

MeetingSphere® Software Subscription Agreement (United States)

Purpose

In this MeetingSphere Subscription Agreement (MSSA), MeetingSphere Inc (hereafter "MeetingSphere") and the Customer define the terms and conditions under which the Customer may run and use a MeetingSphere server (hereafter the "Software").

1 Definitions

Terms and concepts used in this MSSA are defined below.

1.1 Authentication

means the process of technically testing the identity of an individual. Circumvention or invalidation of this technical test of identity, for instance by publishing, circulating or passing on login and password information to individuals other than the named individual to be identified, constitutes a breach of this Agreement.

The passing of login and password information for Non-Personal Facilitator accounts is exempt from this rule.

1.2 Documentation

refers to documentation and user manuals supplied by MeetingSphere with the Software product in printed or electronic format.

1.3 Customer

means the contracting party of this MSSA which purchases a Subscription for the MeetingSphere software.

1.4 Date of Coming into Force

is the day the MSSA comes into force by MeetingSphere delivering the software or making the software available for download at the Customer's purchase order.

1.5 Facilitator

Except on Portable Servers refers to individuals who are licensed personally to host Meetings as a Facilitator. Personal Facilitator licenses are purchased through a Named User Subscription of type 'Facilitator'.

On Portable Servers, Facilitators are licensed through a Non-Personal Facilitator Subscription.

Facilitators are licensed to use the complete set of MeetingSphere Meeting features and functionality.

1.6 Host

refers to individuals who are personally licensed to host Meetings as Host. Host licenses are purchased through a Named User Subscription of type 'Host'. Hosts are licensed to use a subset of popular MeetingSphere features and functionality for brainstorming in web conferences.

1.7 Leader

refers to individuals who are personally licensed to host Meetings as Leader. Leader licenses are purchased through a Named User Subscription of type 'Leader'. Leaders are licensed to use a subset of popular MeetingSphere features and functionality for dynamic web conferencing.

1.8 Licensed User

means a named individual who has been licensed personally through a User Subscription by the Customer's Subscription Administrators or Licensors to set up and run Meetings as a Host, Leader or Facilitator.

Re-assignment of licenses from one individual to another is permitted to accommodate natural fluctuations of personnel or changes in individual job definitions. The re-assignment of licenses for sharing a limited number of licenses between a greater number of individuals is a severe breach of this agreement.

1.9 Licensor

means a named individual to whom a Subscription Administrator has delegated the personal licensing of users as Host, Leader or Facilitator.

1.10 Maintenance

is the making available of upgrades and updates for the Software during the Subscription period.

1.11 MeetingSphere Store

means MeetingSphere's system of one or multiple servers used for transactions related to Subscriptions, (e.g. procurement, renewal, termination) and the provisioning of software.

1.12 Meeting

refers to meetings, conferences, sittings or workshops in which Participants make use of the Service to communicate with each other or to document or disclose results of their work. These meetings, conferences, sittings or workshops may occur in a single location or remotely over the network at the same time or at different times.

Meetings require control by a Licensed User.

1.13 Participant

means anyone who interacts with the Service by joining or participating in a Meeting.

1.14 Software

means the Software that is subscribed within this MSSA including all Updates, Upgrades and documentation in both installed and uninstalled form. The term includes the MeetingSphere Server and any code retrieved from the server that is executed on the user's computer. Software also means all future components of MeetingSphere that are not explicitly qualified as third-party software.

Expressly excluded from the term 'Software' in this MSSA is the third-party software named in appendices A1-n. Such third-party software is subject only to the terms of the named licenses.

1.15 Subscriptions

MeetingSphere subscriptions come in three basic forms:

(1) Software Subscriptions which procure the right to install and run a the MeetingSphere server software specified in the Subscription Metrics. The Software Subscription must be complemented by a Named User Subscription or, on Portable Servers, a Non-Personal Facilitator Subscription.

(2) Named User Subscriptions by which licenses for Hosts, Leaders and Facilitators are purchased for a given term. Named User Subscriptions buy the right to license a specific number of named individuals for a given term. A Named User Subscription is defined by (i) the type of license i.e. 'Host', 'Leader' or 'Facilitator', (ii) the number of individuals who can be licensed by it, (iii) the remaining number of individuals yet to be licensed (iv) the individuals licensed by it, (v) the Subscription Period i.e. 1, 2, 3, 4 or 5 years, (vi) the Subscription Fee for that number of licenses of that type and term.

Users are licensed and un-licensed by the Customer's Subscription Administrators or Licensors. Re-assignment of licenses from one individual to another is permitted to accommodate natural fluctuations of personnel or changes in individual job definitions. The re-assignment of licenses for sharing a limited number of licenses between a greater number of individuals is a severe breach of this agreement.

