



Software Terms of Use

1 **DEFINITIONS.** The following capitalized terms shall have the meanings and applications set forth below:

1.1 **"Affiliate"** means those entities under common control with or controlled by a party, such common control or control being defined as the ownership of more than fifty percent (50%) of the voting equity of the entity or ownership of securities to which are attached voting rights capable of electing more than fifty percent (50%) of the entity's board of directors. Subject to the terms and conditions of these Terms, which shall be fully applicable, any Affiliate of Customer may use the license granted hereunder and, in such event, all references to Customer, shall be deemed to be references to Affiliate.

1.2 **"AirWatch"** means AirWatch LLC and its Affiliates.

1.3 **"AirWatch Competitor"** means any entity that licenses or provides any software, product, or service that is competitive with the Software including companies listed in the Gartner, Inc. "MDM Magic Quadrant" or similar industry publications.

1.4 **"Customer"** means the entity or individual purchasing the Software,

1.5 **"Delivery Date"** means the date Customer is first granted access to the Software under the applicable Subscription License.

1.6 **"Device"** means Customer's mobile device(s), including but not limited to mobile phone(s), smartphone(s), tablet computer and computing device(s), personal digital assistant(s) (PDAs), enterprise digital assistant(s) (EDAs), ruggedized devices, and any similar or similarly functioning electronic devices, which may be monitored and managed by the Software, whether owned by Customer or by Customer's Users.

1.7 **"Documentation"** means only those written release notes, user guides, and implementation guides published by AirWatch and supplied or made available to Customer by AirWatch.

1.8 **"Effective Date"** means the date on which Customer accepts or is deemed to accept these Terms.

1.9 **"Enhancements"** mean subsequent versions, releases, or upgrades of the Software which AirWatch makes generally available as a part of Maintenance and without payment of an additional License fee.

1.10 **"Hosting Policy"** means AirWatch's hosting policy governing the provision of Hosted Services, as amended from time to time by AirWatch and posted on the AirWatch website.

1.11 **"Hosted Services"** mean the services provided to host, on AirWatch's servers on Customer's behalf, the necessary Software to allow communication and control functions with Devices via internet-based consoles.

1.12 **"Licensor"** means the party from whom Customer has obtained the Software.

1.13 **"Maintenance"** means, for customers who are current on Maintenance fees, maintenance and support services performed in accordance with AirWatch's Maintenance Specifications, and also include access to Updates provided to other licensees of the Software, as well as any Enhancements generally distributed by AirWatch, in its sole discretion.

1.14 **"Maintenance Specifications"** mean AirWatch's Maintenance policies and specifications policy governing the provision of Maintenance, as amended from time to time by AirWatch and posted on the AirWatch website.

1.15 **"Software Related Services"** mean Software-related services performed by AirWatch, including, but not limited to, installation, activation, training, software configuration, hosting environment configuration, integration, reconfiguration, assessment, optimization, or other Software-related services and excludes professional services for the development of custom software or other intellectual property to be owned by Customer (which would be governed by a separate agreement).

1.16 **"Software"** means the AirWatch® proprietary software in machine-readable, object code form only that is more fully described in the ordering document, including any Update or Enhancement made available to Customer pursuant to any Maintenance purchased by Customer.

1.17 **"Updates"** mean corrections to the current version of the Software provided as a part of Maintenance.

1.18 **"User"** means an individual user of a Device who is an officer, director, employee, contractor, representative, or agent of Customer or its Affiliate.

2 **LICENSE GRANT.** The licenses granted by Licensor are limited, revocable (as provided herein), nonexclusive, non-transferable, world-wide, non-sublicensable licenses to use the Software on a subscription basis (each a **"Subscription License"**). The Software components provided under each Subscription License include those necessary for the number and type of Devices Customer purchased. Any Affiliate of Customer may use any Subscription License granted hereunder and, in such event, all references to Customer shall be deemed to be references to the applicable Customer or Affiliate. All Subscription Licenses are all subject to the terms, conditions and restrictions set forth in these Terms. All Subscription Licenses are granted solely for the purposes set forth in these Terms. The term for Subscription Licenses shall be one (1) year, unless otherwise specified (the **"Subscription Period"**). The initial Subscription Period begins on the Delivery Date of the first Subscription License.

