exhibit D and all manuals and documents which came with such equipment.

Eilers and Apple agree that this section regarding Trade Secrets, Proprietary and Confidential Information shall survive the termination of this Agreement.

7. Fiduciary Duties/Non-Solicitation. Eilers further recognizes that Apple's work force constitutes an important and vital aspect of its business. Eilers agrees that during his employment with Apple he shall not solicit, or assist others employed by Apple to become employed by any firm, company or other business enterprise without the consent of and direction from Apple. Through February 1, 1997, Eilers agrees that he shall not solicit, or assist others employed by Apple to become employed by any firm, company or other business enterprise. Eilers further represents that he has no time prior to the date this Agreement is signed solicited or encouraged any employee to leave Apple without the consent of and direction from Apple. Nothing in this Agreement will prevent Eilers from providing favorable recommendations or favorable references on behalf of persons who previously worked with Eilers.

Eilers and Apple also agree, that upon a breach or violation or threatened breach or violation of any confidentiality, trade secrets, or non-solicitation agreement by Eilers contained herein, or if any provision of Sections 5, 6, or 7 of this Agreement, Apple, in addition to all other remedies which might be available to it, shall be entitled as a matter of right to equitable relief in any court of competent jurisdiction, including the right to obtain injunctive relief or specific performance. Eilers and Apple agree that the remedies at law for any such breach or violation are not fully adequate and that the injuries to Apple as a result of the continuation of any breach or violation are incapable of full calculation in monetary terms and therefore constitute irreparable harm. This paragraph 7 shall survive the termination of this Agreement.
8. Indemnification. All rights of indemnification previously provided by Apple to Eilers by Apple's By-Laws and/or by the Indemnification Agreement dated May 19, 1992 shall continue in full force and effect in accordance with their terms, following the date of this Agreement. A copy of Eilers's Indemnification Agreement is attached hereto as Exhibit E to this Agreement.

9. Successors. Apple will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of Apple to expressly assume and agree to perform this Agreement in the manner and to the same extent that Apple would be required to perform it if no such succession had taken place. Failure of Apple to obtain such assumption and agreement prior to the effectiveness of any such succession shall entitle Eilers to the benefits listed in paragraphs 3 and 4 of this Agreement, subject to the terms and conditions therein.

10. Governing Law. The validity, interpretation, effect, and enforcement of this Agreement shall be governed by the laws of the State of California without regard to its choice of law principles.

11. Entire Agreement. This Agreement, and Exhibits A, B, C, D & E to this Agreement, set forth the entire Agreement and understanding between Eilers and Apple, and supersede any other negotiations, agreements, understandings, oral agreements, representations or past or future practices, whether written or oral, by Apple, except as otherwise provided herein. This Agreement may be amended only by written agreement, signed by the parties to be bound by the amendment. Parol evidence will be inadmissible to show agreement by and between the parties to any term or condition contrary to or in addition to the terms and conditions contained in this Agreement.

Each Apple plan or policy referred to herein directly or by implication (except the 1981 and 1990 Stock Option Plans) is incorporated herein only insofar as it does not contradict this Agreement. If any inconsistencies exist between this Agreement and any such plan, policy or program, this Agreement shall control. If any inconsistencies exist between this Agreement and any such plan or policy, this Agreement and the 1981 and 1990 Stock Option Plans, those stock plans shall control.
Nothing in any such plan, policy, or this Agreement shall change the At Will nature of Eilers's employment under this Agreement by which either party can terminate Eilers's employment without regard to cause. Eilers understands and agrees that Apple is obligated to make the payments outlined in paragraph 3 and 4 of this Agreement in the event Eilers's employment terminates before Termination Date for any reason other than:

a. by Apple for "Business Reasons" as defined below;

b. by Eilers for any reason, except if Eilers's employment is terminated for any material breach by Apple of this Agreement. In this event, Eilers will be entitled to the payments outlined in paragraph 3 and 4 adjusted according to the actual, accelerated Termination Date and offsetting any payments made to him prior to the actual, accelerated Termination Date;

For purposes of this Agreement only, "Business Reasons" shall mean that Eilers is terminated for any of the following reasons:

(i) engaging in unfair or unlawful competition with Apple; or

(ii) inducing any customer of Apple to breach any contract with Apple; or

(iii) making any unauthorized disclosure of or otherwise misusing any of the secrets or confidential information of Apple; or

(iv) committing any act of embezzlement, fraud or material theft with respect to any Apple property; or

(v) violating any Apple policy or guideline or the terms of this Agreement; or

(vi) causing material loss, damage or injury to or otherwise endangered the property, reputation or employees of Apple; or
(vii) engaging in malfeasance, negligence or misconduct, or failing to perform reasonable duties and responsibilities consistent with your duties and responsibilities to Apple; or

(viii) failure to act in accordance with specific, reasonable and lawful instructions from Apple's Chief Executive Officer, or his delegate.

12. Right to Advice of Counsel. Eilers understands that he has the right to have this Agreement reviewed by his lawyer and acknowledges that Apple has encouraged him to consult with his lawyer so that he is fully aware of his rights and obligations under this Agreement. Eilers acknowledges that he has done so.

13. Modification. This Agreement may not be amended, modified, changed or discharged in any respect except as agreed in writing and signed by Eilers and the Chief Executive Officer of Apple Computer, Inc.