(3) Non-personal Facilitator Subscriptions which license non-personal user accounts for use by several individuals and whose credentials can be shared between these individuals. Non-personal Facilitator

Subscriptions are limited by number of participants supported concurrently at any given time.

1.16 Subscription Administrator

means the named individual appointed by the Customer who coordinates this agreement and administers the Customer's subscriptions. The role can be passed on to another individual in the MeetingSphere Store.

1.17 Subscription Fee

means the payment due for a given subscription which is agreed between the Customer and a MeetingSphere Reseller or MeetingSphere Inc.

1.18 Subscription Metrics

means terms set forth in separate writing (such as a quote or written agreement between the Customer and MeetingSphere or a Reseller of MeetingSphere) or an invoice describing the Customer's right to use the Software. The Subscription Metrics typically spell out the subject of the subscription such as a specific type of MeetingSphere Server, the type and number of licenses covered by Named User Subscriptions and the Subscription Period. The Subscription Metrics are incorporated by reference into this Agreement.

1.19 Subscription Period

means the specific term for which the subscription is valid

1.20 Unlimited Participants

The Subscription Metrics of Named User Subscriptions do not set a contractual limit to the number of participants in a meeting. There are, however, technological limits to the number of concurrent participants especially in a voice conference. As these limits are, at least in part, outside MeetingSphere's control, the term 'unlimited participants' does not include any assurance that the service can actually support 'unlimited' or even many participants at any one time.

1.21 Update

means a fix or compilation of fixes released by MeetingSphere to correct operation defects (program bugs) in the Software.

1.22 Upgrade

means any new version of the Software which bears the same product name, including version changes evidenced by a number immediately to the left or right of the decimal (e. g. MeetingSphere 3.1 vs. 3.2 or MeetingSphere 3.5 vs. 5.0). If a question arises as to whether a product offering is an Upgrade or a new product, MeetingSphere's opinion will prevail, provided that MeetingSphere treats the product offering the same for its end users generally.

1.23 Use

means the preparation, execution and wrap-up of Meetings by Licensed Users and the participation in Meetings by Participants.

Technically, Use means loading the Software into the temporary memory (e. g. RAM) of a computer or mobile device.

2 Contract Coordination

The Customer appoints at least one Subscription Administrator. Subscription Administrators are responsible for the MSSA-related day-to-day business of the Customer organization and all parental, subsidiary or otherwise affiliated organizations that participate in this MSSA under that organization's Customer number. The Subscription Administrators are the addressees of all correspondence from MeetingSphere regarding this MSSA. It is the Customer's responsibility to provide MeetingSphere directly or through its resellers with valid contact information for Subscription Administrators.

2.1 Participation of Paternal, Subsidiary or Affiliated Organizations, Externals

Subsidiary organizations of the Customer, its paternal organization or affiliated organizations may participate in this MSSA through the Customer.

If a Customer purchases MeetingSphere subscriptions on behalf of parental, subsidiary or affiliated organizations, it will be held accountable by MeetingSphere for these organizations as to all rights and responsibilities under this MSSA. Process, amount and contractual arrangement of recharging ("cross charging") Subscription Fees is determined by the Customer. There are no restrictions on charging for related services (e. g. support) or other outlays or effort.

The Customer may license externals as Host, Leader or Facilitator, i.e. individuals who are not member of the organizations defined in clause 2.1. Licensing of externals is only permitted to enable these persons to host and support Meetings on behalf of the subscribing organization. Commercial dissemination to or Use by externals for other purposes than those of the subscribing organization are prohibited.

2.2 Changes of Program, Price or Product

MeetingSphere is free to add, change or discontinue types of Subscription, product or service.

MeetingSphere and its resellers are also free to change the price of their offerings.

3 Subscribing

For the Subscription Period, within the Subscription Metrics, MeetingSphere provides the Customer with a non-exclusive, non-transferable and worldwide license to use the Software. All rights of ownership of the Software (including adaptations and copies) remain with MeetingSphere or its licensors. Copies will only be provided to enable the Customer to execute its Subscription to Use.

3.1 Purchase

Purchases of subscriptions may be conducted online, provided that MeetingSphere or the reseller provide the necessary infrastructure and the Customer does not exclude its participation in electronic order processing.

MeetingSphere provides software subscriptions and user subscriptions in an appropriate, digital format.

3.2 Sale of subscriptions to a third party

This MSSA may be transferred (sold) to any paternal, subsidiary or affiliated organization that, according to clause 2.1, could participate in this MSSA through the Customer.