3 **GENERAL LICENSE PROVISIONS.** In connection with any Subscription License, Customer may make a reasonable number of copies of the Software for backup, disaster recovery, and/or archival purposes, provided Customer also reproduces on such copies any copyright, trademark, or other proprietary marking and notice contained in the Software and/or Documentation and does not remove any such marks from the original. The Software is licensed on a per Device basis and: (i) the Software may only be used or accessed by Customer on no more than the number of Devices specified on each ordering document; (ii) the Subscription License for the Software may be transferred from Device to Device; and (iii) there is no limit on the number of computers from which the Devices may be monitored using the Software. Customer shall be responsible for activating, obtaining, and/or maintaining any third party components, hardware, or software that become necessary or desirable.

4 **LICENSE RESTRICTIONS.** The restrictions set forth in this Section, including all subsections, shall hereafter be referred to as the **"License Restrictions."** With respect to each Subscription License, Customer agrees that it:

4.1 Shall not share with or assign, copy, sublicense, transfer, lease, rent, sell, distribute, install, or otherwise provide to any non-Affiliate party (other than Users) (i) the Subscription License, (ii) the Software; (iii) any use or application of the Software; or (iv) Customer's rights under these Terms

4.2 Shall not pledge as security or otherwise encumber, the Software;

4.3 Shall use the Software solely (i) for Customer's internal use with Customer's ordinary business operations, (ii) in accordance with all applicable laws and regulations, and (iii) as provided in these Terms, the Documentation, and any supplemental limitations specified or referenced in the relevant Order, if any;

4.4 Shall not use the Documentation except for supporting its authorized use of the Software;

4.5 Other than as expressly set forth in these Terms, shall not (i) modify, adapt, translate, duplicate, disassemble, decompile, reverse assemble, reverse compile, or reverse engineer, or take similar action with respect to the Software for any purpose, or (ii) attempt to discover the underlying source code or algorithms of the Software (unless enforcement is prohibited by applicable law and then, only to the extent specifically permitted by applicable law, and then only upon providing AirWatch with reasonable advance written notice and opportunity to respond);

All information contained in this document is confidential and for the use of the parties hereto.

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4.6 For the purpose of designing, modifying, or developing software or services similar in purpose, scope, or function to the Software, shall not engage in competitive analysis, benchmarking, use, evaluation or viewing of the Software or Documentation or create any derivatives based upon the Software, whether for Customer's internal use or for license or for resale;

4.7 Shall not employ any AirWatch Competitor to use the Software on Customer's behalf, view the Software or Documentation, work as a contractor or provide management, staging, support, hosting, or similar services with regard to the Software without the prior written consent of AirWatch, and

4.8 Shall not permit any party, whether acting directly or on behalf of Customer, to breach or violate any of these License Restrictions.

5 **MAINTENANCE.** Maintenance shall be provided in accordance with AirWatch's then-current Maintenance Specifications. Maintenance is offered for only the Software. AirWatch will provide Maintenance for prior releases and versions for a period of one (1) year following the initial release date of the superseding release or version. All Subscription Licenses include Maintenance. Maintenance may not be separated from the Subscription License and may not be terminated without also terminating the Subscription License.

6 **HOSTED SERVICES.** AirWatch will host the Software on Customer's behalf. Hosted Services are provided in accordance with AirWatch's Hosting Policy.