14. Severability and Interpretation. In the event that any provision or any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such provision or portion thereof shall be considered separate and apart from the remainder of this Agreement and the other provisions shall remain fully valid and enforceable, provided that, if paragraph 2, 5, 6, 7, 19 or 21 are held to be invalid or unenforceable in response to a motion, argument or other act by Eilers, then Apple, at its sole discretion, may rescind the Agreement and recover all consideration paid to Eilers under the Agreement.
15. Notices. All notices required by this Agreement shall be given in writing either by personal delivery or by first class mail, return receipt requested. Notices shall be addressed as follows:

To Apple: Apple Computer, Inc.
1 Infinite Loop, Mail Stop 38-I Cupertino, California 95014 Attention: General Counsel

To Eilers: 1224 Miraflores Way
Los Altos, CA 94024

or in each case to such other address as Eilers or Apple shall notify the other. Notice given by mail shall be deemed given five (5) days following the date of mailing.

16. Miscellaneous. The rights and obligations of Apple under this Agreement shall inure to the benefit of and shall be binding upon the present and future subsidiaries of Apple, any and all subsidiaries of a subsidiary, all affiliated corporations, and successors and assigns of Apple. No assignment of this Agreement by Apple will relieve Apple of its obligations. Eilers shall not assign any of his rights and/or obligations under this Agreement and any such attempted assignment will be void. This Agreement shall be binding upon and inure to the benefit of Eilers, his heirs, executors, administrators, or other legal representatives and their legal assigns.

17. Damage Limitation. At Termination Date, Eilers shall not be entitled to recover any compensation, benefits or damages except as specifically described in this Agreement. This damage waiver provides that no damages (including without limitation, special, consequential, general, liquidated or punitive damages) shall be sought or due from Apple.
18. Waiver. A waiver by either party of any of the terms or conditions of this Agreement in any instance shall not be deemed or construed to be a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this Agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, undertaking, obligation or agreement of either party.

19. Release. Eilers hereby completely releases and forever discharges Michael Spindler, Apple, its officers, directors, agents, employees, attorneys, insurers, subsidiaries and affiliates ("Apple Parties") from, and covenants not to sue any Apple Party with respect to, all claims, rights, demands, actions, obligations, debts, sums of money, damages (including but not limited to general, special, punitive, liquidated and compensatory damages) and causes of action of every kind, nature and character, known and unknown, in law or equity, connected with Eilers's employment relationship with the Apple Parties, or any other act or omission of any Apple Party which may have occurred prior to the date this Agreement is signed. Eilers further agrees that by his acceptance and negotiation of the payment provided for in paragraph (4) of this Agreement, he thereby completely releases and forever discharges the Apple Parties from, and covenants not to sue any Apple Party with respect to, all claims, rights, demands, actions, obligations, debts, sums of money, damages (including but not limited to general, special, punitive, liquidated and compensatory damages) and causes of action of every kind, nature and character, known and unknown, in law or equity, connected with Eilers's employment relationship with the Apple Parties, or the termination of such relationship, or any other act or omission of any Apple Party which may have occurred prior to Termination Date. This release and discharge includes, but is not limited to, all "wrongful discharge" claims; all claims relating to any contracts of employment express or implied; any covenant of good faith and fair dealing express or implied; any tort of any nature; any federal, state, or municipal statute or ordinance; any claims under the California Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 1981, and any other laws and regulations relating to employment discrimination and any and all claims for attorney's fees and costs. Eilers specifically acknowledges that the foregoing release includes a complete release and discharge of all Apple Parties from any and all claims, damages of any kind, and claims for attorneys fees and costs, under the Age Discrimination in Employment Act of 1967 ("ADEA") as amended by the Older Worker
Benefit Protection Act ("OWBPA"). Eilers and Apple agree that part of the consideration payable to Eilers under this Agreement is consideration that Eilers would not otherwise be entitled to and is in consideration for Eilers's release of claims under the ADEA as amended by the OWBPA.

Eilers acknowledges that he understands the protections provided by the OWBPA and that the provisions of the OWBPA have been met by the terms of this Agreement. Eilers states that he knowingly and voluntarily enters into this Agreement. Eilers acknowledges that this Agreement is written in a manner calculated to be understood by him. Eilers further acknowledges that this Agreement refers without limitation to rights under the Age Discrimination in Employment Act. Eilers understands that by this Agreement, he does not waive rights or claims that may arise after Termination Date. Eilers acknowledges that he is entering this Agreement in exchange for consideration in addition to anything of value to which he already is entitled due to his employment with Apple. Further, Eilers acknowledges that this release of claims under the OWBPA is not requested in connection with an exit incentive program or other employment termination program offered to a group or class of employees within the meaning of OWBPA. Notwithstanding this provision, Eilers acknowledges that he has been allowed up to forty five (45) days from the date that he received this Agreement to accept its terms. Eilers acknowledges he has consulted with an attorney about the Agreement. Eilers acknowledges that after he signs the Agreement, he will then be given seven (7) days following the date on which he signs the Agreement to revoke it and that this Agreement will only become effective after this seven (7) day period has lapsed. Any such revocation must be in writing signed by Eilers and immediately delivered to Apple's General Counsel.

Eilers has read and expressly waives Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIS MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

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This waiver is not a mere recital, but is a known waiver of rights and benefits. This is a bargained-for provision of this Agreement and is further consideration for the covenants and conditions contained herein.

The Apple Parties hereby release and forever discharge Eilers, his agents and attorneys from, and covenant not to sue Eilers, his agents and attorneys with respect to, all claims, rights, demands, actions, obligations, debts, sums of money, damages, and causes of action ("claims") arising from his employment relationship with Apple to the extent permitted by law and public policy, except for any claims arising from any intentional acts of misconduct, or any other act taken in bad faith or without a reasonable belief that it was in the best interests of the Apple Parties.