A splitting of this MSSA is possible if an organization which has hitherto participated through the Customer leaves that group of affiliated organizations and wants to continue to use its MeetingSphere Named User Subscriptions on a separately subscribed server. MeetingSphere will withhold its agreement to such a new MSSA and to the transferal of Named User Subscriptions only for good cause.

The migration of content or user data to the new server rests with the Customers concerned.

The MSSA cannot be transferred to unaffiliated third parties.

3.3 Technical implementation of subscriptions

While the licensing of individual users by Named User Subscriptions occurs on the MeetingSphere Server, Subscriptions are administered in the MeetingSphere Store which also keeps track of changes of the subscription status.

3.3.1 Process for updating subscription information

As changes to the server's subscription status occur over time, by changes to its technical environment or by deliberate changes to subscription entities such as the licensing or un-licensing of individuals, MeetingSphere may require an update of the subscription records

maintained in the MeetingSphere Store. Such an update may occur, depending on product and the agreed subscription procedure, either by direct online connection between the systems or by the up- and download of subscription status files to and from those systems. If the exchange of status information occurs online, acknowledgement of updates will occur automatically on receipt. If the exchange of status information is file-based, the implementation of changes or the acknowledgement of a required status update will require the Customer to conclude a multi-step process which typically involves (a) download of status information from the MeetingSphere server, (b) upload of that information to the MeetingSphere Store, (c) processing and possibly changing of that information on the MeetingSphere Store, (d) download of the resulting subscription information from the MeetingSphere Store, (e) upload to and implementation of that information on the MeetingSphere server.

3.3.2 Occasions requiring the exchange of subscription information

MeetingSphere may require an update of status information from the server to the MeetingSphere Store which may occur online or file-based. If file-based, the update cycle must be completed i.e. implemented on the MeetingSphere server in the given time frame:

(a) on initiation of subscription procedures such as the purchase, renewal, termination or change of subscriptions. File-based update-cycles must be completed within 7 days.

(b) on occurrence of certain reportable events on the client server defined by MeetingSphere, which bear on the subscription status or the integrity of the subscription system. Such events include but are not limited to (i) the renaming of Licensed Users, (ii) the change of email address of Licensed Users, (iii) the licensing or un-licensing of individuals, (iv) the appointment of Subscription Administrators or Licensors, (v) changes to the MeetingSphere server's MAC address, (vi) changes to the server machine's time keeping.

When such changes occur in MeetingSphere, the MeetingSphere system will inform the user who makes the change before saving that these changes constitute a reportable event which requires an update of the subscription status. The status update-cycle must be completed within 7 days of the event.

c) by elapsed time. To protect the integrity of its subscription system, namely against the proliferation of its software by illicit copying of installers or backups, MeetingSphere may require the Customer to provide an update of the server's subscription status. If administration of subscriptions occurs online, both the reporting of the event and its acknowledgement by the MeetingSphere Store will occur automatically at the given time. If administration of subscription is file-based, the Customer's Subscription Administrators are notified of the subscription status update requirement by email or at login.

3.3.3 Information exchanged in subscription administration

MeetingSphere limits the information exchanged in subscription procedures to information required for an effective implementation of its subscription scheme and for an efficient execution of the subscription procedure agreed with the Customer.

Information exchanged between the Customer's MeetingSphere server and the MeetingSphere Store includes but is not limited to, (1) user data records i.e. name, first name, and email of Licensed Users, Subscription Administrators and Licensors, (2) the type, term and subscription status of subscriptions, (3) the time and originator and nature of reportable events, (4) cryptographic secrets for authentication of the MeetingSphere server and the MeetingSphere Store (5) the server's technical specification, including software release, (5) certain non-personal data such as checksums giving evidence to the integrity of the subscription data on the MeetingSphere server, (6) technical information and tokens that facilitate an effective, ordered and secure exchange of information between the systems.

Status updates will not communicate user passwords or content on the MeetingSphere server nor any information pertaining to the activity or

non-activity of individual users on that system except for actions that constitute or result in reportable licensing events.

3.3.4 Consequences of not updating subscription-status information

Failure to perform required status updates constitutes a breach of this MSSA. It will also impair the functioning of the MeetingSphere server. Required status updates are deemed performed when they have been acknowledged by the MeetingSphere Store either online or by upload of a subscription status file that contains that acknowledgement to the Customer's MeetingSphere server.

(1) If subscription-status updates required by reportable events or by elapsed time are not provided in time, the Customer's MeetingSphere server may suspend support of MeetingSphere Meetings until the required subscription-status update has been performed. MeetingSphere will not compensate the Customer for use or service that has been withheld during such a cut-off period.