7 **CONFIDENTIALITY AND PROPRIETARY RIGHTS.**

7.1 **Confidentiality.** In the course of performance of these Terms, AirWatch may find it necessary to disclose to Customer, or Customer may otherwise obtain from AirWatch, certain proprietary information, which includes, but is not limited to that which relates to software, computer codes or instructions, developments, inventions, processes, designs, drawings, engineering, pricing, research, statistics, business plans, product plans, products, services, customers or prospective customers, contractors, licensors, suppliers, markets, marketing, finances, and any other materials that have not been made available to the general public and which have been the subject of reasonable efforts to be kept secret ("**Confidential Information**"). Confidential Information does not include information that: (a) was in the public domain at the time of AirWatch's communication thereof to Customer, (b) becomes part of the public domain after the time of disclosure, through no improper action of Customer; (c) was in Customer's possession free of any obligation of confidence at the time of AirWatch's communication thereof to Customer; (d) can be shown by documentation to have been independently developed by the Customer without the use of or reference to any Confidential Information; (e) is not treated as confidential by AirWatch; or (f) is approved for release by AirWatch in writing. Customer shall use any Confidential Information received (or derivatives thereof) solely for the purpose of performing its obligations under these Terms. Customer shall not disclose or permit any non-Affiliate party access to any Confidential Information, except to Customer's officers, directors, employees, contractors, representatives, or agents on a need to know basis and where all such officers, directors, employees, contractors, representatives, or agents have confidentiality obligations at least as restrictive as those set forth in this Section. Customer agrees to use reasonable efforts to protect the confidential or proprietary nature of such Confidential Information (and any derivatives thereof), using at least the same degree of care it utilizes for the protection of its own strictly confidential and proprietary information. The obligations under these Terms will continue: (i) with respect to Confidential Information (and/or derivatives thereof) that does not constitute a trade secret, in perpetuity after the termination of these Terms; and (ii) for any Confidential Information (and/or derivatives thereof) that constitutes a trade secret, for so long as such information remains a trade secret under applicable law. Notwithstanding the foregoing, in the event disclosure is required by court or government order, Customer shall (x) promptly notify AirWatch of such order so that it may seek a protective order or other appropriate remedy and (y) only disclose such Confidential Information to the extent required. All AirWatch Confidential Information and derivatives thereof shall remain the property of AirWatch and will be returned to AirWatch within ten (10) days following the termination of these Terms. Without limiting the foregoing or the License Restrictions, Customer shall not disclose or display any AirWatch Confidential Information, including the Software, to any AirWatch Competitor. The obligations set forth in this Section are hereafter referred to as the "**Confidentiality Obligations.**"

7.2 **Proprietary Rights.** Title to and ownership of the Software and all AirWatch copyrights, names, trademarks, trade names, service marks or any other identifying characteristics are proprietary intellectual property of significant value and goodwill to AirWatch and all associated intellectual property rights relating thereto (the "**AirWatch IP**") are retained by AirWatch. These Terms only grants Customer the limited right to use the AirWatch IP under the terms and restrictions specified in these Terms. Customer does not, and will not, acquire any other right, title or interest in any AirWatch IP, which will at all times remain the exclusive property of AirWatch or the applicable third party licensor to AirWatch. Customer will not remove, suppress, or modify in any way any proprietary marking which is on or in the AirWatch IP, or which is on any media supplied with the AirWatch IP, except where expressly allowed. Customer acknowledges and agrees that AirWatch shall be the sole owner of any Enhancements, Updates, or derivatives of the Software which are developed by AirWatch during and after the term of these Terms. Without limiting the foregoing, Customer expressly acknowledges and agrees that AirWatch shall be the sole owner of any newly-developed intellectual property including but not limited to (i) newly-developed, revised, or modified source code and (ii) inventions where such are related in any way to the Software or AirWatch's general business, regardless of whether such are developed, revised, or modified in response to Customer's requests, suggestions, or ideas. During the term of these Terms and thereafter, Customer shall not assert the invalidity of the AirWatch IP, or contest AirWatch's right, title or interest therein and thereto, and Customer shall not cause, influence, or assist in any manner whatsoever, any other party to make any such assertions or contest.

