

Amendment
to
MobileIron, Inc. End User License Agreement
Dated 5/02/2017

Replace the definition of “Software” with the following:

Software means Vendor’s mobile enterprise management solutions which may consist of (i) the object code version of MobileIron’ proprietary computer programs and/or (ii) software accessed as a service, as described in the relevant Order, including any Documentation and Updates.

Section 11, replaced with the following:

Confidentiality: In accordance with N.C.G.S. §143B-1350(e) and 143B-1375, and 09 NCAC 06B.0103 and 06B.1001 and to promote maximum competition in the State competitive bidding process, the State may maintain the confidentiality of certain types of information described in N.C.G.S. §132-1 *et seq.* Such information may include trade secrets defined by N.C.G.S. §66-152 and other information exempted from the Public Records Act pursuant to N.C.G.S. §132-1.2. Vendor may designate appropriate portions of its response as confidential, consistent with and to the extent permitted under the Statutes and Rules set forth above, by marking the top and bottom of pages containing confidential information with a legend in boldface type “**CONFIDENTIAL**”; and for Vendor’s Confidential Information, which cannot be physically marked, that such information is identified as Confidential Information when accessible to the State. By so marking or designating any Confidential Information, the Vendor warrants that it has formed a good faith opinion, having received such necessary or proper review by counsel and other knowledgeable advisors that the portions marked confidential meet the requirements of the Rules and Statutes set forth above. Vendor’s Confidential Information also includes the Software (or any derivatives, performance data, benchmark results, security assessments, product roadmaps and other technical information relating to the Software), and Documentation and its derivatives, marked or identified as “CONFIDENTIAL”. **However, under no circumstances shall price information be designated as confidential.** The State may serve as custodian of Vendor’s confidential information and not as an arbiter of claims against Vendor’s assertion of confidentiality. If an action is brought pursuant to N.C.G.S. §132-9 to compel the State to disclose information marked confidential, the Vendor agrees that it will intervene in the action through its counsel and participate in defending the State, including any public official(s) or public employee(s). The Vendor agrees that it shall hold the State and any official(s) and individual(s) harmless from any and all damages, costs, and attorneys’ fees awarded against the State in the action to the extent required under G.S. 132-9, with regard to disclosure of information pursuant to an action under the NC Public Records Act. The State agrees to promptly notify the Vendor in writing of any action seeking to compel the disclosure of Vendor’s confidential information. The State shall have the right, at its option and expense, to participate in the defense of the action through its counsel. The State shall have no liability to Vendor with respect to the disclosure of Vendor’s confidential information ordered by a court of competent jurisdiction pursuant to N.C.G.S. §132-9 or other applicable law.

a) Care of Information: Vendor agrees to use commercial best efforts to safeguard and protect any data, documents, files, and other materials received from the State or the Agency during performance of any contractual obligation from loss, destruction or erasure. Vendor agrees to abide by all facilities and security requirements and policies of the agency where work is to be performed on-site, provided that the State or Agency notifies Vendor in writing of such requirements before the work is performed. Any Vendor personnel shall abide by such facilities and security requirements and shall agree to be bound by the terms and conditions of this Contract.

b) Reserved.

c) Nondisclosure: Either the Vendor and the State, on behalf of its and its agencies, agree and specifically warrant that it, its officers, directors, principals and employees, and any subcontractors, shall hold all information received during performance of this Contract in the confidence by using the same degree of care to prevent unauthorized use and disclosure of the discloser’s confidential as it does for its

own confidential information, but in no case less than a reasonable care, and shall not disclose the same to any third party without the express written approval of the disclosing party of the confidential information.

d) Exclusions: Confidential information excludes information that is (i) is or becomes public through no fault of the receiving party, (ii) was known to the receiving party before disclosure, (iii) is disclosed to receiving party by third party without violation of any confidentiality restrictions; or (iv) is independently developed by receiving party without access to or use of the disclosers information.

e) The Vendor shall protect the confidentiality of all information, data, instruments, studies, reports, records and other materials provided to it by the Agency or maintained or created in accordance with this Agreement. No such information, data, instruments, studies, reports, records and other materials in the possession of Vendor shall be disclosed in any form without the prior written consent of the State Agency. The Vendor will have written policies governing access to and duplication and dissemination of all such information, data, instruments, studies, reports, records and other materials.

e) Reserved.

Section 13, replaced with the following:

Limitation of Liability for Proprietary Vendor Materials Licensed to State

a) Where equipment is under the State's exclusive management and control, Vendor shall not be liable for any damages caused by the State's failure to fulfill any State responsibilities including, without limitation, those relating to assuring the proper use, management and supervision of the equipment and programs, audit controls, operating methods, office procedures or for establishing all property checkpoints necessary for the State's intended use of the machines.

b) The Vendor's liability for damages to the State for any cause whatsoever, and regardless of the form of action, whether in contract or in tort, shall not exceed two times the value of the contract, but in no event shall the liability for damages be less than the total value of the contract.

Section 14, replaced with the following:

Governing Laws, Jurisdiction, and Venue:

a) This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina and applicable Administrative Rules. The place of this Contract or purchase order, its situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in Contract or in tort, relating to its validity, construction, interpretation and enforcement shall be determined. Vendor agrees and submits, solely for matters relating to this Contract, to the jurisdiction of the courts of the State of North Carolina, and stipulates that Wake County shall be the proper venue for all matters.

Section 14.e. **Choice of Law; Venue** is Not Applicable.

Section 14.l. **Assignment** is modified to add: Vendor may not assign this Contract or its obligations hereunder except as permitted by 09 NCAC 06B.1003 and this Paragraph.

Section 14, k. **Legal fees** is deleted.

IN WITNESS WHEREOF, the individuals signing below represent they have authority to bind the named parties to this Addendum.

Accepted by:

Department of Information Technology ("DIT")


By:  _____

Name: Eric Boyette

Title: SCIO

Date: 8/18/2017 | 12:17 PM EDT

MobileIron. Inc.

By:  _____

Name: Ludmila Marandjeva

Title: Sr. Director, Revenue Operations

Date: August 17, 2017