(2) If subscription-status information is not provided on commencement of subscription procedures on the MeetingSphere Store, MeetingSphere may refuse changes to the subscription status, especially terminations, unless the Customer provides plausible cause why such an update is impossible in writing. MeetingSphere may require the Customer to substantiate such claims.

(3) Failure to apply a changed subscription status to the concerned MeetingSphere server, especially if that change includes terminations or changes to subscriptions that result in lower Subscription Fees (downgrades), the concerned Subscriptions are deemed used as implemented on the server. Failure to technically implement such terminations or downgrades is deemed a culpable neglect to purchase used subscriptions and, if intentional, fraudulent.

(4) Subclause 3.3.3 does not apply to Servers designated as 'SCIF Edition' which are not required to report their subscription status to the MeetingSphere Store.

3.4 Invoicing

Subscriptions will be invoiced when made available. Renewals will be invoiced at the time of renewal for the next Subscription Period.

The Customer will pay invoices when due without deductions. Any fees that are not paid when due will accrue interest at a rate of 8% p. a. above the basic interest rate published by the United States Federal Reserve.

In case that the Customer has culpably neglected to procure Subscriptions, the Customer agrees that applicable Subscription Fees become due on the day on which the Subscription or renewal would have had to be procured.

The Customer declares its willingness to pay any reasonable cost including legal cost incurred by MeetingSphere in collection of overdue payments. Should the Customer be in arrears with due payments, MeetingSphere or its resellers are entitled to cut off the Customer from further delivery including support. The cut-off shall be lifted upon payment of arrears. Neither MeetingSphere nor its reseller will compensate the Customer for deliveries or benefits that have been withheld during the cut-off period.

3.5 Servers

On purchase order, MeetingSphere will make the installation software for cryptographically individualized MeetingSphere servers available to the Customer.

It is up to the Customer to procure licenses for non-MeetingSphere Software deployed with the application, e. g. operating system, database, back-up or clustering software.

MeetingSphere is entitled to forestall the illegitimate propagation of its Software by technical means, e. g. cryptographic hardware or software components or online activation procedures which may be required for installing and running a MeetingSphere server. The deployed cryptographic mechanisms also serve for secure authentication with the MeetingSphere Store.

The MeetingSphere server must be physically located in a way that enables the Customer to comply with its duty to take care. This prevents any placement of the server in unprotected public networks.

3.6 Maintenance

MeetingSphere will make commercial releases of new updates or upgrades available for download. MeetingSphere is free as to the features and specification of such updates or upgrades.

3.7 Outsourcing

The Customer may outsource the operation and administration of its MeetingSphere server, provided it exercises due diligence in the selection, contracting and supervision of the outsourcing supplier to assure compliance with its obligations under this MSSA.

4 Limitations

Subject to the explicit authorization in this MSSA, the Software may not be hired out, leased, sub-licensed, disseminated, transferred, copied, reproduced, changed, adapted, deconstructed, compiled backwards, reverse engineered, imitated or emulated. MeetingSphere reserves all not explicitly granted rights. In case of a legal entitlement to adapt, deconstruct or decompile the Software to gain information required to achieve interoperability with other applications, the Customer will not exercise this right unless MeetingSphere has failed to provide the required information within 60 days of the Customer's written request.

These limitations are not valid for third-party libraries shipped with MeetingSphere and marked as such in the MeetingSphere program code. These libraries are subject to special subscription terms and conditions which are included with each library.

5 Diligence

In executing the provisions of this MSSA, the Customer will match the diligence it exercises in protection of its own property rights.

5.1 Authentication of Users

The Customer will secure by suitable processes, briefings and pledges that the protective measures implemented in the Software – in particular the mechanisms for the personal authentication of users as well as the role concept and licensing model based thereon – are not undermined, e. g. by the dissemination of passwords.

5.2 Access

The Customer must undertake suitable and customary precautions to safeguard the MeetingSphere server under this MSSA.

5.2.1 Restriction of Access to Systems

The Customer is required to restrict physical access and data connection to systems on which the Software is stored or installed in an appropriate and customary way to personnel that is authorized and for whose adherence to this MSSA the Customer assumes responsibility. Such authorized persons may be employed by the Customer or by contracted providers of (outsourcing) services.

These restrictions do not apply to access via MeetingSphere. Here, the application is safeguarded through personal authentication and authorization of users based on the MeetingSphere role concept. Subject to further procedural or technical restrictions by the Customer, this role concept arranges for general access for everyone in the role of meeting participant provided (a) the person has been invited to a meeting by a Licensed User and (b) the system's authentication requirements have been met.

5.2.2 Lock and Key

The Customer commits itself to keep copies of the Software, cryptographic hardware components or other material safety provisions that are not (yet) deployed or no longer deployed with a server and that are consequently unprotected by access restrictions to servers (cf. 5.2.1) under lock and key.