8 **LIMITED WARRANTIES; REMEDIES; DISCLAIMERS; LIMITATION OF LIABILITY.**

8.1 **Limited Software Warranty and Remedies.** In connection with Subscription Licenses granted hereunder, AirWatch warrants that the Software, as delivered by AirWatch to Customer via Licensor, will substantially perform the functions set forth in the Documentation (the "**Software Warranty**"). If deviations from the requirements set forth in the Software Warranty occur within the ninety (90) day period following the Delivery Date (the "**Software Warranty Period**") or so long as Customer is subscribed to and current with Maintenance, upon written notice by Customer to AirWatch, AirWatch will, without additional compensation, either (1) repair, at its facilities, the Software; or (2) replace the Software, in each case to correct the nonconformity. If AirWatch provides written notice to Customer that it is unable to correct the nonconformity within a reasonable period, or if neither option (1) nor (2) is commercially feasible, either party may terminate these Terms and the relevant Subscription License upon written notice to the other party. Only when such nonconformity results in termination of these Terms as provided in the previous clause during the Software Warranty Period, will the unused remainder of any prepaid fees paid by Customer and received by AirWatch will be refunded. The Software Warranty Period is not extended in any way by any Enhancement or Update, by placing more Devices under license, by any delivery of additional Software, or by replacement or repair of the Software. For clarity, newly purchased Software Licenses receive the Software Warranty from their Delivery Date, but purchasing new Subscription Licenses does not extend the Software Warranty Period for previously purchased Subscription Licenses. The Software Warranty does not cover situations where: (a) the Software has not been used in accordance with these Terms and the Documentation; (b) the Software has been altered in any way by a party other than AirWatch that is not under the direction or control of AirWatch; (c) the Software is used in an operating environment other than as specified in the Documentation; (d) such nonconformity in the Software is due to abuse, neglect, or other improper use by Customer; or (e) reported errors or nonconformities cannot be reproduced by AirWatch, working, in good faith, with Customer's assistance. This Section sets forth Customer's sole and exclusive remedies with respect to breaches of the Software Warranty.

8.2 **Infringement Claims.** In connection with Licenses granted hereunder, AirWatch, at its sole expense, agrees to defend and indemnify Customer against any third party claim that Customer's use of the Software, as delivered by AirWatch to Customer and used in accordance with these Terms and the Documentation, directly infringes a third party copyright or issued patent or directly misappropriates a trade secret (an "**Infringement Claim**"), provided that: (i) Customer notifies AirWatch in writing within thirty (30) days of the Infringement Claim; (ii) AirWatch has sole control of the defense and all related settlement negotiations, as long as such settlement shall not include a financial obligation for Customer; and (iii) Customer provides AirWatch with the information, assistance and authority to enable AirWatch to perform AirWatch's obligations under this Section. In any action based on an Infringement Claim, AirWatch, at its option its own expense, may: (1) procure the right for Customer to continue using the Software in accordance with the provisions of these Terms; (2) make such alterations, modifications or adjustments to the Software so that the infringing Software becomes non-infringing without incurring a material diminution in performance or function; (3) replace the Software with a non-infringing substantially similar substitute; or (4) if (1), (2), or (3) cannot be achieved after the exercise of commercially reasonable efforts, either party may terminate the License. If

a Subscription License is terminated pursuant to this Section, AirWatch shall refund the unused remainder of any prepaid fees received by AirWatch. In connection with any termination pursuant to this Section, Customer shall comply with all post-termination requirements set forth in these Terms. AirWatch shall have no liability or obligations for an infringement claim pursuant to this Section to the extent that it results from: (a) modifications to the Software made by a party other than AirWatch or under the direct control of AirWatch; (b) the combination, operation or use of the Software with non-AirWatch equipment, devices, software or data, unless the claim would not have occurred but for the use of the Software in the combination, operation or use; (c) use of the Software outside the scope of these Terms or in contravention of the Documentation; (d) AirWatch's use of any designs, plans, instructions, specifications, diagrams or the like, provided by Customer, if any; or (e) if Customer had the opportunity to decline Enhancements and Updates to the Software, Customer's failure to use all available Enhancements and Updates to the Software made available to Customer by AirWatch, if the claim would not have occurred but for such failure. Nothing in this provision shall be construed as a limitation on Customer's ability to retain legal counsel at its own expense to monitor the proceedings. This Section sets forth Customer's sole and exclusive remedies with respect to Infringement Claims.

