Terms of Service (TOS) for Circuit

Version 2.0 as of August 2016

By clicking "Accept" you accept and acknowledge that you have read these Terms of Service (TOS) and the other terms referred to from these TOS ("Agreement"). You also represent and warrant that you have the authority to bind the business or organization on whose behalf you accept these terms.

If you do not agree to this Agreement, please click the "Cancel"/"Back" button and do not use Circuit.

Circuit is Produced by Unify and Provided to you by your Accredited Reseller of Unify. These TOS are part of terms and conditions of your Agreement with the Accredited Reseller. There is no contractual relationship between you and Unify.

1.   Welcome to Circuit!

1.1   "Circuit" is Unify's cloud-based team collaboration and communication product. Circuit helps people to communicate and collaborate with others in their work environment in real time and through multiple channels, including email, chat, telephone and by sharing documents. It is provided as a Software-as-a-Service (SaaS) application and is constantly improved and further developed.

1.2   Please read the Agreement carefully. It is the base of the legal relationship between your business or organization and Unify regarding the use of Circuit and the associated software and services. Prior to using Circuit, your business or organization must accept the terms of this Agreement and agree that any person to whom your business or organization grants access to its Circuit Tenancy, are bound by the terms of this Agreement and the documents referenced herein.

1.3   We address you and your business or organization collectively as "you". This, and other capitalized terms used in the Agreement, are defined in **Annex - Definitions**.

2.   Provision of Circuit

2.1   Circuit will be provided to you by your Accredited Reseller from the Effective Date on. Your Acredited Reseller will obtain the Circuit service – possibly via distributors – ultimately from Unify. The scope of Circuit's functionalities is described in **Annex - Product and Service Description (PSD)**. **Annex - Service Level Agreement (SLA)**describes the service levels that apply to Circuit.

2.2   You acknowledge that Circuit is not a replacement for your primary telephone or internet service. You do not rely on Circuit as your sole means of telecommunication. The services of a telecommunications provider for the public are not part of the Agreement.

You also acknowledge that Circuit is not intended to support or carry emergency calls such as calls to hospitals, police, fire departments or other kind of services that connect a user to emergency services answering point. It is your responsibility to provide for fixed (landline) telephone services or wireless (mobile) telephone services that offer access to such emergency services. Circuit does not support the special features required by emergency services, such as the provision of information about the location of the caller to the emergency service. Please note that this also applies if, technically, you could actually connect from Circuit to an emergency service. In this case, you will need to provide details of your physical location to enable the emergency services to respond to you.

2.3   When using Circuit, you must at all times comply with all Applicable Laws, including, but not limited to: (a) with respect to Personal Data, all applicable privacy laws and regulations and (b) laws or regulations relating to the recording of communications, including, when required, advising all participants in a recorded Circuit audio or video conversation or meeting that it is being recorded and that Circuit User Data and Personal Data may be transferred outside the European Economic Area and the US. It is your responsibility to ensure that you have the right to use Circuit where you are located, as well as where your meeting invitees are located.

3.   Eligibility to sign up for Circuit

3.1   Circuit is offered only to businesses and organizations i.e. all natural or legal persons or a partnerships with legal personality who or which act in exercise of his, her or its trade, business or profession. We do not offer Circuit to other persons, in particular to consumers. In any case, a person less than 18 years old or who is considered a minor in its state or country of residence, cannot register for Circuit or be signed up by you as a Circuit User.

3.2   Without limitation to the statutory rules on businesses by appearance, if your Accredited Reseller reasonably believes that you or a specific Circuit User do not meet the above stated requirements, the Accredited Reseller may, without liability and at its sole discretion, block or delete that Circuit User Account(s) and their Circuit User Data and/or any portion, aspect or feature of Circuit. Depending on the case, the Accredited Reseller may elect to terminate the entire Agreement for cause with immediate effect.

4.   Signing up for Circuit

4.1   To sign up for Circuit, you must complete a registration process and provide current, complete and accurate information, as prompted by the registration form. If you act for a business or organization, you may need to conclude the Data Processing Agreement (DPA) with your Accredited Reseller.

4.2   The registration for Circuit, whether or not it is for a Free or paid-for Service Package, and including those registrations made through Accredited Resellers, will result in a binding proposal from your business or organization to your Accredited Reseller to enter into the Agreement. You will be informed if your proposal is accepted via direct email or through your Accredited Reseller. Accredited Reseller and Unify is free to accept or deny any such proposal at their sole discretion. If it is accepted, the Agreement becomes effective, and if it is rejected, there is no Agreement and neither you nor Accredited Reseller nor Unify have any liability against any other party.

4.3   Once your proposal has been accepted, you and any other Circuit Users you create through the Circuit administration console will be given a username and password via email, which, upon initial access, must be changed to a password known only to such Circuit User. You must ensure that your password(s) do not become known to unauthorized third parties. In the event you reasonably suspect that your password(s) have been compromised, you must notify your Accredited Reseller without delay. You are liable for all damages due to your fault to maintain the confidentiality of the passwords.

4.4   The first Circuit User that is created for your business or organization during the signup process will hold the role of the Circuit Tenancy Administrator. That first Circuit User will also hold the role of Customer Contact. The password for that account should be handled with special care.

5.   Feedback about Circuit

Unify and your Accredited Reseller are very interested to hear about your comments, criticisms and suggestions for changes with respect to the design, the functionality and the performance of Circuit.

To the extent you provide Unify or your Accredited Reseller with such information and data about the tests you have done, the test results, and other material such as screenshots, recordings, concepts, etc. (collectively, "Feedback"), you agree that Unify and your Accredited Reseller own all Feedback that you submit to Unify. You hereby assign and grant Unify or your Accredited Reseller all rights, title and interest in the Feedback and all Intellectual Property Rights herein, including the right to use, share, and commercialize the Feedback in any way and for any purpose. If requested by Unify, you or the competent person(s) within your organization will execute such further instruments as Unify may reasonably request confirming Unify's unlimited ownership interest in such Feedback.

You will not give any Feedback that is subject to a license that requires Unify or your Accredited Reseller to grant any rights (e.g.,Freeware and Open Source License) or make any payments to third parties because the Feedback was incorporated into Circuit or the

Documentation or any other of Unify's products, software, or services or other items. These rights survive the term of this Agreement.

For the avoidance of doubt, this does not mean Unify claims ownership of any of your Circuit User Data you submit to Circuit (see also below). You should carefully review your feedback and possibly clean it of any Circuit User Data that you do not want Unify or your Accredited Reseller to see.

6.   Right to Use Circuit User Data, Handling of Circuit User Data

6.1   By signing up for Circuit and submitting Circuit User Data to Circuit, you agree for the term of the Agreement, that such Circuit User Data are used, modified, processed, reproduced and distributed by the Circuit Service, solely for the purpose of providing Circuit to you and the Circuit Users you appoint. This includes the public performance or public display the Circuit User Data, where such facilities are provided within or through Circuit and if effected by you. The obligations of Unify to maintain the confidentiality of the Circuit User Data or our data privacy obligations shall not be limited thereby.

6.2   You and your organization must have all the rights, licenses, and permissions required from third parties to use the Circuit User Data and to reproduce, publish, and display Circuit User Data within and outside of Circuit.

You acknowledge that the Circuit service can treat all Circuit User Data submitted by you or one of your Circuit Users to Circuit as if it is owned by you. The Circuit service is only acting as a passive conduit for your Circuit User Data. Neither Unify nor your Accredited Reseller claim any ownership rights in your Circuit User Data. Unify will not review, share, distribute, or reference your Circuit User Data except as provided herein or in the **Acceptable Use Policy (AUP)** for Circuit, or as this may be required by Applicable Laws.

6.3   If you object to any third party Circuit User Data, your Accredited Reseller will attempt to resolve that as per the procedure described in the **Acceptable Use Policy (AUP)**. In the event your Accredited Reseller finds such third party Circuit User Data to be permissible under the AUP, your sole remedy is to cease using Circuit. However, this does not constitute a right to prematurely terminate the Agreement with your Accredited Reseller.

6.4   If you believe that your Accredited Reseller, Unify or any of Unify's affiliates or any of your or a third party Circuit User (including Guest Users) violated a copyright, please first notify your Accredited Reseller of the issue before taking legal action. The violation-resolution procedure described in the **Acceptable Use Policy (AUP)** shall be applied accordingly.

6.5   You understand that publishing Circuit User Data on Circuit is not a substitute for registering it with a copyright office or any other intellectual property rights organization such as the U.S. Copyright Office.

7.   Liability for Circuit User Data

7.1   You are entirely responsible for any and all activities that occur under your Circuit Accounts and with your Circuit User Data. With your subscription to Circuit you acknowledge and consent, and you will make all of your Circuit Users including Guest Users acknowledge and consent, that all Circuit User Data is in your sole responsibility.

Circuit User Data may be accessible by the Circuit Tenancy Administrator. If a Circuit User is deleted, the Circuit User Data of that Circuit User may still be accessed by other Circuit Users who shared a Conversation with that Circuit User.

For technical reasons, inside the Circuit support Forum accounts of Circuit Users who posted content to the Circuit Support Forum will be disabled, not deleted. See the **Support Forum Rules (SFR)** for details.

7.2   You will indemnify, defend and hold harmless your Accredited Reseller and Unify from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorneys' fees) arising from a violation of sections 6 to 8.

8.   Data privacy

8.1 By using Circuit, you and each of your Circuit Users will upload, create or receive Circuit User Data containing personally identifiable information protected under Applicable Laws ("Personal Data"). Unify is very serious about the safety and security of such Personal Data.

8.2 Unify is obligated to provide Circuit through personnel who are bound to data secrecy as defined by Applicable Law.

8.3 With regard to the Personal Data stored or otherwise processed by Circuit, your Accredited Reseller will observe your directions and shall take the necessary technical and organizational measures with Unify to protect the Personal Data from disclosure or misuse. This shall also apply to Personal Data that Unify retains after the termination or expiry of this Agreement. Your Accredited Reseller's liability for breaches of data protection shall be excluded if your Accredited Reseller acted in accordance with a direction given by you.

8.4 Unify is obligated to process Personal Data obtained from you only for the purposes of providing Circuit and shall delete such Personal Data from Unify's systems if it is no longer needed for that purpose, subject to any data retention obligations required by Applicable Laws.

8.5 Unify may use subcontractors to provide Circuit. To the extent Unify uses subcontractors, we will impose upon them a similar obligation as per this section 9, in particular section 9.2 in accordance with the data protection provisions of this Agreement and Applicable Laws. They shall be bound by contractual terms no less binding than the **Data Processing Agreement (DPA)** and follow a standard that meets or exceeds the standard provided for in the **Data Privacy Statement (DPS)**. To the extent such subcontractors receive or have access to Personal Data at locations outside the EU/the EEC, Unify is obligated to arrange for adequate contractual measures that provide for a level of data protection that satisfies the requirements of the EU Data Protection Requirements, e.g. by means of EU Standard Contractual Clauses, , or similar arrangements.

8.6 Unify your Accredited Reseller has no control over, and is not responsible for, the privacy of any Circuit User Data that you have shared with others, so always use caution when giving out any Circuit User Data that may contain Personal Data or other sensitive information. You agree to meet all statutory required preconditions for your intended use of Circuit and the Circuit User Data for which you are responsible, e.g. by obtaining consent from employees so that in this regard Unify can provide Circuit without infringing any Applicable Laws. You are in particular responsible for observing your workers council rights of co-determination, where applicable. You and your organization shall indemnify Unify from all claims and damages resulting from your failure to do so.

8.7 More details on Unify's data protection measures can be found in the **Data Privacy Statement (DPS)** which must be presented to each single Circuit User at their first login and can be accessed from within Circuit at any time.

8.8 If you represent an organization that signs up several Circuit Users for Circuit (Customer), you acknowledge and accept that primarily the **Data Processing Agreement (DPA)** shall determine your data privacy relationship with your Accredited Reseller. Thereunder, your Accredited Reseller will act as the data processor and you will be the data controller. Your Accredited Reseller holds a DPA – possibly via Distributors – ultimately with Unify. The DPA takes precedence over the DPS.

You hereby also agree that the terms of the DPA, where applicable, and the DPS shall apply to each of your organization's Circuit Users, and that you will take appropriate measures to ensure these terms are binding upon them.

9. Security

9.1 Unify is obligated to implement commercially reasonable technical and organizational measures designed to secure your Personal Data and Circuit User Data from accidental loss and from unauthorized access, use, alteration or disclosure.

9.2 Neither your Accredited Reseller nor Unify guarantee that unauthorized third parties will never be able to defeat those measures or use your Personal Data and Circuit User Data for improper purposes. You acknowledge that you provide your Personal Data at your own risk and that your

Accredited Reseller's and Unify's liability with respect to Personal Data shall be limited as stipulated in this Agreement.

9.3 You are entirely responsible for maintaining the confidentiality of all of your access credentials to your Circuit accounts, in particular with regard to the Circuit Tenancy Administrator. None of your Circuit User's may use any other Circuit User's Circuit Account at any time without the permission of the affected Circuit User.

9.4 You must know the identity of any Circuit User you sign up or invite, including Guest Users. You may not permit parties that are unknown to you, or who have not identified themselves to you, to use Circuit. Failure to do so may result in Unify blocking access to single Circuit Accounts or, in serious cases, of your entire access to Circuit.

9.5 You agree to notify your Accredited Reseller immediately of any unauthorized use of your Circuit Accounts or any other breach of security. Neither your Accredited Reseller nor Unify will be liable for any loss that you may incur as a result of someone else using your passwords or circuit Accounts, either with or without your knowledge. You acknowledge and agree that in such event you could in turn be held liable for losses incurred by Unify, your Accredited Reseller or another party due to someone else using your Circuit Accounts or passwords.

10. Local availability may be limited

Circuit may not be available in, or accessible from, all countries or for use in a particular location. You are responsible for following the Applicable Laws in your jurisdiction, state or country and must not use Circuit, if such use would result in a breach of local Applicable Law. We reserve the right to modify or disable features and functionalities of Circuit and/or any related services, if required to comply with local Applicable Laws. In some cases some of your Circuit Users may need to use a separate instance of Circuit. Unify has the right to block access to Circuit from certain countries or jurisdictions. Such limitation or modification or disablement does not entitle you to prematurely terminate the Agreement.

Please contact your Accredited Reseller, for the latest list of countries in which Circuit is available, and to learn about any functional variations applicable in certain countries or jurisdictions.

11. License, Copyright and Ownership of Circuit

11.1 Subject to the terms of this Agreement, your Accredited Reseller grants you, effective upon confirmation of acceptance of your subscription application, and then for each version of Circuit that is made available to you under the Agreement, a worldwide, revocable (pursuant to any termination of the Agreement), non-exclusive, and non-transferable right under our Intellectual Property Rights to access and use Circuit from any technically compatible device that is controlled by your organization, within the scope described in this Agreement and the Documentation.

11.2 Save for this right to access and use Circuit, all title to and all Intellectual Property Rights in Circuit, including but not limited to all modifications thereto, be they based on Feedback or not, shall remain the exclusive property of Unify and shall not be used in any way other than as described in this Agreement or the Documentation. You acknowledge that Circuit and all Intellectual Property Rights with respect thereto are and will at all times be the property of Unify, even if suggestions made by you, e.g. as part of Feedback, are incorporated into subsequent versions of Circuit.

11.3 You do not have any rights to disclose, sublicense, or otherwise transfer access to Circuit or any software that may be made available to you for download as part of your subscription to Circuit, or the related documentation, or other of Unify's proprietary information. You may not sub-rent or sub-lease Circuit to any third party, including any of your Affiliates, unless explicitly agreed in writing with your Accredited Reseller. You may not reverse engineer, reproduce, de-compile or disassemble Circuit, except to the extent expressly permitted by Applicable Law. You agree not to claim or assert title to or ownership of Circuit.

12. Downloadable Software

12.1 In order to use some features of Circuit, or to use Circuit on some devices, you may have to download and install software, e.g. an app for a smartphone or tablet device, or a plugin. Such software is licensed to you under the terms of the Agreement and, in addition, the terms of our **End User Agreement (EULA)** apply. In some cases, the software may contain third-party software components, e.g. Freeware or Open Source Software, which may be subject to additional Third Party EULAs or Open Source Licenses, respectively. Such separate licensing terms shall prevail over Unify's EULA. A copy of the EULA and the separate licensing terms, if any, may be obtained from Unify or the relevant Unify Partner prior to entering the Agreement.

12.2 The EULA and any separate licensing terms will be shown during the installation process or are included in the Documentation. Any installation of the software is subject to your acceptance of those license terms. If you do not want to accept them, you may not use the downloadable software.

12.3 The software shall only be delivered and licensed in object code form i.e. executable, machine-readable form. There is no claim to delivery of the source code. Insofar as the terms of Open Source Licenses provide for the provision of source code, we may elect to make the source code available (a) by including it in the software delivery or (b) upon your request, send separate media in return for reimbursement of expenses, or (c) through our website. Option (b) shall always be available, and covers the relevant Open Source Software used in the current version Circuit and all preceding versions, going back to at least three (3) years.