20. Cooperation. Eilers agrees that he will make himself available at reasonable times and intervals to participate in the conduct of and preparation for any pending or future litigation to which Apple is a party and in which his experience or knowledge may be relevant. Eilers shall be reimbursed for reasonable travel and out-of-pocket expenses incurred by virtue of his cooperation as described in this paragraph. In no respect shall this provision be deemed to pertain to or affect the nature or substance of Eilers testimony at deposition or trial or in any other circumstances.


a. Except as provided in subparagraph (b) below, in the event of any future dispute, controversy or claim between the parties arising from or relating to this Agreement, its breach, any matter addressed by this Agreement, and/or Eilers's employment with Apple through Termination Date, the parties will first attempt to resolve the dispute through confidential mediation to be conducted in San Francisco by a member of the firm of Gregoria, Haldeman & Piazza, Mediated Negotiations, 625 Market Street, Suite 400, San Francisco, California 94105. If the parties' dispute is not resolved through mediation, it will be resolved through binding confidential arbitration to be conducted by the American Arbitration Association in San Francisco, pursuant to its California
Employment Dispute Resolution Rules, and judgment upon the award rendered by the Arbitrator(s) may be entered by any court having jurisdiction of the matter. The prevailing party in such arbitration shall be entitled to recover from the losing party, not only the amount of any judgment awarded in its favor, but also any and all costs and expenses, incurred in arbitrating the dispute or in preparing for such arbitration.

b. In the event that a dispute arises concerning compliance with this Agreement, either party will be entitled to obtain from a court with jurisdiction over the parties preliminary and permanent injunctive relief to enjoin or restrict the other party from such breach or to enjoin or restrict a third party from inducing any such breach, and other appropriate relief, including money damages. In seeking any such relief, however, the moving party will retain the right to have any remaining portion of the controversy resolved by binding confidential arbitration in accordance with subparagraph (a) above.
By signing the below, the parties agree to the terms hereof, including the Exhibits hereto, and agree that this document, and Exhibits A, B, C, D & E hereto, sets forth their entire agreement, except as otherwise expressly provided herein.

APPLE COMPUTER, INC.

Date 1/18/96
By \_/s/ Edward B. Stead_____________
Edward B. Stead
Vice President and General Counsel
Apple Computer, Inc.

I have read, understand, and agree to the foregoing:

Date 12/11/95
By \_/s/ Daniel Eilers ________________
Daniel Eilers

APPROVED AS TO FORM:

Date 12/12/95
By \_/s/ Cynthia Carlson______________
Cynthia Carlson, Esq.
Gray, Cary, Ware & Freidenrich
Attorneys for Daniel Eilers
Separation Agreement

In consideration of the mutual agreements set forth below, Joseph A. Graziano ("Graziano") and Apple Computer, Inc. ("Apple") agree to the following terms and conditions of this Separation Agreement (the "Agreement"): 

1. Nature of Business. Apple is in the business of designing, developing, producing, selling and marketing computer systems, related products and services. The business practices of Apple and the market conditions in which Apple operates change rapidly and these changes have necessitated prompt changes in management, and/or managers' responsibilities. These changes are needed from time to time in the high level management positions such as those for which Graziano has been employed.

2. Resignations and Rescission of Retention Agreement. Employee has resigned from his position on Apple's Board of Directors effective as of October 3, 1995 and from his position as Chief Financial Officer effective as of October 31, 1995. Graziano also hereby resigns effective October 31, 1995 from all other positions he holds on behalf of Apple, its subsidiaries and affiliates (except for his position as an employee), which positions are set forth at Exhibit A hereto. Graziano agrees to sign at Apple's request all appropriate mutually agreeable documentation prepared by Apple to facilitate these resignations.

Graziano and Apple agree that in exchange for the terms and conditions of this Agreement, the June 9, 1995 Retention Agreement between Graziano and Apple, a copy of which is attached hereto as Exhibit B, is hereby rescinded and that neither party has any further rights or obligations under the Retention Agreement.

3. Employment Status/Termination. Subject to paragraph 2 above and paragraph 11 below, from October 31, 1995 through January 2, 1996 ("Termination Date") or such earlier date as a result of an event under paragraph 11, Graziano will continue to devote his best efforts to Apple and will remain an employee of Apple as provided in this paragraph, reporting to Edward B. Stead. Until January 2, 1996, Graziano will remain an appointed vice-president of Apple and continue to receive his regular salary and full executive level medical insurance benefits. On or about October 31, 1995, Apple will designate Graziano as a participant in Apple's Executive Severance Plan ("Plan") and Graziano will become eligible to receive benefits under the Plan valued as of December 31, 1995. To the extent this Agreement varies from the terms and conditions of the Plan or Apple's Senior/Executive Bonus Program ("Bonus Plan"), this Agreement shall govern.

4. Compensation and Benefits Upon Termination. Subject to paragraph 11 below, on or about Termination Date, Apple will pay the following:
a. Severance Payments. Graziano is eligible to receive a lump sum severance payment under the Plan based on his 6 years' and 6 months' employment and a proration of his FY '96 bonus, less deductions. Subject to paragraph 11 below, on or about Termination Date, Apple will pay Graziano three hundred forty thousand, six-hundred twenty-six dollars ($340,626.00), less deductions, in full satisfaction of all Apple's obligations to pay severance benefits under the Plan, Bonus Plan, and any and all other written or oral agreements between Graziano and Apple including but not limited to, the employment agreement dated June 14, 1989, a copy of which is attached hereto as Exhibit C. On or about Termination Date and subject to paragraph 11 below, Apple will pay Graziano an additional lump sum payment of fifty nine thousand, three hundred seventy four dollars ($59,374), less deductions, in consideration of the covenants and promises made in this Agreement expressly including the promises and covenants contained in paragraph 7 of this Agreement. Except as provided for below in Paragraph 4(b), there shall be no other payments to Graziano except as stated in this paragraph 4(a) and in paragraph 3 above and the amount of such payments shall at all times remain subject to paragraph 11.

