

Aerohive Networks, Inc.

End User License Agreement

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4. PROPRIETARY INFORMATION: "Proprietary Information" means any and all information that Aerohive discloses to you at any time, either directly or indirectly, in writing, orally or by inspection of tangible objects, which if disclosed in writing or tangible form is marked as "Confidential," "Proprietary," or with similar designation, or, if disclosed orally or by inspection or observation, is identified as being proprietary and/or confidential at the time of disclosure, or by the nature of the circumstances surrounding the disclosure should reasonably be treated as proprietary and/or confidential. Proprietary Information includes, without limitation, computer programs, algorithms, know-how, ideas, inventions (whether patentable), and other technical, business, financial, customer and product development information. Aerohive's Proprietary Information includes information relating to the performance information relating to the performance, reliability or stability of the Software, operation of the Software, know-how, techniques, processes, ideas, algorithms, and software design and architecture. As between the parties, such Proprietary Information shall belong solely to Aerohive. During and after the term of this Agreement, you shall hold in confidence and protect, and shall not use (except as expressly authorized by this Agreement) or disclose to any third party, Aerohive Proprietary Information.

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B. Hosted Software. With regard to Software which Aerohive provides on a hosted basis, Aerohive will use commercially reasonable efforts for the Warranty Period to make the Software service available except in the event of (a) downtime as a result of repairs, upgrades, maintenance or other operations deemed necessary by Aerohive in its reasonable discretion or (b) downtime due to unforeseen circumstances, including but not limited to (i) equipment or software malfunctions; (ii) causes beyond the control of Aerohive or which are not foreseeable by Aerohive, including interruption or failure of telecommunication or digital transmission links, hostile network attacks or network congestion or other failures, or (iii) any event which would constitute a force majeure event. Aerohive reserves the right to modify the Software or Aerohive Product at any time in its sole discretion.

C. Warranty Limitations. Aerohive has no obligation with respect to performance or use issues caused by or resulting from any of the following: (a) installation or use of non-Aerohive software on or with the Aerohive Product; (b) modifications or repairs to the Aerohive Product you or any third party makes without Aerohive's written authorization; (c) damage or defects caused by accident, neglect, misuse, abuse, failure of electric power, adverse environmental conditions, unusual electrical or physical stress, catastrophe, negligence, improper storage, testing or connection, or other improper treatment; (d) your use or operation of the Aerohive Product other than Aerohive recommends and/or as provided in the product documentation; (e) misconfiguration of the Aerohive Product; (f) any other causes beyond Aerohive's reasonable control or by your or a third party's acts or omissions; (g) use of the Aerohive Product in a way that is inconsistent with the regulations of the jurisdiction or the regulatory equipment authorizations and approvals specified in the Aerohive Product documentation; (h) use of the Aerohive Product without securing required service authorizations and/or operating permits or approvals required by regulatory authorities prior to operating the Aerohive Product; or (i) use of the Aerohive Product for illegal or unauthorized use in violation of the laws of the jurisdiction. THIS WARRANTY APPLIES ONLY TO THE ORIGINAL END USER PURCHASER OF THIS PRODUCT AND NOT TO ANY SUBSEQUENT PURCHASER OR USER. YOUR EXCLUSIVE REMEDY, AND AEROHIVE'S SOLE LIABILITY, FOR ANY BREACH OF THE FOREGOING WARRANTY IS TO REPLACE THE NON-CONFORMING SOFTWARE WITH A SOFTWARE UPDATE.

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7. LIMITATION OF LIABILITY

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- B. IN NO EVENT WILL AEROHIVE'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, YOUR USE OF THE AEROHIVE PRODUCTS, OR THE SOFTWARE, FROM ALL CAUSES OF ACTION OF ANY KIND, INCLUDING BUT NOT LIMITED TO TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY AND BREACH OF WARRANTY, EXCEED THE TOTAL AMOUNT YOU PAID FOR THE AEROHIVE PRODUCT.
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8. TERM AND TERMINATION: This Agreement is effective until terminated. You may terminate this Agreement at any time by destroying all copies of the Software and related documentation. This Agreement will terminate automatically if you fail to comply with any term or condition of this Agreement, including any attempt to transfer a copy of the Software to another party except as provided in this Agreement.

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10. AEROHIVE PRODUCT IMPROVEMENT PROGRAM: You agree that Aerohive may collect data relating to your application usage so that Aerohive can analyze this data, including as part of its development of application plug-in signatures. Aerohive may share this collected application usage data with third parties whom we have retained to help in this analysis and development process. In so doing, Aerohive will remove all information identifying particular client devices, IP addresses, users, and networks from the aggregated data that we analyze and any reports that we receive. Aerohive does not share user-specific data with third parties at any time for commercial purposes. Should you wish not to allow Aerohive to collect and analyze your data in this manner, you can opt out of this program at any time by clearing the Participate in the Aerohive Product Improvement Program check box in the **Update Aerohive Product Improvement Settings** section on the **HiveManager Settings** page located at in your HiveManager.

