
Appendix – Flow Down Terms: Unify Square PowerSuite**1. DEFINITIONS**

In this Appendix the following terms and expressions shall have the following meanings:

Active Account means a unique account on one or more supported platforms for which Third Party is collecting and analyzing data and which has logged on at least once in the measurement period and participated in either a communications activity (for example a conference call or phone call) or a collaboration activity (for example a 1-1 or 1-many chat, or a document sharing/posting) using, one or multiple supported platforms in the past billing cycle.

Customer Data means data and information (including Personal Data), software access or use and documentation disclosed, collected, accessed, transferred from the Reseller or the Reseller Client, as applicable, to the Supplier via the Third Party Services.

Enabled Account means a unique account on one or more supported platforms for which Third Party is collecting and analyzing data. The definition is independent of the workloads and/or associated, specific account configuration.

Third Party in the context of this Appendix means Unify Square Inc.

Third Party Services means the Third Party Software and associated support services to be provided by Supplier under the Contract.

Third Party Software means the third party software specified in the Reseller Agreement, to be provided to the Reseller Client by Supplier via the Reseller pursuant to the Contract.

2. ORDER OF PRECEDENCE

In the event of any conflict or inconsistency between any of the provisions in the Contract and this Appendix, the provisions of this Appendix shall prevail.

3. MINIMUM USERS

The minimum count of Enabled Accounts or Active Accounts, as appropriate, that may be licensed per tenant is 250 for full PowerSuite licenses and 500 for "DID Management only" licenses. For clarity, the actual number of Enabled or Active Accounts may be less than 500 (250) but in each instance the Reseller will be charged a license fee no less than the applicable minimum of Enabled Accounts or Active Accounts, as appropriate.

4. RESTRICTIONS**4.1. Reseller or Reseller Client, as applicable, shall not:**

- 4.1.1. rent, lease, or otherwise permit any third party to use the Third Party Software or Documentation other than a User;
- 4.1.2. use the Third Party Software to provide services to third parties (e.g., as a service bureau) or to demonstrate the Third Party Software to third parties who are not Users;
- 4.1.3. circumvent or disable any security or other technological features or measures of the Third Party Software;
- 4.1.4. send, store or distribute any viruses, worms, Trojan horses, or other malware component harmful to a network or system;
- 4.1.5. attempt to access any modules or functionality that have not been purchased for Third Party Software; or
- 4.1.6. use the Third Party Software in connection with any system where malfunction can reasonably be expected to result in personal injury, death, or damage to tangible property or to the environment, including any life support or patient care system, nuclear facility, aircraft operation, air traffic control, or other application representing a similar degree of hazard.

5. ACCEPTABLE USE

The Reseller or Reseller Client, as applicable, will ensure that Users of the Third Party Software will not use the Third Party Software: (i) in a way prohibited by law, regulation, governmental order or decree; (ii) to violate the rights of others; (iii) to try to gain unauthorised access to or disrupt any service, device, data, account or network; (iv) to spam or distribute malware; (v) in a way that could harm Microsoft Azure or the Third Party Software or impair anyone else's use of it; or (vi) in any application or situation where failure of Microsoft Azure or the Third Party Software could lead to the death or serious bodily injury of any person, or damage to tangible property or to the environment.

6. PHONE NUMBER MANAGEMENT (PNM) FEATURE

- 6.1. The Reseller or Reseller Client, as applicable, agrees that by enabling Phone Number Management ("**PNM**") in the Third Party Software, the Reseller or Reseller Client, as applicable, accepts sole responsibility for the accuracy, completeness, and quality of the information used in connection with the PNM feature, including emergency location, and compliance with applicable regulations and laws related to or arising out of PNM use with any emergency services, including emergency location services. The Reseller or Reseller Client, as applicable, must verify the accuracy of the information used in connection with the PNM feature, including the emergency location information in the Third Party Software, even if entered in the Third Party Software by Supplier and/or Third Party, before the use of PNM. To the fullest extent permitted by Applicable Laws, Supplier disclaims any responsibility for:
- 6.1.1. emergency services and emergency location information;
 - 6.1.2. the choice, design, configuration and maintenance of the Reseller Client's emergency calling solution, including any recommendations for that solution; and
 - 6.1.3. call failures, misrouted calls, or other circumstances related to emergency services and emergency location services, which remain the sole responsibility of the Reseller Client.