Likewise, access information for downloads and electronic transactions as well as activation keys, subscription-binaries etc. are to be protected effectively against unauthorized access or dissemination.

The information and safeguards may only be issued to authorized staff who have been instructed as to the illegality of dissemination and the creation of copies.

Breaches of these lock and key requirements must be immediately reported to MeetingSphere.

5.3 Information of Employees and Agents

The Customer is required to exert adequate and customary effort to inform employees, agents or other users of the Software that the Software must not be used, copied or disseminated in any way that is not authorized by this MSSA.

5.4 Copies

The MeetingSphere Software and documentation may only be copied for the Customer's own use. All references to property rights must be truthfully reproduced and included in all copies and adaptations.

5.5 Incident Reporting

On gaining knowledge of such an incident, the Customer will inform MeetingSphere without undue delay of all breaches or attempted breaches of the limitations and access restrictions defined in clauses 4. and 5.2.

5.6 Self-Audit

Up to once per year MeetingSphere may require the Customer to conduct a self-audit of her MeetingSphere deployment and her adherence to the provisions of this MSSA.

With such a request for a self-audit, MeetingSphere will provide the Customer with the subscription information on record with MeetingSphere. This information will include but will not be limited to (a) Customer master data and account information including Subscription Administrators, Licensors, Subscriptions and Licensed Users.

The Customer will inform MeetingSphere of its findings within 30 days of the self-audit request. The Customer assures MeetingSphere of its best efforts to resolve any discrepancies between records kept by MeetingSphere and the self-audit declaration.

5.7 Formal Audit

MeetingSphere will have the right, at its expense and upon no fewer than 10 working days prior written notice, to audit the Customer's self-audit report, its Use of the Software and its related records and MSSA payments. As part of such audit, MeetingSphere is entitled to obtain physical and electronic data concerning all Software usage at each of the Customer's offices, regardless of the countries or regions in which these offices are located (the audit may be at the Customer's facilities or from a remote location, at MeetingSphere's option). An audit may be conducted either by MeetingSphere or by its authorized representative, will not interfere unreasonably with the Customer's business activities, and will be conducted no more often than once per calendar year, unless a previous audit disclosed a material discrepancy.

If such audit shows that the Customer has understated its Use of the MeetingSphere Software or has otherwise underpaid amounts owing, the Customer must immediately purchase from MeetingSphere sufficient licenses and maintenance to support the actual use and pay all amounts owing.

If such audit shows that the Customer has understated its use of the MeetingSphere Software or underpaid amounts owing by more than five percent, the Customer will also pay the reasonable expenses of the audit. MeetingSphere will use the information received during the audit solely for the purposes of this MSSA and will honor any applicable privacy/data protection laws and otherwise maintain the confidentiality of such information.

The Customer may request that the formal audit described above be carried out by an independent third party who must be an accountant

or qualified auditor approved by MeetingSphere. MeetingSphere will not unreasonably withhold its approval. In such a case, the expense of the audit will be borne entirely by the Customer. Subject to the provisions of this clause, MeetingSphere will have the right to determine the audit scope and required audit testing and to review the audit work prior to finalization of the audit.

5.8 Export

In case of re-export and regardless of any declaration by the Customer to MeetingSphere as to the final destination of the Software, the compliance with applicable national or international rules and requirements for export rests solely with the Customer. The Customer will refrain from exporting the Software or any part of the Software, directly or indirectly, unless all export control regulations have been met that may have been imposed on the Software by the government of the United States of America, the government of other countries or organization of states, under whose jurisdiction the Customer conducts business.

Regardless whether these obligations apply to the Customer, it assures MeetingSphere that it will not export, directly or indirectly, any part of the Software or any system containing parts of the Software to anyone outside the United States of America or the European Union before all export regulations of the United States of America and the European Union have been met. In case the Customer has received the Software outside the United States, these rules apply also for re-export.

6 Terms of Delivery

6.1 Delivery Terms

In case of delivery to countries outside the European Union, the payment of customs duties, VAT and all other applicable taxes or dues on goods and services is solely the Customer's responsibility.

6.2 Ownership and Passing of Risk

In the case of pre-installed appliances, risk passes to the Customer on physical handover to the Customer's authorized agent. In case of download, the completion of the download on MeetingSphere's download server is defined as the time of handover.

Regardless of this clause, there is no transfer of ownership of the Software.

