

# MAF InfoCom™

## General Service Conditions

Version 1.5 Juli 2023



MAF InfoCom™

## **MAF InfoCom™ Terms Of Service**

### **Article 1 General**

In these Terms of Service, each of the following terms shall have the following meaning;

“Parties” means MAF InfoCom BV (MAF) and the Client and/or the Partner.

“Products and/or Services and/or Solutions” means MAF InfoCom and/or MAF ICIMS and/or MAF ICIMS CC and/or MAF NMS and/or MAF UCR and/or MAF QMS and Professional Services. Availability may vary by region, Client and Partner.

“Professional Services” means the following services: Consulting services, installation services, configuration services, training services and technical support services provided by MAF InfoCom that help Clients and Partners identify and resolve issues affecting Products and/or Services and/or Solutions.

“Service Description” means Description of Service Model and additional services in the Service Agreement.

“Data and/or Personal Data” means Information from Client which MAF processes.

“Client” means any natural person or legal entity that is in connection with MAF against the purchase and transfer of Services or with that goal in negotiation.

“Service Agreement, Agreement” means the Agreement between the Parties, on which these Terms of Service are declared applicable;

“Performance” means the execution of the service to which MAF is committed to the Client and/or the Partner.

“Service Fees, Service Charge” means the amount of money charged to the Client and/or the Partner by MAF for performing the Services as described in the Service Description in the Service Agreement.

“RGS” means Response Group Services.

“CQ” means Call Queue

“AA” means Auto Attendant

“CDR” means Call Detail Record

“MAF InfoCom Software Maintenance and Support Conditions” means separate description of support including Service Level Agreement (SLA).

“DiD or DDi” means Direct inward dialing (USA) or Direct Dial-in (Europe), phone extension.

“User(s) and/or Seat(s)” means unique extension or Call Queue or Auto Attendant or DiD or DDi or any other unique identifier in Data from Client and/or Partner.

“On-Premises” means for the use of Service MAF installs software in Client’s own private environment.

“MAF Cloud” means Client and/or Partner uses Service hosted by MAF.

“Equipment” Software and/or hardware in the property of MAF like data buffer installed in Client location.

“GDPR” means General Data Protection Regulation.

Trial” means a period in which the Client can test MAF solutions to determine if it fits Client’s needs.

### **Article 2 Applicability and explanations**

- 2.1 These Terms of Service shall apply to all of MAF Service Agreements and the acts which are aimed at the establishment of such Service Agreements if MAF has declared these to apply or may be deemed to have it applied.
- 2.2 Where these Terms of Service apply to agreements with a different service than described in the previous paragraph these conditions will be applied as far as applicable by analogy.
- 2.3 The applicability of the present conditions excludes those of all other conditions especially those of the Client.

**Article 3 Description and execution of Service**

- 3.1 MAF offers a suit of unified communications management software. The Service consists of the licensed usage of the following solutions either hosted by MAF or installed on Clients premises;
  - 3.1.1 MAF ICIMS: provides Unified Communications reporting by collecting Data from Client. Via an internet browser approachable software application Client can produce reports over Client's Data.
    - 3.1.1.a Upon request and against then current fees Client can request MAF to add phone call rates to Data. Multiple rates can be applied. By default no tariffs are applied.
  - 3.1.2 MAF ICIMS CC: provides Unified Communications wallboards and contact center agent reporting and status information.
  - 3.1.3 MAF NMS: provides Unified Communications DiD or DDi number management.
  - 3.1.4 MAF UCR: provides Unified Communications Voice Recording.
  - 3.1.5 MAF QMS: provides Unified Communications Call Queue and Auto Attendant management.
- 3.2 If the layout of the Data changes, MAF is allowed to charge the Client for the necessary adjustments, against the then-current fees.
- 3.3 MAF will provide maintenance and support to Client based on the MAF InfoCom Software Maintenance and Support Conditions.
- 3.4 By the use of Service via MAF Cloud Data will be stored for a period of 15 (fifteen) months. Data older than 15 (fifteen) months will be, unless otherwise agreed, automatically and permanently destroyed.
- 3.5 Services via MAF Cloud (including data storage) shall be provided from within continental Europe and on computing and data storage devices residing therein unless otherwise agreed upon. If applicable MAF also process the Data in countries outside the European Union with due observance of the relevant legislation and regulations.
- 3.6 MAF shall provide Client with training services. The Services Fees shall be inclusive of the fees for the Training Services.