b. Stock Options. Apple's Board of Directors (the "Board") previously granted Graziano options to purchase shares of Apple Common Stock under Apple's 1981 and 1990 Stock Option Plans (the "1981 and 1990 Plans") and options to purchase shares of stock under Apple's 1987 Executive Long Term Stock Option Plan ("ELTSOP"). Nothing in this Agreement shall alter the terms and conditions of such options and such options shall continue to vest and be exercisable in accordance with the terms of the grant agreement issued to Graziano with respect to such grants, and the terms of the 1981 and 1990 Stock Option Plans and the ELTSOP administered by the Board. Notwithstanding this paragraph, the administrator of the ELTSOP has determined that the three (3) month period relating to the exercise of options after termination of employment as provided for in Section 9(e) of the ELTSOP shall be extended to twelve (12) months with respect to those outstanding stock options granted to Graziano only under the ELTSOP which are vested and exercisable on or before January 2, 1996.

c. Receipt of Documentation. Graziano acknowledges that he has previously received from Apple copies of pertinent portions of Apple's Executive Severance Plan, Apple's Senior/Executive Bonus Program, Apple's 1981 and 1990 Stock Option Plans, Apple's ELTSOP, Apple's Vacation and Holiday Policies, and Apple's Benefit Plans relating to health care, life insurance, accidental death and disability, short and long term disability and Savings Plans. Graziano understands and agrees to be bound by the written terms and conditions of these various plans, policies or programs, unless expressly provided for otherwise under this Agreement or in the Plan, and agrees that Apple has reserved the right and option, in its sole discretion, to change, interpret, modify or terminate these and all other plans, policies or programs at any time without Graziano's consent so long as such action does not conflict with or reduce Graziano's rights under this Agreement.

d. No Other Benefits. Graziano will not be entitled to receive any other compensation, bonus or benefits provided by, through or on behalf of Apple, its affiliates or subsidiaries, other than benefits that are vested as of Termination Date and that are payable in accordance with the terms of any applicable Benefit Plan, or otherwise provided for herein.

5. Confidentiality. The terms of this Agreement are confidential. Neither Graziano nor Apple will at any time disclose to any third party the fact or terms of this Agreement, except as
authorized by this agreement or as required by law. Graziano may also make such disclosure to his spouse, tax advisor and/or lawyer, all of whom shall be instructed to keep the information disclosed to them confidential; any disclosure by any such party shall be deemed a disclosure by Graziano. Apple and Graziano shall not disparage each other in their communications in response to all inquiries from the press, public media or any other third parties regarding this Agreement or Graziano's employment termination. If Apple makes a press statement which disparages Graziano, then Graziano may invoke the procedures outlined in paragraph 21 of this Agreement. If Graziano makes a press statement which disparages Apple, then Apple may invoke the procedures outlined in paragraph 21 of this Agreement.

6. Trade Secrets, Proprietary and Confidential Information. Graziano agrees to comply with Apple's "Proprietary Rights and Information Agreement" which is attached hereto as Exhibit D to this Agreement.

In addition, Graziano agrees to continue to abide by the principles and guidelines in Apple's Global Ethics brochure, the terms of which are incorporated herein to the extent it applies to employee through Termination Date and to former employees thereafter.

On or before Termination Date, Graziano agrees to promptly return to Apple or its records retention designee, all Apple proprietary and confidential information, including but not limited to all inventions, discoveries, improvements, computer programs, designs, documentation, notes, plans, drawings and copies thereof to Apple. Graziano shall be entitled to keep as his own personal property the equipment listed at Exhibit E together with manuals and product data information associated with such equipment.

Graziano and Apple agree that this section regarding Trade Secrets, Proprietary and Confidential Information shall survive the termination of this Agreement.

7. Non-Competition/Non-Solicitation. Graziano further recognizes that Apple's work force constitutes an important and vital aspect of its business. Graziano agrees, therefore, that both during his employment with Apple, and thereafter until January 2, 1997, Graziano shall not solicit, or assist others employed by Apple, or any of its subsidiaries or affiliates, to become employed by any firm, company or other business enterprise. Graziano further represents that he has no time prior to this agreement solicited or encouraged any employee to leave Apple. Nothing in this Agreement will prevent Graziano from providing favorable recommendations or favorable references on behalf of persons who previously worked with Graziano.

Graziano will not, without the prior express written consent of Apple, compete with Apple on or before June 30, 1996 by engaging in or assisting others to develop or market products or services that are in competition with Apple products or services. Graziano's agreement not to compete is limited to the state of California. Nothing in this Agreement shall prohibit Graziano from serving as a member of the Boards of Directors of Stratacom, Intellicorp, Pixar and/or Sharedata.

Graziano and Apple also agree, that upon a breach or violation or threatened breach or violation of any confidentiality, trade secrets, non-competition or non-solicitation agreement by Graziano contained herein, or if any provision of Sections 5, 6, or 7 of this Agreement, Apple, in
addition to all other remedies which might be available to it including rescission of the Agreement and repayment of the consideration paid to Graziano for the covenants or promises breached, shall be entitled as a matter of right to equitable relief in any court of competent jurisdiction, including the right to obtain injunctive relief or specific performance. Graziano and Apple agree that the remedies at law for any such breach or violation are not fully adequate and that the injuries to Apple as a result of the continuation of any breach or violation are incapable of full calculation in monetary terms and therefore constitute irreparable harm. This paragraph 7 shall survive the termination of this Agreement.

8. Indemnification. All rights of indemnification previously provided by Apple to Graziano by Apple's By-Laws and/or by the Indemnification Agreement dated June 14, 1989 shall continue in full force and effect in accordance with their terms, following the date of this Agreement. A copy of Graziano's Indemnification Agreement is attached hereto as Exhibit F to this Agreement.

