

## MaX UC End User License Agreement ("Agreement")

Please read this Agreement carefully before installing or using MaX UC (the "Product"). There are a few important points that we need to emphasize:

### Important Points

- THE PRODUCT IS NOT INTENDED, DESIGNED OR FIT AS A PRIMARY METHOD TO ACCESS EMERGENCY SERVICES. There are important differences between traditional telephone services and the Product. The Product may not function during a power outage, internet connectivity interruption, or system failure on the device on which it is running. The Product is not a replacement for your primary telephone service.
  - THE AGREEMENT CONTAINS A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER IN SECTION 9 THAT AFFECTS YOUR RIGHT TO RESOLVE A DISPUTE WITH METASWITCH.
  - IN SOME LOCATIONS THERE MAY BE RESTRICTIONS ON YOUR USE OF THE PRODUCT OR FEATURES OR FUNCTIONS PROVIDED BY THE PRODUCT. It is your responsibility to ensure that you are legally allowed to use the Product where you are located.
1. ACCEPTANCE OF AGREEMENT; CHANGES.
    - (a) This is a legally binding contract between you (either an individual or a single entity) and Metaswitch Networks Ltd ("Metaswitch"). In order to install or use the Product, you must first accept this Agreement. This Agreement is accepted by you when you click to accept or agree to the Agreement. The use of the Product may be subject to separate third-party terms of service and fees, including without limitation the terms of service of and fees charged by your mobile or telecommunications network service provider (your "Carrier").
    - (b) The Product is not intended for use by persons under the age of 16. If you are under 16 years old, you may not use the Product or provide Metaswitch with any personal information.
    - (c) By installing or using the Product, you affirm that you (i) are either over the age of majority in your jurisdiction of residence, are an emancipated minor or possess legal parental or guardian consent, (ii) are fully able and competent to enter into the terms and conditions of this Agreement, and (iii) agree to be bound by all of the terms and conditions of this Agreement.
    - (d) Metaswitch may make changes to this Agreement from time to time, and the changes will become effective once you click to accept or agree to the modified Agreement.
  2. LICENSE.
    - (a) Subject to your compliance with this Agreement, Metaswitch grants you a non-exclusive, non-transferable, limited, revocable license to install and use the executable code version of the Product for personal or internal business purposes. This license does not entitle you to receive from Metaswitch hard-copy documentation, technical support, telephone assistance, or enhancements or updates to the Product. Your Carrier may separately offer documentation, telephone assistance or technical support for the Product. All rights not expressly granted under this Section 2(a) are reserved to Metaswitch and its suppliers and licensors.
    - (b) License Restrictions. You may not:
      - i. modify or create any derivative works of the Product or documentation, including customization, translation or localization;
      - ii. decompile, disassemble, reverse engineer, "unlock", attempt to access or otherwise attempt to discover the source code for the Product, unless and to the extent as may be required under applicable law or under the licensing terms governing use of any software components that are included in the Product that are subject to "open source software" licenses as defined by the open source initiative at <https://www.opensource.org/osd.html> ("Open Source Software");
      - iii. redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer rights to the Product;
      - iv. remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Product; or
      - v. publish any results of benchmark tests run on the Product to a third party.
    - (c) Proprietary Rights. The Product is licensed to you, not sold. This Agreement does not grant you title to or ownership of any copy of the Product. All title, ownership rights, and intellectual property rights in the Product shall remain with Metaswitch and/or its suppliers and licensors. The Product is protected by copyright, trademark and other intellectual property laws and by international treaties.
  3. PRIVACY. You consent to the collection and use of information about you and your use of the Product in accordance with the MaX UC Privacy Statement, which you can find at <https://www.tasi.biz/support>. By using the Product you acknowledge that you have read this statement and that you will periodically check this website to receive any updated terms. You also acknowledge that information collected about you under the Privacy Statement may include, but is not limited to, technical, diagnostic and/or personally identifiable information about you, your systems, your location and your use of Product.
  4. THIRD PARTY SITES; THIRD PARTY TECHNOLOGY.
    - (a) The Product may contain links to external websites for your convenience. You acknowledge and agree that Metaswitch is not responsible for, and has no control over, these sites. Links to external sites should not be taken as a recommendation or endorsement of the external site's information, products or services by Metaswitch or your Carrier.

