

MAX UC CONNECTOR FOR MICROSOFT TEAMS (MCT) TERMS AND CONDITIONS FOR CUSTOMERS

1. *General.* These Terms and Conditions (the “Agreement”) apply to the MCT, as defined herein, and as set forth in the applicable Addendum, Proposal(s), quotation(s) or Purchase Order(s) for the MCT by Customer.
2. *Definitions.*
 - a. “MCT” is the MaX UC Connector for Microsoft Teams product which comprises a Teams connector widget that is branded for Customer and a hosted service. MCT enables eligible Subscribers of the MaX product to access certain MaX UC services and operations from within their Microsoft Teams UI. MCT is available to Customers who have previously licensed MaX by Metaswitch.
 - b. “MCT Commissioning” means the Metaswitch configuration and branding services to support the set up of MCT by Customer. These include (a) branding of the MCT for Customer; and (b) support for Customer’s rollout of MCT.
 - c. “Metaswitch Standard Terms” means the terms Metaswitch Standard Customer Terms and Conditions at <https://www.metaswitch.com/legal/standard-terms-and-conditions>
3. *MCT - Software License.* The MCT is licensed to Customer subject to the terms and conditions applicable to “client-side Software” as set out in Section 4 (“Software License”) of the Metaswitch Standard Terms.
4. *Cost of License.* Customer agrees that the terms of Sections 10, 11 and 12 are reasonable in consideration of Metaswitch providing the license to MCT to Customer at no additional cost. Metaswitch reserves the right to charge for fees for MCT Commissioning or for other services related to the MCT.
5. *Termination.* This Agreement continues until terminated by Customer for convenience with thirty days’ written notice to Metaswitch, or until Metaswitch terminates by providing 6 months notice of End of Life.
6. *Maintenance and Support Services.* If Customer has an active and paid-up maintenance and support service in respect of MaX UC with Metaswitch, then Customer may raise support tickets for MCT and the response by Metaswitch to such support tickets shall be solely as set out in the SLA except that no support request shall be classified as Critical severity level.
7. *Customer Obligations.* Customer understands that MCT is provided “AS IS” and cannot be relied on as a method of accessing MaX UC services and operations. Customer is responsible for obtaining any licenses necessary for Microsoft Teams and for setting up and maintaining an account on Microsoft Teams AppSource. Customer is responsible for ensuring that the latest version of the MCT is available in their Microsoft Teams AppSource account and is installed by the applicable administrator in each applicable Microsoft Teams tenancy. Customer is also responsible for setting up and maintaining a domain, used to host the app; this is a Microsoft Teams requirement. Instructions on how to point the domain to the MCT app will be provided by Metaswitch during the commissioning process.
8. *Access to Customer Systems.* Customer acknowledges that MCT Commissioning requires configuring Customer’s EAS/CommPortal Server. If Customer purchases MCT Commissioning from Metaswitch, Customer authorizes Metaswitch to access Customer’s systems as necessary to perform, maintain and monitor such configuration.