8.3 Disclaimers. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS, THE SOFTWARE, HOSTED SERVICES, THIRD PARTY SOFTWARE, MAINTENANCE, UPDATES AND ENHANCEMENTS, SOFTWARE RELATED SERVICES, OR DELIVERABLES PROVIDED AS A RESULT OF THE PERFORMANCE OF MAINTENANCE OR SOFTWARE RELATED SERVICES (COLLECTIVELY, THE "WARRANTED MATTERS") ARE PROVIDED "AS IS" AND AIRWATCH AND ITS LICENSORS, DEVELOPERS, AND OTHER SUPPLIERS (THE "AIRWATCH PARTIES") FURTHER DISCLAIM THAT THE FUNCTIONS CONTAINED IN THE WARRANTED MATTERS WILL MEET THE REQUIREMENTS OF CUSTOMER OR OPERATE ERROR FREE. EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS, THERE ARE NO OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED BY STATUTE, OPERATION OF LAW, TRADE USAGE, COURSE OF PERFORMANCE OR DEALING OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, FITNESS FOR A PARTICULAR USE, NONINFRINGEMENT, TITLE, ACCURACY, OR COMPLETENESS; ALL SUCH WARRANTIES BEING SPECIFICALLY AND FULLY DISCLAIMED BY THE AIRWATCH PARTIES. OTHER WRITTEN OR ORAL REPRESENTATIONS OR AFFIRMATIONS OF FACT, INCLUDING BUT NOT LIMITED TO, STATEMENTS FROM AIRWATCH OR ANY OTHER SOURCE REGARDING THE PERFORMANCE OF THE WARRANTED MATTERS THAT ARE NOT CONTAINED IN THESE TERMS, SHALL NOT BE BINDING ON THE AIRWATCH PARTIES AND ARE HEREBY EXPRESSLY DISCLAIMED. AIRWATCH FURTHER DISCLAIMS ANY LIABILITY TO CUSTOMER OR USERS FOR ANY DATA OR USAGE CHARGES FOR DEVICES MANAGED BY THE SOFTWARE.

8.4 Limitation of Liability. EXCEPT FOR CLAIMS UNDER THE INDEMNITY PROVISIONS OF THESE TERMS, (A) AIRWATCH SHALL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR ANY LOST PROFITS, REVENUE, DATA, OR DATA USE AND (B) AIRWATCH'S MAXIMUM AGGREGATE LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THESE TERMS OR ANY ORDER, WHETHER SUCH ACTION IS BROUGHT IN LAW, EQUITY, CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, SHALL BE LIMITED TO THE SUBSCRIPTION LICENSE FEES RECEIVED BY AIRWATCH IN THE LAST TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

9 TERM, RENEWAL, AND TERMINATION.

9.1 Term and Renewal. These Terms will commence on the Effective Date and will continue for an initial term of one (1) year, followed by successive one (1) year terms. Unless Customer provides written notice of non-renewal prior to each anniversary the Effective Date, the term shall be extended for a period of one (1) year.

9.2 License Termination. AirWatch may cause the Subscription License to be terminated by Licensor: (i) in the event of a material breach of these Terms by Customer that is unremedied for a period of thirty (30) days after receipt of written notice by Customer; or (ii) immediately with concurrent notice in the event of a breach by Customer which, by its nature, cannot be cured. Should Customer terminate the Subscription license for cause, except as otherwise expressly and specifically stated in these Terms, no refunds or payments of any kind shall be due Customer.

9.3 Customer Obligations upon Termination. Upon the termination or expiration of these Terms and the related Subscription Licenses for any reason whatsoever (i) any Subscription License will automatically and immediately terminate, (ii) Customer will immediately cease and desist from all use of the Software in any way, and (iii) within ten (10) days after the effective date of the termination or expiration of these Terms and any related Subscription License, Customer is required to uninstall and either return or destroy the applicable Software and provide a written certification certifying such action.

9.4 AirWatch Obligations upon Termination. Upon the termination or expiration of these Terms and the related Subscription License for any reason whatsoever, at Customer's request, AirWatch will either provide Customer with instructions to enable Customer to use the report function of the Software to export all Device information from the Software or use the report function of the Software to export all Device information from the Software.

9.5 Survival. The provisions of these Terms that by their sense and context are intended to survive termination of these Terms, shall so survive termination.

10 NOTICES. Except as otherwise provided herein, all notices, consents, requests, instructions, approvals, and other communications made, required, or permitted under these Terms will be given by: (i) personal service or recognized international or overnight courier, deemed effective on reported delivery date; or (ii) facsimile transmission or email transmission, deemed effective on delivery date confirmation. Duplicate notices are required to be provided to AirWatch LLC ATTN: Legal, 1155 Perimeter Center West, Suite 100, Atlanta, GA 30338, fax: 404.478.7530, email: notices.legal@air-watch.com.

11 SURVEYS. AirWatch shall be entitled to conduct periodic surveys solely for the purposes of determining (i) the number of Devices in use with the Software and (ii) compliance with the terms and conditions of these Terms. Such surveys shall be conducted remotely, at AirWatch's expense, and shall not interfere with Customer's business operations. Alternatively, at AirWatch's request, Customer will use the Software to produce a report containing the information reasonably requested by AirWatch.