- (b) Open Source Software. As set forth in the "About" menu in the Product, the Product contains Open Source Software. To the extent that this Agreement is incompatible with a license governing an Open Source Software component contained within the Product, such Open Source Software component will not be subject to the terms and conditions of this Agreement. Nothing in this Agreement should be construed to limit your rights under or to grant you rights that supersede the terms and conditions of any applicable Open Source Software license.
5. **DISCLAIMER OF WARRANTIES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THIS PRODUCT IS USED AT YOUR SOLE RISK AND THE PRODUCT IS PROVIDED ON AN "AS IS" BASIS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES THAT IT IS FREE OF DEFECTS, VIRUS FREE, SECURE, ABLE TO OPERATE ON AN UNINTERRUPTED OR ERROR-FREE BASIS, COMPATIBLE WITH ANY OPERATING SYSTEM OR DEVICE, MERCHANTABLE, FIT FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NEITHER METASWITCH NOR ITS PARENT, AFFILIATES, SUBSIDIARIES, SUPPLIERS OR LICENSORS HAS ANY OBLIGATION TO INDEMNIFY OR DEFEND YOU AGAINST CLAIMS RELATED TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. THIS DISCLAIMER OF WARRANTIES AND THE OTHER PROVISIONS OF THIS SECTION 5 CONSTITUTE AN ESSENTIAL PART OF THE BASIS FOR THE BARGAIN PURSUANT TO THIS AGREEMENT. NO USE OF THE PRODUCT IS AUTHORIZED UNDER THIS AGREEMENT EXCEPT AS SUBJECT TO THE DISCLAIMER OF WARRANTIES AND OTHER PROVISIONS OF THIS SECTION 5.
6. **LIMITATION OF LIABILITY.**
- (a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL METASWITCH OR ITS PARENT, AFFILIATE OR SUBSIDIARY COMPANIES, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AGENTS, SUPPLIERS OR LICENSORS, EVEN IF ADVISED OF THE POSSIBILITY OF THE DAMAGES IN QUESTION AND EVEN IF SUCH DAMAGES WERE FORESEEABLE, BE LIABLE FOR (i) ANY CLAIMS, LOSSES OR DAMAGES ARISING EITHER DIRECTLY OR INDIRECTLY FROM THE USE OF, OR THE INABILITY TO USE, THE PRODUCT FOR EMERGENCY CALLS TO EMERGENCY SERVICES AND FOR CALLS FOR THE PURPOSE OF OBTAINING ASSISTANCE, HELP OR AID IN THE EVENT OF ANY EMERGENCY, OR (ii) ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR THE USE OF OR INABILITY TO USE THE PRODUCT, INCLUDING, WITHOUT LIMITATION, CLAIMS OF THIRD PARTIES, OR FOR LOSSES DUE TO LOST PROFITS, INCOME OR SAVINGS, WORK STOPPAGE, OPPORTUNITY COSTS, LOSS, THEFT, UNAUTHORIZED ACCESS TO, OR CORRUPTION OF DATA, COMPUTER FAILURE OR MALFUNCTION OR LOSS OF USE OF FACILITIES OR EQUIPMENT.