9. *Disclaimer of Warranties and Indemnities.* TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE MCT IS USED AT CUSTOMER'S SOLE RISK AND THE MCT, THE MCT COMMISSIONING SERVICES AND ANY OTHER RELATED MCT SERVICES ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY THAT THE MCT, THE MCT COMMISSIONING SERVICES AND ANY OTHER RELATED MCT SERVICES ARE FREE OF DEFECTS, VIRUS FREE, SECURE, ABLE TO OPERATE ON AN UNINTERRUPTED OR ERROR-FREE BASIS, MERCHANTABILITY, FIT FOR A PARTICULAR PURPOSE, COMPLIANT WITH DATA PROTECTION OR BREACH LAWS IN THE CUSTOMER'S JURISDICTION, SECURE OR NON-INFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY REPRESENTATIONS, WARRANTIES, LIMITATIONS OF LIABILITY AND INDEMNIFICATION PROVIDED BY METASWITCH IN ANY OTHER AGREEMENT WITH CUSTOMER SHALL NOT APPLY TO THE MCT, THE MCT COMMISSIONING SERVICES AND ANY OTHER RELATED MCT SERVICES. NEITHER METASWITCH NOR ITS AFFILIATES, NOR THEIR RESPECTIVE REPRESENTATIVES, SUPPLIERS, LICENSORS OR SUBCONTRACTORS, HAS ANY OBLIGATION TO INDEMNIFY OR DEFEND CUSTOMER OR ITS SUBSCRIBERS AGAINST ANY CLAIMS ARISING OUT OF, RELATED TO, OR IN CONNECTION WITH THE MCT, THE MCT COMMISSIONING SERVICES AND ANY OTHER RELATED MCT SERVICES, INCLUDING WITHOUT LIMITATION ANY CLAIMS RELATED TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, DATA BREACH OR FOR VIOLATIONS OF DATA PRIVACY LAWS. THE DISCLAIMER OF WARRANTIES, INDEMNITIES AND THE OTHER PROVISIONS IN THIS SECTION 10 CONSTITUTES AN ESSENTIAL PART OF THE BASIS FOR THE BARGAIN PURSUANT TO THIS AGREEMENT. NO MCT DATA IS AUTHORIZED TO BE TRANSMITTED TO METASWITCH EXCEPT FOR MCT DATA SUBJECT TO THE DISCLAIMER OF WARRANTIES, INDEMNITIES AND OTHER PROVISIONS SET FORTH IN THIS SECTION 10.
10. *Limitation of Liability.* TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL METASWITCH OR ITS AFFILIATES, OR THEIR RESPECTIVE REPRESENTATIVES, SUPPLIERS, LICENSORS OR SUBCONTRACTORS, EVEN IF ADVISED OF THE POSSIBILITY OF THE DAMAGES IN QUESTION AND EVEN IF SUCH DAMAGES WERE FORESEEABLE, BE LIABLE FOR (A) ANY CLAIMS, LOSSES OR DAMAGES ARISING EITHER DIRECTLY OR INDIRECTLY FROM THE USE OF, OR THE INABILITY TO USE, THE MCT, OR THE USE OR PERFORMANCE OF THE MCT COMMISSIONING SERVICES AND ANY OTHER RELATED MCT SERVICES OR (B) ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE MCT, MCT COMMISSIONING SERVICES OR RELATED MCT SERVICES, INCLUDING, WITHOUT LIMITATION, CLAIMS OF THIRD PARTIES, OR FOR LOSSES DUE TO LOST PROFITS, INCOME OR SAVINGS, WORK STOPPAGE, OPPORTUNITY COSTS, LOSS, THEFT OR CORRUPTION OF DATA, COMPUTER FAILURE OR MALFUNCTION OR LOSS OF USE OF FACILITIES OR EQUIPMENT. IN ADDITION TO THE ABOVE LIMITATIONS, THE TOTAL CUMULATIVE LIABILITY OF METASWITCH AND ITS AFFILIATES AND THEIR RESPECTIVE REPRESENTATIVES, SUPPLIERS, LICENSORS AND SUBCONTRACTORS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE MCT, MCT COMMISSIONING SERVICES OR OTHER RELATED MCT SERVICES, BASED ON ANY CAUSE OF ACTION OR LEGAL THEORY, INCLUDING WITHOUT LIMITATION WARRANTY, CONTRACT, TORT (REGARDLESS OF THE DEGREE OF FAULT), INFRINGEMENT, DATA BREACH AND STRICT LIABILITY, SHALL NOT EXCEED ONE THOUSAND UNITED STATES DOLLARS. THE LIABILITIES LIMITED BY THIS SECTION 11 INCLUDE WITHOUT LIMITATION LIABILITY FOR NEGLIGENCE AND SHALL APPLY EVEN IF CUSTOMER'S REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE, EXCEPT THAT NOTHING IN THIS SECTION 11 SHALL LIMIT METASWITCH'S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE. TO THE EXTENT THAT APPLICABLE LAW RESTRICTS THE APPLICATION OF THIS SECTION 11, THE PROVISIONS OF THIS SECTION 11 WILL APPLY TO THE MAXIMUM EXTENT PERMITTED.
11. *Indemnity.* CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS METASWITCH AND ITS AFFILIATES, AND THEIR RESPECTIVE REPRESENTATIVES, SUPPLIERS, LICENSORS AND SUBCONTRACTORS, FROM ANY AND ALL THIRD PARTY CLAIMS, LIABILITY, DAMAGES, EXPENSES AND COSTS (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES) ARISING FROM, RELATED TO OR IN CONNECTION WITH (A) CUSTOMER'S USE OF THE MCT, MCT COMMISSIONING SERVICES OR OTHER RELATED MCT SERVICES; (B) CUSTOMER'S NEGLIGENCE, FRAUD OR WILLFUL MISCONDUCT; (C) CUSTOMER'S VIOLATION OF THIS AGREEMENT OR ANY APPLICABLE LAW, RULE OR REGULATION; (D) CUSTOMER'S INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT OR OTHER RIGHT OF ANY PERSON OR ENTITY; (E) ANY DATA PRIVACY OR DATA SECURITY CLAIMS BROUGHT BY ANY THIRD PARTY ARISING OUT OF OR RELATED TO CUSTOMER'S USE OF THE MCT, MCT COMMISSIONING SERVICES OR OTHER RELATED MCT SERVICES, AND (F) ANY CONDUCT, EXCEPTING CONDUCT WHICH WAS GROSSLY NEGLIGENT OR INTENTIONAL, IF SUCH CLAIM IS BROUGHT BY OR ON BEHALF OF A SUBSCRIBER OR END USER OF CUSTOMER. CUSTOMER AGREES TO NOTIFY METASWITCH IMMEDIATELY OF ANY SUCH BREACH, CLAIM, VIOLATION OR INFRINGEMENT KNOWN TO CUSTOMER.