7 Limited Warranty

Within the limits of the legal warranty period, MeetingSphere warrants that the Software (including upgrades) will conform substantially to the specifications in the documentation, provided: (a) the Software is not modified by anyone other than MeetingSphere, unless authorized by MeetingSphere in writing; (b) the Customer notifies MeetingSphere in writing of the nonconformity within 90 days after the Customer first acquires a subscribed copy of the Software version.; and (c) the Software is installed in a compatible environment. In this clause, 'conform substantially' means that the Software conforms to the overwhelming majority of all specifications in the documentation. MeetingSphere's only obligation under this warranty, at its option, is to either cause the Software to conform substantially with its specifications or to refund the amount paid for the current subscription to the Software upon the Customer's return of all the Software. To cause the Software to conform substantially to its specifications, MeetingSphere may opt to deliver an update or a new program version; there is no claim for a rectification of defects in the current version. In the event of a refund, the subscription to use the Software will automatically expire.

7.1 Storage Media, Hardware Components, Documentation

Storage media, hardware components and documentation are covered by the implied (legal) warranty.

7.2 Beta and Demonstration Software

Any beta and demonstration software is provided to the Customer 'as is' under the exclusion of all warranty. The Customer accepts that a beta or demonstration software has not been fully tested and may therefore contain errors and so called 'bugs'. MeetingSphere explicitly advises the Customer that it is solely the Customer's responsibility to determine whether the use of such software is suitable for any given purpose. MeetingSphere does not render support for beta or demonstration software and gives no assurance that such software will eventually be marketed as a product.

7.3 Non-MeetingSphere Software

MeetingSphere does not warrant non-MeetingSphere products. Any such products are provided on an 'as is' basis. Any technical or warranty service for non-MeetingSphere products is provided by the product manufacturer in accordance with any applicable manufacturer's warranty.

7.4 Disclaimer of Warranties

Except as expressly stated in these limited warranty sub clauses, MeetingSphere makes no warranty or representations regarding any software or services. To the extent allowed by applicable law, MeetingSphere disclaims and excludes all other express, implied, and statutory warranties or conditions, including implied warranties of merchantability, fitness for a purpose, good title, and non-infringement. MeetingSphere does not warrant that the Software or services will be without defect or error, satisfy specific requirements, or provide uninterrupted use of the Software.

8 Liability Limitations

8.1 Indirect Damages

To the extent allowed by applicable law, MeetingSphere will not be liable for any untypical consequential damages that are not related to the risk immanent in this contract.

This subclausal does not apply to violations by either party of the other party's intellectual property rights.

8.2 Direct Damages

MeetingSphere's liability for damages of any type arising out of or related to this agreement shall be limited to the greater of 1.25 times the actual amounts paid by the Customer for the current subscriptions, service, or deliverable in question, or EUR 15,000.

At any rate, with the infringement of cardinal obligations and simple negligence, MeetingSphere shall only have limited liability for the typical and foreseeable loss. Cardinal obligations or substantial contractual obligations within the meaning of this paragraph shall be all obligations the fulfilment of which is essential for the proper execution of this contract and compliance with which the contractual parties are able to rely on consistently.

This sub clause does not apply to MeetingSphere's liability for intellectual property indemnification described below, nor does it apply to any damages for personal injury or tangible property caused by gross negligence or intent.

9 Intellectual Property Indemnification

9.1 Scope

MeetingSphere will defend any claim brought against the Customer by a third party to the extent that it is based on an allegation that a MeetingSphere Software product or service deliverable infringes such third party's patent or copyright of the country in which the Customer has taken delivery of the Software or deliverable. MeetingSphere will pay any damages, costs, and expenses finally awarded (or agreed to by settlement) for any such claim. The Customer must promptly notify MeetingSphere of the claim, give MeetingSphere control of the defense and related settlement negotiations, and provide MeetingSphere with the

reasonable assistance (for which MeetingSphere shall pay the Customer reasonable out-of-pocket costs) in defending the claim. If the Customer desires separate legal representation in any such action, it will be responsible for the costs and fees of that separate counsel.

9.2 Remedies

If a MeetingSphere Software product or service deliverable is held to infringe and its use is prohibited or if, in MeetingSphere's reasonable opinion, is likely to become the subject of an infringement claim, the Customer will permit MeetingSphere, at MeetingSphere's option and expense, to (a) procure for the Customer the right to continue to use the Software or deliverable, or (b) replace or modify it so that it becomes non-infringing and has the same or additional functionality and comparable or improved performance characteristics, or (c) upon the Customer's return of the infringing Software or deliverable, refund the subscription fees for the current year for the Software or deliverable.