9. Successors. Apple will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of Apple to expressly assume and agree to perform this Agreement in the manner and to the same extent that Apple would be required to perform it if no such succession had taken place. Failure of Apple to obtain such assumption and agreement prior to the effectiveness of any such succession shall entitle Graziano to the benefits listed in paragraphs 3 and 4 of this Agreement, subject to the terms and conditions therein.

10. Governing Law. The validity, interpretation, effect, and enforcement of this Agreement shall be governed by the laws of the State of California without regard to its choice of law principles.

11. Entire Agreement. This Agreement, and Exhibits A, B, C, D, E & F to this Agreement, set forth the entire Agreement and understanding between Graziano and Apple, and supersede any other negotiations, written agreements, understandings, oral agreements, representations or past or future practices, whether written or oral, by Apple, including but not limited to, the employment agreement between Apple and Graziano dated June 14, 1989, except as otherwise provided for herein. This Agreement may be amended only by written agreement, signed by the parties to be bound by the amendment. Parol evidence will be inadmissible to show agreement by and between the parties to any term or condition contrary to or in addition to the terms and conditions contained in this Agreement.

Each Apple plan or policy referred to herein directly or by implication (except the 1981 and 1990 Stock Option Plans and the ELTSOP) is incorporated herein only insofar as it does not contradict this Agreement. If any inconsistencies exist between this Agreement and any such plan or policy, this Agreement shall control. If any inconsistencies exist between this Agreement and the 1981 and 1990 Stock Option Plans or the ELTSOP, those stock plans shall control.

Nothing in any such plan, policy, or this Agreement shall change the At Will nature of Graziano's employment under this Agreement and as provided under his employment agreement dated June 14, 1989 by which either party can terminate Graziano's employment without regard to cause. Notwithstanding any provision in this Agreement to the contrary, Graziano understands and agrees that Apple is obligated to make the payments outlined in paragraph 3 and 4 of this Agreement in the event Graziano's employment terminates before Termination Date for any reason other than:
a. by Apple for "Business Reasons" as defined below;

b. by Graziano for any reason, except if Graziano's employment is terminated for any material breach by Apple of this Agreement. In this event, Graziano will be entitled to the payments outlined in paragraph 3 and 4 adjusted according to the actual, accelerated Termination Date and offsetting any payments made to him prior to the actual, accelerated Termination Date;

For purposes of this Agreement only, "Business Reasons" shall mean that Graziano is terminated for any of the following reasons:

(i) engaging in unfair or unlawful competition with Apple; or
(ii) inducing any customer of Apple to breach any contract with Apple; or
(iii) making any unauthorized disclosure of or otherwise misusing any of the secrets or confidential information of Apple; or
(iv) committing any act of embezzlement, fraud or material theft with respect to any Apple property; or
(v) violating any Apple policy or guideline or the terms of this Agreement; or
(vi) causing material loss, damage or injury to or otherwise endangered the property, reputation or employees of Apple; or
(vii) engaging in malfeasance, negligence or misconduct, or failing to perform reasonable duties and responsibilities consistent with your duties and responsibilities to Apple; or
(viii) failure to act in accordance with specific, reasonable and lawful instructions from Apple's Chief Executive Officer, or his delegate.

12. Right to Advice of Counsel. Graziano understands that he has the right to have this Agreement reviewed by his lawyer and acknowledges that Apple has encouraged him to consult with his lawyer so that he is fully aware of his rights and obligations under this Agreement. Graziano acknowledges that he has done so.

13. Modification. This Agreement may not be amended, modified, changed or discharged in any respect except as agreed in writing and signed by Graziano and the Chief Executive Officer of Apple Computer, Inc.
14. Severability and Interpretation. In the event that any provision or any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such provision or portion thereof shall be considered separate and apart from the remainder of this Agreement and the other provisions shall remain fully valid and enforceable, provided that, if paragraph 2, 5, 6, 7, 19 or 21 is held to be invalid or unenforceable in response to a motion, argument or other act by Graziano, then Apple, at its sole discretion, may rescind the Agreement and recover all consideration paid to Graziano under the Agreement.

15. Notices. All notices required by this Agreement shall be given in writing either by personal delivery or by first class mail, return receipt requested. Notices shall be addressed as follows:

To Apple: Apple Computer, Inc.
1 Infinite Loop, Mail Stop 38-I
Cupertino, California 95014
Attention: General Counsel

To Graziano: 14055 Chester Avenue Saratoga, California 95070

or in each case to such other address as Graziano or Apple shall notify the other. Notice given by mail shall be deemed given five (5) days following the date of mailing.

16. Miscellaneous. The rights and obligations of Apple under this Agreement shall inure to the benefit of and shall be binding upon the present and future subsidiaries of Apple, any and all subsidiaries of a subsidiary, all affiliated corporations, and successors and assigns of Apple. No assignment of this Agreement by Apple will relieve Apple of its obligations. Graziano shall not assign any of his rights and/or obligations under this Agreement and any such attempted assignment will be void. This Agreement shall be binding upon and inure to the benefit of Graziano's heirs, executors, administrators, or other legal representatives and their legal assigns.

17. Damage Limitation. At Termination Date, Graziano shall not be entitled to recover any compensation, benefits or damages except as specifically described in this Agreement. This damage waiver provides that no damages (including without limitation, special, consequential, general, liquidated or punitive damages) shall be sought or due from Apple.

18. Waiver. A waiver by either party of any of the terms or conditions of this Agreement in any instance shall not be deemed or construed to be a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this Agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, undertaking, obligation or agreement of either party.