**Article 4 Liability**

- 4.1 Client is liable for and will therefore meet all costs associated with the use of the Service, including the cost for required changes in the infrastructure, servers, network and storage cost etc. These costs cannot, not under any circumstances, be charged to MAF.
- 4.2 If, for the functioning of the Services equipment should be placed, mounted, take into use and/or tested, than they all related work on behalf of the Client.
- 4.3 The Client ensures that the aforementioned adjustments and/or work will be done on time and under any directions of MAF without MAF being responsibility in any respect unless there is gross negligence or intent of MAF. Furthermore, the Client for his own account shall make available on time all in the view of MAF deemed necessary, auxiliary workman, auxiliary materials, energy, water, lighting, compressed air and/or other devices.
- 4.4 If the delivered Services differs but reached the same objective of what is agreed upon in the Service Agreement, the Client cannot hold MAF responsible for failure of performance.
- 4.5 If the Client wants to rate the Data with tariffs the responsibility for providing these tariffs is with the Client. These tariffs should be provided through the Telecom Tariff Template made available by MAF.

**Article 5 Payment & Service Charge**

- 5.1 The Service Charge is based on the Service model chosen by the Client and the number of Seats increased with optional services as defined in the Service Description outlined in the Service Agreement.
- 5.2 If the number of Seats from the Client is more than what is agreed upon, or will increase in the future, the Client agrees, with signing of the Service Agreement, that MAF increases the Service Charge proportional. In case of On-Premises use of the Service, MAF shall have right to audit the system at least once a year to check if the Client is in compliance with the number of purchased Seats.
- 5.3 Client has to pay the fees annually in advance within thirty (30) days from invoice date.
  - 5.3.a Renewal invoices are send around 30 days prior to the renewal date. The new term is mentioned on the invoice. It might occur due to weekends or holidays it that an invoice is send less than 30 days prior to the renewal date. Despite our invoices having a 30-day term the renewal date is leading. Access to the cloud is automatically blocked when payments are not received in full before the renewal date.
- 5.4 All prices communicated by MAF are excluding federal, state or local VAT/Tax, assessments or duties.
- 5.5 If Client calls on MAF to provide services which are not included in the Service Agreement the Client will be billed separately for these Services.
- 5.6 Client is not entitled to apply any discount, credit or VAT/Tax withholding on due Service Fees. The date of the payment is the date of the take-up on the bank account of MAF.
- 5.7 MAF has the right to adjust the agreed annual Service Fees to inflation but no more than three percent (3%) on an annualized per-Seat basis.
- 5.8 Client acknowledges and agrees its obligation to comply, under all circumstances, to the agreed deadlines mentioned in the Service Agreement.
- 5.9 Payment by Client does not imply that Client is in agreement with the Service MAF offered.
- 5.10 All deadlines mentioned in this Service Agreement are fatal deadlines. Without notice needed Client is due to MAF a delay interest on the outstanding amount for the size of statutory interest calculated from the due date until the day of full payment, a portion of one month to count for a whole month by not fully or timely payment.