12. *End User Licence Agreement (EULA)*. Customer shall ensure that its EULA will contain terms no less restrictive than those set forth in the MCT EULA Minimum Terms as set out in Appendix 1 of these Terms and Conditions. Metaswitch is not responsible for reviewing the provisions of any EULA submitted by the Customer to Metaswitch. Any review of the Customer's terms which Metaswitch may perform will not operate as a waiver by Metaswitch of your obligation to include the MCT EULA Minimum Terms.

Appendix 1

Minimum Terms for the MaX UC Connector for Microsoft Teams (MCT) End User License Agreement

The minimum terms for an End User License Agreement for MaX UC (“MaX UC EULA Minimum Terms”) are set forth at <https://www.metaswitch.com/legal/standard-terms-and-conditions>. In addition to the MaX UC EULA Minimum Terms, your End User License Agreement (the “EULA”) for the MaX UC Connector for Microsoft Teams (the “MCT”) must contain the following minimum terms.

You are responsible for ensuring that your EULA complies with these requirements. Metaswitch is not responsible for reviewing the provisions of any EULA submitted by you to Metaswitch. Any review of your terms which Metaswitch may perform will not operate as a waiver by Metaswitch of your obligation to include these minimum terms.

- 1) *Privacy*. The MCT has additional requirements to process customer data. Your privacy policy as detailed in the MaX UC EULA Minimum Terms should reflect this.
- 2) *Support and Service Availability*. You should ensure that your EULA supports some disruption to the service.
 - a. Metaswitch will strive to keep services required for the MCT to function up and running; however, all online services suffer occasional disruptions and outages, and Metaswitch is not liable for any disruption or loss you, or your end users, may suffer as a result. You should include provisions for these outages in any terms you offer and indicate the service may be down from time-to-time.
 - b. Metaswitch may stop offering or supporting the MCT at any time by providing 6 months notice of End of Life, at which point the ability to use the MCT will cease immediately. As a result you may no longer be able to offer or use the MCT.
 - c. Your end users may occasionally need software updates to keep using the MCT. Metaswitch may automatically check your end users’ version of the MCT and download updates or configuration changes to the MCT.
- 3) *Microsoft Teams AppStore Terms*. In order to upload your version of the MCT to the Microsoft Teams AppSource, you must accept the current ‘Microsoft Publisher Agreement’, and any other terms and conditions as may be appropriate and required. Nothing in this document shall exempt you from or supersede the terms and conditions imposed by Microsoft. Pursuant to this:
 - a. If you are distributing the MCT via the Microsoft Teams AppSource, you may grant Microsoft a licence as required to distribute the MCT. You must not restrict Microsoft’s ability to distribute the MCT in your EULA.
 - b. This document may require additional terms and conditions to be added to your EULA. If you feel these requirements contradict these minimum terms, please contact Metaswitch for advice.