Terms of Service (TOS) for Circuit

For customers obtaining access to Circuit via On-Line Communications Systems Pty Ltd ABN 19 091 014 621 ("On-Line Communications") .

Circuit is Produced by Unify and provided to you by On-Line Communications. These TOS are part of the terms and conditions of your Agreement with On-Line Communications. 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 this document carefully. It is part of the legal relationship between your business or organization and On-Line Communications regarding the use of Circuit and the associated software and services. Prior to using Circuit, your business or organization must accept the TOS and agree that any person to whom your business or organization grants access to its Circuit Tenancy, are bound by these TOS and the documents referenced herein.

1.3   You and your business, or your organization, are collectively addressed as "you". This, and other capitalized terms used in the Agreement, are defined in the section **Definitions** in this document.

2   Provision of Circuit

2.1   Circuit will be provided to you by On-Line Communications from the Effective Date on. On-Line Communications will obtain the Circuit service – possibly via distributors – ultimately from Unify. The scope of Circuit's functionalities is described in the document **Product and Service Description** which is posted on the Circuit portal on On-Line Communications' website. The **Service Level Agreement (SLA)** included in this document 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.

2.3   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 a providing 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.

2.4   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 the Services where you are located, as well as where your meeting invitees are located.

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4   Eligibility to sign up for Circuit

4.1   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. Circuit is not offered 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.

4.2   Without limitation to the statutory rules on businesses by appearance, if On-Line Communications reasonably believes that you or a specific Circuit User does not meet the above stated requirements, On-Line Communications 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, On-Line Communications may elect to terminate the entire Agreement for cause with immediate effect.

5   Signing up for Circuit

5.1   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, depending upon the legal jurisdiction in which your business or organization operates, to conclude the Data Processing Agreement (DPA) with On-Line Communications.

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5.4   The registration for Circuit, whether or not it is for a Free or Trial version and including those registrations made through On-Line Communications, will result in a binding proposal from your business or organization to On-Line Communications to enter into a Subscription Agreement. You will be informed if your proposal is accepted via direct email or through On-Line Communications. On-Line Communications and Unify are 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 On-Line Communications nor Unify have any liability against any other party.

5.5   Once your proposal has been accepted, you and any other Circuit User 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 On-Line Communications without delay. You are liable for all damages due to your fault to maintain the confidentiality of the passwords.

5.6   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.

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6   Feedback about Circuit

Unify and On-Line Communications 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 On-Line Communications 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 or On-Line Communications own all Feedback that you submit to Unify. You hereby assign and grant Unify or On-Line Communications 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 On-Line Communications 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 this Agreement.

For the avoidance of doubt, with the exception of the Feedback you provide to Unify, Unify does not claim ownership of any of the User Content you submit to Circuit (see also below). You should carefully review your Feedback and possibly clean it of any User Content that you do not want Unify or On-Line Communications to own.

7   Right to Use Circuit User Data Handling of Circuit User Data

7.1   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.

7.2   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 is owned by you. The Circuit service is only acting as a passive conduit for your Circuit User Data. Neither Unify nor On-Line Communications claim any ownership rights in your Circuit User Data and 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. The AUP is posted on the Circuit portal on On-Line Communications' website.

7.3   If you object to any third party Circuit User Data, On-Line Communications will attempt to resolve that as per the procedure described in the **Acceptable Use Policy (AUP)**. In the event On-Line Communications 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 On-Line Communications

7.4   If you believe that On-Line Communications, Unify or any of their affiliates or a third party Circuit User (including Guest Users) violated a copyright, please first notify On-Line Communications of the potential copyright infringement or other intellectual property rights issue before taking legal action. The violation-resolution procedure described in the **Acceptable Use Policy (AUP)** shall be applied accordingly.

7.5   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, for instance and where applicable, the U.S. Copyright Office.

8   Liability for Circuit User Data

8.1   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. The SFR is posted on the Circuit portal on On-Line Communications' website.

8.2   You will indemnify, defend and hold harmless On-Line Communications and Unify from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorneys' fees) arising from your violation of sections 7 to 9.

9   Data privacy

9.1   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, as the Producer of Circuit, is very serious about the safety and security of such Personal Data.