9.3 Exceptions

MeetingSphere will have no obligation of defense or indemnity to the extent the infringement claim arises from (a) MeetingSphere's compliance with the Customer's designs, specifications or instructions, (b) use of other than the Software's current release, if the infringement would have been avoided by use of the current MeetingSphere and if the infringement occurs more than 30 days after MeetingSphere notifies the Customer that a previous release may infringe, (c) a modification of the Software or deliverable not requested or authorized in writing by MeetingSphere, (d) its use or combination with non-MeetingSphere Software, equipment, or data, other than as specified in the documentation or otherwise approved by MeetingSphere in writing, (e) the furnishing to the Customer of any information, service, or technical support by a third party, (f) non-subscribed use of the Software or deliverable.

9.4 Indemnification Limitation

To the extent allowed by applicable law, MeetingSphere's aggregate liability for any infringement claim is limited to the lesser of EUR 100,000 or the amount paid by the Customer for the Software or deliverable giving rise to the claim. This limit does not apply to expenses incurred by MeetingSphere in defending the claim.

9.5 Exclusive Remedy

This clause 9 states the exclusive obligation of MeetingSphere to the Customer regarding any claim of infringement or misappropriation of any third party's intellectual property rights.

10 Term of Validity, Termination

10.1 MSSA Term of Validity

The term of validity of this MSSA begins on the date of its coming into force. The term of validity is indefinite and ends by termination.

10.2 Termination of the MSSA

Both the Customer and MeetingSphere may terminate the participation in the MSSA at any time. Termination results in the expiration of subscriptions at the end of their respective Subscription Periods.

Termination of this MSSA is for all legal or practical purposes identical with termination of the Subscription for the Software: Termination of the MSSA implies non-renewal of the server Software's Subscription Period. Termination of the server's Software Subscription results in non-renewal and effects expiration of this MSSA at the end of the current Subscription Period.

At the end of the contract the Customer will either return all articles that are required to be kept under lock and key (cf. 5.2.2) to MeetingSphere by registered mail or comparable service or declare their assured destruction in writing.

On the effective-date the Customer number and all access codes to resources of MeetingSphere will become inoperable. Any continued technical availability does not imply the right to use.

10.3 Termination without Notice

10.3.1 Immediate Termination for Breach of Contract

In case of a severe breach of contract by the other party, both the Customer and MeetingSphere may terminate the MSSA without notice, provided that the breach has not been demonstrably healed within 30 days of receiving the other party's written notification of that breach.

In case of termination without notice by MeetingSphere, the right to use the MeetingSphere Software ends immediately, MeetingSphere will not refund, neither complete nor pro rata, any subscription fees. The Customer will immediately return to MeetingSphere by registered mail or comparable service all articles that are required to be kept under lock and key (cf. 5.2.2).

MeetingSphere reserves the assertion of damages.

In case of termination without notice by the Customer, the Customer's right to use the MeetingSphere Software will end immediately. MeetingSphere will refund subscription and maintenance fees for the rest of the terms of validity of the Customer's subscriptions on a pro rata basis. The Customer will immediately return to MeetingSphere by registered mail or comparable service all articles that are required to be kept under lock and key (cf. 5.2.2) or declare in writing their assured destruction.

The Customer number and all access codes to resources of MeetingSphere will become inoperable on termination. Any continued technical availability does not imply the right to use.

10.3.2 Immediate Termination for Other Reasons

The MSSA may be terminated without any rectification period should the other party (a) close or suspend its business, (b) be subjected to proceedings of bankruptcy or insolvency, (c) become insolvent or unable to honor its financial obligations or (d) be placed under receivership.

On such termination, the Customer will be cut off from further delivery including support. However, the Customer's right to use all fully paid subscriptions until the expiration of their respective Subscription Periods remains intact. The MSSA can be resurrected with all rights and obligations as soon as the receiver or the trustee formally recognizes the effectiveness of the MSSA even in the state of insolvency or trusteeship and all invoices outstanding are paid.

On expiration of the last subscription or on closing of the business, whichever comes first, the Customer will immediately return to MeetingSphere by registered mail or comparable service all articles that are required to be kept under lock and key (cf. clause 5.2.2).

The Customer number and all access codes to resources of MeetingSphere become inoperable on termination. Any continued technical availability does not imply the right to use.

11 Final clauses

11.1 Law

This MSSA is governed by the laws of Delaware. To the extent allowed by applicable law, the terms of the United Nations Convention on the International Sale of Goods will not apply.

Each party will, at its own expense, comply with any applicable law, statute, administrative order or regulation. An action at law under this agreement may only be brought before a court of appropriate jurisdiction in the state whose law governs this agreement under the terms of this clause 11. If a party initiates legal proceeding related to this agreement, the prevailing party will be entitled to recover reasonable attorney's fees.