12.4 You may copy such downloadable software for backup or archival purposes, or as part of using Circuit, but for no other purpose. You may not remove or alter any copyright or proprietary notice. You may not reverse engineer, decompile or disassemble the software save where explicitly permitted by law or by applicable Open Source Licenses. Distribution within your business or organization by other means than Circuit (e.g. internal software distribution system) is permitted only to the extent that downloadable software is distributed soley to and for the use of your Circuit Users.

13. Warranties

13.1 Circuit is provided in a professional manner, but your Accredited Reseller does not warrant that your use of Circuit will always be uninterrupted or error free. The quality and manner of the provision of Circuit is described in more detail in and **Annex - Service Level Agreement (SLA)**.

For trial uses and FREE service packages, see section 20.

13.2 If there is a Defect in Circuit, your Accredited Reseller is obligated to work with Unify to remedy such Defect at own cost and expense, provided that you notify Unify of such Defect at least in text form without undue delay and in any case not later than five (5) Business Days from your knowledge of the Defect.

13.3 You will render reasonable assistance free of charge, in particular by a prompt implementation of any work-around solution or the sending of logs. You bear the reasonable costs of an improper assertion of a Defect, in particular if it turns out that Circuit is actually not defective or if Unify is not responsible for the Defect, provided you could have avoided the improper assertion by applying reasonable care when examining the Defect.

13.4 Your Accredited Reseller and Unify have the right to decide, at its sole discretion, how and when the Defect will be fixed and whether a workaround will be provided or a correction release of Circuit or the affected.

13.5 With respect to Defects that are within Unify's area of responsibility , your sole remedy is to claim a Service Level Credit to the extent set forth in **Annex - Service Level Agreement (SLA)**, for eligible subscription plans. If the Defect is not remedied and materially impairs your use of Circuit in accordance with the Agreement on an ongoing basis, you may terminate the Agreement without regard to the minimum term requirement. In this case, prepaid Fees (if any) shall be refunded to you on a *pro rata* basis i.e. from the time your termination becomes effective.

13.6 Unify and your Accredited Reseller shall be exempt from its obligations set forth in this Agreement and may be entitled to an extension of time and a claim for additional costs, if and to the extent Unify is prevented from performing such obligations or is delayed in the

performance of such obligations, due to non-fulfillment of your obligations under this Agreement, or in a case of Force Majeure.

13.7 Nothing in this Agreement shall be construed as a guarantee or warranty unless otherwise expressly provided for herein with the words "guarantee" or "warranty

13.8 The provisions of this section 13 are exhaustive with respect to claims based on Defects. Circuit is otherwise provided "as is" and as available. Neither Unify or your Accredited Reseller make any warranties, either express or implied, including without limitation any implied warranties for merchantability or fitness for a particular purpose. All other rights and remedies shall be excluded. Notwithstanding the above, Unify's and your Accredited Resellers statutory liability for intent, bodily damage, fraudulent behaviour, misrepresentation or under applicable product liability law shall not be affected hereby. This also applies to any other liability which cannot, by Applicable Law, be excluded.

14. Intellectual Property Rights Indemnification

14.1 Your Accredited Reseller will indemnify you against liability resulting from (a) a final judgment in proceedings brought by a third party against you that determines that Circuit infringes such third party's Intellectual Property Rights, or (b) a written settlement reached between you and the third party with respect to an asserted infringement of such third party's Intellectual Property Rights, provided that Unify gave its prior written consent to the settlement, including reasonable attoorney's fees incurred in connection therewith.

14.2 Your Accredited Reseller, in cooperation with Unify,may also, at Unify's sole discretion and cost,procure from such third party the Intellectual Property Rights necessary to continue to provide Circuit to you ; or modify or replace the respective part of Circuit with substantially similar functionality in order to avoid the infringement. If Unify fails to provide these remedies, either Party may terminate the Agreement without regard to any minimum term and Unify will refund you any remaining prepaid Fees.

14.3 You will not acknowledge any infringement alleged by a third party. In the event you elect to cease using the part of Circuit affected by the alleged claim, or Circuit altogether, to minimize the expected damages or for other good reasons, you will inform the third party that the cessation of use does not imply any acknowledgment of the alleged infringement.

14.4 Your Accredited Reseller's obligation to indemnify you shall be excluded to the extent that the alleged infringement is attributable to you and in particular if it is due to (a) misuse or any use of Circuit in a manner not authorized by or contrary to your Accredited Reseller's instructions or for a purpose not reasonably contemplated by your Accredited Reseller; (b) the use of any component of Circuit in combination with any hardware equipment, system environment or third-party applications not specifically approved by your Accredited Reseller; (c) with respect to downloadable software and without limitation to your rights under Open Source Licenses, a modification thereof that was done without your Accredited Reseller prior written consent; (d) use of Circuit outside the scope of the rights of use granted to you under the Agreement; (e) with respect to downloadable software your failure to use corrections provided or recommended by your Accredited Reseller, including generally available corrections and security fixes for the underlying hardware equipment, third party software or system environment; (f) any claims relating to a Standard; or (g) in any event where we followed a design or instruction furnished or given by you.

14.5 You shall defend and indemnify Accredited Reseller against any losses, costs, expenses, demands or liabilities arising out of a claim by a third party alleging any infringement if (a) the claim arises from an event specified in section 14.4; (b) Accredited Reseller ability to defend against the alleged claim has been prejudiced by your failure to comply with any requirements of section 14.4; or (c) the claim arises from the use of the Customer Network.

14.7 The provisions of this section 14 are exhaustive with respect to claims related to an alleged or actual infringement of third-party Intellectual Property Rights, unless Unify acted with intent or fraudulently. All other rights and remedies shall be excluded.

15. Liability

15.1 Subject to the provisions of this section 15, your Accredited Reseller's liability whether by way of indemnity or otherwise for each event or connected series of events (*Fortsetzungszusammenhang*) arising out of or in connection with the Agreement shall be limited to the lesser of (i) 25% of the Agreement Value or (ii) EUR 100.000. Your Accredited Reseller's aggregate liability under the Agreement shall be limited to an amount equal to 50% of the Agreement Value.

15.2 Your Accredited Reseller is not liable for loss of profit (*entgangener Gewinn*), indirect damages (*mittelbare Schäden*), consequential damages (*Folgeschäden*), including loss of business, loss of contracts, interruption of business (*Betriebsausfallschaden*), expenditures incurred and rendered unnecessary (*vergebliche und frustrierte Aufwendungen*), loss or corruption of Circuit User Data, or, without limitation to section 16, claims raised by a third party against you.

15.3 The liability of your Accredited Reseller for loss or corruption of Circuit User Data shall be limited to the time and cost for restoring the data from the regular, general backups of the Circuit platform Unify is obligated to make as part of Unify's normal operations. You will also ensure that important Circuit User Data is not stored on Circuit alone, and will provide for that backups or copies of such Circuit User Data are made on a regular basis. You will not use Circuit as your sole means of storing such important data.

15.4 Nothing in the Agreement shall be construed to limit either Party's liability for fraud or fraudulent misrepresentation, intentional acts or omissions, gross negligence as well as liability under a guarantee, or any mandatory Applicable Laws, e.g. the German the Product Liability Act or any mandatory Applicable Laws.

15.5 In an event of slight negligence (*leichte Fahrlässigkeit*), the limitation of liability pursuant to sections 17.1 and 17.2 shall not apply to breaches of a material contractual obligation (a "cardinal duty", *Kardinalpflicht*). A cardinal duty in the meaning of this section 17 is an obligation whose fulfilment makes the implementation of this contract possible in the first place and on the fulfilment of which the contractual partner may therefore generally rely.

15.6 Unless specified otherwise in your applicable service package, your claims to service level credits as per **Annex - Service Level Agreement (SLA)** shall become time barred six (6) weeks after the Incident occurred. Claims with respect to Defects shall become time barred twelve (12) months from their respective accrual. All other claims that you may be entitled to shall become time barred six (6) months from date on which you became aware or should have become aware of the respective claim, but no later than twelve (12) months from their respective accrual. Any claims based on intent shall not be affected thereby.

16. Term and Termination

16.1 If you submit your registration for the Circuit subscription via the Circuit Portal, the Agreement becomes effective on the date your registration is accepted, as indicated through the confirmatory email which will be sent to you. If you submit the registration to Circuit "offline", i.e. from one of your Accredited Reseller's sales representatives, the Agreement becomes effective on the date it is signed by both Parties or on the individually agreed date (each the "Effective Date").

16.2 The minimum term of a paid-for subscription is twelve (12) months from the Effective Date. Thereafter, the term shall renew automatically for consecutive twelve (12) month periods until the Agreement is terminated with a notice period of three (3) months to the end of the minimum term or any extension term. A different minimum term may apply, depending on special offers.

16.3 Nothing in this Agreement shall be construed to limit the right of a Party to terminate for good cause in accordance with Applicable Laws.

16.4 Without liability to you, each and any Circuit User who does not comply with the terms of this Agreement, the **Acceptable Use Policy (AUP)** or the **Support Forum Rules (SFR)** for Circuit may be suspended, provided the dispute resolution procedure was not successful. Your Circuit Tenancy may also be suspended in its entirety or in parts without notice and without giving prior notice, if (a) it is reasonably determined that you have grossly violated this Agreement or (b) Unify of the Accredited Reseller are ordered to do so by a court or authority in any country.

Unify may, upon such suspenstion or termination, deactivate or delete and bar access to all of your Circuit Users and Circuit User Data,without refund or compensation.

16.5   Upon receipt of the termination notice, you will be provided with a facility from which you can download your Circuit User's Circuit User Content prior to the expiry of the Agreement, unless prohibited by Applicable Laws. In general, the download facility will be made available for up to thirty (30) days from expiry of the Agreement. Upon expiry of that period, Unify may completely remove all of your Circuit User Accounts together with all Circuit User Data that such Circuit Users may have (still) stored in Circuit.

Upon the termination becoming effective, you will erase or otherwise destroy all copies of the downloadable software, including apps or plugins that you may have obtained through your subscription to Circuit. With the exception of the download facility, you will also cease to use any part of Circuit even if it should still be available to you.

In the event Unify terminated the Agreement for good cause attributable to you, Unify may make access to the download facility dependant on the payment of all outstanding fees, and prepayment of the fees for the relevant time during which the download facility is to be provided.

16.6   Notwithstanding any minimum term commitment, the Agreement may be terminated by the Accredited Reseller at any time with effect to the end of a calendar month, giving at least one (1) year advance notice, if Unify declares Circuit to be end-of-life.

17.   Changes to Circuit and the Agreement

17.1   Unify may, at any time and at its sole discretion, further develop and expand Circuit and may replace or update or extend certain functionalities of Circuit by functionally equivalent functions. Unify may select and/or modify at its sole discretion the equipment, hardware, software including utilities and tools, telecommunications equipment and terminals, IT systems and other items including the associated documentation (e.g. operating instructions, application guides and specifications) and the configuration used to provide Circuit to you, provided that this does not materially impair the provision of Circuit to you. Where feasible, Unify will announce possible changes in Circuit that affect the system requirements, adequately in advance.

17.2   Unify may at any time change the terms of this Agreement and the other terms and conditions referenced by it, or add or remove functionality or implement other changes that require changes on your side, such as a change of your browser, microphone settings or the exporting of data. In this case, your Accredited Reseller will provide you with thirty (30) days notice by sending an email to the Customer Contact, and, at Unify'sdiscretion, also in other suitable forms. If you do nothing and continue to use Circuit after the change becomes effective, you are deemed to have accepted the changed terms.

If you do not want to accept the changed terms, you may terminate your subscription to Circuit with effect as of the date the change to the terms of the Agreement becomes effective. In this case, you must send Unify a notice, through the Customer Contact.

If Unify has to implement a change because there is a requirement under Applicable Laws which cannot be reasonably and in a legally compliant manner be avoided or circumvented, Unify will still inform you of the changes, but you do not have a right to terminate.

18.   Subcontractors

You understand that Unify may, at itssole discretion, use subcontractors and third-party suppliers for the performance of any of Unify's obligations under the Agreement.

19.   Export Control Regulations

19.1   Any obligation of Unify or your Accredited Reseller under the Agreement are subject to the proviso that fulfillment is not restricted by any impediments arising out of the Applicable Export Control Laws. You, the Customer, represent that you are not a citizen of an embargoed country or a prohibited end user under Applicable Export Control Laws.

19.2   If you transfer Goods (for the purpose of this section 19, the term "Goods" refers to hardware and/or software and/or technology as well as corresponding documentation that is made

available to you in any form, regardless of the mode of provision and explicitly including software that is made available in SaaS form, including Circuit) delivered by your Accredited Reseller, or works or services (including all kinds of technical support) performed by Accredited Reseller, to a third party, or if the you re-export such Goods, works or services, you must comply with the Applicable Export Control Laws.

19.3 Prior to any transfer or export/re-export of Goods, works or services, you must in particular check and ensure by taking appropriate and verified contractual, technical and organizational measures that

- there will be no infringement of an embargo imposed by the Federal Republic of Germany and/or the European Union and/or the United States of America and/ or the United Nations by such transfer or export/re-export, by brokering of agreements concerning those Goods, works or services or by provision of other economic resources in connection with those Goods, works or services, also considering the limitations of domestic business and prohibitions of by-passing those embargos;
- such Goods, works and services are not intended for use in connection with armaments, nuclear technology or weapons, if and to the extent such use is subject to prohibition or authorization, unless you have obtained the required authorization;
- you are at all times in compliance with the regulations of all applicable "Sanctioned Party Lists" or "Denied Persons Lists" or similar lists of the Federal Republic of Germany, the European Union and the United States of America concerning the trading with entities, persons and organizations listed therein.

19.4 If so required to enable a competent export control or customs authority or Unify to conduct export control or customs checks, you will, upon Unify's or such authority' request, promptly provide Unify and the authority with all relevant information pertaining to the particular end-user or end-customer (e.g. the Circuit Users), the particular destination and the particular intended use of the Goods, works and services provided by Unify, as well as any export control restrictions required by Applicable Export Control Laws.

19.5 You will indemnify and hold harmless Unify from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any non-compliance of Customer with this section 19 and any breach of Applicable Export Control Laws, and you will compensate Unify for all losses and expenses resulting thereof.

20. Special Provisions for FREE subscriptions and trials

20.1 The terms of this section apply to FREE service package and trial subscriptions onlyand, take precedence over any other term of the Agreement with respect to Free service package or Trial subscriptions only. Please read carefully, as this kind of access to Circuit is subject to certain limitations not applicable to a paid-for subscription.

20.2 Under a subscription to the FREE service package for Circuit, Unify provide Circuit to you without charge.The FREE service package is subject to certain technical and functional limitations, as described in **Annex - Product and Service Description (PSD)**. You are under no obligation to purchase a paid-for subscription, and Unify is under no obligation to offer you a paid-for subscription.

20.3 You may upgrade from a FREE service package subscription to a paid-for subscription at any time.

20.4 Your Accredited Reseller does not charge you for the FREE service package subscription, and in turn you will not charge Unify or your Accredited Reseller for anything you do with, or submit to, Circuit, including Feedback.

20.5 There is no specific time limit to the FREE service package subscription, and Unify does not warrant that subscriptions to the FREE service package will always be available. Unify may discontinue to allow, or terminate, FREE service package subscriptions, or alter the technical or functional limitations at any time, giving at least four (4) weeks advance notice. You should not use a Free Service Package subscription or trial subscription (as further described in Section 20.8 below) with any data that you cannot afford to lose or with data of which you do not have a separate backup physically stored outside of Circuit, unless you intend to purchase a

subscription later. Keep this in mind when entering or creating or receiving data into Circuit under a FREE service package or a trial subscription.

20.6 Circuit is provided "as is" under the FREE or a trial subscriptions i.e. Unify will use reasonable efforts to provide Circuit to you, but Unify's service level commitments as per **Annex - Service Level Agreement (SLA)** do not apply. You understand that Circuit may not be available at all times and that no SLA credits are available to you under these subscriptions. You accept that the availability of Circuit may even be less than the lowest commitment Unify gives to its paid-for subscribers.

You understand and accept that you assume all risks of use, quality, and performance with respect to the FREE or trial use. Unify disclaims any and all warranties with respect to Circuit and the related Documentation, whether express or implied, including specifically implied warranties of merchantability and fitness for a particular purpose. Unify disclaims any liability for any problems in or caused by your trial use of Circuit, whether direct, indirect, special, or consequential, including loss of profits.

20.7 Unify's liability for the injury of life, body or health, for intent or in the case of mandatory statutory liabilityshall remain as per the Applicable Law. Any other claims for damages based on whatever legal reason, in particular loss of profit, data and/or information, consequential harm caused by a Defect, including infringement of duties arising in connection with the contract or tort, shall be excluded. Nothing in this section intends to limit Unify's mandatory statutory liability for intent, bodily damage, fraudulent behaviour, misrepresentation or under applicable *product liability la*w. This also applies to any other liability which cannot, by Applicable Law, be excluded.