9.2   Unify will provide Circuit through personnel who are bound to data secrecy as defined by Applicable Law.

9.3   With regard to the Personal Data stored or otherwise processed by Circuit, On-Line Communications 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. On-Line Communications' liability for breaches of data protection shall be excluded if On-Line Communications acted in accordance with a direction given by you.

9.4   Unify will 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.

9.5   Unify may use subcontractors to Produce Circuit. To the extent Unify uses subcontractors, Unify will impose upon them a similar obligation as per this section 11, in particular section 11.2 in accordance with the data protection provisions of this Agreement and Applicable Laws. Where required by applicable law, they shall be bound by contractual terms no less binding than the **Data Processing Agreement (DPA)** with On-Line Communications and follow a standard that meets or exceeds the standard provided for in the **Data Privacy Statement (DPS)** which is posted on the Circuit portal on On-Line Communications' website.

9.6   Unify and On-Line Communications do not have control over, and are 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 Circuit can be provided to you without you 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.

9.7   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.

9.8   Where required by applicable law, 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 On-Line Communications. There under, On-Line Communications will act as the data processor and you will be the data controller. On-Line Communications holds a DPA – possibly via Distributors – ultimately with Unify. The DPA, where applicable, takes precedence over the DPS.

9.9   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.

10   Security

10.1   Unify has implemented 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.

10.2   Neither On-Line Communications 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 On-Line Communications' and Unify's liability with respect to Personal Data shall be limited as stipulated in this Agreement.

10.3 You are entirely responsible for maintaining the confidentiality of all of your passwords and 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.

10.4 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 use Circuit. Failure to do so may result in blocking access to single Circuit Accounts or, in serious cases, of your entire access to Circuit.

10.5 You agree to notify On-Line Communications immediately of any unauthorized use of your Circuit Accounts or any other breach of security. Neither On-Line Communications 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 an event you could in turn be held liable for losses incurred by Unify, On-Line Communications or another party due to someone else using your Circuit Accounts or passwords.

11   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 Applicable Law. Unify reserves 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 On-Line Communications, for the latest list of countries in which Circuit is available, and to learn about any functional variations applicable in certain countries or jurisdictions.

12   License, Copyright and Ownership of Circuit

12.1 Subject to the terms of the Agreement, On-Line Communications 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, royalty-free 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.

12.2 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 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 property of Unify, even if suggestions made by you, e.g. as part of Feedback, are incorporated into subsequent versions of Circuit.

12.3 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 sublease Circuit to any third party, including any of your Affiliates, unless explicitly agreed in writing with On-Line Communications. 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.

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14   Downloadable Software

14.1 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, 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, which is posted on the Circuit portal on On-Line Communications' website. In some cases, the software may contain third-party software components, e.g. commercial components, 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 the EULA. A copy of the EULA and the separate licensing terms, if any, may be obtained from On-Line Communications prior to entering the Agreement.

14.2 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.

14.3 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, Unify 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 Unify's 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.

14.4 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 solely to and for the use of your Circuit Users.

15   Warranties

15.1 Circuit is provided in a professional manner, but On-Line Communications 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 the **Service Level Agreement (SLA)** in this document.

For trial uses and FREE service packages, see section 24.

15.2   If there is a Defect in Circuit, On-Line Communications will work with Unify to remedy such Defect at On-Line Communications' own cost and expense, provided that you notify On-Line Communications 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.

15.3   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.

15.4   On-Line Communications and Unify will decide, at their sole discretion, how and when the Defect will be fixed and whether a workaround will be provided or a correction release of Circuit will be effected.

15.5   With respect to Defects that are within On-Line Communications' area of responsibility, your sole remedy is to claim a Service Level Credit to the extent set forth in the **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.

15.6   Unify and On-Line Communications shall be exempt from 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 and On-Line Communications are prevented from performing such obligations or are delayed in the performance of such obligations, due to non-fulfilment of your obligations under this Agreement, or in a case of Force Majeure.

15.7   Nothing in this Agreement shall be construed as a guarantee or warranty unless otherwise expressly provided for herein with the words "guarantee" or "warranty. resp. "*Garantie*".