19. Release. Graziano hereby completely releases and forever discharges Michael Spindler, Apple, its officers, directors, agents, employees, attorneys, insurers, subsidiaries and affiliates (“Apple Parties”) from, and covenants not to sue any Apple Party with respect to, all claims, rights, demands, actions, obligations, debts, sums of money, damages (including but not limited to general, special, punitive, liquidated and compensatory damages) and causes of action of every kind, nature...
and character, known and unknown, in law or equity, connected with Graziano's employment relationship with the Apple Parties, or any other act or omission of any Apple Party which may have occurred prior to the date this Agreement is signed. Graziano further agrees that by his acceptance and negotiation of the payment provided for in paragraph (4) of this Agreement, he thereby completely releases and forever discharges the Apple Parties from, and covenants not to sue any Apple Party with respect to, all claims, rights, demands, actions, obligations, debts, sums of money, damages (including but not limited to general, special, punitive, liquidated and compensatory damages) and causes of action of every kind, nature and character, known and unknown, in law or equity, connected with Graziano's employment relationship with the Apple Parties, or the termination of such relationship, or any other act or omission of any Apple Party which may have occurred prior to Termination Date. This release and discharge includes, but is not limited to, all "wrongful discharge" claims; all claims relating to any contracts of employment, express or implied; any covenant of good faith and fair dealing, express or implied; any tort of any nature: any federal, state, or municipal statute or ordinance; any claims under the California Fair Employment and Housing Act, Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 1981, and any other laws and regulations relating to employment discrimination and any and all claims for attorney's fees and costs. Graziano specifically acknowledges that the foregoing release includes a complete release and discharge of all Apple Parties from any and all claims, damages of any kind, and claims for attorneys fees and costs, under the Age Discrimination in Employment Act of 1967 ("ADEA") as amended by the Older Worker Benefit Protection Act ("OWBPA"). Graziano and Apple agree that part of the consideration payable to Graziano under this Agreement is consideration that Graziano would not otherwise be entitled to and is in consideration for Graziano's release of claims under the ADEA as amended by the OWBPA.

Graziano acknowledges that he understands the protections provided by the OWBPA and that the provisions of the OWBPA have been met by the terms of this Agreement. Graziano states that he knowingly and voluntarily enters into this Agreement. Graziano acknowledges that this Agreement is written in a manner calculated to be understood by him. Graziano further acknowledges that this Agreement refers without limitation to rights under the Age Discrimination in Employment Act. Graziano understands that by this Agreement, he does not waive rights or claims that may arise after the date the Agreement is executed. Graziano acknowledges that he is entering this Agreement in exchange for consideration in addition to anything of value to which he already is entitled due to his employment with Apple. Further, Graziano acknowledges that this release of claims under the OWBPA is not requested in connection with an exit incentive program or other employment termination program offered to a group or class of employees within the meaning of OWBPA. Notwithstanding this provision, Graziano acknowledges that he has been allowed up to forty five (45) days from the date that he received this Agreement to accept its terms. Graziano acknowledges he has consulted with an attorney about the Agreement. Graziano acknowledges that after he signs the Agreement, he will then be given seven (7) days following the date on which he signs the Agreement to revoke it and that this Agreement will only become effective after this seven (7) day period has lapsed. Any such revocation must be in writing signed by Graziano and immediately delivered to Apple's General Counsel.

Graziano has read and expressly waives Section 1542 of the California Civil Code, which provides as follows:
A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SetTLEMENT WITH THE DEBTOR.

This waiver is not a mere recital, but is a known waiver of rights and benefits. This is a bargained-for provision of this Agreement and is further consideration for the covenants and conditions contained herein.

The Apple Parties hereby release and forever discharge Graziano, his agents and attorneys from, and covenant not to sue Graziano, his agents and attorneys with respect to, all claims, rights, demands, actions, obligations, debts, sums of money, damages, and causes of action ("claims") arising from his employment relationship with Apple to the extent permitted by law and public policy, except for any claims arising from any intentional acts of misconduct, or any other act taken in bad faith or without a reasonable belief that it was in the best interests of the Apple Parties.

20. Cooperation. Graziano agrees that he will make himself available at reasonable times and intervals to participate in the conduct of and preparation for any pending or future litigation to which Apple is a party and in which his experience or knowledge may be relevant. Graziano shall be reimbursed for his reasonable travel and out-of-pocket expenses incurred by virtue of his cooperation as described in this paragraph. In no respect shall this provision be deemed to pertain to or affect the nature or substance of Graziano testimony at deposition or trial or in any other truthful testimony at deposition or trial or in any other circumstances.

a. Except as provided in subparagraph (b) below, in the event of any future dispute, controversy or claim between the parties arising from or relating to this Agreement, its breach, any matter addressed by this Agreement, and/or Graziano's employment with Apple through Termination Date, the parties will first attempt to resolve the dispute through confidential mediation to be conducted in San Francisco by a member of the firm of Gregoria, Haldeman & Piazza, Mediated Negotiations, 625 Market Street, Suite 400, San Francisco, California 94105. If the parties' dispute is not resolved through mediation, it will be resolved through binding confidential arbitration to be conducted by the American Arbitration Association in San Francisco, pursuant to its California Employment Dispute Resolution Rules, and judgment upon the award rendered by the Arbitrator(s) may be entered by any court having jurisdiction of the matter. The prevailing party in such arbitration shall be entitled to recover from the losing party, not only the amount of any judgment awarded in its favor, but also any and all costs and expenses, incurred in arbitrating the dispute or in preparing for such arbitration.

b. In the event that a dispute arises concerning compliance with this Agreement, either party will be entitled to obtain from a court with jurisdiction over the parties preliminary and permanent injunctive relief to enjoin or restrict the other party from such breach or to enjoin or restrict a third party from inducing any such breach, and other appropriate relief, including money damages. In seeking any such relief, however, the moving party will retain the right to have any remaining portion of the controversy resolved by binding confidential arbitration in accordance with subparagraph (a) above.
By signing the below, the parties agree to the terms hereof, including the Exhibits hereto, and agree that this document, and Exhibits A, B, C, D, E & F hereto, set forth their entire agreement, except as otherwise expressly provided herein.