20.8 A trial subscription must be individually arranged with your Accredited Reseller.

- You must have a FREE subscription which will then, for the term of the trial, be upgraded to have the advanced functionalities that are usually only available in the paid-for service packages.
- The Accredited Reseller does not charge you for the trial, but you understand that the service levels and SLA credits stipulated in **Annex - Service Level Agreement (SLA)** do not apply.
- Once your trial period nears its end, your Accredited Reseller may ask you if you would like to purchase a subscription.
- In the event you elect to upgrade to a paid-for service package, all of your existing Circuit Users and their Circuit User Data will be migrated and available under the new subscription plan.
  In the event you do not want to purchase a subscription, upon expiry of the trial term you and your Circuit Users will be downgraded again to the reduced set of functionalities available in the FREE service package subscription.
- Unify or your Accredited Reseller may elect to cease offering new trials at any time.

21. General Provisions

21.1 Proprietary Rights

As to the trademarks, industrial designmarks, names or domain names of Unify and of Unify's suppliers (for the purpose of this clause, "Marks"), Unify and they retain ownership of all Intellectual Property Rights in all of the Marks associated with or used in or displayed with Circuit. You may not frame or utilize framing techniques to enclose any of Unify's or Unify's suppliers' Marks of Unify's or of Unify's supplier's or other proprietary information (including images, text, page layout, or form) without Unify's express written consent. You may not use any meta tags or any other "hidden text" utilizing Unify's or Unify's suppliers' Marks without the respective Mark owner's written consent.

21.2 Language

This document is drawn in the English language. In some cases, we use German terms to be more precise, and in these cases, the German terms prevail.

21.3 Titles and Headings

The titles and headings of the various sections and paragraphs in the Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever or to explain, modify, or place any construction on any of the provisions of the Agreement.

Annex - Service Level Agreement (SLA)

Unify Produces the Circuit service and supports Circuit Users with a service level outlined in this Annex and grants credits in case it cannot meet these service levels and certain conditions apply. Your Accredited Reseller is entitled to offer you this SLA including the SLA Credits as part of your Agreement with the Accredited Reseller. Requests for SLA credits have to be placed with your Accredited Reseller and Accredited Reseller will effectuate the credits. There is no contractual relationship between you and Unify.

1. Definitions

In addition to the terms defined elsewhere in the Agreement, the following definitions apply:

- "Availability" means the time during which Circuit is available for access and use, subject to the exclusions described in this **Annex - Service Level Agreement (SLA)**, in particular section 2.
- "Availability Exceptions" means circumstances which are beyond our control and under which Circuit cannot be provided in accordance with our SLA commitments, as outlined below in section 2.1c).
- "Contracted Month" means a full monthly billing cycle during the term of the subscription, as agreed with the Customer as per **Annex – Pricing and Payment Terms**.
- "Downtime" means the total minutes in a Contracted Month during which the entirety of Circuit Core Service is unavailable. The unavailability of individual service features is not counted as Downtime, unless such unavailability renders the Circuit Core Service unavailable or unaccessible.
- "Resolution" means the measures taken to resolve an Incident. A Resolution can also be a workaround.
- "Response Time" means the time between receipt of a service request by the UHD and the time the UHD first responds to that service request, subject to the applicable Service Hours
- "Verified Downtime" means Downtime claimed by the Customer and verified by us, as set forth in this **Annex - Service Level Agreement (SLA)**.

2. Availability of Circuit

2.1 General

We will use commercially reasonable efforts to provide Circuit with 99.9% Availability, except for Downtimes within the scope of the following exclusions:

a) Scheduled Maintenance

This is Downtime scheduled in advance to install bug-fixes, updates, and to conduct other maintenance work. Scheduled Maintenance will, in general, be done outside times of peak use of Circuit. You will be notified about Scheduled Maintenance in textform at least two (2) days in advance.

b) Emergency Maintenance

In urgent cases, Downtime may be scheduled immediately if it is required to prevent or avoid damages, or to install bug-fixes which cannot be delayed until the next Scheduled Maintenance period, e.g. a security fix for a vulnerability that is considered to be "high". We will attempt to notify you and the other customers, but a shorter notice period than for Scheduled Maintenance may apply.

c) Availability Exceptions

These are Downtimes caused by:

- Force Majeure Events;
- Problems, Incidents and Defects caused by you, such as

  - Despite our warnings, continue to use Circuit in a manner that is dangerous or wrongful, in particular if such use violates the Acceptable Use Policy (AUP);
  - Any unauthorized action or inaction from your employees, agents, contractors, or vendors with respect to Circuit, or if anyone gains access to our network by using your passwords or equipment without your permission;
  - Your failure to adhere to any required configurations, platforms, software or hardware;
  - Your failure to follow any applicable policies for acceptable use, including any uses of Circuit that violate the Acceptable Use Policy (AUP).

- Problems, Incidents and Defects caused by third parties's software (including any third party services or software such as browsers that you use) or third parties's hardware (including your network equipment), provided these are not under our control or were not recommended for Circuit;
- Failure of the Internet connection between you and our Point-of-Presence for the data centres providing Circuit;

Also excluded are any downtimes affecting Circuit User accounts that were not subject to a paid-for Service Package at the time of the Incident (including, but not limited to, the FREE service package subscriptions or trial subscriptions for example).

2.2 Availability Credits

a) In the event we fail to meet the availability targets for Circuit for the Contracted Month, you may claim an Availability Credit as per the table below.

You must submit your claim to an Availability Credit through your Customer Contact no later than ten (10) Business Days after the invoice date or, if later, the end of the billing period which is subject to the claim via a service request on Circuit Portal. The service request must contain the invoice and reasonable details on the claimed downtime and the availability level not met.

We will verify with reasonable judgement the claimed Downtime and respond to the claim within ten (10) Business Days, if the claim could be verified by us (Verified Downtime) and which Availability Credit will be applied.

b) The following Availability Credits refer to the Service Packages and Package options described in more detail in **Annex - Product and Services Description (PSD)** and **Annex – Pricing and Payment Terms**, and will be applied to Achieved Availability Levels:

Achieved Availability Level	Availability Credit per Service Package		
	ENTERPRISE, Package Options	PROFESSIONAL	TEAM
< 99.9 % but > 99.5%	2.5%	-	-
< 99.5% but > 99.0%	5%	2.5%	-
< 99.0% but > 98.5%	7.5%	5%	2.5%
< 98.5% but > 98.0%	10%	7.5%	5%
< 98.0% but > 97.5%	12.5%	10%	7.5%
< 97.5% but > 97.0%	15%	12.5%	10%
< 97.0% but > 96.5%	17.5%	15%	12.5%
< 96.5% but > 96.0%	20%	17.5%	15%
< 96.0% but > 95.5%	22.5%	20%	17.5%
< 95.5% but > 95.0%	25%	22.5%	20%

< 95.0% but > 90.0%	50%	25%	22.5%
< 90.0%	100%	50%	25%

For Package Options, the SLA credits for "ENTERPRISE" apply.

Calculation:

- Availability Credits refer to the invoice of the billing period which is subject to the claim.
- Credited Amount is calculated by multiplying the Availability Credits with the respective invoice amounts for each Service Package and Package Options and taking the sum over these products.
- The Achieved Availability Level is calculated as follows: the difference between (a) the total number of minutes of the Contracted Month less (b) the total number of minutes of the Qualified Downtime, divided by (c) the total number of minutes of the Contracted Month.
- The Qualified Downtime is calculated as follows: Verified Downtime less (a) the total number of minutes of Scheduled Maintenance and Emergency Maintenance of the Contracted Month and (b) the total number of minutes of Availability Exceptions, as defined above.

- Example for the calculation of Availability Credit:

    - Assumptions:

        - Billing period: May 12 to June 11
        - Invoiced amount for that month: 300 EUR for Circuit Users assigned to the ENTERPRISE Service Package, 200 EUR / PROFESSIONAL, 100 EUR / TEAM, and 100 EUR for Package Options (or USD or other invoice currency)
        - 300 minutes of Qualified Downtime in that billing priod (31 days).

    - Total number of minutes in the Contracted Month = 31days x 24h x 60mins = 44,640 minutes.
    - Achieved Availability Level = (44,640 – 300) / 44,640 = 99.32%.
    - The resulting Avaliability Credits are 5% for Circuit Users assigned to ENTERPRISE Service Package, 2.5% / PROFESSIONAL, 0% / TEAM, and 5% for Package Options.
    - The Credited Amount calculates as this: 5% of 300 EUR for Circuit Users assigned to the ENTERPRISE Service Package, plus 2.5% of 200 EUR /PROFESSIONAL, plus 0% of 100 EUR / TEAM + 5% x 100 EUR for Package Options = 25 EUR (or USD or other invoice currency).

c) The Availability Credit will be applied to the invoice following our response to availability credit claim. The availability credit cannot exceed 100% of the invoiced amount, nor can availability credits be accumulated over several Contracted Months. There is no refund of Availability Credits for the last two months of the subscription in case the subscription is not renewed.

d) Eligibility:

In order to be eligible for Availability Credits, you must not be

- late with your monthly payments,
- in violation of the Acceptable Use Policy (AUP)
- otherwise in material breach of the Term of Service (TOS)

e) Availability Credits will only be awarded if you have a paid-for subscription to Circuit. Availability credits are not available if you are subscribed to a FREE service package trial subscription, or any other unpaid for test or evaluation subscription .

2.3 Availability Credits are your sole and exclusive remedy with respect to any claim for Defects in Circuit. In particular, no Fees will be refunded. This shall not affect your right to terminate the Agreement for cause, as stipulated in the Term of Service (TOS).

3. **Support for Circuit Users**

3.1 User support services and defined and offered by your Accredited Reseller and subject to your Agreement with the Accredited Reseller. Unify generally produces the following support facilities to Circuit Users:

- Self help via the Circuit Support Portal,
- User Help Desk (UHD),
- Processing of service requests, i.e. the opening of tickets for Defects.

The different support facilities are described in more detail in **Annex - Product and Services Description (PSD)**. Some of these support facilities are only available to you if you have subscribed to the corresponding Service Package. The extent to which you have access to these facilities and how these facilities are provided to you is subject to your Agreement with your Accredited Reseller

3.2 The Circuit Self Service facilities are an integral part of Circuit and therefore are covered by the preceding section on the availability of Circuit. There is no separate availability commitment for the Circuit Support Portal.

3.3 The availability of the UHD is described **Annex - Product and Services Description (PSD)**. We will make commercially reasonable efforts to respond to user requests as quickly as possible. There are no SLA credits for UHD services.

3.4 For requests placed to Circuit UHD or for tickets Unify is obligated to make commercially reasonable efforts to achieve the Response Time objective described below, depending on the priority level of the service request:

Priority	Response Time objective
Priority Level 1	1 hour
Priority Level 2	2 hours
Priority Level 3	24 hours

3.5 Response Times are measured from the point in time on when the service request is received by Unify if that point in time falls within a Service Hour of the UHD, otherwise from when the next Service Hour period commences. If the Response Time for a service request exceeds the Service Hour of the UHD, the measuring of the Response Time will continue once the subsequent Service Hour period of the UHD begins. The measuring ends once the service request has been responded to, which can include email notification of the submitting Circuit User.

3.6 Priority Levels will be defined by us when the Circuit User places the service request. We reserve the right to re-set the Priority Level as the service request is handled per the definitions below as part of the response to the service request, giving reasons.

- "Priority Level 1" means Incidents where Circuit in its entirety, as it is described in the Agreement and in particular in **Annex - Product and Services Description (PSD)**, is not available to all of your Circuit Users.
- "Priority Level 2" means Incidents where relevant parts or functionalities of Circuit, such as the search function, storage access, content sharing, etc., as they are described in the Agreement and in particular in **Annex - Product and Services Description (PSD)** are not available.
- "Priority Level 3" means incidents that are not assigned to priority levels 1 and 2.

There is not credit if the objectives for the Response Time and the provision of a Resolution are not met.

Annex - Pricing and Payment Terms (PPT) for Circuit

1. Fees & Pricing plan

The fees for your Circuit subscription are set by your Accredited Reseller. Unify published the following recommended selling prices (RSP).

1.1 Monthly Fees

a) Service Packages

Circuit is available in the following packages and corresponding monthly fees (RSP) per seat:

Service Package	FREE	TEAM	PROFESSIONAL	ENTERPRISE
Fee per user and month	-/-	USD 3,95 EUR 3,95 GBP 2,95 CHF 3,95	USD 6,95 EUR 6,95 GBP 4,95 CHF 6,95	USD 14,95 EUR 14,95 GBP 10,95 CHF 14,95

Details on the functionality included in each of the service packages can be found in **Annex - Product and Service Description (PSD)**. Other service packages may be added over time.

Once either the booked volume limits are reached (e.g. storage) or additional functionality is required, you must decide whether to upgrade to a higher-level paid-for service package of Circuit, and also which of your Circuit Users shall be converted. You cannot downgrade Circuit Users to a lower-level service package.

b) Package Options

Package options are either increments of existing or new functionality as addon to available packages. The table below describes avaible package options and conditions

Package option	Available in Service Packages	Price per Package Option and Month	Amend
Additional Storage: 100 GB	TEAM PROFESSIONAL ENTERPRISE	USD 20,00 EUR 20,00 GBP 15,00 CHF 20,00	Only increase, no decrease

Package options are only available for paid-for Service Packages as described in sec. 1.1a). Other package options my be added over time.

c) Free Service Package Subscription

With FREE service package subscriptions, Unify offers a service package with a limited set of functionality that can be used free-of-charge. See the provisions for FREE in the TOS for details. Once you decide to convert to a paid-for subscription, you must upgrade all of your Circuit Users that you wish to keep to the Service Package that you chose. Circuit Users added to a FREE service package subscription that are not upgraded will be deleted from your Circuit Tenancy, including their Circuit User Data.

2. Changes to Fees (RSP)

2.1 Unify may at any time adjust the Fees, provided that such adjustment reflects objectively justified changes in Unify's costs for personnel, material, hosting, third-party provided services for Circuit or other costs factors. In this case, Unify will provide you with thirty (30) days prior notice by sending an email to the Customer Contact. If a minimum term was agreed, Unify shall only increase the Fees once the first twelve (12) months of such a minimum term have expired.

6.2 If you do not want to accept the adjustment, you may extaordinarily terminate your subscription to Circuit with effect as of the date the adjustment becomes effective. In this case, you will send Unify a written notice, e.g. through the Customer Contact.

If the change to the Fees is mandatory for Unify because of Applicable Laws, e.g. a change in taxes, Unify will still inform you of the changes, but you will not have the right for extaordinary termination.

6.3 Unify may, at any time, add features and functionalities to Circuit that Unify may make available only for additional fees. To upgrade your subscription, you may need to log in with the Circuit Tenancy Administrator account or contact your sales representative at Unify or your Accredited Reseller.

Annex – Definitions

Version 2.0 as of August 2016

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The capitalized terms used in this Agreement and the documents referenced herein are defined as follows:

"Acceptable Use Policy" or "AUP" means a framework of rules and regulations that aim to ensure that everyone who uses Circuit enjoys a productive, disruption-free and safe use of Circuit. It describes what Unify deems to be acceptable use of Circuit, what not, and what will happen if there is a violation of the AUP.

"Agreement" means, collectively, terms and conditions under which you are granted access to Circuit and all other documents referenced therein. The Agreement consists of the Terms of Service (TOS) for Circuit, together with the Annexes Product and Service Description (PSD), Payment and Pricing Terms (PPT), the Service Level Agreement (SLA) and this Annex Definitions, as well as the End User License Agreement (EULA) for Circuit, the Acceptable Use Policy (AUP), the Support Forum Rules (SFR), the Data Privacy Statement (DPS) and, where applicable, the Data Processing Agreement (DPA).

"Agreement Value" means the total amount of the recurring Fees you actually paid to Unify under the Agreement in the twelve (12) month period preceding the event that leads to liability or, if the term of the Agreement has been less than twelve (12) months, the total amount of the recurring Fees that would have been paid had the Agreement continued for twelve (12) months, calculated as per the median amount of the Fees that were already paid to Unify until the relevant event.

"Applicable Export Control Laws" means any national and international foreign trade and customs requirements or any embargos or other sanctions such as anti-terrorism-laws, denied persons lists or similar stipulated by the Federal Republic of Germany, the European Union, the United States of America and other applicable national export laws, e.g. from the country/jurisdiction where you or a Circuit User have its place of business. Applicable Export control Laws are a subset of Applicable Laws.

"Applicable Laws" means and includes all laws, statutes, regulations, directions, guidelines and codes of conduct of any governmental or Regulator of competent jurisdiction and any orders of any Regulator or other administration or court or other tribunal of competent jurisdiction which are applicable to this Agreement, you, Unify or to the performance of either your or Unify's obligations under this Agreement.

"Business Day" means the days of the week during which most businesses are operating, usually Monday to Friday except local public holidays or bank holidays. In order to determine the timeliness of a notice, the schedule of Business Days applicable to the receiving party shall prevail, while the timeliness of an action shall be determined by the schedule of Business Days applicable to the party obliged to take the action.

"Circuit" means, collectively, all "Circuit", "Unify Circuit" or "Circuit by Unify" branded products and services provided by Unify to you in connection with Circuit, as further described in the Agreement.

"Circuit App" means an application for mobile devices which can be used to access Circuit.

"Circuit Core Services" means the application "Circuit" as defined in **Annex - Product and Service Description (PSD)**. The ancilliary facilities of Circuit, such as the Circuit Portal's section attending to the management of (new) subscriptions, the Circuit Support Forum, or optional plugins or features that must be activated and/or downloaded separately, are excluded.