15.8   The provisions of this section 15 are exhaustive with respect to claims based on Defects. Circuit is otherwise provided "as is" and as available. SAVE AS EXPLICITLY DESCRIBED IN THE AGREEMENT, UNIFY ANDON-LINE COMMUNICATIONS MAKE NO WARRANTIES, EITHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES FOR MERCHANTABILITY FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. ALL OTHER RIGHTS AND REMEDIES SHALL BE EXCLUDED. Notwithstanding the above, Unify's and On-Line Communications' 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 by means of terms and conditions.

16   Intellectual Property Rights Indemnification

16.1   On-Line Communications 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 the infringement of Intellectual Property Right, provided that Unify or On-Line Communications gave prior written consent to the settlement, including reasonable costs incurred in connection therewith.

16.2   On-Line Communications, in cooperation with Unify, may also, at their 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 On-Line Communications fails to provide these remedies, either Party may terminate the Agreement without regard to any minimum term and On-Line Communications will refund you any remaining prepaid Fees.

16.3   You will not acknowledge any alleged infringement. In the event you elect to cease using the affected part of Circuit, 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.

16.4   On-Line Communications' obligation to indemnify you is subject to you (a) notifying On-Line Communications in writing as soon as reasonably possible of any suspected or alleged infringement, (b) not making any admission which is or may be prejudicial to On-Line Communications without On-Line Communications' prior written consent; (c) giving On-Line Communications the right to defend against the allegation, including the negotiation of a settlement prior ; (d) providing On-Line Communications with reasonable assistance in defending against the alleged infringement; and (e) permitting On-Line Communications to provide the remedies set forth in section 16.2.

16.5   On-Line Communications' 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 On-Line Communications' instructions or for a purpose not reasonably contemplated by On-Line Communications; (b) the use of any component of Circuit in combination with any hardware equipment, system environment or third-party applications not specifically approved by On-Line Communications; (c) with respect to downloadable software and without limitation to your rights under Open Source Licenses, a modification thereof that was done without On-Line Communications' 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 On-Line Communications, 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 Unify or On-Line Communications followed a design or instruction furnished or given by you.

16.6   You shall defend and indemnify On-Line Communications 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 16.5; (b) the ability of On-Line Communications to defend against the alleged claim has been prejudiced by your failure to comply with any requirements of section 16.4; or (c) the claim arises from the use of the Customer Network.

16.7   The provisions of this section 16 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.

17   Liability

17.1   Subject to the provisions of this section 17, On-Line Communications' liability whether by way of indemnity or otherwise for each event or connected series of events arising out of or in connection with the Agreement shall be limited to the lesser of (i) twenty five percent (25%) of

the Agreement Value or (ii) one hundred thousand Euro (EUR 100.000). On-Line Communications' aggregate liability under the Agreement shall be limited to an amount equal to fifty percent (50%) of the Agreement Value.

17.2   On-Line Communications is not liable for loss of profit , indirect damages , consequential damages , including loss of business, loss of contracts, interruption of business , expenditures incurred and rendered unnecessary , loss or corruption of Circuit User Data, or, without limitation to section 16, claims raised by a third party against you. Where the Agreement is governed by federal or state law in the United States of America, the exclusion of liability set forth in the paragraph above will apply regardless of the form of action, whether in contract, tort, strict product liability, or otherwise, even if On-Line Communications is advised in advance of the possibility of the damages in question and even if such damages were foreseeable, and even of your remedies fail of their essential purpose.

17.3   The liability of On-Line Communications 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 makes as part of Unify's normal operations. It is otherwise your obligation to ensure that important Circuit User Data is not stored on Circuit alone, and to provide for backups or copies of such Circuit User Data on a regular basis. You will not use Circuit as your sole means of storing such important data.

17.4   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 Product Liability Act.

17.5   Unless specified otherwise in your applicable service package, your claim to service level credits as per the **Service Level Agreement (SLA)** in this document 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.

18   Term and Termination

18.1   If you submit your registration for the Circuit subscription, the Agreement becomes effective on the date your registration is accepted, as indicated through the confirmatory email which will be sent to you, or through the confirmation by On-Line Communications. If you obtain Circuit "offline", e.g. from one of On-Line Communications' sales representatives, the Agreement becomes effective on the date it is signed by you and On-Line Communications or on the individually agreed date (each the "Effective Date").

18.2   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.

18.3   Nothing in this Agreement shall be construed to limit the right of you or On-Line Communications to terminate for good cause in accordance with Applicable Laws.