- (b) METASWITCH'S AND ITS SUPPLIERS' AND LICENSORS' TOTAL CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE MANUFACTURE, SALE OR SUPPLYING OF THE PRODUCT OR THE USE, OPERATION OR INSTALLATION OF THE PRODUCT, BASED ON ANY CAUSE OF ACTION OR LEGAL THEORY, INCLUDING WITHOUT LIMITATION WARRANTY, CONTRACT, TORT (REGARDLESS OF THE DEGREE OF FAULT), INFRINGEMENT AND STRICT LIABILITY, SHALL NOT EXCEED THE GREATER OF THE SUM OF THE FEES YOU PAID FOR THIS LICENSE (IF ANY) AND TEN DOLLARS (US \$10).
- (c) THE LIABILITIES LIMITED BY THIS SECTION 6 INCLUDE WITHOUT LIMITATION LIABILITY FOR NEGLIGENCE AND APPLY EVEN IF YOUR REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE, EXCEPT THAT NOTHING IN THIS SECTION 6 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 6, THE PROVISIONS OF THIS SECTION 6 WILL APPLY TO THE MAXIMUM EXTENT PERMITTED.
7. **INDEMNITY.** YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS METASWITCH AND ITS PARENT, AFFILIATE AND SUBSIDIARY COMPANIES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, AGENTS, SUPPLIERS AND LICENSORS, FROM ANY AND ALL THIRD PARTY CLAIMS, LIABILITY, DAMAGES, EXPENSES AND COSTS (INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES) ARISING FROM (a) YOUR USE OF THE PRODUCT, (b) YOUR NEGLIGENCE, FRAUD OR WILFUL MISCONDUCT, (c) YOUR VIOLATION OF THIS AGREEMENT OR ANY APPLICABLE LAW, RULE OR REGULATION OR (d) YOUR INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHT OR OTHER RIGHT OF ANY PERSON OR ENTITY. YOU AGREE TO NOTIFY METASWITCH IMMEDIATELY OF ANY SUCH BREACH, VIOLATION OR INFRINGEMENT KNOWN TO YOU.
8. **EXPORT RESTRICTIONS; COMPLIANCE WITH LAWS.**
- (a) You represent and warrant that you: (i) are not located in a country that is subject to a U.S. Government embargo or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) are not listed on any U.S. Government list of prohibited or restricted parties. You acknowledge that the Product may be subject to the export and import laws of the U.S. and other countries. You agree to comply with all international and national laws that apply to the Product, including the U.S. Export Administration Regulations and all end-user, end-use and destination restrictions issued by U.S. and other governments.
- (b) In some locations there may restrictions on your use of the Product or features or functions provided by the Product, including without limitation the call recording function which is available on some versions