7. CUSTOMER DATA

- 7.1. The Reseller or Reseller Client, as applicable, is responsible at all times for the accuracy, quality and legality of the Customer Data and the means by which the Customer acquires, stores, discloses or otherwise uses Customer Data, as well as for determining access privileges and rights for Users. The Reseller or Reseller Client, as applicable, agrees to provide any required disclosures to and obtain any required consents for the disclosure, access or transfer of Customer Data.
- 7.2. The Third Party Services are dependent upon the accuracy and completeness of Customer Data and the knowledge and cooperation of the Reseller or Reseller Client, as applicable. The Reseller or Reseller Client, as applicable, warrants that it has the right to use, disclose to Supplier and Third Party and allow Supplier and Third Party to use all Customer Data. The Reseller or Reseller Client, as applicable, will, at its own expense, indemnify and hold Supplier harmless against any loss or damage arising from any claim based on the absence of such right in whole or in part to the extent permissible under Applicable Laws.
- 7.3. The Reseller or Reseller Client, as applicable, will defend the Supplier from any actual or threatened third party claim arising out of or based upon Client's use of the Third Party Services, including that its use of the Third Party Software infringes a patent or copyright or misappropriates a trade secret, a third party's use of the Third Party Services, any Customer Data or third party software, specifications, content or other Reseller or Reseller Client, as applicable, provided materials provided or made available to the Supplier, or Reseller or Reseller Client, as applicable, breach of any of the provisions of this Appendix; provided the Supplier gives the Reseller or Reseller Client, as applicable, prompt written notice, control and authority to defend and/or settle the claim; and (ii) cooperates in the defense of the claim. The Reseller or Reseller Client, as applicable, will pay the costs of the defense and any settlement or damage award for the claim(s).

8. LIMITED WARRANTY AND DISCLAIMER

- 8.1. All representations, warranties, indemnities, guarantees undertakings (including, without limitation, service levels) in relation to the Third party Software are as set out in this Appendix or in the Third Party Conditions.
- 8.2. Except as expressly set out in the Third Party Conditions and subject to the Contract neither Supplier nor the Third Party provides any representations, warranties, indemnities, guarantees or undertakings (express or implied) in relation to the Third Party Software.
- 8.3. Except as expressly set out in the Third Party Conditions and subject to the Contract and to the fullest extent permitted by law, the Third Party Software is provided on an 'as is' basis, without warranty of any kind and

Supplier expressly disclaims any and all warranties, whether express or implied, including (but not limited to) warranties of merchantability, title, fitness for a particular purpose and non-infringement. In particular without limitation, Supplier does not guarantee that the Third Party Software will:

- 8.3.1. be error free;
- 8.3.2. function without interruption; or
- 8.3.3. be of merchantable quality or fit for purpose.

- 8.4. The Reseller or Reseller Client, as applicable, shall indemnify Supplier against any losses incurred by Supplier as a result of the Customer failing to comply with these Flow Down Terms.

