

**Carahsoft Rider to Manufacturer Agreements  
(for U.S. Government End Users)**

1. **Scope.** This Carahsoft Rider and the Manufacturer Agreement establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").
  
2. **Applicability.** The terms and conditions in the attached Manufacturer Agreement ([http://www.meetingone.com/Terms\\_of\\_Use](http://www.meetingone.com/Terms_of_Use)) are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 § U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's Agreement's are inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's contract #GS-35F-0119Y, including, but not limited to the following:
  - (a) **Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", "defined as an entity authorized to order under Government contracts as set forth in Government Order 4800.2G ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.
  
  - (b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 200 0) (Deviation I 2010) (AUG 1987), and 52.212 -4 (f) Excusable delays. (JUN 2010) regarding which the GSAR and the FAR provisions shall take precedence.
  
  - (c) **Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
  
  - (d) **Audit.** During the term of this Agreement: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this Agreement. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering

Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this Agreement.

- (e) **Termination.** Clauses in the Manufacturer Agreement referencing termination or cancellation the Manufacturer's EULA are hereby deemed to be deleted. Termination shall be governed by the FAR 52.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:

Carahsoft may request cancellation or termination of the License Agreement on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section Q below or if such remedy is otherwise ordered by a United States Federal Court..

- (f) **Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by law, it will not apply to this Agreement, and the governing law will remain as if such law or regulation had not been enacted. All clauses in the Manufacturer Agreement referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) **Force Majeure.** Subject to FAR 52.212 -4 (f) Excusable delays. (JUN 2010). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer Agreement referencing unilateral termination rights of the Manufacturer are hereby deemed to be deleted.
- (h) **Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer Agreement are hereby deemed to be deleted.
- (i) **Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (JUL. 2002), and all clauses governing waiver of jury trial in the Manufacturer Agreement are hereby deemed to be deleted.
- (j) **Customer Indemnities.** All Manufacturer Agreement clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All Manufacturer Agreement clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.



- (l) **Renewals.** All Manufacturer Agreement clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All Manufacturer Agreement clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all federal, state, local taxes and duties.
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer Agreement, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer Agreement and to this Rider shall be resolved in accordance with the FAR, and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. The Ordering Activity expressly acknowledges that Carahsoft, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- (r) **Limitation of Liability: Subject to the following:**
- Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.
- (s) **Advertisements and Endorsements.** Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.
- (t) **Public Access to Information.** Manufacturer agrees that the Agreement and this Rider contain no confidential or proprietary information and acknowledges the Agreement and this Rider will be available to the public.
- (u) **Confidentiality.** Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court.



**ATTACHMENT VII  
END USER LICENSE AGREEMENT**

## **MeetingOne Terms of Use:**

### **Terms of Use**

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#### 1. GENERAL

MeetingOne.com, Corp., a Colorado corporation ("Provider") provides conferencing services to users who have agreed to the terms and conditions stated below. This Terms of Service ("Agreement") is a legal agreement between you and Provider. It states the terms and conditions under which you may access Provider's systems and/or software and use the services that Provider makes available through its systems and/or software ("Service"). PLEASE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY WHICH MAY BE CHANGED FROM TIME TO TIME BY PROVIDER. BY USING THE SERVICE, YOU AGREE TO BE LEGALLY BOUND AND TO ABIDE BY THIS AGREEMENT AS IF YOU HAD ACTUALLY SIGNED IT. IF YOU DO NOT WISH TO BE LEGALLY BOUND, PLEASE DO NOT USE THE SERVICE.

#### 2. LICENSE

License. Provider hereby grants you a limited, nonexclusive, personal, nontransferable license to use the Service subject to the terms of this Agreement.

#### 3. CHANGES TO SERVICE

The Service and this Agreement may change from time to time. Provider reserves the right, at Provider's sole discretion and without prior notice or liability, to discontinue or alter the Service or any feature of the Service. Any change to the Service is effective immediately upon a posting on the Service, electronic mail, or conventional mail. Any change to this Agreement is effective after 30 days of posting on the Service, sending via electronic mail, or sending via conventional mail. By continuing to use the Service, you accept any such changes. If any such changes are not acceptable to you, you may terminate this Agreement and cease use of the Service at any time as described in Section 12.

#### 4. SYSTEM AVAILABILITY

Provider shall use reasonable efforts to provide Service Availability. Service Availability is defined as the time that the Service is capable of receiving, processing, and responding to conferencing requests, excluding any (a) Scheduled Maintenance, (b) Error Incidents, and/or (c) Force Majeure. You acknowledge that the Service provided is of such a nature that the Service can be interrupted for many reasons other than the negligence of Provider and that the Service will not always be error free.