of the Product. It is your responsibility to ensure that you are legally allowed to use the Product where you are located. Applicable law may require you to advise all participants on a call prior to activating the call recording function available on some versions of the Product, otherwise restrict your use of the call recording function or prohibit the recording of any call. You agree that you will not use the Product or any features provided by the Product for any purposes prohibited by U.S. or other applicable law.

9. BINDING ARBITRATION AND CLASS ACTION WAIVER

- (a) Definitions. As used in this Arbitration Provision, the terms "Metaswitch," "we," "us," and "our" refer to Metaswitch Networks Ltd., including its subsidiaries, affiliates and their respective employees, officers, directors, contractors and agents; the terms "you" and "your" refer to you as an individual as well as other individuals you allow to access or use the Product, and any legal entity you control, work for, or represent when you access or use the Product. The word "Claims" means all claims, disputes, or controversies between you and us of any nature or kind, whether pre-existing, present, or future, that arise from or relate to the Product or your use of the Product. This includes but is not limited to disagreements about the validity, enforceability, or scope of this Arbitration Provision.
- (b) Agreement to Arbitrate; Class Action Waiver.
  - i. You agree that any and all Claims will be resolved exclusively by binding arbitration as described herein, except that: (A) you may assert Claims in a small claims court in the United States if your Claims meet the court's jurisdictional requirements; and (B) either party may pursue Claims and/or relief in a court of competent jurisdiction regarding the validity and/or infringement of a party's intellectual property rights.
  - ii. THERE IS NO JUDGE OR JURY IN ARBITRATION, AND COURT REVIEW OF AN ARBITRATION AWARD IS VERY LIMITED. HOWEVER, AN ARBITRATOR CAN AWARD TO YOU ON AN INDIVIDUAL BASIS THE SAME DAMAGES AND FORMS OF RELIEF AS A COURT COULD (INCLUDING INJUNCTIVE AND DECLARATORY RELIEF AS WELL AS STATUTORY DAMAGES), AND MUST FOLLOW THE LAW AND TERMS OF THIS AGREEMENT AS A COURT WOULD.
  - iii. CLASS ACTION WAIVER. ANY PROCEEDINGS TO RESOLVE OR LITIGATE ANY CLAIM IN ANY FORUM WILL BE CONDUCTED SOLELY ON AN INDIVIDUAL BASIS. NEITHER YOU, METASWITCH NOR ANY OTHER PARTY WILL SEEK TO HAVE ANY CLAIM HEARD AS A CLASS ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR IN ANY OTHER PROCEEDING IN WHICH ANY PARTY ACTS OR PROPOSES TO ACT IN A REPRESENTATIVE CAPACITY. NO ARBITRATION OR OTHER PROCEEDING WILL BE COMBINED WITH ANOTHER WITHOUT THE PRIOR WRITTEN CONSENT OF ALL PARTIES TO ALL AFFECTED ARBITRATIONS OR PROCEEDINGS.
- (c) Arbitration Rules.
  - i. If you are a resident of the United States, the arbitration will be conducted by JAMS, Inc. ("JAMS") under its rules; if your use of the Product has been principally for personal or household use, the JAMS' procedures for consumer-related disputes, including the minimum fairness standards, will also apply. If you are a resident of the United States, the arbitration proceedings will be conducted at a location designated by JAMS that is the most convenient for you. If you are a resident of a country other than the United States, the arbitration will be conducted by JAMS in New York, New York or London, England, as selected by you, under the JAMS rules for international arbitration. In the event of a conflict or inconsistency between the applicable arbitration rules and this Arbitration Provision, this Arbitration Provision shall govern and control.
  - ii. The arbitration will be conducted in the English language by a single arbitrator who is an attorney-at-law or barrister, as applicable, with experience in consumer and technology transactions and who is also a member of the JAMS roster of arbitrators. If you and we cannot agree on a mutually acceptable arbitrator within 15 days after the arbitration is initiated, then JAMS will pick a neutral arbitrator who meets the qualifications. The JAMS rules are available at <https://www.jamsadr.com>, or by calling 1-800-352-5267 from inside the United States or +44 207 583 9808 from outside the United States.
- (d) Initiating Arbitration. To begin an arbitration proceeding, you must follow the procedures specified by the applicable JAMS rules as described on their website at <https://www.jamsadr.com>.
- (e) Arbitration Process.
  - i. Because appearing in person for arbitration can be unduly burdensome in some circumstances, arbitration under this Arbitration Provision shall not require any personal appearance by the parties or witnesses unless mutually agreed. Either or both parties may participate by written submissions, telephone calls, or other means of remote communication as allowed by the arbitrator.
  - ii. The arbitration can only decide Claim(s) between you and us, and may not consolidate or join the claims of other persons that may have similar claims. There shall be no pre-arbitration discovery except as provided for in the applicable JAMS rules. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect customer account information and other confidential or proprietary information. At the request of any party, the arbitrator shall provide a brief written explanation of the basis for the decision and award. Judgment upon the award rendered by the arbitrator may be entered in any court having

jurisdiction. The arbitrator's decision will be final and binding on the parties except for any right to appeal under the JAMS rules or the Federal Arbitration Act.