9. INDEMNITY

- 9.1. Reseller or Reseller Client, as applicable, will defend Supplier and its affiliates and their employees, directors, agents, and representatives ("**Supplier Indemnified Parties**") from any actual or threatened third party claim arising out of or based upon Reseller or Reseller Client, as applicable, performance or failure to perform under this Contract or their negligence or willful misconduct if: (a) the applicable Supplier Indemnified Party gives Reseller or Reseller Client, as applicable, prompt written notice of the claim; (b) Reseller or Reseller Client, as applicable, has full and complete control over the defense and/or settlement of the claim; (c) the applicable Supplier Indemnified Party provides assistance in connection with the defense and settlement of the claim as Reseller or Reseller Client, as applicable, may reasonably request; and (d) the applicable Supplier Indemnified Party complies with any settlement or court order made in connection with the claim (e.g., relating to the future use of any infringing materials).
- 9.2. Reseller or Reseller Client, as applicable, will indemnify each of the Supplier Indemnified Parties against (a) all damages, costs, and attorneys' fees finally awarded against any of them in any proceeding under paragraph 9.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by any of them in connection with the defense of such proceeding (other than attorneys' fees and costs incurred without Reseller or Reseller Client, as applicable, consent after Reseller or Reseller Client, as applicable, has accepted defense of such claim); and, (c) if any proceeding arising under paragraph 9.1 is settled, Reseller or Reseller Client, as applicable, will pay any amounts to any third party agreed to by Reseller or Reseller Client, as applicable, in settlement of any such claims.

10. LIMITATION OF LIABILITY

Supplier's liability in connection with the Third Party Services shall be limited to the 100% of the Charges paid by the Reseller in respect of the Third Party Services in the twelve (12) months preceding a claim by the Reseller.

11. FOREIGN CORRUPT PRACTICES ACT

The Reseller or Reseller Client, as applicable, and its employees and agents will comply with all applicable anti-corruption and anti-money laundering laws, including without limitation the U.S. Foreign Corrupt Practices Act (FCPA), as well as laws governing lobbying, gifts and payments to public officials, political campaign contribution laws, and other related regulations, and will not directly or indirectly make and offer payment, promise to pay, or authorize payment, or offer a gift, promise to give, or authorize the giving of anything of value for the purpose of influencing an act or decision of an official of any government (including a decision not to act) or inducing such a person to use his influence to affect any such governmental act or decision in order to assist Supplier and/or the Third Party in obtaining, retaining, or directing any such business.

12. GOVERNMENT TERMS

If the Reseller or Reseller Client, as applicable, is a U.S. state or local government entity, the Third Party Services shall be governed by the local law of the State or Commonwealth in which the Reseller or Reseller Client, as applicable, is located.

13. EXPORT COMPLIANCE

- 13.1. The Reseller shall comply with import, re-import, sanctions, anti-boycott, export, and re-export control laws and regulations ("**Trade Laws**"), including Trade Laws that apply to a U.S. company, including U.S. Export Administration Regulations ("**EAR**"), International Traffic in Arms Regulations, and economic sanctions programs implemented by the Office of Foreign Assets Control regardless of whether the use of the Services transited from, to, or through the United States, such that a U.S. person could lawfully participate in any of the use of the

Services. The Reseller is solely responsible for its and its Users' compliance with Trade Laws and how the Reseller Client and its Users choose to use the Services, including the transfer and processing of Customer Data and the provision of Customer Data to Users. The Reseller warrants and represents that:

- 13.1.1. The Reseller Client and the financial institutions used by the Reseller Client to process payment for the Services, or any person or entity that owns or controls the Reseller Client or the financial institutions used by the Reseller Client to process payment for Services are not; and
 - 13.1.2. each User is not subject to sanctions or otherwise designated on any list of prohibited or restricted parties, including but not limited to the lists maintained by the United Nations Security Council, the U.S. Government (for example, the Specially Designated Nationals List and Foreign Sanctions Evaders List of the U.S. Department of Treasury, and the Entity List of the U.S. Department of Commerce), the European Union or its Member States, or other applicable government authority.
- 13.2. The Reseller shall maintain a compliance program designed to ensure compliance with the EAR. If the Customer learns that the use of the Services involve a jurisdiction, state, government, entity, or individual that is the subject of sanctions or prohibitions under U.S. sanctions laws, executive orders, or regulations, it shall promptly notify the Supplier. Failure by the Reseller to comply with this paragraph 13 shall be a material default.