- 5.11 By not fully or timely payment of any outstanding commitment by Client, Client is also obliged to pay all extrajudicial and court costs, including attorneys' fees and trial fees plus VAT/Tax and disbursements if and when MAF transfers the claim. If a claim will be transferred is fully up to the determination of MAF. The extrajudicial costs are at least 15% of the amount owed by Client, excluding VAT/Tax per case.
- 5.12 MAF will send its invoices digital per e-mail. Client must provide digital billing e-mail address.
- 5.13 MAF issues invoices based on the Service Agreement. If Client wants to use an internal PO number on the MAF invoice Client needs to provide that to MAF 45 days before the renewal date.
- 5.14 Under no circumstances will MAF enter payment and bank details in web portals or any other form or document received from Client. Client is responsible for updating their own financial records not MAF. MAF will provide all necessary bank details and payment information at its sole discretion.
- 5.15 If Client has received and accepted a Partner discount Client is considered a Partner and MAF Distribution and Reseller Terms and Conditions apply.

#### Article 6 Duration and Termination

- 6.1 The effective date of the Service Agreement is: (a) the date of the last Party signing the Agreement (a signed quotation is considered to be an Agreement); or (b) the date Clients purchase order is received. The effective date can be found on the invoice. The Service Agreement runs for a minimum period of thirty-six (36) months from the effective date. After this period the Service Agreement will automatically renew each year for a period of twelve (12) months unless one of the Parties sends a notification of termination in writing ninety (90) days in advance of the renewal date. Any party may terminate this agreement if one of the Parties failed the terms set out in this Agreement taking in consideration a thirty (30) days' notice..
- 6.2 If a different Service Agreement period is agreed upon by both Parties than this Service Agreement will be automatically renewed for the same period unless one of the Parties sends a notification of termination in writing ninety (90) days in advance of the renewal date.
- 6.3 A premature termination of the Service Agreement is only possible after written notice of the failure to comply with the terms described in the Service Agreement. Mutual rights remain unaffected.
- 6.4 Upon premature termination of the Service Agreement all remaining terms are immediately due and payable.
- 6.5 All Data remains Clients. If Client terminates the Trial or Service Agreement, Client can retrieve all Data by exporting it from MAF Solutions. Client needs to do this before termination of the Service Agreement or end of the Trial, because MAF deletes all Data immediately after termination of the Service Agreement or end of the Trial, with exception of statutory retention periods.

#### Article 7 Claim Ability

- 7.1 All remaining Service Charges are immediately due and payable and MAF is authorized to terminate the Service Agreement without further notice and without prejudice to its claims for penalties, costs and compensation for any further damage if:
- Client is two or more months delinquent in the payment of due Service Charge(s) in respect of any Service Agreement with MAF or otherwise fails to comply in due time of payment of Service Charge(s);
  - The equipment placed on the location of the Client making the service possible is no longer in the actual power (that means beyond the control of the Client) ;of the Client, the equipment is discarded, seized or otherwise confiscated by the government;
  - The equipment –to view of MAF– has been lost or destroyed;
  - The bankruptcy of the Client has been requested or issued, or if Client has sought or obtained, suspension of payments or a payment to creditors has been offered, or when if one or more assets of the Client are seized;
  - There is a dissolution, liquidation, change in the legal personality or death, or if the Client is placed under curatorship;
  - The Client or, if applicable, its director-shareholder is sentenced to imprisonment or taken into preliminary custody;
  - The Client has submitted to MAF, with the intent to enter this Service Agreement deliberately false or incomplete information of such a nature that MAF would not have entered this Service Agreement if the correct state of affairs would be known;
  - There is concrete evidence of insolvency or lack of liquidity of the Client;
  - There are other circumstances that prevents or seriously endangers the redress of MAF.

#### Article 8 Use and maintenance of Equipment

- 8.1 If, to perform the Service, it is necessary to place Equipment on location of the Client, the Equipment will remain the property of MAF.
- 8.2 Client must take care of the Equipment and ensure it is used as intended. The Client is not allowed to make any changes to the Equipment that are not authorized by MAF.
- 8.3 The Client is not entitled to put the Equipment into custody, to alienate the Equipment for the benefit of third parties with personal and/or business rights or otherwise.
- 8.4 In respect of damage or destruction the Equipment the risk is for the Client once that Equipment is delivered at the agreed place.
- 8.5 The Client is required to properly secure and/or protect the Equipment against damage and destruction.