- (f) **Recovery and Attorneys' Fees.** The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of attorneys' fees and expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits. The right to attorneys' fees and expenses discussed above supplements any right to attorneys' fees and expenses you may have under applicable law, although you may not recover duplicative awards of attorneys' fees or costs. If your use of the Products was principally for personal or household use, Metaswitch waives any right it may have to seek an award of attorneys' fees and expenses from you in connection with any arbitration of Claims between you and Metaswitch.
  - (g) **Confidentiality.** You and we shall keep confidential any information exchanged during the arbitration as well as the decision of the arbitrator made with respect to any Claim(s) arbitrated under this Arbitration Provision and, with the exception of disclosure to your or our attorneys, accountants, auditors, and other legal or financial advisors, neither party shall disclose such information or decision to any other person unless required to do so by law.
  - (h) **Continuing Obligation to Arbitrate; Severability.** This Arbitration Provision shall survive termination of your access to or use of the Product and related agreements. If any portion of this Arbitration Provision is deemed invalid or unenforceable at law, such invalid or unenforceable provision will be interpreted, construed, reformed or severed to the extent required to make it valid and enforceable, and this shall not invalidate the remaining portions of this Arbitration Provision.
10. **NOT INTENDED AS PRIMARY ACCESS TO EMERGENCY SERVICES.** You expressly acknowledge and agree that:
- (a) The Product is not intended, designed or fit for being the sole and primary method for carrying or supporting emergency calls to any hospitals, law enforcement agencies, medical care units, emergency services personnel, public safety answering points or any other kind of emergency services or any other calls for the purposes of obtaining assistance, help or aid in the event of an emergency.
  - (b) There are important differences between traditional telephone services and the Product. The Product is not a replacement for your primary telephone service. This product may not function during a power outage, internet connectivity interruption, or system failure on the device on which it is running. The Product is not a replacement for your primary telephone service.
11. **PROHIBITED USES.** You may not use, encourage, promote, facilitate or instruct others to use the Product for any illegal, harmful or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful or offensive. You agree that your use of the Product shall in no way, and to no extent, whether directly or indirectly, adversely affect, impede or otherwise hinder or disrupt the functionality or performance of the platform or systems on which the Product runs. Prohibited activities or content include:
- (a) **Illegal Activities.** Any activities that violate any applicable laws, rules or regulations, including without limitation, all applicable laws relating to the privacy of communications and wiretapping laws.
  - (b) **Harmful or Fraudulent Activities.** Activities that may be harmful to other users of the Product, their operations, or their reputations, including without limitation, offering or disseminating fraudulent goods, services, schemes or promotions (e.g., make-money-fast schemes, Ponzi and pyramid schemes, phishing or pharming), or engaging in other deceptive practices.
  - (c) **Infringing Content.** Content that infringes or misappropriates the intellectual property or proprietary rights of others.
  - (d) **Offensive Content.** Content that is defamatory, obscene, abusive, invasive of privacy, offensive, indecent or otherwise objectionable.
  - (e) **Harmful Content.** Content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program or data, including viruses, Trojan horses, worms, time bombs or cancelbots.
  - (f) **Spam.** Spam-related activities, including the distribution, publication, sending, or facilitating of unsolicited mass e-mailings, promotions, advertising or solicitations, including commercial advertising and informational announcements.
  - (g) **Security Violations.** Use of the Product to violate the security or integrity of any network, computer or communications system, software application or network or computing device.
  - (h) **Commercial or Unauthorized Use.** Use of the Product for any revenue generating endeavor, commercial enterprise or other purpose which is not authorized under this Agreement or for which it was not designed.
  - (i) **Network Abuse.** Use of the Product to carry out network abuse, including denial of service attacks or intentional interference with the proper functioning of any network, computer or communications system, software application or network or computing device.
12. **TERMINATION.** Metaswitch may terminate this Agreement (a) at any time, for any reason or no reason, or (b) if you breach any of its terms and conditions. Upon termination, you must cease all use of the Product and destroy all copies of the Product in your possession or under your control.
13. **MISCELLANEOUS.**
- (a) This Agreement will be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia applicable to contracts made and to be performed entirely in the Commonwealth of Virginia without regard to its conflicts of law provisions and without application of the Virginia Uniform Computer Information Transaction Act, except that the Federal Arbitration Act governs all provisions relating to arbitration. You and Metaswitch irrevocably consent to the exclusive jurisdiction and venue of the state or federal courts in Fairfax County, Virginia, for all disputes arising out of or relating to this Agreement or