"Circuit Directory" means a directory of the Circuit Users assigned to you, which can be browsed by every other Circuit User in your Circuit Tenancy.

"Circuit Enterprise User" means a Circuit User account which can make use of the full functionality of Circuit, as compared to a Circuit Guest User account that has only limited funtionality.

"Circuit Portal" means the website where you log in to Circuit and where subscriptions to Circuits are entered into.

"Circuit Self Service" means a set of self-service support facilities for Circuit, such as a FAQ and the Circuit Support Forum.

"Circuit Support Forum" means a section of the Circuit Support Portal which allows Circuit Users from all customers and Circuit Tenancies to discuss their questions regarding Circuit, and to post and receive troubleshooting information. Use of the Circuit Support Forum is governed by the **Support Forum Rules (SFR)**.

"Circuit Support Portal" means a web based form of support from which the different forms of support provided by Unify can be accessed. The exact scope of the support is determined by the applicable service package.

"Circuit Tenancy" means the logically separated segment or domain on the Circuit platform that is dedicated to you and your Circuit Users.

"Circuit Tenancy Administrator" refers to a Circuit Enterprise User who has been granted access to the Customer's administration console for Circuit. The Circuit Tenancy Administrator may create Circuit Enterprise Users and other Circuit Users, and may grant other Circuit Enterprise Users access to the administration console to, thereby making them also a Circuit Tenancy Administrator. The first Circuit Tenancy Administrator is automatically created upon signup to Circuit together with the Customer Contact. Unify recommends that the Customer uses special care when selecting and storing the password for the account of the Circuit Tenancy Administrator.

"Circuit User" means, collectively, the different kind of user accounts linked to a particular customer. You are responsible for all activities of your Circuit Users and of their compliance with the Agreement and in particular their compliance with the **Acceptable Use Policy (AUP)**.

"Circuit User Contact Data" includes name, address, phone number, profile information, email address, title, time zone and other contact information that Unify may collect through an Circuit User's use of Circuit, or which you or the Circuit User may enter, or have entered, as part of the administration of your Circuit Tenancy or Circuit User account.

"Circuit User Data" or "Circuit User Content" includes, but is not limited to, all data, including all text, sound, software, image files, documents, photos, presentation slides, audio and/or video recordings, comments, questions, call entries and logs, transcripts, or other content, information or files that a Circuit User submits to Circuit, receives through Circuit, generates through using Circuit, stores inside Circuit, or otherwise creates by the use of Circuit. In other words, it means all data about and from you or one of your Circuit Users that was not there before you signed up for Circuit. It can also include, collectively, Circuit User Contact Data, Usage Data, and Support Data. Circuit User Data will often also contain Personal Data.

"Confidential Information" means all information and data, which a Party has received orally, in writing, electronically or otherwise from or on behalf of the other Party in connection with the Agreement, including all business, commercial and technical information and data, unless, according to the judgment of a prudent business man, such information and data cannot be considered as being of confidential nature.

"Conversation" refers to a number of conversation items (messages, files, realtime meetings via phone call, video, screenshare, etc.) shared between and viewable by all participants. Conversations can be "private" – in that users need to be explicitly added to the Conversation see the content or they can be "open" – in that any Circuit User can choose to join . Conversations are moderated by the

Conversation participants, with anyone in the Conversation having the capability to remove other people if necessary.

"Cross Tenancy Guest User" is an Circuit User created in another Circuit Tenancy, who is added to a Conversation in your Circuit Tenancy. Once the Circuit User from the other Circuit Tenancy has accepted the invitation, they have full access to the content of the specified Conversation, but they cannot access any other Conversation hosted in your Circuit Tenancy. A Cross Tenancy Guest User does not count against the number of Circuit User accounts you subscribed to.

"Customer", also referred to as "you", means you, your business or organization who is party to the Agreement and who is therefore responsible for the Circuit Users and their Circuit User Data in its Circuit Tenancy.

"Customer Contact" is a person within your business or organization who is assigned to be Unify's primary contact and who has the authority to act on behalf of your business or organization in respect of all day-to-day activities relating to Circuit. This person must be named during the registration process, will also be the first Circuit User created in your Circuit Tenancy, and will therefore also (initially) hold the role of the Circuit Tenancy Administrator.

"Customer IT Policies" means the rules and regulations governing the use of your IT-Systems, e.g. your acceptable use policies.

"Customer Network" means any part of your network and the devices operated in it, including personal computers, active and passive data network equipment, telecommunications network applications and all associated equipment (including third party network components) which may be used for Circuit.

"Data Processing Agreement" or "DPA" is an agreement for commissioned data processing under which we will collect, store, and process Personal Data.

"Defect" means a reproducible failure of Circuit to comply with the specification of Circuit as described in **Annex - Product and Service Description (PSD)**.

"Documentation" means the technical and/or functional descriptions that are provided or made available to the Customer along with Circuit. The Documentation will in general be provided online. The Documentation includes, among other things, the description of performance characteristics, features or hardware and software requirements. If and to the extent required by the respective rights holder, the Documentation also comprises of the Open Source License texts or the special license conditions of a Freeware vendor or other commercial third party vendor of software.

"Effective Date" means the date on which the Agreement comes into force, as further described in the **Terms of Service (TOS)**.

 "End User License Agreement" or "EULA" means our set of license terms and conditions for the use of software by end users. While Circuit is, in principle, a cloud-based application, some of its components need to be downloaded and installed, such as apps for smartphones and tablets. These components are covered by the EULA. In addition, Open Source Licenses and Third Party EULAs may apply.

"EU Data Protection Requirements" means the EU Data Protection Directive 95/46/EC, or any directive or regulation replacing it.

"Fees" means the fees and prices for Circuit, as agreed between the Parties. There may be monthly, usage based or one-time Fees. See **Annex - Payment and Pricing Terms (PPT)** for details.

"Force Majeure Event" means any event beyond the reasonable control of a Party, including (i) damage to or destruction or compulsory purchase of the premises or other property belonging to the affected Party, (ii) fire, explosion, accident, lightning damage, electromagnetic interference; (iii) storm, earthquake, hurricane, tornado, flood, volcanic eruption or other natural disaster; (iv) war, threat of war, act of terrorism, insurrection, rebellion, riot or other civil unrest; (v) epidemics, pandemics, quarantine restrictions or other public health restrictions or advisories; (vi) strikes or lockouts or other labor interruptions; (vii) disruption to transport services; (viii) sanctions, embargoes or lack of materials, supplies or utilities, breaking off of diplomatic relations; (ix) the failure of any applicable governmental authority to issue any licenses or approvals, or the suspension, termination or revocation of any licenses or approvals, required for the operation of the affected Party's business or the performance of services, or any other circumstance as a result of which performance by the

affected party is prevented by law; or (x) in the case of Unify, the occurrence of any of the aforementioned events to its subcontractors or suppliers which result in their delay or failure to perform.

"Freeware" means a computer program which may be used without payment or other compensation (for example, by advertising). Freeware may be subject to special license conditions of the vendor, which, for example, may limit the right to distribute or redistribute the Freeware. Freeware may have functional limitations which a commercial version does not have. In general, the vendor of a Freeware does not grant access to the source code of the Freeware.

"Guest User" means Circuit User accounts for users outside your business or organization, to whom you want to provide temporary access to Circuit, under your full and sole responsibility and cost.

"Incident" means an event that affects the deliivery of Circuit, e.g. a case of non-performance of Circuit, or the failure to achieve a Service Level. Incidents are further described in **Annex - Product and Service Description (PSD)**.

"Intellectual Property Rights" means copyrights (including moral rights), patents, protected designs, registered designs, design rights, utility models, trademarks, service marks, business secrets, know-how, database rights, personal rights, company or business names, domain names and other rights of a similar type, in any country or jurisdiction, including all registrations, applications for registration, rights to apply for registration and licenses for or relating to such rights.

"Limited Role Guest User"[1] means a Circuit User account that has limited capabilities, e.g. it has no access to "open" Conversations. It is added to your Circuit Tenancy by your Circuit Tenancy Administrator. The Limited Role Guest User and his User Content are visible and seachable within your Circuit Tenancy. A Limited Role Guest Users does count against the number of Circuit User accounts you subscribed to.

"Open Source Software" or "OSS" means a computer program which is, in principle, available at no costs. which is licensed under an Open Source License and that is available either (a) in source code form only, or (b) in (executable) object code form and the source code is delivered together with the executable code.

"Open Source License" or "OSS License" means license terms to a computer program that give the user, beyond the right to use without license fee or royalty, rights of use which are usually reserved usually for the owner of the copyright to the computer program, for example the right to analyze the computer program as desired, to edit it, to merge it with other computer programs or to derive their own computer programs thereof and to distribute the results thereof (for the purposes of this provision, collectively referred to as "Work"). In turn, such license terms require that at least one of the following conditions is met: (a) the source code or design information regarding the Work must be made available; (b) the right to create derivative works regarding the Work must be granted; (c) a royalty-free license to any third party to use the intellectual property rights of the party embodied in the Work or (d) to identify the owner of the copyright to the unmodified Open Source Software. Open Source Licenses are, by example and without limitation, any version of the GNU General Public License (GPL) or the GNU Lesser General Public License (LGPL) or the Affero General Public License (AGPL) or similar open-source licenses, "free" licenses, and the general licenses to these as "public domain".

"Party" refers to either you or us, and "Parties" to you and us, collectively.

"Personal Data" means individual elements of information concerning the personal or material circumstances of an identified or identifiable natural person, as defined by Applicable Law.

"Product and Service Description" or "PSD" means the description of Circuit and the services associated with it. Some functions of Circuit and the associated services may only be available if you subscribe to an eligible service package. The PSD is an integral part of the Agreement.

"Professional Services" are individual, custom services rendered by us under terms negotiated separately from the Agreement. In the context of Circuit and depending on availability and technical feasibility, Professional Services might be used to pre-populate a large Circuit Tenancy, to establish interfaces between Circuit and other IT systems, or other consulting concerning the use of Circuit.

"Pricing and Payment Terms" or "PPT" is incorporated in this Agreement as **Annex - Pricing and Payment Terms (PPT)** and describes the prices and payment terms that are a applicable to your use of Circuit.

"Publish" means any uploading, publishing, displaying, linking to or otherwise making available any User Content in Circuit.

"Regulator" means any public authority which has or from time to time may have supervisory or regulatory authority over us and/or Circuit in accordance with Applicable Laws over any aspect of the performance or fulfilment of any rights, entitlements or obligations related to Circuit.

"Resolution" - Measures taken to resolve an incident. Can also be a workaround.

"Service Level Agreement" or "SLA" is incorporated in this Agreement as **Annex - Service Level Agreement (SLA)** and describes, basically, the level of service that you can expect expect from Unify with regard to Circuit.

"Service Levels" means the service performance metrics with corresponding service level objectives for the provision of Circuit.

"Session Guest User"[2] is a temporary Circuit User who is invited to a meeting (e.g. telco, videoconference, screenshare, etc.) hosted inside a Conversation of your Circuit Tenancy. The Session Guest User only sees what is shared in the meeting. After the end of the meeting they will continue to have access to the content of the meeting for one (1) month. A Session Guest User does not count against the number of Circuit User accounts you subscribed to.

"Standard" means any technical specification that is distributed, published, or otherwise made available by any consortium, standards organization, special interest group, or like entity, for the purpose of widespread industry adoption.

"Service Day" means a day on which Unify provides a particular Circuit Support Service, such as the UHD. Service Days for different Circuit support Services may vary, depending on the relevant Circuit Support Service and the applicable Circuit Support Plan.

"Service Hours" means the times on a Service Day on which a particular Circuit Support Service such as the UHD is available. Service Times may vary, depending on the relevant Circuit Support Service and the applicable Circuit Support Plan.

"Standard" means any technical specification that is distributed, published, or otherwise made available by any consortium, standards organization, special interest group, or like entity, for the purpose of widespread industry adoption.

"Support Data" means Usage Data that is collected when a Circuit User submits a support request, including information about the Circuit User's hardware and software environment when the fault occurred, and other related details, such as contact or authentication information, chat session personalization, data resulting from diagnostics, system and registry data about software installations, hardware configurations, and error-tracking files or screenshots.

"Terms of Service" or "TOS" means the core terms and conditions under which we makes Circuit available. It is part of the Agreement.

"Third Party End User License Agreement" or "Third Party EULA" means a set of license terms and conditions from the vendor of a commercial third party component or a Freeware, whose acceptance is made a prerequisite by such vendor for granting the right to use the respective third party component or Freeware.

"Unify", also referred to as "we", means the Unify entity with whom you enter into the Agreement.

"Unify Partner" means a distributor, reseller, system-integrator, sales agent or other organization authorized by us to solicit customers for Circuit and to offer you subscriptions to Circuit. In general, a Unify Partner will arrange for a contract between you and us. A true reseller providing Circuit on their own account will indicate so in their terms and conditions.

"Usage Data" means statistical data, analytics, trends and usage information derived from each Circuit User's use of Circuit. Usage Data includes, by example and without limitation, aggregated quantitative information about number of active users, IP-address from where the Circuit User logs in, activity of the Circuit User, used bandwidth, storage space or CPU capacity.

"User Account" means an account created by you within the Circuit administration console, usually for an Circuit User. Unless you give us other directions, we will keep the Circuit User Data related to that User Account for the term of your subscription.

"User Help Desk" or UHD is a special helpdesk service that provides dedicated support for Circuit.

Acceptable Use Policy (AUP) for Circuit

For customers obtaining access to Circuit via an Accredited Reseller

Version 1.1a, as of April 28, 2016

Circuit is Produced by Unify and Provided to you by your Accredited Reseller of Unify. This AUP is part of terms and conditions of your Agreement with the Accredited Reseller. There is no contractual relationship between you and Unify.

1.   Introduction

Unify and your Accredited Reseller want that you, your organization and the Circuit Users your organization subscribed to (hereinafter collectively referred to as "you") and everyone else who uses Circuit enjoys a productive, disruption-free and safe use of Circuit. This Acceptable Use Policy (AUP) is designed to prevent abuse of Circuit. All use of Circuit is subject to this AUP.

By accepting the **Terms of Service (TOS)** you have accepted this AUP. If you do not, or no longer, want to accept this AUP, do not continue to use of Circuit. Ceasing to use Circuit does not, however, imply that the Agreement between you and your Accredited Reseller is terminated. If you want to terminate, a separate notice is required, as described in the TOS. Also, in the event of any conflicts between this AUP (in particular its enforcement) and the TOS, the Terms of Services shall control.

You may have your own acceptable use policy or similar framework of rules and regulations governing the use of your IT-systems ("Customer IT Policies"). You are free to subject your Circuit Users to such Customer IT Policies and enforce such Customer IT Policies internally, but we cannot address individual Customer IT Policies within Circuit. You agree and accept that the benchmark for the provision of Circuit to you shall solely be governed and determined by this AUP.

2.   Definitions

Capitalized terms used herein have the meaning stated in the TOS, unless they are explicitly defined otherwise.

3.   Circuit User Content you may see on Circuit

Circuit is used all over the world and by people from many different backgrounds, cultures and jurisdictions. You understand and acknowledge that when using Circuit or the Circuit Support Forum you may be exposed to visual, written or audible communications, files, documents, videos, recordings, and any other material ("Circuit User Content") that you may consider being inaccurate, offensive, indecent, or objectionable. We are not liable for any damages you allege to incur as a result of such Circuit User Content.

4.   Liability for Circuit User Content

You are responsible for all Circuit User Content that you upload, publish, display, link to or otherwise make available ("Publish") on Circuit in connection with your Circuit User account(s). you are also responsible for any interaction with other Circuit Users.

Unify and your Accredited Reseller do not take any responsibility and assume no liability for any Circuit User Content that you or any other Circuit Users post, or which other third parties send to Circuit. Without limitation to our general obligation to provide Circuit in a manner that is compliant with Applicable Laws, in particular data protection laws, you understand and agree that any loss or damage of any kind that occurs as a result of the use of any Circuit User Content that you willingly send, upload, download, stream, post,

transmit, display, publish or otherwise make available or access through your use of Circuit is solely your responsibility.

You acknowledge that we have no control, and are not responsible for, the privacy of any Circuit User Content that you or someone else among your Circuit Users have willingly shared with others. You will always use proper caution when giving out any Personal Data or sensitive information to others.

5.   Circuit User Content that is not acceptable

You agree not to upload, post, email, store, transmit, or otherwise make available through Circuit any Circuit User Content that

- is obviously unlawful, threatening, defamatory, invasive of another's privacy, or, with reasons, deemed by Unify to be racially, ethnically, or otherwise objectionable;
- is unsolicited or unauthorized advertising, promotional materials, so-called junk mail or spam mail, so-called chain-letters or pyramid schemes, affiliate links, or any other form of solicitation, save for your internal purposes;
- contains viruses, worms, Trojan horses, malware, infected or corrupted files, hoaxes, or other items of a destructive or deceptive nature;
- violates third-party rights of any kind, including without limitation any Intellectual Property Rights;
- contains any information or content that you do not have a right to make available under any Applicable Law;
- violates an individual's publicity or privacy rights or
- harms or interferes with any device, software, network or service that is part of Circuit and its underlying infrastructure.