- 8.6 With advance notice to Client and during normal business hours, Client is obliged to grant free and unrestricted access to the Equipment and cooperate in work needed to be done on the Equipment.

**Article 9 Personal Data Processing & Privacy**

- 9.1 Because MAF processes Clients personal data on its behalf both Parties have to comply with the GDPR and need to conclude a Data Processing Agreement. The MAF Service Agreement serves as such. Parties therefore agree that Client is the controller and legally responsible for data its personal data and MAF is the processor.
- 9.2 Personal data is processed to make Services possible, for Client to use the Services and for MAF to be able to invoice and support Client for and on the Services.
- 9.3 Client can enter personal data in the MAF Solutions, including but not limited to names, address details, email addresses, sip addresses, telephone numbers, voice recordings, location data, chat traffic. This information can -among others but not limited to- be used to show in reports, dashboards or wallboards that Client make with MAF Solutions. This Personal Data can be imported or recorded from Client's communication systems, databases or Client enters them manually.
- 9.4 Upon the purchase of Services by Client, Client agrees with the MAF Terms Of Service and issues Client MAF instruction to process Personal Data within the framework of GDPR.
- 9.5 Client is responsible for the Personal Data. Client must comply with the applicable legislation and legal requirements. If Client does not meet these requirements and MAF is held liable by a third party for damage, Client immediately indemnifies us and Client indemnify us for any liability.
- 9.6 To protect the Personal Data, MAF has taken all measures within its control, such as access security and data traffic security.
- 9.7 Both parties ensure that anyone who has access to the Data will not share it with others and will keep it secret, unless legally obliged to do so.
- 9.8 MAF may use third parties for its services, which in that case can be classified as a sub-processor. In that case MAF has concluded a processing agreement with these sub-processors.
- 9.9 MAF will always comply with GDPR and takes measures to protect Clients personal information as described in the MAF Privacy Statement.
- 9.10 MAF will inform Client immediately in case of a data breach or possible data breach and will keep Client informed of new developments and the measures MAF has taken to limit and terminate the size of the Data breach and to prevent a similar incident in the future.

**Article 10 Information Obligation**

- 10.1 Client is obligated to inform, accompanied by all relevant information, MAF immediately of any claims by third parties on the equipment needed for carrying out the Service as well as by (threatening) seizure or confiscation by Justice of the equipment. Furthermore Client is obliged to inform third parties, which like to make claims on the equipment, about the rights of MAF in advance.
- 10.2 Client is required to inform MAF within fourteen (14) days of address change.

**Article 11 Cancellation**

Cancellation of a signed Service Agreement is only possible with the express written consent of MAF. In the case of consent a Client will be charged for administration and research costs, but not in case of a failed implementation of the software as described in the Service Description.

**Article 12 Force Majeure**

- 12.1 MAF will be able to rely on force majeure to temporarily suspend the obligations under the Service Agreement in the event of strikes, war or similar circumstances, fire, explosion, natural disasters, stagnation by any weather, governmental as well as all other circumstances in which MAF exercises no control and under which MAF cannot reasonably fulfill its obligations. If one of the facts as in the previous sentence may arise, MAF will promptly notify the Client in writing within fifteen (15) days of such suspension.
- 12.2 In the event that the performance by MAF is delayed by at least six (6) months for any reason contemplated in this Article, the Client may elect to terminate the Agreement on written notice.

**Article 13 Limitation of Liability**

- 13.1 MAF is neither towards the Client nor against any third party liable for any damages of any kind whatsoever, consequential or indirect damages included unless there is gross negligence or mal intent of MAF.
- 13.2 MAF therefore will not be liable for the damages of the Client which might arise as a result of a different use of the Equipment than to which it is intended.
- 13.3 MAF is not liable for any damage resulting from the linking of computers through a communication solution, nor is MAF liable for the effectiveness of its opinions or any resulting damage thereof.
- 13.4 Parties guarantee that they will not willfully withhold information necessary for the proper implementation of the Service.