Definitions



"Error Incident" means any Service unavailability resulting from your infrastructure or software used to access the service and acts or omissions as an authorized user of the Service. "Force Majeure" means acts of God, terrorism, labor action, fire, flood, earthquake, governmental acts, orders, or restrictions, denial of service attacks and other malicious conduct, utility failures, or any other cause of Service unavailability that is beyond Provider's reasonable control. "Scheduled Maintenance" means any Maintenance performed during Provider's standard monthly maintenance window and any other Maintenance, notice of which has been posted to Provider's website under Customer Center at least 48 hours in advance. For our US based bridge, MeetingOne reserves Saturday evenings between the hours of 8:00pm and 2:00am MST Sunday morning (10:00pm - 4:00am EST) to support standard maintenance activity and deployments. Maintenance and/or Deployments may not occur every Saturday, but the window is reserved. When maintenance or deployments are scheduled during this window, MeetingOne monitors service activity to ensure the least service impact possible and in most cases no impact. For our EU based bridge, MeetingOne reserves Saturday mornings between 12:00am and 4:00am CET/GMT+1 (11:00pm Friday evening - 3:00am Saturday morning UK time). Provider may perform Maintenance on some or all of the Service in order to upgrade infrastructure or software that operates or supports the Service, implement security measures, or address any other issues it deems appropriate for the continued operation of the Service.

## 5. CHARGES AND PAYMENT

Customers agree to timely pay MeetingOne for any amounts invoiced in accordance to the payment terms of such invoice. Invoices not paid on a timely basis will be subject to interest or late fees. MeetingOne invoices for the use of the Services and any taxes, surcharges, government fees, and other applicable charges.

Such charges shall include, but are not limited to, regulatory fees and assessments, universal service fees and carrier cost recovery fees.

MeetingOne is required by the Federal Communication Commission (FCC) to contribute to the federal Universal Service Fund (USF) which helps provide affordable telecommunications services for low-income customers and customers in rural areas. It also provides discounts on Internet access for eligible schools, libraries and rural health care providers. The USF Fee is collected from telecommunications carriers and administered by the Universal Service Administration Corporation. MeetingOne assesses the Federal USF charges which reflect the applicable quarterly contribution factor, as established by the FCC on audio conferencing services. This fee is not a government required charge.

MeetingOne invoice includes a monthly carrier cost recovery fee (CCRF) on audio conferencing services to recover costs associated with regulatory requirements and compliance, as well as fees to offset costs imposed by its underlying telecommunications carriers, including regulatory and compliance costs they recover from MeetingOne. Customers acknowledge that standard rates and USF, CCRF, or other regulatory charges are subject to change without notice as they may fluctuate from month to month.

## 6. SERVICE RULES

(a) You agree to supply Provider with accurate and complete information as requested by Provider to set up an account to use the Service and you agree to inform Provider promptly of any change in such information. Provider will use the information you supply to set up an account, account number, conference room numbers, and account password or personal identification number. For additional information regarding the information we collect from you and how we protect and use such information, please refer to our Privacy Policy located on our Web site.



(b) You are responsible for maintaining the confidentiality of your account number, password, conference room numbers, and any personal identification numbers that Provider may assign to you. You are also responsible for all uses of your account, whether or not actually or expressly authorized by you. You must promptly inform Provider of the loss, theft, or unauthorized disclosure or use of your account password, conference room numbers, and/or any personal identification numbers. Until you notify Provider of such a breach of security, you shall be solely liable for any unauthorized use of the Service under your account.

(c) The Service may only be used for lawful purposes and consistent with the rights of other users and third parties. Without limiting the foregoing, the Service shall not be used in a manner that would violate any law or infringe any intellectual property right, right of publicity, right of privacy, or any other right of any third party, or for the purpose of transmitting or communicating material that is obscene or defamatory. You are prohibited from transmitting or communicating through the Service, any unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, profane, hateful, racially, ethnically or otherwise objectionable material or language of any kind, including without limitation any material or language that encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any applicable local, state, federal, or international law.

(d) In order to ensure that Provider is able to provide high quality services, which are responsive to customer needs, you consent to Provider's employees or agents being able to access your account and records on a case-by-case basis to investigate complaints. Provider shall not disclose the existence or occurrence of such an investigation unless required by law.

(e) Provider reserves the right to refuse to provide access to the Service to anyone. Violation of any terms of this Agreement may result in immediate deletion of your account.

(f) If your conference room number, or any conference room number within your account, shows no usage for 6 consecutive months, Service will be disconnected to the specific conference room number(s). Provider has a policy of monitoring inactive conference rooms. If there is a three (3) hour period of no activity (i.e. no DTMF command used), a warning will be played followed by a 30 minute wait period, then a second warning will be played followed by another 30 minute wait before disconnection—only the host can reactivate the room by touching any key. In order to exempt your conference rooms from the automated disconnect feature a document (that Provider will provide upon request) must be signed that states you are willing to accept all charges for all the time that the room is in use. The maximum time, should this occur, would not exceed 24 hours as our system automatically closes any conference room opened longer than 24 hours.

(g) When the host leaves the conference room before participants do, the maximum time the conference is allowed to continue without the host being present is set up by default to be 90 minutes - which means that the conference room will then close automatically whether or not the participants are still using the conference room. If the customer desires a shorter or longer period of operation without the host being present, they can contact customer service and their room or account set up with more or less time to allow their participants to interact without the host present. Be aware that any time the conference room is in use the host will be charged. If the host desires to hold the room open for a longer period on a case by case basis, the host can enter \*52\*1# to hold the room open for up to 23 hours. This hold open override can be canceled by the host using \*52\*0# if he is still present in the room. If the host then exits the room, the hold open will be canceled if he reenters the room and enters his host pin again. ALL time the room is open using this hold open override will be billed.