When determining if Circuit User Content is not acceptable, Unify or your Accredited Reseller will take into account if the relevant Circuit User Content is available only to you or if it is made widely available (e.g. through the Circuit Support Forum).

6.   Uses and practices that are not acceptable

You will not, and will not allow or instigate third parties or your Guest Users to, use Circuit

- for any unlawful, invasive, infringing, defamatory, or fraudulent purpose;
- for inbound or outbound telemarketing or call centre operations;
- to collect or harvest any personally identifiable information, including account names, from Circuit and in particular from the Circuit Directory and the Circuit Support Forum, save where you have the explicit permission of the affected Circuit Users;
- with any automated system, including without limitation, "robots," "spiders," "scrapers", "bots", "offline readers," etc., that access Circuit in a manner that sends more requests, pings or other messages to the systems providing Circuit than a human can reasonably produce in the same period of time by using a conventional on-line web browser;
- to interfere with the use of Circuit by other Circuit Users, or the equipment used to provide Circuit. In particular, you agree not to, and to not allow or instigate third parties or your Guest Users, attempt in any way to make an effort to temporarily or indefinitely interrupt or suspend the services of a machine or network resource providing Circuit and render it unavailable e.g. any DoS (Denial of Service)-type or DDoS (Distributed Denial of Service)-type attack;
- to alter, disable, interfere with or circumvent any security or access control aspect of Circuit;
- to test or reverse-engineer Circuit in order to find limitations, vulnerabilities or evade filtering capabilities, save where explicitly permitted by Applicable Law.
- You may not resell Circuit User accounts.
- You may not share Circuit User accounts between users from different organizations by mechanisms other than those designated for that within Circuit, e.g. the function that is used to invite and handle Guest Users.

- In the event Circuit allows[1] you to make outbound calls through other channels than your own telephone system, you may not call numbers (whether singly, sequentially or automatically) to generate income for yourself or others as a result of placing the call, other than for your individual business communications.
- You may not use unusual calling patterns inconsistent with normal, individual subscription use, for example, regular calls of short duration or calls to multiple numbers in a short period of time.

Unify and your Accredited Reseller reserve the right to take similar practices into account in order to determine if a particular behavior is not an acceptable use of Circuit.

7.   Subpoenas, warrants, and/or orders

Unify and your Accredited Reseller will comply with and respond to valid (as Unify or your Accredited Reseller will determine in their sole discretion) subpoenas, warrants, and/or orders issued by a court or an authority received in relation to Circuit User Content. If permitted by Applicable Law, such subpoenas, warrants, and/or orders will be first forwarded to you so that you may respond. However, Unify or your Accredited Reseller may respond to any such subpoena, warrant and/or order without informing you if it is not permitted to do so by such subpoena, warrant, and/or order, and/or if by not respondig at once Unify or your Accredited Reseller might breach Applicable Laws.

8.   Reporting Violations of the Acceptable Use Policy

With the exception of the Circuit Support Forum, Unify or your Accredited Reseller will not generally monitor Circuit User Content.

Reports of alleged violations of the AUP should be sent to your Accredited Reseller. Reports should include as much information as possible, in particular your name and contact information, and the IP address or Circuit Conversation or website allegedly in violation, and a description of the alleged violation. Unless otherwise required by Applicable Laws, Unify and your Accredited Reseller assume no general duty to respond to alleged violations. Unify and your Accredited Reseller will review all verified reports and will take such actions as it deems appropriate in their sole discretion.

9.   Resolution of violations of the AUP

It is Unify's and your Accredited Reseller's goal to mitigate any interruptions of your use of Circuit while at the same time aiming at swiftly resolving potential violations of this AUP. Staff of Unify and your Accredited Reseller is dedicated to working with you in resolving potential violations, and are available via phone, ticket, forum, or email, as determined by the applicable Circuit Support Plan.

Unify at its own discretion or upon request by your Accredited Reseller may block or remove any Circuit User Content if so required by Applicable Law, e.g. when Unify or your Accredited Reseller receive a take-down order from a court. Your Accredited Reseller shall also follow with Unify any blocking or removal requirements issued by you through the Customer Contact. If a request for blocking or removal comes from a third party, your Accredited Reseller will, where legally feasible, first consult with you through the Customer Contact. You accept and acknowledge that in some countries Applicable Law may require Unify or your Accredited Reseller to access your account, and inspect and possibly remove the Circuit User Content stored therein without first consulting with you.

The following description is provided for informational purposes only and should be seen as a framework of processes with respect to resolving potential violations. Timing for resolution differs according to the degree of the violation, the nature of the violation, involvement of law enforcement, involvement of third party litigation, or other related factors.

- Following receipt of an violation of the AUP, a ticket and message will be generated to provide the Customer Contact with information regarding the potential violation of the AUP. Usually, further information is requested or, in obvious cases, you will be notified of the potential violation and the required actions to resolve the issue.

- Once a violation of the AUP was established, information specific to the violation will be added to the ticket. This will also include any additional facts about the situation and will be resent to the Customer Contact. Thereby, you will be notified of the action required to resolve the violation.
- In the event you disregard the notice, or fail to properly address it within the period granted by Unify or your Accredited Reseller to remedy the violation, or if the violation continues, Unify will disable the affected Circuit User account(s) and/or the related Conversations. Access to the dedicated services may then be achieved through the secure private service network for your individual resolution. As soon as the violation is addressed, access shall be restored and service will continue as normal.
- If you fail to address the violation AND also fail to resolve the violation, Unify or your Accredited Reseller may suspend all access to Circuit. This is a last resort and only results if you fail to participate in the resolution process. If, thereafter, the issue is not resolved by you without undue delay, Unify or your Accredited Reseller may permanently suspend Circuit for the remainder of the term of the Agreement, without liability but also without any reduction of fees. All outstanding fees shall become due immediately, Unify may reclaim all resources dedicated to your use of Circuit and may destroy your User Data.

10. Consequences of violations

Unify or your Accredited Reseller may, at our option and without liability, permanently or temporarily suspend a Circuit User account or otherwise refuse to permit access to Circuit, if Unify or your Accredited Reseller determines that the Circuit User account is used contrary to this AUP or the TOS. Your Accredited Reseller will provide you, your organization's Customer Contact and the Circuit Tenancy Administrator with notice of improper usage before suspension or termination of the relevant Circuit User account, unless due to the nature of the usage it is essential to act as quickly as possible to prevent damage. In particular but without limitation, Unify or your Accredited Reseller may do so if Unify or your Accredited Reseller becomes aware of any of the following prohibited actions:

- an attempt to interfere with, or compromise the integrity or security of, or attempt to decipher any transmissions to or from, the servers and other underlying infrastructure running or providing Circuit;
- any action that imposes, or, as determined by Unify or your Accredited Reseller at our sole discretion, may impose, an unreasonable or disproportionately large load on the servers and other underlying infrastructure running or providing Circuit;
- an attempt to interfere with the proper working of Circuit or to bypass the security measures Unify may use to prevent or restrict access to Circuit, including, but not limited to, registering with an invalid email address.

11. Changes to this AUP

Unify and your Accredited Reseller encourage you to periodically review this AUP. This AUP may occasionally be updated to reflect customer feedback, changes in Circuit, and updates to Applicable Laws. Prior to making such changes effective, you and your organization will be notified in advance through the Customer Contact and the Circuit Tenancy Administrator by posting a notice on the Circuit login page. You will be provided with a link under which you can review the updated statement. Depending on your or your organization's settings, your Accredited Reseller may instead, or in addition, send a notification email, and/or post a message inside Circuit. These notification(s) will be made independent of, and do not intend to limit, any notification procedure agreed with your organization in the Agreement.

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[1] This may be a feature of future releases of Circuit.

Support Forum Rules (SFR) for Circuit
For customers obtaining access to Circuit via an Accredited Reseller
Version 1.1a, as of April 28, 2016

Circuit is Produced by Unify and Provided to you by your Accredited Reseller of Unify. These SFR are part of terms and conditions of your Agreement with the Accredited Reseller. There is no contractual relationship between you and Unify.

1. **Welcome to the Circuit Support Forum!**

   These Support Forum Rules (SFR) for Circuit describe the rules that govern your use of the forum. The document also gives you some tips on how to use the forum most effectively.

   Please remember that all content posted to the forum must also comply with the **Acceptable Use Policy (AUP)**.

2. **Posting requests: sections, duplicates and how to find the right place**

   The Circuit Support Forum is split into sections. Please choose the most suitable section for your new topic. For example, if you have a question about a specific functionality of Circuit, then we suggest visiting the section for that functionality first, if there is one.

   You should post your topic in only one section. We reserve the right to close or delete multiple posts.

   Many of the questions about Circuit that you have may have been posted before, sometimes quite often. Before starting a new thread, please first try searching the forum for an answer.

   Do not post your request in someone else's topic unless you are having the exact same problem as the original poster. In general, you should start your own topic.

3. **Selecting the right topic**

   Try to use an appropriate title for your new topic. For example, if Circuit returns an error message, putting that error message in the topic is a good idea. "ERROR" or "URGENT HELP NEEDED!" is not a good title.

4. **Include as much technical information as possible**

   In order to help Unify, your Accredited Reseller and other forum users to help you fast and efficiently, please describe the problem in as much detail as you can, preferably step by step. Submit as many details as possible, e.g. what went wrong, what you have done before, your hardware/software environment, your browser, plugins, etc. If you get an error message, copy it in your post - word for word. Do not try to summarise - sometimes one word or number can be important. If you did something before you came across a problem, write down exactly what you did, step by step.

   You can and should post screenshots to illustrate your issues. You are encouraged the use of website links instead of posting the actual screenshot images. Carefully consider what you post, as screenshots might show information that you do not want to share with every other Circuit User on the forum.

5. **Include as little personal information as possible**

   Screenshots of Circuit, or log files generated by Circuit, may contain a lot of information, some of which may be personal and/or confidential. To avoid creating problems for you, your organization and anyone who is trying to help you, please consider carefully what you want to post. If in doubt, do always edit the content before posting it, e.g. blur parts of the screenshot etc. Do not post any passwords or personal information!

Remember, the forum is open to any Circuit User across all customers, companies and countries. The forum may be read, searched and copied, by anyone. Anything you put in a forum topic is public. Anything you make available through a link may be reviewed by other forum users.

You should also review anything you put in your post for sensitive or confidential information about other people or your organization. Please do not post personal data about anyone else, including fellow Circuit Users. If possible, remove personal data from any messages, screenshots or other data posted to the forum by deleting or garbling it prior to posting. Please remember that files you post may contain metadata.

You post any data to the forum at your own risk. Unify is not liable for any abuse of information that you posted to the forum.

If you need individual support and/or do not want to share any information, please contact Unify or your Accredited Reseller. Depending on your Service Package or for additional remuneration, other forms of support may be available where information is not openly visible on the forum.

6. **Posting links**

If your question relates to a specific site or page that is accessible to any Circuit User, or if you use external services to store content such as image hosts for screenshots, you may use a link in your post to that external content. However, the Circuit Support Forum is not a link portal. Excessive linking might be moderated, as might signatures or links with no associated question. Be also aware, that in general links will not get removed any time later. You are responsible for any link you use in your post, and if you no longer want the linked content to be available, you should remove the content from that service. In fact, it might be a good idea to remove such content e.g. screenshots later once your question has been resolved.

7. **Posting large excerpts of log files or screen shots**

When you post a large excerpt of a log file, or a huge screenshot, it often makes the thread difficult to read. And, it makes it difficult to find the relevant bit of information. Instead, you are asked to paste your file on an external service and submit it as a link in your post.

As for what constitutes a "large excerpt", it's difficult to say. Please use your best judgement. Anything above 100 lines of log file is most probably too long. Do always consider that your fellow Circuit Users provide support for free, and that it is usually much easier to read a logfile from an external source than a block of lines inside a forum entry.

8. **Deletion or editing of posts**

While it is not our general policy to edit or delete forum posts unless they are spam, harassing, illegal, or outright abuse, Unify reserves the right to delete topics or posts that Unify, in their sole discretion, deem to be off-topic or detrimental to the forum.

When a post is made and people contribute answers to an issue, then the post becomes part of the forum and is a resource for others Circuit Users to benefit from. Deleting posts removes this added value. However, moderators might decide to remove sensitive information that has been included in posts accidentally. Of course, your best course of action is to not publish anything that you wouldn't want to be public in the first place.

9. **Getting an account and deleting accounts**

Each Circuit User account is automatically linked to a forum account i.e. every Circuit User can become a user of the Circuit Support Forum. While the Circuit User account and the User Content may be deleted once the underlying subscription expired, the content posted to the Circuit Support Forum account is, in general, not deleted. If you don't want to use the forums anymore, log off and don't return.

10. Upgrade to get paid support

The Circuit Support Forum is open to all Circuit Users. While some support is provided by Unify, most support comes from fellow Circuit Users who act as forum volunteers, provide free support and sometimes spend considerable time in helping others - including you and your problem.

If a problem is too complicated, these Circuit Users may advise you to seek professional support from Unify or your Accredited Reseller. Please don't take this as a rude gesture. The main reason for this is that you may require more support than the Circuit forum with its volunteers can provide.

Please remember that paid support includes support options which allow for private, 1:1 sharing of information between you, your Accredited Reseller and / or Unify.

11. No support for third party commercial products

Circuit is a product from Unify, and the Circuit Support Forum is only for Circuit. If your problem relates to a commercial third party software or service other than those Unify uses to provide Circuit to you, and you need support for that, please go to their official support channel, e.g. browser problems. In some cases, you may be explicitly directed to these locations. The vendors are responsible for supporting their commercial products.

Similarly, you are asked that, between you and fellow Circuit Users, you do not demand payment, solicit work, or take the conversation to a private location when providing support to each other. The point of the forum is that Circuit Users help each other, not solicit business for themselves. Unify and your Accredited Reseller reserve the right to block any Circuit User who abuses the forum for this purpose.

12. Forbidden content

All content of the forum must comply with the **Acceptable Use Policy (AUP)**.

Do NOT post content that is not suitable for a general audience or for viewing whilst at work. Please also consider that the Circuit Support Forum may be visited by people from many different countries or cultures or business environments. Content that may be perfectly acceptable for you or in your country or for your employer may not be so in another country or culture or business environment. Please also limit your posts to Circuit related matters.

If you spot information that you consider to be not suitable, please inform us, giving a short description of the reasons why you think a particular post or link is not suitable.

Unify reserves the right to edit or completely remove any post or link that contains content that Unify, in Unify's sole discretion, determine to be not suitable for a general audience.

For further details, please see the AUP.

13. Moderation of postings

All content posted to the forum must comply with the **Acceptable Use Policy (AUP)**. Occasionally, the content of a topic has to be moderated. This might mean anything from light editing of some posts to complete removal of topics and deactivation of Circuit Users.

The following are likely candidates for moderation:

- Posting personal data: An Circuit User should not post their email addresses, ask others to post their email or solicit contacting people off of the forum.
- Passwords or other sensitive information: You should never post, or ask for, passwords or other sensitive information that should not be public to the entire community of all Circuit Users.
- Apply the basic rules of netiquette: Please do not harass or abuse people. Do not send them emails calling them names. Do not stalk them. Be polite and friendly.
- Spamming and other junk. Spam and affiliate links, duplicate posts, offensive posts, posts without content, flames, and references to adult content will be removed. Unify reserves the right to use automated filtering systems to facilitate this.

- Posting in all caps, excessive use of exclamation marks, and similar is considered shouting and is rude.

Please note that this list is not exhaustive. Every post is judged on its own merits.

If you should repeatedly fail to comply with these rules, your Circuit User account and forum account may be disabled. Your Customer Contact will be informed about the ban and the reasons for it. There's not one specific behavior or content to point at for this and Unify will decide upon this at Unify's sole discretion, but, basically, if you start lashing out, calling people names, making accusations, emailing people nasty messages, or challenging the authority of the moderators, you may end up banned. The rules of thumb is: "don't act like a bad person".

14. Changes to the Support Forum Rules

These SFR may occasionally be updated to reflect customer feedback, changes in Circuit, and updates to Applicable Laws. Prior to making such changes effective, you and your organization will be notified in advance through the Customer Contact and the Circuit Tenancy Administrator by posting a notice on the Circuit login page. A link is provided under which you can review the updated statement. Depending on your or your organization's settings, your Accredited Reseller may instead, or in addition, send a notification email, and/or post a message inside Circuit. These notification(s) will be made independent of, and do not intend to limit, any notification procedure agreed with your organization in the Agreement.

You are encouraged to periodically review this SFR. Unless required or permitted by Applicable Law, such changes only apply to forum content posted from the date the change becomes effective.

Additional license terms for the use of software by end users (EULA) for Circuit

Version 1.1a, as of 18 November 2015

1. Definitions

In addition to the terms defined elsewhere in the Agreement, the following definitions apply:

1.1 "Affiliate" means companies affiliated with Unify or Customer as per sec. 15 et seq. of the German Stock Corporation Act (*Aktiengesetz*, AktG). In the event the AktG does not apply, "Affiliate" shall mean any entity which directly or indirectly controls, is controlled by or is under common control with Unify or Customer, respectively; „control" as used herein shall mean the possession of the power to direct, or cause the direction of, the management and the policies of an entity, whether through ownership of a majority of the voting rights or by contract or otherwise.