APPLE COMPUTER, INC.

By /s/ Michael Spindler_______
Date 12/20/95

Michael Spindler
Chief Executive Officer
Apple Computer, Inc.

I have read, understand, and agree to the foregoing:

By /s/ Joseph A. Graziano_______
Date 12/19/95

Joseph A. Graziano

APPROVED AS TO FORM:

By _______________________ ______
Date                          Greg Gallo, Esq.

Gray, Cary, Ware & Freidenrich
Attorneys for Joseph Graziano

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Summary of Principal Terms of Employment

The following sets forth the principal terms of the employment agreement between Apple Computer, Inc. (the "Company") and Gilbert F. Amelio (the "Executive"). The Company and the Executive will negotiate a definitive written agreement in accordance with the terms set forth below:

TERM:  5 years, commencing as soon as practicable after the date hereof (the "Effective Date").

TITLE:  Chairman and Chief Executive Officer.

BASE SALARY:  $990,000 per annum.

SIGNING BONUS:  $200,000 payable reasonably promptly following the Effective Date.

LOAN:  Reasonably promptly following the Effective Date, subject to delivery of a promissory note and other loan documentation, the Company or one of its subsidiaries will lend Executive $5,000,000 (the "Loan"). 20% of the original principal amount of the Loan will be due and payable on each anniversary of the Effective Date. The Loan will bear interest (compounded semiannually and payable annually). Any unpaid principal and interest on the Loan will be due and payable on the date of the Executive's termination or resignation of employment.

ANNUAL BONUS:  Executive will be eligible to earn an annual bonus for each whole or partial fiscal year of the Company during the term. The annual bonus will consist of the sum of the "Component A Bonus" and the "Component B Bonus."

The bonus target for the Component A Bonus for each 12-month fiscal year will equal 1 times Executive's annual rate of base salary. The bonus target for partial fiscal years in the term will be prorated to take into account the number of days in the fiscal year occurring during the term. The amount of the Component A Bonus for each fiscal year may range from 50% to 300% of target based upon performance (it being understood that amounts in excess of 200% will be based on extraordinary performance); provided, however, that the minimum Component A Bonus for the first fiscal year of the term shall be 50% of the target for that year).
The Component B Bonus for each fiscal year ending during the term shall be $1 million (it being understood that the aggregate amount of Component B Bonuses paid during the term may not exceed $5 million).

The annual bonus for each fiscal year will be paid within 120 days following the end of the applicable year.

**OPTION**

**GRANT:** Subject to shareholder approval, the Company will grant the Executive an option covering one million shares of common stock. The per share exercise price will be the fair market value of a share of stock on the day prior to the date the option is granted by the Compensation Committee. The option will vest as follows:

- 20% of the option will vest and become exercisable on the Initial Vesting Date.
- 20% of the option will vest and become exercisable on each of the second through fifth anniversaries of the Effective Date.

Vesting of the option on the vesting dates described above will occur only if the Executive is employed with the Company on the applicable vesting date and shareholder approval of the option grant is obtained. The option will be subject to the standard terms of the Company's Stock Option Plan, and will be forfeited if not approved by the Company's stockholders at the first meeting thereof to occur after the Effective Date.

The "Initial Vesting Date" shall mean (A) if a change in control of the Company does not occur on or prior to the first anniversary of the Effective Date, the later of (i) the first anniversary of the Effective Date and (ii) the date of stockholder approval of the option grant and performance share arrangement, and (B) if a change in control of the Company occurs on or prior to the first anniversary of the Effective Date, the earlier to occur of (i) the expiration of the Election Window (as defined below) and (ii) 18 months after the Effective Date, but in no event will vesting occur prior to the later to occur of the first anniversary of the Effective Date and the date of shareholder approval of the equity arrangements.

**PERFORMANCE STOCK:** Subject to shareholder approval, the Executive will be afforded an opportunity to earn a specified target amount of shares of stock for each fiscal year of the term based upon the achievement of performance objectives established in good faith for each year by the Compensation Committee and approved by the Board of Directors. The target amount for each 12-month fiscal year will be 200,000 shares. The target amount for partial fiscal years will be prorated to take into account the number of days in the fiscal year occurring during the term. No more than 1,000,000 performance shares may be earned during the term.
a. Right to Resign in Election Window. If a Change in Control of the Company occurs on or prior to the first anniversary of the Effective Date, the Executive shall have the right to resign within the 30-day window period beginning six months following the date of the Change in Control (the “Election Window”). In the event of such a resignation, the Executive will receive an “all in” cash lump sum payment of $10 million, less the aggregate amount of all Component B Bonuses previously paid to the Executive. The Executive will forfeit the option, all rights to performance shares and any outstanding performance shares and the right to any additional future payments from the Company.

b. Termination by the Company. If following a Change in Control, the Company terminates his employment other than for Cause prior to the end of the Election Window, the Executive will receive an "all in" cash lump sum payment of $10 million, less the aggregate amount of all Component B Bonuses previously paid to the Executive. The Executive will forfeit the option, all rights to performance shares, any outstanding performance shares and the right to any additional future payments from the Company.
No Change in Control During the First Year.

a. Prior to the Initial Vesting Date. If the Executive resigns for Good Reason or is terminated without Cause prior to the Initial Vesting Date, he
will receive an "all in" cash lump sum payment of $10 million, less the aggregate amount of all Component B Bonuses previously paid to the
Executive. The Executive will forfeit the option, all rights to performance shares, any outstanding performance shares and the right to any
additional future payments from the Company.

b. After the Initial Vesting Date. If the Executive resigns for Good Reason or is terminated without Cause on or after the Initial Vesting Date,
he will be entitled to the following:

- a lump sum severance payment equal to the salary and annual target bonus that would have been payable to him for the remaining term of
employment, less the aggregate amount of all Component B Bonuses previously paid to the Executive.