12 GENERAL PROVISIONS.

12.1 Enrollment. In connection with Subscription Licenses, upon enrollment, Customer shall be obligated to pay Subscription License and Hosted Service fees for all Devices it enrolls in the Software, prorated from the date of enrollment to the end of the then current Subscription Term.

12.2 Governing Law. These Terms will be governed by and construed in accordance with the laws of the State of Georgia, excluding its principles of conflicts of law and the private international law rules. These Terms, and all disputes arising hereunder or related hereto, may only be brought before a court of appropriate jurisdiction in the State of Georgia.

12.3 Disputes. The parties acknowledge and agree that any breaches of the License Restrictions or the Confidentiality Obligations may give rise to irreparable harm to AirWatch for which the granting of monetary damages would not be an adequate remedy, accordingly, AirWatch may, in addition to all other available remedies, seek equitable remedies to restrain any continued breach of the License Restrictions or the Confidentiality Obligations, as the case may be, without having to prove that actual damage has been sustained by AirWatch. No action arising out of these Terms, regardless of form, may be brought more than one (1) year after the claiming party knew or should have known of the cause of action.

12.4 Export Laws. The Software is subject to United States export control laws and regulations and may be subject to export or import regulations in other countries. These laws and regulations include licensing requirements and restrictions on destinations, end users, and end use. Customer agrees to comply with all domestic and international export and import laws and regulations that apply to the Software and acknowledges that Customer has the responsibility to obtain any and all necessary licenses to export, re-export, or import the Software and covenants that it shall not, directly or indirectly, sell, export, re-export, transfer, divert, or otherwise dispose of any Software, source code, or technology (including derivative products) received from AirWatch under these Terms to any other party or destination prohibited by the laws or regulations of the United States, without obtaining prior governmental authorization as required by those laws and regulations.

12.5 Assignment. These Terms, including any rights, licenses or obligations under these Terms, may not be assigned or otherwise transferred (whether by operation of law, merger, reorganization, or otherwise) by Customer to any non-Affiliate party without the prior written consent of AirWatch and any attempt to do so in violation of the terms hereof shall be null and void.

12.6 **Force Majeure.** A party is not liable under these Terms for non-performance caused by any failure of performance, equipment, or payment due to causes beyond the reasonable control of such party, if the party makes reasonable efforts to perform. This Section does not operate to relieve either Party of its obligation to make payments then owing.

12.7 **No Third Party Beneficiaries.** Other than Licensor, these Terms are for the benefit of Customer and AirWatch and do not provide any third party the right to enforce it or to bring an action for any remedy, claim, liability, reimbursement or cause of action or any other right or privilege.

12.8 **Non-Waiver.** The failure of either party to require the performance by the other party of any provision hereof will not constitute a waiver of that provision or the required performance. The waiver by either party of any breach of any provision of these Terms will only be valid if given in an executed written instrument and any such waiver will not constitute a waiver as to any subsequent breach or continuation of the same breach.

12.9 **Headings.** Headings are used in these Terms for convenience only and shall not affect any construction or interpretation of these Terms.

12.10 **Language.** In the event that AirWatch or another party has provided Customer with a translation of these Terms from the English language to another language, Customer agrees that such translation is provided for convenience only; that the American English language version of these Terms governs the relationship between AirWatch and Customer; and, if there is any conflict between the American English language version of these Terms and such translation, the American English language version shall take precedence. All disputes arising under these Terms shall be resolved in the English language.

12.11 **Entire Agreement.** These Terms constitutes the entire agreement between Customer and AirWatch. These Terms supersede and replace all prior understandings, negotiations, commitments, representations, and agreements of the parties relating to the Software and the subject matter hereof. The licensing of the Software to Customer is expressly conditioned upon the unequivocal application of all terms and conditions included in these Terms to such transaction and any additional or different terms or conditions proposed by Customer or included in the agreement between Customer and Licensor are hereby expressly objected to and will not be in any way binding upon AirWatch. It is the express agreement of the parties that, as between the parties, the terms set forth in these Terms shall take precedence over the agreement between Customer and License or any other agreement or document related to the Subscription License or Software. If any term of these Terms is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with a term consistent with the purpose and intent of these Terms.

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