1.2 "Agreement" means the separate agreement (e.g. software license agreement), under which the Customer obtained the Software from Unify or a Unify Partner.

1.3 "Base Software" means - as opposed to Single User Software - Software installed on a server computer, the so-called "host", which is accessed by Clients in order to make use of the functionalities of the Base Software.

1.4 "Client" means a clearly identifiable entity which can access a server computer and one or more of the Product Instance(s). Clients can be, for example and depending on the specific product, users, agents, devices, identities or communication channels. The number and type of Clients authorized to use the Product Instance(s) on a particular server computer is defined in the Agreement.

1.5 "Client Access License" or "CAL" means a License that allows a specific number of Client(s) to access and use the Base Software. Depending on the product, a CAL covers at least one (1) Client but may also cover a defined number of Clients (by example and without limitation, 20, 25, 100 Clients) or permit an unlimited number of Clients to access the Base Software.

1.6 "Customer" means the party acquiring a copy of the Software, who is neither a Unify Partner nor an Affiliate of Unify.

1.7 "Documentation" means the technical and/or functional descriptions provided along with the Software. Documentation may be provided in electronic form or online, e.g. via the Internet. Documentation may also include, by example and without limitation, a description of performance characteristics, special features, hardware and software requirements, installation requirements, conditions of use and end user manuals. To the extent re-

quired by the respective Freeware vendor or OSS Licensor, the Documentation also comprises of the applicable license terms for Freeware and the relevant OSS Licenses.

1.8 "Firmware" means Single User Software which is embedded into the microcontroller of an electronic device (e.g. a telephone-handset).

1.9 "Freeware" means a computer program which may be used without payment or other compensation (for example, by advertising). Freeware may be subject to proprietary license terms imposed by the Freeware vendor, which, by example and without limitation, may limit the right to distribute or redistribute the Freeware. Freeware may have functional limitations which a commercial version does not have. Other than with Open Source Software, the vendor of the Freeware vendor usually does not deliver source code with the Freeware.

1.10 "License" means the right to use a particular computer program. A license may be permanent and will usually be granted for a one-time license fee, or it may be time-limited for the term of a subscription arrangement, usually for a recurring license fee. The exact kind and scope of the License acquired by the Customer is further defined in the Agreement.

1.11 "License Terms" or "EULA" means this document.

1.12 "Open Source License" or "OSS License" means license terms for a computer program that, beyond the right to use the computer program without license-fee or royalty, grant the user rights that are usually reserved for the owner of the copyright, e.g. the right to modify the computer program, to merge it with other computer programs or to distribute it, or a modified version thereof, and which require that at least one of the following conditions is met: (a) the source code or design information for the original or modified computer program must be made available to anyone in general, or upon request; (b) the right to create derivative works of the original or modified computer program must be granted; (c) a license to use the intellectual property rights embodied in the computer program must be granted, without a license fee or royalty, to anyone in general, or upon request, (d) the owner of the copyright in the unmodified computer program must be identified (attribution notice). OSS Licenses by this definition are, by example and without limitation, the GNU General Public License (GPL) family of licenses, the Berkeley Software Distribution (BSD) family of licenses, and the "public domain" licenses.

1.13 "Open Source Software" or "OSS" means a computer program licensed under an OSS License which is available either (a) in source code form only, or (b) where the source code is delivered together with the object code (executable) or (c) where the source code can be obtained for free (handling fee/ shipping costs may apply).

1.14 "Product Instance" means one installed copy of the Base Software.

1.15 "Product Instance License Key" or "License Key" means the license key defining the maximum number of CALs assigned to a specific Product Instance.

1.16 "Single User Software" is Software intended for use by a single user on a single device, which is not to be used as a server, such as a desktop PC, notebook, smart phone, etc.

1.17 "Software" means, collectively, the computer program, files and the media (if any) provided to the Customer under the Agreement resp. this EULA, and including, if so provided, all Updates, Upgrades, corrections, modified versions, supplements and copies of the Software. The Software may be a computer programs from Unify or from a third party suppliers, and is, in general, provided in executable (object code) form only. For the purpose of this EULA, the corresponding Documentation is deemed an integral part of the Software. Open Source Software or Freeware delivered together with the Software are, in principle, included in this definition of "Software", but for them, the respective Open Source Licenses or license terms imposed by the vendor of the Freeware take precedence over this EULA.

1.18 "Update" means a release of the Software which primarily addresses bug fixes and, only if necessary, contains minor functional improvements (e.g. additional drivers). Unify may elect at its sole discretion to publish an Update as a full release which allows for a complete installation, or a partial release which implements only the changed code (e.g. a service pack). In any case, an Upgrade requires an existing and properly licensed installation of the Software. Typically, an Update is identified by an increase in the minor release number, within the major version number (e.g. "Version 1.2" instead of "Version 1.1").

1.19 "Upgrade" means a release of the Software which adds new and/or extended functionality and, if necessary, contains bug fixes for older versions. In general, an Upgrade is a full release which allows for a complete installation. In any case, an Upgrade requires an existing and properly licensed, (set of,) eligible, older version(s) of the Software that is to be upgraded. Typically, an Upgrade is identified by an increase in the major version number (e.g. "Version 2.0" instead of "Version 1.2").

1.20 "Unify" means, unless explicitly indicated otherwise in the Agreement, Unify GmbH & Co. KG, Germany.

1.21 "Unify Partner" means distributors, resellers, VARs, OEMs and other channel partners authorized by Unify to market the products and services of Unify.

2. General License Terms

2.1 The Customer is granted a License to use the Software on the basis of these EULA and only within the scope and terms of the Agreement.

2.2 The Software is protected by copyright laws and international copyright treaties as well as other laws and conventions related to intellectual property. In relation to the Customer, the intellectual property rights to the Software remain exclusively with Unify or, where applicable, with Unify's suppliers, the licensors of the OSS or the vendors of the Freeware.

2.3 The Customer shall only install and use the Software if the Customer accepts all licensing terms, including the OSS Licenses and the license terms of the vendors of the Freeware. If the Customer elects to not accept these, the Customer may not install or use the relevant Software. In this case and unless otherwise provided for in the Agreement, the Customer may, to the exclusion of any other claims, withdraw from the Agreement in respect of the Software. The Software and Documentation must then be returned to Unify or the Unify Partner from whom the Customer obtained it. The Customer may only withdraw with respect to the Software. Where it is technically impossible to return the Software, e.g. in case of downloaded Software, the Customer must credibly and in writing (paper) confirm that the Software was not installed and will not be used.

2.4 Without limitation to any obligation of Unify under the OSS Licenses, and unless explicitly agreed otherwise, Software shall only be delivered and licensed in object code form i.e. executable, machine-readable form. Customer has no claim to the delivery of source code to such object code.

2.5 Unless explicitly otherwise provided for in the Agreement, the Customer shall have a non-exclusive right to use the Software, subject to the provisions of Section 3, to handle Customer's own internal business purposes and those of Customer's Affiliates. The use or operation of the Software by third parties is permitted if done solely under the control of the Customer and for Customer's own internal business purposes (e.g. hosting, outsourcing). Within this scope, the Customer may also, to a reasonable extent, reproduce or copy the Software. All other rights, in particular the right to distribute, translate, modify, re-arrange or publicly broadcast the Software, remain with Unify.

With the exception of OSS, the Customer may not decompile or disassemble the Software, extract any parts of the Software, carry out reverse engineering or otherwise attempt to derive the source code of the Software. The Customer's right to reverse engineer or decompile the Software according to statutory law such as per sec. 69d para 3 and sec. 69e of the German Copyright Act (*Urheberrechtsgesetz*), in particular if it is required in order to achieve the contractually agreed functionality or interoperability of the Software with other computer programs, remain unaffected thereby.

Prior to any such action, the Customer must provide writ-

ten notice to Unify, requiring that Unify provides the necessary information and documents to achieve the contractually agreed functionality or interoperability with other computer programs within a reasonable period of time. Only after the fruitless expiry of that period is the Customer entitled to reverse engineer or decompile the Software within the scope permitted by statutory law.

2.6 Neither the Software itself nor the right to use the Software may, without the prior written consent of Unify, be rented-out or leased-out, borrowed-out, sub-licensed or, subject to the provisions of Section 2.8, be assigned or otherwise be made available to third parties. The Software may not be duplicated or copied, either in part or in whole, unless expressly permitted under the Agreement or if statutory law allows for backup copies. Unify shall be free to give its consent at its sole discretion.

2.7 If the media provided to the Customer contains Software for different products, the Customer may only use the Software for which the customer acquired use rights. Unbundling or repackaging of the Software for sale or resale or the modification of such media is not permitted.

2.8 If the Software was provided to the Customer under a perpetual License, any resale of the Software and the transfer of the right to use the Software require that the Customer transfers the Software and the use rights exactly in the manner and configuration as they were acquired by the Customer. The Software may only be transferred to a third party in its entirety, and complete with all associated material and CALs. A temporary transfer is not permitted. The assignment of parts of the Software to a third party or a transfer of copies of the same Software to multiple third parties is prohibited, unless explicitly permitted by law.

2.9 For each transfer of the Software, the Customer shall ensure, and upon Unify's request provide evidence in writing, that

- the third party agreed to accept and fully comply with this EULA;
- the Software, all serial number(s), CALs and all other material supplied along with the Software, including pre-installed material, and all copies, Updates, Upgrades and prior versions of the Software in Customer's possession were transferred to the third party;
- Customer retained no copies, including backups;
- Unify was informed about the transfer, the identity of the transferee and the transferred Software, including the relevant serial numbers and license keys, directly or through the relevant Unify Partner and
- The re-assignment of the serial numbers and license keys to the third party acquiring the Software was arranged with Unify.

2.10 Upon the transfer of the Software to the third party, all rights of the Customer to use the Software shall expire. Any such transfer does not automatically include a transfer or assignment of warranty claims or of any maintenance or service agreements that may be in effect between the Customer and Unify. If Customer acquired the Software from a Unify Partner, individual or different arrangements may apply for Customer's warranty claims or with regard to any maintenance or service agreements concluded with the Unify Partner.

2.11 The Customer may create a reasonable number of backup copies of the Software. The Customer shall not remove any alphanumeric identification characters, trademarks and copyright notices which may be present in the Software or on the media, and will copy the Software unaltered. The Customer shall record the whereabouts of all copies, which Unify may examine on request.

2.12 Provided that the Software requires activation, e.g. by applying a Product Instance License Key, the Customer shall activate the Software within thirty (30) days of the day of installation. Only then will the installation be technically complete. The necessary information for this must be entered by the Customer in the manner described in the installation sequence of the Software. If changes have been made to the hardware, it may be necessary to reactivate the Software. In the event the activation does not take place within said period, the Software may become disabled for further use. To activate the Software again, a valid activation code is required, which can be requested from Unify or a Unify Partner upon proof of authorization. Individual arrangements on acceptance made in the Agreement shall be unaffected hereby.

2.13 Every supplementary program code (e.g. patch, Update) which is made available to the Customer under warranty or as part of a software maintenance contract or other service agreement, and all extensions of the License, e.g. additional CALs, shall be deemed an integral part of the respective Software and be subject to these License Terms, unless otherwise agreed in the individual case.

2.14 Upon the installation of an Upgrade- or migration-version of the Software, the right to use the preceding version shall expire. Existing copies, including backup copies, shall either be destroyed, which is to be evidenced by Customer upon request, or be returned to Unify or the relevant Unify Partner, unless the Customer proves that the preceding version is required to meet statutory document retention and documentation requirements, which cannot be fulfilled with the Upgrade- or migration-version of the Software. In any case, this option to retain such a version finally expires once the software is transferred to a third party.

2.15 Unify may terminate the License and the use rights granted to Customer hereunder in writing, in whole or in part, for good cause if the Customer breaches the License Terms to a considerable extent, in particular with regard to the scope of the License, and thereby infringes Unify's rights to the Software in a manner that would render it unreasonable for Unify to adhere to the grant of rights hereunder, provided the Customer fails to cure the breach within thirty (30) days following receipt of a respective notice by Unify. The right of Unify to take judicial action against infringements, in particular to seek injunctive relief, shall remain unaffected.

2.16 For Firmware the provisions of these License Terms shall apply analogously, but Firmware may only be used or be passed on to third parties along with the respective accompanying hardware for which it was released.

3. Open Source Software, Freeware and third-party software components

3.1 Some parts of the Software, including third-party software components, Freeware or OSS, may be fully or in part subject to licensing terms of the respective vendor, or to OSS Licenses. The Customer may obtain a copy of the licensing terms from Unify or the relevant Unify Partner prior to entering into the Agreement.

Such licensing terms shall take precedence over this EULA. The licensing terms will be shown during the installation process or they are included in the Documentation.

3.2 Some of the OSS licenses or Freeware licenses may contain additional limitations or exclusions of warranties and liabilities, and Unify is obliged to forward these limitations or exclusions to the Customer, whether or not they are effective under the law applicable to the Agreement. Unify recommends that the Customer makes itself familiar with those limitations and exclusions contained therein, and in case of doubt should seek independent legal advice.

3.3 Insofar as the OSS Licenses provide for the provision of source code, Unify may make it available either (a) by including it in the Software delivery i.e. either on the media, separate media, download or on the device, or (b) make it available on Unify's website and in any case (c) send it on media upon the Customer's request, in return for reimbursement of handling/shipping cost. Unify shall provide that (b) and (c) for a particular version of the Software are available for at least three (3) years, calculated from the end-of-sale date set for the relevant version as per Unify's product lifecycle policy.

3.4 Any OSS and Freeware are licensed royalty-free i.e., no fees are charged for the provision of the OSS and the Freeware and for exercising the licensed rights. Fees may be charged for reimbursement of costs incurred by Unify for providing the source code of OSS on media.

4. Customer's usage rights

4.1 License for Base Software: A License for a Base Software entitles the Customer to a single installation on a server computer. Depending on the respective Software, a CAL must be acquired for each Client that accesses the Product Instance(s).

4.2 License for Single User Software: A License for a Single User Software entitles the Customer to a single installation of the Software on a single computer. In addition, the Customer may install a copy of the Software on a server computer within Customer's internal network, solely for the purpose of downloading and installing the Software onto other single computers attached to Customer's internal network and provided that the Single User Software allows such an installation routine. Depending on the Agreement, the number of Licenses for Single User Software acquired by the Customer may also determine the maximum permissible number of installations. Any other use of Single User Software in a network is not allowed.

5. Delivery

5.1 Unless agreed otherwise in the Agreement, the delivery of the Software will be made, as chosen by Unify or the relevant Unify partner at their sole discretion, either by sending the Software on media or pre-installed on a device (e.g. server computer) to the agreed delivery address (physical delivery), or by making the Software available for download by the customer through an online portal or app store (electronic delivery).

5.2 With respect to the meeting of delivery dates and for the passing of risk, in case of physical delivery the date and time of transfer of the media or device by Unify to the freight agent is determinative, and for electronic delivery, it is the date on which the Software was made available for download and the Customer was informed about this.

5.3 Some of Unify's products may be made available under a Software-as-a-Service (SaaS) licensing and delivery model with the product being centrally hosted and provided to the Customer on a subscription basis. These products will not be delivered physically. No rights of use are granted beyond the right to use that SaaS product.

6. Warranty and Liability of Unify

6.1 The Documentation alone is decisive for the required quality and functionality of the Software. Unify is not liable for any other condition of the Software. In particular, Unify does not represent or warrant that (a) the Software works together in a selection or configuration that was not solely and freely determined by Unify, (b) that it will run uninterrupted or error free, or (c) that all Software errors can be eliminated. A technical error in the Software shall only be considered a defect if it causes the software to not be compliant with the required quality and functionality as determined by the Documentation.

6.2 Warranty claims and other liability claims and / or claims for the refund of expenses against Unify will only be available to the Customer if they have been agreed to in an Agreement that was directly concluded between Unify and the Customer. If the Customer acquired the Software through a Unify Partner, the claims of the Customer are determined by the Agreement concluded with the Unify Partner. This does not limit Customer's claims under applicable product liability laws.

7. Export Control

7.1 Unify's obligations under these License Terms are subject to the proviso that their fulfilment is not prevented by any impediments arising out of national and international foreign trade and customs requirements or any embargos or other sanctions.

7.2 The Customer shall comply with all national and international export/re-export control restrictions applicable to the Software and/or Documentation. In particular, the Customer shall not, directly or indirectly, export, re-export, or transship the Software or the Documentation in violation of any export laws, rules, restrictions or regulations of the Federal Republic of Germany, the European Union or the United States of America.

8. Evaluation License Terms

8.1 The terms of this Section apply in the event the Customer obtained the Software for evaluation purposes, and take precedence over the rest of the EULA. Any provision of Software for evaluation purposes shall be temporary only.

8.2 The Customer may use the Software only for testing and evaluation purposes, and only for the evaluation period agreed with Unify or the Unify Partner from whom the copy of the Software was obtained. The Customer may terminate the evaluation period prior to its expiry at any time by destroying all copies of the Software or by returning them to Unify or the Unify Partner.