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18.5   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, which are posted on the Circuit portal on On-Line Communications' website, 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 On-Line Communications are ordered to do so by a court or authority in any country.

Upon such suspension, access to all of your Circuit Users and Circuit User Data may be, deactivated or barred, without refund or compensation.

18.6   Upon receipt of the termination notice, you will be provided with a facility from which you can download your Circuit User's Circuit User Data 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, all of your Circuit User Accounts will be completely removed 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.

18.7   Notwithstanding any minimum term commitment, the Agreement may be terminated by On-Line Communications 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.

19   Changes to Circuit and the Agreement

19.1   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. We may select and/or modify at our 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, On-Line Communications will announce possible changes in Circuit that affect the system requirements, adequately in advance.

19.2   At any time, the terms of this Agreement and the other terms and conditions referenced by it may be changed, or functionality be added or removed or other changes be implemented that require changes on your side, such as a change of your browser, microphone settings or the exporting of data. In this case, On-Line Communications will provide you with thirty (30) days notice by sending an email to the Customer Contact, and, at our discretion, 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 On-Line Communications a notice.

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

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21   Subcontractors

You understand that Unify may, at its sole discretion, use subcontractors and third-party suppliers for the performance of any obligations under the Agreement. Obligations under section 10 shall not be limited thereby.

22   Export Control Regulations

22.1   Any obligation of Unify or On-Line Communications under the Agreement are subject to the proviso that fulfilment 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.

22.2   If you transfer Goods (for the purpose of this section, 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 On-Line Communications, or works or services (including all kinds of technical support) performed by On-Line Communications, to a third party, or if you re-export such Goods, works or services, you must comply with the Applicable Export Control Laws.

22.3   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, 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.

22.4   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.

22.5   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 22 and any breach of Applicable Export Control Laws, and you will compensate Unify for all losses and expenses resulting thereof.

23   Special Provisions for FREE subscriptions and TRIALS

23.1   The terms of this section apply to FREE service package and TRIAL subscriptions only, and take precedence over any other term of the Agreement with respect to FREE service package or TRIAL subscriptions only. Please read carefully, as these subscriptions are subject to certain limitations not applicable to a paid-for subscription.

23.2   Under a subscription to the FREE service package for Circuit, Circuit will be provided to you without charge. The FREE service package is subject to certain technical and functional limitations, as described in the **Product and Service Description (PSD),** which is posted on the Circuit portal on On-Line Communications' website. You are under no obligation to purchase a paid-for subscription, and we are under no obligation to offer you a paid-for subscription.

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

23.4   On-Line Communications will not charge you for the FREE or TRIAL service package, and in turn you will not charge Unify or On-Line Communications for anything you do with, or submit to, Circuit, including Feedback. You will bear any and all costs for using of your FREE or TRIAL service package subscription. You bear the risk of, and the cost of, any loss of data, loss of revenue, time and effort caused by your use of a FREE service package subscription.

23.5   There is no specific time limit to the FREE service package subscription, but there is no warranty that subscriptions to the FREE service package will always be available. Unify or On-Line Communications may discontinue to allow, or terminate, FREE service package subscriptions, or alter their service package at any time, giving at least four (4) weeks advance notice. You should not use a FREE Service package subscription or Trial subscription (ad further described in section 23.8 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 using the FREE service package or a trial subscription?

23.6   Circuit is provided "as is" under the FREE or a trial subscription i.e. reasonable efforts will be used to provide Circuit to you, but service level commitments as per the **Service Level Agreement (SLA)** in this document 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 paid-for subscribers.

You understand and accept that you assume all risks of use, quality, and performance with respect to the trial use. On-Line Communications and Unify disclaim 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. On-Line Communications and Unify disclaim any liability for any problems in or caused by your trial use of Circuit, whether direct, indirect, special, or consequential, including loss of profits.

23.7   Unify's liability for the injury of life, body or health, for intent or in the case of mandatory statutory liability, e. g. under the German Product Liability Act ,shall 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 law. This also applies to any other liability which cannot, by Applicable Law, be excluded.

23.8   A TRIAL subscription may be individually arranged with On-Line Communications. In addition to the provisions applicable to Free subscriptions above, the following applies to any Free subscription that has been upgraded to a trial subscription:

- 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.