11. USE OF PERSONAL DATA: You acknowledge and agree that with respect to data disclosed to you or which you retain or transfer, including by means of services Aerohive may provide to you, you are acting as the controller of such information and you have the sole and exclusive authority to determine the purposes and means of your use, retention or transfer of such information, including which Aerohive services you receive. Such information may include personal data of third parties you allow to use Aerohive products, such as personal contact information for such third-party, including name, home address, home telephone or mobile number, fax number, email address, username, and passwords; unique IDs collected from end users' devices, such as MAC and IP addresses, signal strengths, network association and disassociation time events, bandwidth consumed, applications used, APs associated with (location), URLs visited, etc., collected from end user' devices in conjunction with their internet access by means of our products and services (or services you may provide). As a controller of the personal data, you have the sole and exclusive responsibility for complying with any and all applicable data protection laws and regulations relating to the processing of personal data, whether for your company and its employees or for third party data, including, specifically, complying with the obligations applicable to you pursuant to EU Data Protection Laws regarding the processing of personal data obtained in conjunction with third-party use of Aerohive products, including, without limitation, establishing a legal basis for your processing of such personal data and the transfer and provision of any such personal data to Aerohive for processing. This includes data processing in relation to Aerohive services you request. Aerohive confirms and warrants that it acts as processor and processes Personal Information only on behalf of and in accordance with the Aerohive services you request and instructions you may provide. Additional terms and conditions which specifically apply to your responsibilities and obligations relating to such personal data are provided at https://www.aerohive.com/wp-content/uploads/Aerohive_Data-Processing-Addendum.pdf. If you have any questions, please submit them to Privacy@erohive.com.

12. EXPORT OF SOFTWARE OR PRODUCT: You agree to comply fully with all applicable laws, rules, policies, directives and regulations, including the U.S. and any other applicable international export or use laws and (re-)export controls. You also agree that you will not knowingly, without prior written authorization if required, use, sell, export or re-export the Software or Aerohive Product in any medium without the appropriate U.S. and foreign government licenses, certifications and approvals. You further agree that you are solely responsible and liable and legally obligated to comply with all applicable U.S. and international (re-)export control regulations, including requirements to obtain required export licenses and use certifications prior to (re-)export. You agree to provide Aerohive with such documentation, assurances and access to records as may be required to obtain licenses under the U.S. and such applicable internal export laws and controls.

13. GENERAL: You may not assign this Agreement or any of your rights or duties, by operation of law or otherwise, without Aerohive's prior written consent. Any attempt to assign the Agreement without such consent will be void. This Agreement will be governed by and construed under the laws of the State of California, excluding its conflicts of law principals. Any action a party files arising or relating to this Agreement shall be brought, as appropriate, in the state or federal courts located in Santa Clara County, California, and you irrevocably consent to and waive any objection to jurisdiction and venue in the state and federal courts located in Santa Clara County, California. The United Nations Convention on the International Sale of Goods shall not govern this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of this Agreement shall remain in full force and effect. Any modification, amendment or waiver of any provision of this Agreement shall not be effective unless agreed to in writing by a duly authorized representative of Aerohive. No failure or delay by either party in exercising any right, power, or remedy under this Agreement, except as specifically provided herein, shall operate as a waiver of any such right, power or remedy. The parties to this Agreement are independent contractors and as such will not have any authority to bind or commit the other. Nothing in this Agreement will in any way be construed to create a joint venture, partnership or agency relationship between the parties for any purpose. Aerohive's failure to perform its obligations hereunder shall be excused to the extent and for the period such performance is prevented by any condition or act beyond the reasonable control of Aerohive, including without limitation fire, flood, earthquake, acts of God, explosion, casualty of war, labor dispute, inability to obtain delivery of parts, failure of supplies of electrical power, violence, any governmental law, order, regulation or ordinance. If this Agreement expires or is terminated, the provisions of Sections 2 (Restrictions on Use and Transfer), 3 (Ownership), 4 (Confidential Information), 5C (Warranty Disclaimer), 5D (Warranty Limitations), 7 (Limitation of Liability), 8 (Term and Termination), 9 (U.S. Government Restricted Rights), 11 (Use of Personal Data), 12 (Export of Software or Product), 13 (General) and 14 (audit Rights) shall survive and shall continue to bind the parties. If you have any questions about the terms of this Agreement, please contact Aerohive at support@aerohive.com.

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Your failure to observe all such applicable conditions, and to pay within 30 days of Aerohive's written notification any fees applicable to your use of Aerohive licenses and support services, may result, in Aerohive's discretion, in termination of your use such licenses and support services, with respect to some or all of your implementation of Aerohive Products.

Aerohive may also, upon 45 days written notice, audit your use of Aerohive's management and operating platforms, to assure in its discretion and satisfaction, your compliance with terms applicable to Aerohive's subscription-based license and support services, including this EULA. You agree to cooperate with Aerohive audit and provide reasonable assistance and access to all reasonably requested information. You agree that Aerohive shall not be responsible for any of your costs incurred in cooperating with the audit.

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