8.3 Any right to use the Software shall expire automatically upon (a) the Customer not complying with the terms of this EULA and (b) upon the expiry of the evaluation period. Customer acknowledges that some products come with time-limited license keys and will automatically disable themselves upon the expiry of the evaluation period.

8.4 Unless otherwise agreed, the Customer is not entitled to receive any form of support from Unify or the Unify Partner during the evaluation period.

8.5 The Customer may, at any time during the evaluation period, upgrade to a regular version. Details of the upgrade shall be arranged with Unify or the Unify-Partner.

8.6 Evaluation copies of Software obtained from Unify are provided "as is" and without any warranty whatsoever. The Customer uses the Software during the evaluation phase at its own risk, expense and liability. Unify and its suppliers do not provide any warranty for the performance or the results arising from the use of the Software or the accompanying material. Unify nor its suppliers do not accept any warranty or guarantee that third-party proprietary rights are not infringed upon, nor that the Software is marketable or suitable for any specific purpose. The Customers statutory rights in case of fraud (*Arglist*) or intent (*Vorsatz*) shall not be limited thereby.

8.7 Any claims of Customer for damages or compensation, regardless of their legal basis, and in particular claims arising from production stoppage, loss of profit, loss of information and data or subsequent damage are excluded. This does not limit Unify's liability for intent (*Vorsatz*), under product liability laws, in cases of bodily harm, or for guarantees. The exclusion does also not apply to other cases where liability is mandatory.

9. General terms

9.1 If individual terms of this EULA are fund to be legally ineffective or impracticable on legal grounds, the remaining terms shall not be affected thereby. The parties will conclude an agreement that will cause the ineffective or impractical term to be replaced by a term that is as equivalent as possible in economic terms.

9.2 Changes, subsidiary agreements and amendments must be made in writing. This also applies to any waiver of this written form requirement.

9.3 These License Terms are governed by substantive German law under exclusion of the conflict of laws provisions and of the UN Convention on Contracts for the International Sale of Goods (CISG).

9.4 The place of jurisdiction shall be Munich, unless another court venue is mandatory by applicable law.

Data Privacy Statement (DPS) for Circuit
For customers obtaining access to Circuit via an Authorized Reseller

Circuit is Produced by Unify and Provided to you by your Authorized Reseller of Unify. This DPS is part of terms and conditions of your Agreement with the Authorized Reseller. There is no contractual relationship between you and Unify.

1. Scope

Unify is committed to protect the privacy of everyone who uses Circuit. This privacy statement ("Data Privacy Statement" or "DPS") applies to the Personal Data collected through your use of Circuit. It does not apply to any other online- or offline-provided products, sites, or services.

You may also have entered into the separate "Data Processing Agreement" or "DPA" as part of the agreement under which Circuit is provided to your organization (the "Agreement"). That DPA is complemented by this DPS. In the event of any conflicts, the DPA will take precedence over this DPS.

If you have questions concerning the DPS, the DPA, the terms of the Agreement or any other contractual or legal element of your use of Circuit, please first contact the person(s) within your organization who is/are responsible for Circuit or your organizations data protection officer, if any. You can always contact our data protection officer, too. You will find the contact details on www.unify.com.

In addition to the terms defined in this document, capitalized terms used herein follow the terminology stated in the "Definitions" annex of the Agreement. If you are unable to access the definitions, please ask the person(s) within your organization who is/are responsible for Circuit.

2. Separation of data by Circuit Tenancies

Circuit is organized into so-called "Circuit Tenancies" which are logically separated segments within the infrastructure that provides Circuit. Your organization's Circuit Tenancy will be defined during the signup process. All users from your organization are part of your organization's Circuit Tenancy. Guest Users will then temporarily become part of, and have access to, some of the material inside your Circuit Tenancy, as controlled by you or your fellow Circuit Enterprise Users.

Your organization has administrative control of its Circuit Tenancy though the Circuit Tenancy Administrator. Unify strongly recommends that your organization implements additional organisational measures in addition to those described in this DPS to internally limit access to the Circuit Tenancy Administrator's account to authorized persons only.

3. Data handled by us through Circuit

3.1 Personal Data

The term "Personal Data" as used herein refers to individual elements of information that are related to, or relatable, to a person, such as you. When you use Circuit, different kinds of Personal Data are submitted to, collected by and stored inside our systems that provide Circuit to you. Unify wants you to better understand what kinds of Personal Data Unify collects, stores and processes, and for which purposes. Personal Data may be included with Circuit User Data, Circuit User Contact Data, Circuit Usage Data, and Circuit Support Data.

3.2 Personal Data in Circuit User Data

"Circuit User Data" is all information that you, as the Circuit User, submit to Circuit, receive through Circuit or generate though your use of Circuit or the Circuit Portal. Personal Data in such Circuit User Data may be part of your messages, documents, spreadsheets or other content of your Conversations or your submissions to the Circuit Support Forum. Unify assumes that all such Circuit

User Data is submitted to Circuit with your consent. Unify makes no claim of ownership to any of your Circuit User Data, but all Circuit User Data must comply with the **Acceptable Use Policy (AUP)**.

3.3 Personal Data in Circuit User Contact Data

"Circuit User Contact Data" is contact information about a particular Circuit User, including name, address, phone number, profile information, email address, title, time zone and other information that such Circuit User enters into its profile or which Unify may collect through that Circuit User's use of Circuit. In some cases, Circuit User Contact Data may also be submitted to Circuit through your organizations use of Circuit's administrative facilities, e.g. during setup phase. Unify assumes that all such Circuit User Contact Data is submitted to Circuit with your consent.

3.4 Unify might occasionally use Circuit User Contact Data for the purpose of fulfilling the Agreement and to complete the transactions requested by you or your organization, e.g. to contact you to determine if there is a violation of the **Acceptable Use Policy (AUP)** and to detect and prevent fraud or abuse.

3.5 Personal Data in Circuit Usage Data

"Circuit Usage Data" is information about your and your fellow Circuit User's use of Circuit, and about the general use of the infrastructure Unify uses to Produce Circuit. It includes, for example, information about the number of active Circuit Users, IP-addresses from where the Circuit Users log in, activity of the Circuit Users, used bandwidth, used storage space or CPU capacity, timestamps, and the like, and the data derived therefore by means of analytics, e.g. trends in the usage of Circuit. Circuit Usage Data may comprise Personal Data.

Foremost, Circuit Usage Data helps Unify to better operate and constantly improve Circuit and to optimize the underlying infrastructure. Unify may also use it to detect and prevent fraud, abuse and incidents or patterns or trends that may be relevant for Circuit's stability and security, e.g. attempts to penetrate the security of Circuit or a denial-of-service attack against Circuit.

Sometimes Unify will compile Circuit Usage Data into an aggregated form or perform analytics of such Circuit Usage Data resulting in a very summarized and abstract form, so that it can no longer be related to a natural person. Unify may make such data available to your Authorized Reseller, to other customers, suppliers, or third parties, e.g. to determine availability, system load, correct sizing, or for marketing purposes. This data is neither used to identify you or other Circuit Users, nor to create any directly person-related or pseudonymised user profiles.

3.6 Personal Data in Circuit Support Data

"Circuit Support Data" is Circuit Usage Data that Unify may collect when you or your Authorized Reseller submit a service request. Circuit Support Data may include information about your hardware/software environment when the Incident occurred, time/date, username or other authentication information, content of the Conversation, data resulting from diagnostics, system and registry data, error-tracking log files, screenshots and other details related to the Incident.

Unify will use Circuit Support Data solely to provide support, e.g. via online chat/conversation, phone, email, or other. With your permission, Unify may remotely access to temporarily control your client system. With your permission, online chat sessions or conversations, phone conversations, or remote access sessions with Unify's support may be then recorded and/or monitored.

5. Cookies

Unify may use cookies on certain pages of the Circuit Portal. Cookies make using the Internet, and services such as Circuit that are delivered via the Internet, easier by, among other things, saving your preferences for you. For example, a cookie lets Circuit remember that you've registered, which allows Unify to speed up your future activities at the Circuit Portal, and which allows you to enter your registration information less frequently while visiting the Circuit Portal. Unify may also use cookies to deliver content tailored to your interest. If your browser is set to reject cookies, or if your browser notifies you that you are about to receive a cookie and you reject it, then your use of the

Circuit Portal, or Circuit altogether, may not be as efficient or as enjoyable as it would be if the cookie were enabled. Unify will only use information collected with cookies on an aggregated basis without the use of any information that personally identifies you.

To learn more about the general manner of how we use cookies and similar technologies on our public websites, and to learn more about controlling cookies, please see Unify's Cookie Policy at www.unify.com.

6. **Web Local Storage**

Circuit uses "Web Local Storage" which is a technology supported by most modern web browsers that allows web applications to store data on your computer, similar to cookies, but more structured. This data is subject to the same security measures as cookies are, e.g. data stored by one web-site is not accessible to other web-sites.

Circuit uses your browser's Web Local Storage functionality to provide a local cache for frequently accessed data, like contact' information and recent Conversations, in order to improve the speed of use and to reduce network traffic. This local data is strongly encrypted and it will never be transmitted back to the servers providing Circuit. If you do not want Circuit to use Web Local Storage, simply uncheck the box labelled "This is a private computer" before you log on. In that case, Web Local Storage will not be used, and any previously data stored by Circuit will be removed.

7. **Disclosure of your Personal Data**

Unify will not disclose Circuit User Data, Circuit User Contact Data, Circuit Usage Data, Circuit Support Data outside of Unify or their affiliates and your Authorized Reseller except as you direct, or as described in the Agreement, the DPA or this DPS. Unify will use User Data only to the extent necessary for the performance of our contractual duties.

Occasionally, Unify contracts with third parties to supply Unify with services and products such as customer support, data management, and technical infrastructure services. Unify may provide these third parties with access to User Data, or store it with them or let them process it to the extent necessary for them to render their services or deliver their products. These third parties are required to maintain the confidentiality of the User Data and are prohibited from using it for any purpose other than that for which they are engaged by Unify. To the extent Personal Data is affected, Unify will make any necessary arrangements that are required by Applicable Laws for a legally compliant collection, storing or processing or transfer of Personal Data by or to these third parties.

Unify may share the contact data given to it during the signup-process with third parties for purposes of fraud prevention, export control clearance or other legally required checks, or in order to process payment transactions.

Unify does not share any of your User Data with advertisers.

Unify will not disclose User Data to a third party (including law enforcement, other government entity, or civil litigant and excluding our subcontractors, see above) except as you or your organization direct Unify via your Authorized Reseller or unless Unify or your Authorized Reseller are required to do so by Applicable Laws. In the event a third party requires Unify or your Authorized Reseller to hand over your User Data, Unify or your Authorized Reseller will inform the third party to request the User Data directly from you or your organization. As part of that process, Unify may provide the contact information of the Customer Contact to the third party. If Unify or your Authorized Reseller should be forced by Applicable Laws to hand over your User Data to the third party or grant access to it, your Authorized Reseller will use commercially reasonable efforts to notify you in advance, provided this is not prohibited by Applicable Laws.

8. **Accessing, Correcting and Deleting Your Information**

You are responsible for all Circuit Users you sign up to Circuit and all User Content they generate. The management of the Personal Data of these Circuit Users is a task that is handled by you, e.g. by making use of the administrative facilities of Circuit available to the Circuit Tenancy Administrator.

Your Authorized Reseller and Unify will generally forward requests from individual Circuit Users to your organization and obtain consent before responding to such requests, unless Applicable Law requires immediate action by Unify.

You may access, correct or delete Personal Data stored within Circuit by using the tools provided within Circuit (for example, editing your profile information) or through the administration console with the help of your organizations' Circuit Tenancy Administrator, or, if part of the Circuit Support Plan to which your organization subscribed to, by contacting Unify's service desk. Changes you make to your information take immediate effect on your Circuit Tenancy. All Circuit User Contact Data and Circuit User Data will be kept in secure storage and are included in our standard data backup process.

9. **Security**

Unify has implemented and will maintain appropriate technical and organizational measures, internal controls, and information security routines intended to protect your information against accidental loss, destruction, or alteration; unauthorized disclosure or access; or unlawful destruction. The specific arrangements about the security measures are part of the DPA in place between you and your Authorized Reseller.

10. **Data Location**

Your User Data, including your Personal Data, may be transferred to, stored and processed in countries outside the EU, e.g. in the United States or in any other country where Unify or an affiliate or one of our or their service providers maintain facilities. Unify will make any necessary arrangements as required by Applicable Laws for a legally compliant transfer, or processing, of Personal Data.

11. **Changes to this Privacy Statement**

This DPS may occasionally be updated to reflect customer feedback, changes in Circuit, and updates to Applicable Laws. Prior to making such changes effective, you and your organization will be notified in advance through the Customer Contact and the Circuit Tenancy Administrator by posting a notice on the Circuit login page.You will be provided with a link under which you can review the updated statement. Depending on your or your organization's settings, you may instead, or in addition, receive a notification email, and/or post a message inside Circuit. These notification(s) will be made independent of, and do not intend to limit, any notification procedure agreed with your organization in the Agreement.

You are encouraged to periodically review this privacy statement to learn how we are protecting your User Data. Unless required or permitted by Applicable Law, such changes only apply to Personal Data collected from the date the change becomes effective.

12. **How to Contact Us**

We welcome your comments. If you have questions about Circuit, our privacy and security commitments, please contact us at www.unify.com or through the Circuit Support Portal.

Data Processing Agreement (DPA) for Circuit
For customers obtaining access to Circuit via an Accredited Reseller

Version 1.1a, as of April 28, 2016

Scope

Circuit is produced by Unify and provided to the Customer by an Accredited Reseller of Unify. The DPA is part of the terms and conditions of the agreement between Customer and the Accredited Reseller. Circuit will allow the Customer and its Circuit Users to store information inside Circuit. To the extent this information contains Personal Data, the Parties agree that this will be done by means of Commissioned Data Processing with Processorcollecting, storing and processing such Personal Data only on behalf of the Customer as the Controller.
The Processor for this DPA is the Accredited Reseller who in turn holds – now as the Controller – a DPA – directly or via a Distributor – with Unify as the ultimate Processor of such Personal Data on Circuit. This does however not rule out that also the Accredited Reseller processes Personal Data to some extent, which is also covered by this DPA

This agreement on Commissioned Data Processing (hereinafter: "DPA) applies to the Personal Data collected by the Processor through the Controller's and the Controller's Circuit Users use of Circuit. This DPA specifies, pursuant to section 11 BDSG, the obligations of the Parties under the BDSG that arise between Controller and Processor from the Agreement. It applies to all activities carried out by the Processor within the framework of the Agreement whereby the Processor's employees or third parties commissioned by the Processor might handle personal data of the Controller.

The DPA does not apply to any other online or offline Unify products, sites, or services. With respect to Circuit and Circuit only, this DPA prevails over any other existing data processing agreement or similar arrangement between Unify and the Customer that may already be in place for such other products, sites or services.

1. Definitions

In addition to the terms defined elsewhere in the Agreement, the following definitions apply:

1.1 "Personal Data" are individual elements of information concerning the personal or material circumstances of an identified or identifiable natural person.

1.2 "Commissioned Data Processing" means the storage, modification, transmission, blocking or deletion of Personal Data by the Processor acting on behalf of and following the Instructions of the Controller.

1.3 "Instruction" means a written order concerning a specific action with reference to Personal Data of relevance to data protection (for example, anonymization, blocking, deletion or making available) issued by the Processor. Instructions are specified in the Agreement and may be amended from time to time thereafter by the Controller if necessary, by means of separate, individual instructions. Instructions shall be given in writing and, where given orally, shall be confirmed by the Controller in writing (via letter or email) without undue delay.

2. Scope of Application and Responsibility; Relationship of this DPA to the Agreement

2.1 The Processor processes Personal Data only on behalf of the Controller.

2.2 The scope, type and purpose of the processing of Personal Data by the Processor are described in the Agreement and the Documentation, in particular the Product and Service Description (PSD).

2.3 The term of this Processing Agreement commences upon signature by both Parties or the commencement of the Agreement, whichever is earlier, and shall continue until the end of the term of the Agreement. Upon the expiry of the Agreement, this DPA shall terminate automatically together with the Agreement.

2.4 The following types or categories of Personal Data are generally collected, processed and used by the Processor:

Personal Data about the Circuit Users you create, in particular their user name, password, email address, access rights;
Personal Data derived from your Circuit User's use of Circuit, in particular the IP-address used by the Circuit User, the activity of the Circuit User within Circuit, the used bandwidth, storage space or CPU capacity, log-in/log-off times, all to the extent tht such data was not anonymized in order to generate aggregated Usage Data,
Personal Data that is present or placed by the Circuit User in User Content, such as Personal Data

that is necessarily embedded in the content of the Conversations, e.g. in part of textual messages, documents, pictures, URLs and other User Content.

To the extent the Processor also collects, processes and uses Personal Data that is required for the conclusion and the performance of the Agreement, such as name, postal and email address, telephone number, name of the organizations and its address, separate billing address if any, IP-address, payment data, such Personal Data is out of the scope of this DPA.