- On-Line Communications does not charge you for the trial, but you understand that the service levels and SLA credits stipulated in the **Service Level Agreement (SLA)** do not apply.

- Once your trial period nears its end, On-Line Communications may contact 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, your subscription will be terminated. You will not be able to continue the subscription with the FREE service package.

- On-Line Communications or Unify may elect to cease offering new TRIALS at any time.

24   General Provisions

24.1   Proprietary Rights As to the trademarks, industrial design marks, names or domain names of Unify and of Unify's suppliers (for the purpose of this clause, "Marks"), 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 Marks of Unify or

of Unify's suppliers, or other proprietary information (including images, text, page layout, or form) of Unify or Unify's suppliers without Unify's express written consent. You may not use any meta tags or any other "hidden text" utilizing Unify's or Unify's supplier's Marks without the respective Mark owner's written consent.

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24.9   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.

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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. On-Line Communications is entitled to offer you this SLA including the SLA Credits as part of your Agreement with On-Line Communications. Requests for SLA credits have to be placed with On-Line Communications and On-Line Communications will effectuate the credits. There is no contractual relationship between you and Unify.

1 Definitions

1.1 In addition to the terms defined elsewhere in this document, the following definitions apply:

- "Availability" means the time during which Circuit is available for access and use, subject to the exclusions described in this **Service Level Agreement (SLA)**, in particular section 2.

- "Availability Exceptions" means circumstances which are beyond Unify's control and under which Circuit cannot be provided in accordance with Unify's SLA commitments, as outlined below in section 2.1c).

- "Contracted Month" means a full monthly billing cycle during the term of the subscription,

- "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 inaccessible.

- "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 Unify 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 Unify, as set forth in this **Service Level Agreement (SLA)**.

2 Availability of Circuit

2.1 **General**

Unify is obligated to 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. Customers will be notified about Scheduled Maintenance in text form 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". Unify is obligated to attempt to notify the Customer, 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 Unify's or On-Line Communications' advice, you continue to use Circuit in a manner that is dangerous or wrongful, in particular if such use violates the **Acceptable Use Policy (AUP)** posted on the Circuit portal on On-Line Communications' website,

- Any unauthorized action or inaction from your employees, agents, contractors, or vendors with respect to Circuit, or if anyone gains access to Unify's 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' software (including any third party services or software such as browsers that you use) or third parties' hardware (including your network equipment), provided these are not under the control of Unify or were not recommended for Circuit;

- Failure of the Internet connection between you and Unify's 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 Unify fails to meet the availability targets for Circuit for the Contracted Month, you may claim an Availability Credit with On-Line Communications as per the table below.

You must submit your claim to an Availability Credit through your Customer Contact with On-Line Communications no later than ten (10) Business Days after the invoice date. The service request must contain a copy of the invoice and reasonable details on the claimed downtime and the availability level not met by Unify.

On-Line Communications will pass the claim on to Unify. Unify is obligated to verify with reasonable judgement the claimed Downtime and respond to the claim back to On-Line Communications within ten (10) Business Days if the claim could be verified by Unify (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 **Product and Service Description (PSD)**, which is posted on the Circuit portal on On-Line Communcations' website, and they 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%	2.50%	-	-
< 99.5% but > 99.0%	5.00%	2.50%	-
< 99.0% but > 98.5%	7.50%	5.00%	2.50%
< 98.5% but > 98.0%	10.00%	7.50%	5.00%
< 98.0% but > 97.5%	12.50%	10.00%	7.50%
< 97.5% but > 97.0%	15.00%	12.50%	10.00%
< 97.0% but > 96.5%	17.50%	15.00%	12.50%
< 96.5% but > 96.0%	20.00%	17.50%	15.00%
< 96.0% but > 95.5%	22.50%	20.00%	17.50%
< 95.5% but > 95.0%	25.00%	22.50%	20.00%
< 95.0% but > 90.0%	50.00%	25.00%	22.50%
< 90.0%	100.00%	50.00%	25.00%

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 period (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 Availability 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 by On-Line Communications to the invoice following Unify's response to your availability credit claim. The availability credit cannot exceed one hundred percent (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 (2) 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 **Terms 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 **Terms of Service (TOS)**.