11.2 Confidentiality Obligations

The receiving party of confidential information will exercise reasonable care to protect any confidential information from unauthorized disclosure or use. The receiving party may disclose confidential information only to its employees or agents with a need to know such information and will inform such employees and agents by way of policy or

agreement that they are bound by confidentiality obligations. 'Confidential information' means the terms of this agreement and any other information that (i) if disclosed in tangible form, is marked in writing as confidential, or (ii) if disclosed orally or visually, is designated orally at the time of disclosure as 'confidential'. Confidential information will not include information (a) already in the receiving party's possession without obligation of confidence; or (b) independently developed by the receiving party; or (c) that becomes available to the general public without breach of this agreement; or (d) rightfully received by the receiving party from a third party without obligation of confidence; or (e) released for disclosure by the disclosing party with its written consent; or (f) required to be disclosed by law, regulation, or court order. These confidentiality obligations will survive three (3) years after expiration or termination of this agreement. MeetingSphere retains the right to use its knowledge and experience (including processes, ideas, and techniques) learned or developed by providing any services to the Customer.

11.3 Reference

The Customer agrees that MeetingSphere may use the fact of its participation in this MSSA as a commercial reference unless the Customer otherwise informs MeetingSphere in writing.

11.4 Force Majeure

Neither party will be liable for any delay or failure to perform that arises out of causes beyond the reasonable control and without the fault or negligence of such party. A party will give prompt notice of any condition likely to cause any delay or default.

11.5 Notices

Notices to a party must be in writing and sent to the party's address on the membership form or such other address as a party may provide in writing. Notices may be delivered in a format reasonably chosen by the notifying party.

11.6 Storage of Information

MeetingSphere maintains licensing information in the MeetingSphere Store which is located in Virginia as part of its business records in compliance with legal requirements and good commercial practice. This information includes the name, email address and department of Licensed Users, appointed Subscription Administrators and Licensors.

This subclause 11.6 does not apply to Servers designated as 'SCIF Edition'

11.7 'Survival

The provisions of this agreement, which by their nature extend beyond termination of the agreement, will survive termination of the agreement.

11.8 Intellectual Property/Remedies.

Nothing in this agreement waives or limits extra-contractual rights or remedies available to MeetingSphere to protect its rights in the Software, including those available under copyright law of the United States of America, the European Union, international treaties, or national copyright and intellectual property laws of the countries in which the Customer may use the Software.

11.9 Assignment

Neither party may transfer or assign any right or obligation set forth in this agreement without the prior written consent of the other. Neither party will unreasonably withhold or delay its consent to an assignment of the agreement by the other party to another entity in the same group of companies. Subject to the provisions of clause 3.2, either party may, with written notice to the other party, assign the agreement to the surviving entity in the case of a merger or acquisition.

Should MeetingSphere elect to sell the work 'MeetingSphere' to a 3rd party, it may cede its rights and obligations under this MSSA to that 3rd party.

11.10 Severability Clause

If a provision is invalid or unenforceable, the remaining provisions will remain in effect and the parties will amend the agreement to reflect the original agreement to the maximum extent possible.

11.11 Changes

Subject to any explicit provision in this MSSA, all changes to the MSSA must be in written form and must be signed by authorized representatives of the parties. The MSSA is not alterable through procurement conditions, standard business conditions or other provisions of a purchase order.

11.12 Waiver Declaration

No waiver of any contractual right will be effective unless in writing by an authorized representative of the waiving party. No waiver of a right arising from any breach or failure to perform will be deemed a waiver of any future right.

11.13 Entire Agreement

This contract sets forth the entire agreement and understanding between the parties as to its subject matter. It supersedes all prior and contemporaneous agreements, proposals and statements on this subject matter. Except as otherwise stated herein, this agreement may only be modified in a writing signed by authorized representatives of each party. Purchase order terms will not modify the agreement unless the parties agree otherwise in writing.

MeetingSphere_Software_Subscription_Agreement_United_States_06-2018.pdf

Annex A1: Apache Licence 2.0

The following non-MeetingSphere products may be shipped with MeetingSphere. They may be run with MeetingSphere but are not an integral part of the application:

- "Apache Derby" (database)
- "Apache Tomcat" (application server)

These products are licensed under the Apache License 2.0. Use of the aforementioned software is permitted only in accordance with that license. A current copy of the license document is available at <http://www.apache.org/licenses/LICENSE-2.0>. The aforementioned software is provided under no warranty whatsoever.

MeetingSphere integrates functionality of Apache Tomcat in its server under the Apache License 2.0.

The legally binding version of the license document can be found under the URL that is given above. This hardcopy is provided by MeetingSphere for the customer's information only:

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Version 2.0, January 2004
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