## 7. DISCLAIMER; LIMITATION OF LIABILITY

THE SERVICE IS PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS. PROVIDER DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN REGARD TO THE SERVICE FURNISHED BY IT UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PROVIDER does not represent, warrant or guarantee that its server will be available to you, that it will not break down, or that unauthorized persons or entities will not access it. IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE MAXIMUM LIABILITY OF PROVIDER TO ANY USER FOR ANY LOSS, CLAIM, DAMAGE, OR LIABILITY OF ANY KIND WHATSOEVER, INCLUDING DUE TO PROVIDER'S NEGLIGENCE OR MISCONDUCT, SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY USER FOR THE SERVICE DURING THE ONE MONTH PERIOD PRECEDING THE CLAIM.

## 8. INDEMNIFICATION

You agree to indemnify and hold Provider, its officers, directors, employees, and agents harmless from and against any and all claims and expenses (including reasonable attorney's fees) arising out of or related to any violation of this Agreement, your use of the Service, and/or your infringement of a third party's proprietary rights.

## 9. PRIVACY AND SECURITY

Although Provider uses reasonable security safeguards with respect to its Service, Provider cannot guarantee the security or privacy of any of your transmissions or communications through the Service. Any personally identifiable information used, transmitted, collected and/or stored by Provider shall be governed by Provider's Privacy Policy available on its Web site.

## 10. EDITORIAL CONTROL

Provider reserves the right to monitor transmissions or communications through its Service, as necessary to provide the Service and otherwise to protect the rights and property of Provider. Notwithstanding the foregoing, Provider does not have the practical ability to restrict conduct, transmission, communication, or content that might violate this Agreement before sent through the Service, nor can Provider assume any liability for any action or inaction with respect to such conduct, transmission, communication, or content.

## 11. PROPRIETARY RIGHTS

(a) Service. The Service and any accompanying documentation and written materials are the sole and exclusive property of Provider or its licensor and are protected by copyright, patent, and/or trade secret laws as well as international treaties.

(b) Content. You acknowledge that the Service contains information, software, video, graphics, audio, music, and other material ("Content") that are protected by copyright, trademark, trade secret, and other intellectual property laws and that the rights in such Content are valid and protected in all forms, media, and technologies that now exist or that may be developed in the future. You may not modify, publish, distribute, transmit, transfer or sell, create derivative works, or in any way exploit any of the Content, in whole or in part.



(c) Third Party Content. Provider is a distributor and not a publisher of Content supplied by third parties and users. Accordingly, Provider has no more editorial control over such Content than does a public library, bookstore, or newsstand. Any opinions, advice, statements, services, offers, or other Content expressed or made available by third parties are those of the respective authors, owners, users, or distributors and not of Provider. In no event will Provider be liable for any loss or damage caused by a user's reliance on Content obtained through the Service. It is your responsibility to evaluate the accuracy, completeness, or usefulness of any information, advice, opinion, transmissions, communications, or any other Content available through the Service.

(d) Export. The U.S. export control laws regulate the export and re-export of technology originating in the U.S., including the electronic transmission of information and software to foreign countries and foreign nationals. You agree to comply with these laws and not to transfer by electronic transmission or otherwise, any Content derived from the Service without obtaining any required government authorization.

## 12. TERMINATION

(a) For Any Reason. Either you or Provider may terminate this Agreement for any reason at any time by giving the other party notice of termination. Such termination shall be effective upon receipt of notice.

(b) For Cause. Provider may terminate this Agreement without notice for any conduct that Provider believes in its sole discretion violates this Agreement, interferes with other users' use of the Service, or is otherwise inappropriate.

(c) Effect of Termination. Upon termination, your limited license to use the Service automatically terminates, and Provider may delete all data, files, or other information stored in your account.

## 13. GENERAL

(a) Choice of Law; Jurisdiction. This Agreement and its validity, construction, and performance shall be governed in all respects by the laws of the State of Colorado, without regard to its choice of law rules. You agree that the state or federal courts sitting in Denver, Colorado shall have exclusive jurisdiction to hear any dispute arising under this Agreement.

(b) No Waiver. Provider's failure to insist upon strict performance of any of the provisions of this Agreement shall in no way constitute a waiver of future violations of the same or any other provision.

(c) Severability. If any provision or portion of this Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remainder of this Agreement shall not in any way be affected or impaired thereby.

(d) Modifications. Modifications to this Agreement by Provider shall be in full force and effect after 30 days notice to you and upon your continued use of the Service thereafter.

(e) Survival. The provisions of this Agreement relating to warranties, proprietary rights and indemnification shall survive any termination or expiration of this Agreement.

(f) Entire Agreement. With the exception of the License Agreement for Client Software for Click&Meet Software