3   Support for Circuit Users

3.1   User support services and defined and offered by On-Line Communications and subject to your Agreement with On-Line Communications. Unify generally produces the following support facilities to Circuit Users:

- Self-help via the Circuit Support Portal,

- Circuit 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 the **Product and Service 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 On-Line Communications

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 Circuit UHD is described in the **Product and Service Description (PSD)**. Unify will make commercially reasonable efforts to respond to requests as quickly as possible. There are no SLA credits for Circuit 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 Unify when the Circuit User places the service request. Unify reserves 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 the Product and Service 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 the Product and Service 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.

Pricing for Circuit (PFC)

1 Fees & Pricing plan

The fees for your Circuit subscription are set by On-Line Communications. Unify publishes recommended selling prices (RSP) on www.circuit**.com.**

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1.2 Free-to-use Package, Free trial

With FREE, Unify offers a free-of-charge service package with a limited set of functionality. See the providios for trial use and FREE use 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. FREE Circuit Users that are not upgraded will be deleted from your Circuit Tenancy, including their Circuit User Data.

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6 Changes to Fees (RSP)

6.1 Unify may at any time adjust the Fees (RSP), provided that such adjustment reflects 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 extraordinarily terminate your subscription to Circuit with effect as of the date the adjustment becomes effective. In this case, you will send Unify a notice through the Customer Contact. If the change to the Fees is mandatory for Unify because of Applicable Laws, e.g. a change in taxes, On-Line Communications will still inform you of the changes, but you will not have the right for extraordinary termination.

6.3 Unify may, at any time, add features and functionalities to Circuit that Unify elects to make available only for payment of additional charges. To upgrade your subscription, you may need to log in with the Circuit Tenancy Administrator account or have contact your sales representative of On-Line Communications.

Definitions Included in this Document (Terms of Service For Circuit, Service Level Agreement & Pricing For Circuit)

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 is deemed to be acceptable use of Circuit, what not, and what will happen if there is a violation of the AUP.

"Agreement" means the contract between you and On-Line Communications under which you are granted access to Circuit and all other documents referenced therein. The Agreement consists, inter alia, of the Terms of Service (TOS) for Circuit, together with the Annexes Product and Service Description (PSD), Payment for Circuit (PFC), 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.

"On-Line Communications" means a company authorized by Unify to resell Circuit services. It specifically refers to On-Line Communications that Provides Circuit to you and with whom you hold the 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 Produced by Unify and Provided to you by On-Line Communications in connection with Circuit, as further described in the Agreement.

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

"Circuit Core Services" means the application "Circuit" as defined in **Product and Service Description (PSD)**, which is posted on the Circuit portal on On-Line Communications' website. The ancillary 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 functionality.

"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" is 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),** which are posted on the Circuit portal on On-Line Communications' website

"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 Support Plan" refers to a part of the Agreement with On-Line Communications which covers customer and user support services.

"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)**, which is posted on the Circuit portal on On-Line Communications' website

"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 a 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, and 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.

"Conversation" refers to a number of conversation items (messages, files, real-time meetings via phone call, video, screen-share, 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 a 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 our 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 **Product and Service Description (PSD)**, which is posted on the Circuit portal on On-Line Communications' website

"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 you and On-Line Communications. There may be monthly, usage based or one-time Fees. See **Pricing for Circuit** (PFC) 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 labour 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 delivery of Circuit, e.g. a case of non-performance of Circuit, or the failure to achieve a Service Level. Incidents are further described in **Product and Service Description (PSD)**, which is posted on the Circuit portal on On-Line Communications' website.

"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 searchable 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 analyse 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 Unify or On-Line Communications 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.

"Producing Circuit" means to run the Circuit software in a data centre, to enable means to access this software for Circuit Users, and to make all other products and services available which are collectively called Circuit. Circuit is produced by Unify

"Providing Circuit" means hold the Agreement with you which grants you access to Circuit. Circuit is provided to you by On-Line Communications.

"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 On-Line Communications and/or Unify 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 **Service Level Agreement (SLA)** and describes, basically, the level of service that you can 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" is a temporary Circuit User who is invited to a meeting (e.g. telco, videoconference, screen-share, 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.

"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", means the Unify entity that produces the Circuit Service Provided to you by On-Line Communications.

"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 a Circuit User. Unless you give On-Line Communications other directions, the Circuit User Data related to that User Account will be kept for the term of your subscription.

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