2.5 The following parties are affected by the handling of their Personal Data within the framework of this agreement:

Individuals (*natürliche Personen*) working for the Controller as employees as defined in section 3 para 11 BDSG, and including board members as well as shareholders to the extent they are individuals;
Individuals working as freelancers for the Controller;
Individuals working for external service providers of the Controller;
Conversational partners of the above-mentioned persons, and
Other participants to whom the Controller has granted the right to acces his Circuit Tenancy.

2.6 The Controller shall be solely responsible for compliance with the statutory data protection laws applicable to the products and services provided, or subscribed to, under the Agreement, especially for the legality of the transfer of Personal Data to the Processor and for the legality of the data processing. The Controller shall at all time be the "responsible body" (*verantwortliche Stelle*).

2.7 On the basis of this responsibility, the Controller may require the correction, deletion, blocking and making available of Personal Data both during the term of, and after the termination of, the Agreement.
Section 4.5 sentence 2 of this DPA shall remain unaffected thereby

Controller hereby confirms and acknowledges that in the event Controller requests Processor to delete or block his Personal Data, this may render the provision of the provided or subscribed-to products or services impossible. The Processor shall notify the Controller of such consequence before the execution of such Instructions.

2.8 This DPA shall also apply to the inspection or maintenance of automated processes or of data processing systems performed via remote access, if it cannot be excluded that access to Personal Data is possible when performing these tasks.

3. Duties of the Processor

3.1 The Processor may collect, process or use Personal Data only within the framework of this DPA and the Instructions given by the Controller. Material changes to the object of data processing and changes to the procedures must be agreed jointly and must be documented.

While Processor will not refuse any legally compliant Instruction by Controller, Controller acknowledges and accepts that some Instructions may result in additional remuneration claims for Processor. Processor will inform Controller accordingly prior to executing the Instruction. At any time and without limiting Processor's claim to additional fees, Controller may waive this right to be informed in prior, e.g. in urgent cases.

3.2 The Processor shall structure Processor's internal organization in a manner that is compliant with the specific requirements of the EU Data Protection Regulations for the protection of Personal Data, in particular the BDSG. Processor shall take the appropriate technical and organizational measures to adequately protect Controller's Personal Data against misuse and loss in accordance with the applicable legal requirements in accordance with EU Data Protection Laws (in Germany: section 9 BDSG and the corresponding annex in the BDSG).

3.3 The Processor shall provide the Controller with a summary of the technical and organizational measures , which is attached hereto as **Annex 1.** Controller understands that the technical and organizational measures are subject to technical progress and further development. In this respect, the Processor shall be permitted to use alternative, suitable measures.

3.4 Upon request, the Processor shall provide the Controller with information necessary for creating the processing description (*Verfahrensbeschreibung*) in accordance with EU Data Protection Laws (in Germany: section 4g para 2 sentence 1 BDSG).

3.5 The Processor shall provide that the personnel it uses for processing the Controller's data are bound by a legal obligations to maintain data secrecy (in Germany: as per section 5 BDSG), and that they are informed about other applicable provisions concerning the protection of Personal Data, in particular telecommunications secrecy (*Fernmeldegeheimnis*, in Germany: section 88 of the German Telecommunications Act (*Telekommunikationsgesetz*, TKG)). The obligation to maintain data secrecy continues to apply after termination of their work contract.

3.6 The Processor shall provide the contact details of the Processor's data protection officer (DPO) on the internet. As of the effective date of this DPA, the DPO's current contact details can be found on the Controllers website.

3.7   The Processor shall inform the Controller in the case of breaches of regulations that protect the Controller's Personal Data or of if Controller's Instructions or Instructions from persons employed by the Controller were not properly observed.

3.8   The Processor shall be entitled to make backup copies of the Personal Data insofar as they are required to ensure correct data processing, and may copy and retain Personal Data that is needed for Controller's compliance with its statutory document retention obligations.

3.9   Processor shall store and handle media provided to Processor, and all copies or reproductions thereof, with care so that they are not accessible by third parties. The Processor shall be obliged to provide for a destruction of test material and other material containing Personal Data that is to be discarded on in a manner compliant with the law only on the basis of an individual commission by the Controller and at the latter's expense.

3.10   The fulfillment of the above-mentioned duties shall be controlled by the Processor and shall be evidenced in a suitable manner within the framework of the Controller's standard audit process as per section 6 hereof.

3.11   The Processor shall inform the Controller if the Processor is of the opinion that an Instruction is in breach of applicable statutory data protection laws and thereby fulfill its duty to notify under the EU Data Protection Requirements (in Germany: section 11 para 3 sentence 2 BDSG). The Processor shall be entitled to suspend the implementation of the relevant Instruction until it has been confirmed or amended by the Controller.

4.   Duties of the Controller

4.1   In respect of the Personal Data to be processed, the Controller and the Processor shall each be responsible for compliance with the data protection laws that are relevant to them. The Controller must inform the Processor if applicable laws, regulations or guidelines entail specific duties for handling Personal Data in a particular case.

4.2   The Controller shall inform the Processor promptly and comprehensively about any errors or irregularities related to statutory provisions on the Processing of Personal Data that it becomes aware of.

4.3   Where it is legally required to keep and maintain a public directory of processing descriptions (in Germany: *öffentliches Verfahrensverzeichnis* pursuant to section 4g para 2 sentence 2 BDSG), this obligations rests with the Controller.

4.4   The Controller shall be subject to any data breach notification duties resulting from EU Data Protection Requirement (in Germany: section 42a BDSG).

4.5   The Controller shall specify, contractually or by Instruction, the measures for the return of the media provided to Processor, and for the deletion of the Personal Data stored at the Processor after termination of this Processing Agreement.

        The Controller cannot demand the deletion of Personal Data stored with the Processor insofar as the Processor is required by statutory law to retain material that contains that Personal Data, e.g. the data retention rules pursuant to the German Commercial Code (*Handelsgesetzbuch*, HGB) or the German Tax Code (*Abgabenordnung*, AO).

        Where Processor needs to retain Personal Data, it shall be blocked by the Processor until the applicable retention period has expired. In addition, Personal Data shall be blocked instead of deleting it, to the extent legally permitted under EU Data Protection Requirements (in Germany: section 35 BDSG), in particular, if the deletion is not reasonably feasible or only possible with disproportional cost due to the particular type of storage.

4.6   Any additional costs incurred after this DPA was terminated due to the making available or deletion of Personal Data shall be borne by the Controller.

4.7   The Controller must notify the Processor in due time about changes in legal regulations in the area of data protection that affect the contractual duties of Processor and may require that this DPA be amended.

        The Parties agree to bring about a mutually acceptable solution and to take into account the effects of this action on the agreed remuneration.

        The Processor may also submit proposals to Controller if Processor deems a certain change to be necessary in order to remain compliant with Applicable Law.

5.   Inquiries received by the Controller from Individuals

5.1   Where the Controller is obliged under Applicable Law to provide information to an individual about the collection, processing or use of its Personal Data, the Processor shall provide reasonable assistance to the Controller in making this information available, provided that:

        the Controller has requested the Processor in writing to do so, and

the Controller reimburses the Processor for the costs incurred as a result of such assistance.

5.2   Insofar as an individual contacts the Processor directly for the purpose of correction of information about, or deletion of, its Personal Data, the Processor shall forward such request to the Controller who shall then instruct the Processor immediately as to how to proceed.

6.   Audit Rights

6.1   With regard to the Controller's duty pursuant to EU Data Protection Requirements (in Germany: section 11 para 2 sentence 4 BDSG) to audit the Processor prior to the commencement of the data processing, and again during the term of the DPA, the Processor shall provide that the Controller may audit the technical and organizational measures undertaken by the Processor.

For this purpose, and upon explicit request of the Controller, the Processor shall furnish evidence to the Controller regarding the implementation of the technical and organizational measures pursuant to EU Data Protection Requirements (in Germany: section 9 BDSG and its annex), by way of self-certification. Evidence for the implementation of such measures that do not relate exclusively to this specific DPA or the Agreement may also be furnished by submitting a current certificate, reports or extracts from reports by independent third parties, e.g. by certified public accountants, account auditors, the Processor's internal and/or external data protection officer(s), the Processor's IT security department, the Processor's internal and external data protection auditors, quality auditors, or by a suitable certificate issued after Processor's IT security or data protection were audited by a third party, e.g. in accordance with the German Federal Office for Information Security's (*Bundesamt für Sicherheit in der Informationstechnik*, BSI) "*Grundschutz*" standard.

6.2   The Processor shall, upon Controller's written request and within a reasonable period of time, provide Controller with all information necessary for such audit pursuant to section 6.1.

7.   Subcontracting

7.1   The Controller agrees that the Processor may engage third parties for the provision of services contractually owned by the Processor.

7.2   If the Processor uses subcontractors who process the Controller's Personal Data, the Processor shall provide that such subcontractors are contractually obliged to comply with the applicable data protection laws. Upon written request of Controller, Processor shall inform Controller about the subcontractors engaged by Processor in connection with the Agreement who process Personal Data of the Controller as data processors of Processor.

7.3   In the event Personal Data may be transferred to, stored and processed in countries outside the EU, e.g. in the United States or any other country where Controller or Controller's Affiliates or subcontractors maintain facilities, Controller shall make the necessary contractual arrangements that are required under the EU Data Protection Regulations and the applicable local law (e.g. the German Federal Data Protection Act - Bundesdatenschutzgesetz, BDSG) for a legally compliant transfer, or processing, of Personal Data. If in order to achieve compliance with EU Data Protection Regulations it is required to enter into a direct contractual relationship between Controller and subcontractor, Processor shall coordinate with subcontractor and Controller to arrange for such direct contract to be closed, with this DPA serving as the benchmark.

8.   Information Duties, Written Form Requirement

8.1   In the event Controller's Personal Data becomes subject to search and seizure, an attachment order, confiscation during bankruptcy or insolvency proceedings, or similar events or measures by third parties, Processor shall inform Controller without undue delay, if permitted by law.

8.2   The Processor shall, without undue delay, notify all parties pertinent in such action that Personal Data affected by their measures is the Controller's sole property and at the Controller's sole disposition, and that the Controller is the responsible body pursuant to the BDSG.

8.3   Any changes and additions to this agreement and to any of its elements, including any assurances by the Processor, shall require a written agreement and an express indication that it is a change or addition to these conditions. This shall also apply to any waiver of this written form requirement.

8.4   This DPA shall be subject to German law, and unless compulsive statutory law requires otherwise. The courts of Munich shall have the exclusive jurisdiction.

8.5   If any individual provision of the DPA is illegal, invalid, void, voidable or unenforceable, the remainder of the DPA will continue in full force and effect. The Parties shall agree upon an effective provision that, insofar as legally possible, most closely reflects what the Parties intended. The Parties are aware of the German Federal Supreme Court's (*Bundesgerichtshof*, BGH) case-law whereby a severability clause merely reverses the burden of proof. However, it is the express intention of the Parties to maintain the validity of the remaining provisions in all cases and thus to exclude the applicability of section 139 of the German Civil Code (*Bürgerliches Gesetzbuch*, BGB) as a whole.

Annex 1

General Technical and Organizational Measures pursuant to Section 9 BDSG and its Annex

effective 28 October 2014

Hereinafter, the material measures taken regarding compliance with the annex to section 9 BDSG, first sentence (control objectives No. 1 to 8) are briefly described.

The following description of the status quo of the elementary measures regarding the protection of data cannot cover any and all security measures in place. In particular in the context of data protection and data security, it is also not feasible to provide detailed descriptions of confidential measures, as the protection of security measures against unauthorised disclosure is as least as important as the security measure itself. In addition, the Agreement, in particular the PSD and the SLA, may contain further details about the technical and organizational measures undertaken.

The Customer is ecouraged to discuss any individual questions relating to the technical and organizational measures with Customer's account manager at the Accredited Reseller.

1. **Entrance Control ("Zutrittskontrolle**

   Technical or organizational measures regarding access control, especially regarding legitimation of authorized persons:

   The aim of the entrance control is to prevent unauthorised people from physically accessing such data processing equipment which processes or uses Personal Data.

   Due to their respective security requirements, business premises and facilities are subdivided into different security zones with different access authorizations. They are monitored by security personnel. Access for employees is only possible with an encoded ID with a photo on it. All other persons have access only after having registered before (e.g. at the main entrance).

   Access to special security areas such as the service centre for remote maintenance is additionally protected by a separate access area. The constructional and substantive security standards comply with the security requirements for data centres.

2. **System Access Control ("*Zugangskontrolle*")**

   Technical (password protection) and organizational (user master data) measures regarding the user ID and authentication:

   The aim of the system access control is to prevent unauthorized use of data processing systems which are used for the processing and the use of Personal Data.

   Each employee's user master data and individual identification code are registered in the global contact directory. Admission to the data processing systems is only possible after identification and authentication by using the identification code and the password for the particular system.

   Additional technical protections are in place using firewalls and proxy servers.

   In order to guarantee admission control, encryption technologies are used (e.g. remote access to the company network via VPN tunnel). The suitability of an encryption technology is measured against the protective purpose.

3. **Data Access Control ("*Zugriffskontrolle*")**

   On-demand structure of the authorization concept and of the data access rights as well as their monitoring and recording:

   Measures regarding data access control are to be targeted on the fact that only such data can be accessed for which an access authorization exists and that Personal Data cannot be read, copied, changed or deleted in an unauthorized manner during the processing, use and after the saving of such data.

Access to data necessary for the performance of the particular task is ensured within the systems and applications by a corresponding role and authorization concept. In accordance to the "need-to-know" principle, each role has only those rights which are necessary for the fulfilment of the task to be performed by the individual person.

In order to ensure data access control, an encryption technology is used (e.g. remote access to the company network via VPN tunnel). The suitability of an encryption technology is measured against the protective purpose.

4.   **Transmission Control ("*Weitergabekontrolle*")**

Measures regarding the transport, transfer, transmission or storage of Personal Data on data media (manually or electronically) as well as regarding the subsequent review:

The aim of the transmission control is to ensure that Personal Data cannot be read, copied, changed or deleted without authorization during their transfer or while stored on data media, and that it can be monitored and determined to which recipients a transfer of Personal Data is intended.

The measures necessary to ensure data security during transport, transfer and transmission of Personal Data as well as any other company or customer data are detailed in the policy on the protection of confidential business information. In this policy, there is a detailed description of the entire processing of data, from the creation of such data to their deletion, including the handling of such data in accordance with their classification.

In order to ensure transfer control, an encryption technology is used (e.g. remote access to the company network via VPN tunnel). The suitability of an encryption technology is measured against the protective purpose.

The transfer of Personal Data to a third party (e.g. customers, sub-contractors, service provider) is only made if a corresponding contract exists, and only for a specific purpose. If Personal Data are transferred to companies with their seat outside the EU/EEA, an adequate level of data protection exists at the target location or organization in accordance with the European Union's data protection requirements, e.g. by employing contracts based on the EU model contract clauses.

5.   **Data Entry Control ("*Eingabekontrolle*")**

Measures regarding the subsequent review, whether and by whom data were entered, altered or deleted:

The aim of the data entry control is to make sure with the help of appropriate measures that the circumstances of the data entry can be reviewed and monitored retroactively.

System inputs are recorded in the form of log files. By doing so, it is possible at a later stage to review whether and by whom Personal Data was entered, altered or deleted.

6.   **Data Processing Control ("*Auftragskontrolle*")**

Measures (technical/organisational) to differentiate between the competences of principal and contractor:

The aim of the data processing control is to ensure that Personal Data which are processed by a commissioned data processor are processed in accordance with the Instructions of the principal.

Personal Data is used for internal purposes only (e.g. as part of the respective customer relationship). A transfer of Personal Data to a third party, such as a subcontractor, is only made under consideration of contractual arrangements and applicable data protection laws.

Details regarding data processing control are set forth in the corresponding Master Agreement and Processing Agreement.

7.   **Availability Control ("*Verfügbarkeitskontrolle*")**

Measures regarding data backup (physical/logical):

The aim of the availability control is to ensure that Personal Data are protected against accidental destruction and loss.

If Personal Data is no longer required for the purposes for which it was processed, it is deleted promptly. It should be noted that with each deletion, the Personal Data is only locked in the first instance and is then deleted for good with a certain delay. This is done in order to prevent accidental deletions or possible intentional damage.

Due to technical reasons, copies of Personal Data may be present in backup files and may be made by mirroring of services. Subject to processors' own statutory data retention obligation (see Processing Agreement), such copies are also deleted - if necessary, with a technically caused delay. The availability of the systems themselves is ensured in accordance with the necessary security level by corresponding security measures (e.g. mirroring of hard drives, RAID systems, USV).

8. **Separation Control ("*Trennungsgebot*")**

Measures regarding the separate processing (saving, changing, deletion, and transfer) of data with different purposes:

The aim of the separation control is to ensure that data which have been collected for different purposes can be processed separately.

Personal Data are used for internal purposes only (e.g. as part of the respective customer relationship). A transfer to a third party such as a subcontractor is solely made under consideration of contractual arrangements and data protection regulations.

Employees are instructed to collect, process and use Personal Data only within the framework and for the purposes of their duties (e.g. service provision). At a technical level, multi-client capability, the separation of functions as well as the separation of testing and production systems are used for this purpose.