- he will retain all performance shares that have vested prior to the date of such termination of employment and he will be eligible to vest in the
performance shares that would have vested at the end of the fiscal year in which the termination of employment occurs if the Company meets
the applicable performance objectives for that fiscal year. All other rights to performance shares or outstanding performance shares will be
forfeited.

- he will retain the options that have vested prior to the date of such termination of employment. Vested options will remain exercisable for 90
days following termination of employment. Any remaining portion of the option will be forfeited.

The definitions of Good Reason and Cause will be negotiated in good faith (it being understood that Good Reason will not
include a change in title, duties or responsibilities following a Change in Control that occurs on or prior to the first anniversary of the Effective
Date).
Setoff.

In the event the Executive's employment ends for any reason, the full amount of the outstanding principal and interest of the Loan shall become due and payable, and the Company will have the right to apply any and all amounts payable to the Executive (including any severance or termination payments described above) to the payment of the full amount of the then outstanding principal and interest on the Loan. Any remaining amount of outstanding principal and interest that is not paid in the manner contemplated by the previous sentence will be payable by the Executive within 5 days of the date of termination or resignation.

EXCISE TAX: Severance payments will be grossed up to take into account the golden parachute excise tax.

STOCKHOLDER

APPROVAL: The Company will use reasonable efforts to obtain stockholder approval of the option and the performance share arrangement. As noted above, the option and performance share arrangement will be void ab initio and of no further force and effect if such stockholder approval is not obtained. [In the event such stockholder approval is not obtained, the Company and the Executive agree to negotiate in good faith an alternative long-term performance arrangement to submit to the stockholders for approval.]

AIRPLANE

LEASE: The Company agrees to lease for business reasons the Executive's airplane on terms to be negotiated.

OTHER TERMS: The definitive employment agreement will contain other reasonable and customary provisions.
APPLE COMPUTER, INC.

COMPUTATION OF EARNINGS (LOSS) PER COMMON SHARE

(In thousands, except per share amounts)

<table>
<thead>
<tr>
<th></th>
<th>Three Months Ended</th>
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<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>December 29, 1995</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>December 30, 1994</td>
<td></td>
<td></td>
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<tr>
<td><strong>Primary Earnings (Loss) Per Share</strong></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Earnings (Loss)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net income (loss) applicable to common stock</td>
<td>$(68,686)</td>
<td>$188,186</td>
<td></td>
</tr>
<tr>
<td>Shares</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted average number of common shares outstanding</td>
<td>122,994</td>
<td>119,806</td>
<td></td>
</tr>
<tr>
<td>Adjustment for dilutive effect of outstanding stock options</td>
<td>--</td>
<td>1,794</td>
<td></td>
</tr>
<tr>
<td>Weighted average number of common shares used in the calculation of loss per share</td>
<td>122,994</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>Weighted average number of common and common equivalent shares used in the calculation of primary earnings per share</td>
<td>--</td>
<td>121,600</td>
<td></td>
</tr>
<tr>
<td>Loss per common share</td>
<td>$(0.56)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Primary earnings per common share</td>
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<td></td>
</tr>
<tr>
<td><strong>Fully Diluted Earnings (Loss) Per Share</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Earnings (Loss)</td>
<td></td>
<td></td>
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<td>119,806</td>
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</tr>
<tr>
<td>Adjustment for dilutive effect of outstanding stock options</td>
<td>--</td>
<td>1,850</td>
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</tr>
<tr>
<td>Weighted average number of common shares used in the calculation of fully diluted earnings per share</td>
<td>122,994</td>
<td>--</td>
<td></td>
</tr>
<tr>
<td>Weighted average number of common and common equivalent shares used in the calculation of fully diluted earnings per share</td>
<td>--</td>
<td>121,656</td>
<td></td>
</tr>
<tr>
<td>Loss per common share</td>
<td>$(0.56)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fully diluted earnings per common share</td>
<td>--</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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ARTICLE 5
MULTIPLIER: 1,000,000
PERIOD TYPE: 3 MOS
FISCAL YEAR END: SEP 27 1996
PERIOD END: DEC 29 1995
CASH: 824
SECURITIES: 276
RECEIVABLES: 2,036
ALLOWANCES: 92
INVENTORY: 1,947
CURRENT ASSETS: 5,551
PP&E: 1,504
DEPRECIATION: 792
TOTAL ASSETS: 6,553
CURRENT LIABILITIES: 2,705
BONDS: 304
COMMON: 404
PREFERRED MANDATORY: 0
PREFERRED: 0
OTHER SE: 2,390
TOTAL LIABILITY AND EQUITY: 6,553
SALES: 3,148
TOTAL REVENUES: 3,148
CGS: 2,673
TOTAL COSTS: 2,673
OTHER EXPENSES: 594
LOSS PROVISION: 0
INTEREST EXPENSE: 17
INCOME PRETAX: (109)
INCOME TAX: (40)
INCOME CONTINUING: (69)
DISCONTINUED: 0
EXTRAORDINARY: 0
CHANGES: 0
NET INCOME: (69)
EPS PRIMARY: (0.56)
EPS DILUTED: (0.56)