**Article 14 Third parties**

- 14.1 MAF might use third parties that process Personal Data. In that case processor agreements are made with these third parties with the same security measures as MAF agreed upon with Client about how Personal Data is handled. This ensures third parties process Clients Personal Data securely and that Clients privacy is guaranteed.
- 14.2 At any time MAF is entitled to transfer its rights and obligations under this service agreement to any third party. Client now already agrees to such a future transfer.

**Article 15 Confidentiality**

- 15.1 Each Party shall keep the secret and confidential nature of the information that was obtained from the other Party during the execution of the Service Agreement. The content of the Service Agreement is also covered by this confidentiality provision.
- 15.2 MAF shall keep and maintain Client's Data in strict confidence, using such degree of care as is appropriate and consistent with its obligations as further described in this Agreement and applicable law to avoid unauthorized access, use, disclosure, or loss.
- 15.3 MAF shall use and disclose Client's Data solely and exclusively for the purpose of providing the Services, such use and disclosure being in accordance with this Agreement and applicable law.
- 15.4 Notwithstanding the foregoing, confidential information is exclusive of information or data that recipient can prove by credible evidence:
- Was in the public domain at the time it was communicated to recipient;
  - Entered the public domain subsequent to the time it was communicated to recipient through no fault of recipient;
  - Was in recipient's possession not in violation of any obligation of confidentiality at the time it was communicated to recipient;
  - Was disclosed to recipient not in any violation of any obligation of confidentiality; or
  - Was developed by employees or agents of recipient without use of or reference to the confidential information of discloser
- 15.5 The obligations of this provision will remain in force for five (5) years as of the end of the Service Agreement, whichever reason it was terminated.

**Article 16 Disputes & Applicable Law**

- 16.1 On all MAF Agreements, including this Agreement and all MAF Terms and Conditions is only the Dutch law applicable. All disputes between parties arising from this Agreement or directly or indirectly related will be exclusively judged by the court of Alkmaar in The Netherlands.
- 16.2 Before taking any court action, a Party must use best efforts to resolve any dispute under, or in connection with, this Agreement through good faith negotiations.
- 16.3 Each Party must, to the extent practicable, continue to perform its obligations under this Agreement even if there is a dispute.

**Article 17 Final Provisions**

- 17.1 These Terms Of Service may change, for example by new legislation and/or regulations. In the event changes are made, Client will be informed with the revised terms and conditions.
- 17.2 Any condition or modification different from the Service Agreement and/or Terms of Service, agreed upon between Parties, is not binding unless these conditions are agreed upon in writing between parties.
- 17.3 The Agreement between Parties is legally to be considered as a Processor Agreement in the context of GDPR.
- 17.4 If any provision, or part of a provision, of these Terms Of Service are found to be invalid by any court or administrative body of competent jurisdiction, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.



## Who we are

Formed in 2000, MAF InfoCom™ is a leading innovative technology provider with over two decades experience delivering solutions for Unified Communications and Collaboration including Monitoring, Analytics, Reporting, Recording, Headset & Device Management and DID Management.

We serve tens of thousands customers around the globe, in a large variety of branches. We have installations in over 50 countries ranging from SME's to multi-national global enterprises. In Europe MAF InfoCom™ is the largest provider of UC reporting solutions.

With the market trend towards Unified Communications and Collaboration we expand our sales across the globe rapidly. Our solutions work with every major UC&C technology.

Our solutions are offered from the Cloud, On-Premises and Partner Hosted to enable our customers and partners to choose the best model for their needs.

### MAF ICIMS™

UC&C Monitoring Analytics & Reporting

### MAF ICIMS CC™

Live Wallboards, Real Time Agent Status

### MAF NMS™

Number Management System, DID Range Management

### MAF UCR™

Microsoft Teams Voice Recorder

### MAF LMS™

Microsoft Teams License Management System

### MAF QMS™

Microsoft Teams Call Queue Management System