the Product that are heard in court (those not subject to arbitration and not heard in small claims court), and in the event that there is no other effective manner of service, Metaswitch and you each hereby appoints the Secretary of the Commonwealth of Virginia as its agent for purposes of service of process.

- (b) If any provision in this Agreement should be held illegal or unenforceable by a court of competent jurisdiction, such provision shall be modified to the extent necessary to render it enforceable without losing its intent or severed from this Agreement if no such modification is possible, and other provisions of this Agreement shall remain in full force and effect.
- (c) A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, shall not waive such term or condition or any subsequent breach thereof.
- (d) If you have any questions concerning this Agreement, or if you wish to contact Metaswitch Networks for any reason, please use the contact information available at <https://www.metaswitch.com/about/contact>.

#### 14. ADDITIONAL TERMS.

- (a) The following additional terms apply when the Product is used on iOS:
  - i. **Apple Store Terms.** References in this Agreement to Metaswitch may include Metaswitch's suppliers and licensors but do not include Apple, Inc. ("Apple"). In the event of any conflict between Section 5 and the provisions of this Section 14(a), Section 5 will prevail except in respect of Apple's rights and responsibilities. This Section 14(a) does not expand Metaswitch's liability or obligations to you beyond that required elsewhere in this Agreement or by applicable law.
  - ii. **Acknowledgement.** This Agreement is concluded between Metaswitch and you only, and not with Apple. Metaswitch, and not Apple, is solely responsible for the Product and its content.
  - iii. **Scope of License, Definitions.** The License granted in Section 2 of this Agreement is solely for use on an Authorized Device in accordance with this Agreement and the Store Usage Rules. "Authorized Device" refers to any Apple iPhone, iPad or iPod Touch that you own or control. "Store Usage Rules" refers to the "Usage Rules" set forth in Apple's App Store Terms of Service, currently posted at <https://www.apple.com/legal/itunes/us/terms.html>, as it may be amended by Apple from time to time.
  - iv. **Maintenance & Support.** This Agreement does not provide for maintenance or support services, but in the event that applicable law requires that such services be provided to you for the Product, Metaswitch or your Carrier will be solely responsible for providing the services. You and Metaswitch acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Product.
  - v. **Warranty.** Section 5 of this Agreement disclaims all warranties to the maximum extent permitted under applicable law, but to the extent not effectively disclaimed, if any, Metaswitch will be solely responsible for any warranties in respect of the Product. In the event of any failure of the Product to conform to any such applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Product (if any) to you. To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Product, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be Metaswitch's sole responsibility.
  - vi. **Product Claims.** You and Metaswitch acknowledge that Metaswitch and its suppliers and licensors, not Apple, are responsible for addressing any claims of yours or of any third party relating to the Product or your possession and/or use of the Product, including, but not limited to: (A) product liability claims; (B) any claim that the Product fails to conform to any applicable legal or regulatory requirement; and (C) claims arising under consumer protection or similar legislation.
  - vii. **Intellectual Property Rights.** Metaswitch and you acknowledge that, in the event of any third-party claim that the Product or your possession and use of the Product infringes that third party's intellectual property rights, Metaswitch and its suppliers and licensors and not Apple will be solely responsible for the investigation, defense, settlement, and discharge of any such intellectual property infringement claim.
  - viii. **Third Party Beneficiary.** Metaswitch and you acknowledge and agree that Apple and Apple's subsidiaries are third-party beneficiaries of this Agreement and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against you as a third-party beneficiary.
- (b) The following additional terms apply when the Product is used on any other operating system – None.