



**BEFORE USING THE PROGRAM, YOU MUST READ THIS SERVICES LEVEL AGREEMENT CAREFULLY. READING THIS SERVICES LEVEL AGREEMENT ON A COMPUTER SCREEN, MEANS THAT YOU AS "CUSTOMER" IS AUTHORIZED TO ACCEPT THIS AGREEMENT, THAT YOU HAVE READ AND UNDERSTAND ITS TERMS AND THAT YOU AGREE TO BE BOUND BY IT. IF YOU DO NOT AGREE WITH ANY PART OF THIS AGREEMENT, YOU MAY NOT OPEN, INSTALL OR USE THE PROGRAM, AND MUST IMMEDIATELY CEASE USAGE OF THE PROGRAM. FOR PURPOSES OF THIS AGREEMENT, THE TERM "CUSTOMER" INCLUDES YOURSELF AND ANY ORGANIZATION OR INSTITUTION USING THE PROGRAM.**

## **SERVICE LEVEL AGREEMENT**

In consideration for the Hosting fees paid, Meeting Maker United States, Inc., dba PeopleCube (hereafter "**PeopleCube**") provides Resource Scheduler Service as defined herein. Customer's access to and use of the Resource Scheduler Service is governed solely by the terms of this Agreement which supersedes the terms of any other prior writing or understanding between the parties.

### **TERMS AND CONDITIONS**

#### **1.0 RESOURCE SCHEDULER SERVICE**

**1.1 Subscription to the Resource Scheduler Service.** Subject to the terms of this Agreement, including, without limitation, the payment of the Fees set forth in **Section 3** hereof, PeopleCube hereby grants to Customer a non-sublicensable, non-transferable, non-exclusive subscription to access and use the Resource Scheduler Service by the number and type of Users identified in Order Form in accordance with the Documentation solely for Customer's internal business purposes and not for resale or to provide services to third parties.

**1.2 Additional Users.** Access to the Resource Scheduler Service cannot be shared with anyone other than a User. If Customer wishes to add additional Users, Customer will submit an order in writing. Upon PeopleCube's written approval of the terms of any such additional Order Form, PeopleCube shall make the Resource Scheduler Service available to the additional Users on the terms and conditions set forth in this Agreement and each approved additional Order Form.

**1.3 Service Levels.** Subject to the terms of this Agreement, including, without limitation, the payment of the Fees set forth in the Order Form hereof, PeopleCube shall use commercially reasonable efforts to (a) maintain the security of the Resource Scheduler Service; (b) provide regular (once daily) backups for the Customer Data and (c) make the Resource Scheduler Service generally available 24/7 (24 hours a day, 7

days a week), except for: (i) planned down time, which shall be any period outside of the hours of 7:00 am to 11:00 pm EST Monday through Friday and 9:00 am to 6:00 pm EST Saturday, Sunday, and holidays for which PeopleCube gives eight (8) hours or more notice that the Resource Scheduler Service will be unavailable; or (ii) down time caused by circumstances beyond PeopleCube's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, telecommunications failures or delays, computer failures involving hardware or software not within PeopleCube's possession or reasonable control and acts of vandalism (including network intrusions and denial of service attacks), but only if such unavailability results notwithstanding the exercise of reasonable care and diligence to avoid or mitigate the same in anticipation of or in response to such causes. Customer is solely responsible for providing, at its own expense, all network access to the Resource Scheduler Service, including, without limitation, acquiring, installing and maintaining all telecommunications equipment, hardware, software and other equipment as may be necessary to connect to, access and use the Resource Scheduler Service.

## **2.0 CUSTOMER'S USE OF THE RESOURCE SCHEDULER SERVICE.**

**2.1 Access and Security Guidelines.** Each User will be assigned a unique user identification name and password ("**UserID**") for access to and use of the Resource Scheduler Service. Customer shall be responsible for ensuring the security and confidentiality of its UserID. UserID's will be shared within the Customer's organization *provided that* UserID's may not be provided to any individual who is not a User. Customer will use commercially reasonable efforts to prevent unauthorized access to, or use of, the Resource Scheduler Service, and notify PeopleCube promptly of any such unauthorized use. Customer will not use its access to the Resource Scheduler Service to: (a) harvest, collect, gather or assemble information or data regarding other users without their consent; (b) access or copy any data or information of other users without their consent; (c) knowingly interfere with or disrupt the integrity or performance of the Resource Scheduler Service or the data contained therein; or (d) harass or interfere with another user's use and enjoyment of the Resource Scheduler Service. Customer will, at all times, comply with all applicable local, state, federal, and foreign laws in using the Resource Scheduler Service.

**2.2 Customer Data.** Customer is solely responsible for the Customer Data and will not provide, post or transmit any Customer Data or any other information, data or material that: (a) infringes or violates any intellectual property rights, publicity/privacy rights, law or regulation; or (b) contains any viruses or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or personal information. PeopleCube may take remedial action if Customer Data violates this **Section 2.2**, however, PeopleCube is under no obligation to review Customer Data for accuracy or potential liability.

**2.3 Use Restrictions.** Customer is responsible for all activities that occur under Customer's User accounts. Customer will not, and will not attempt to: (a) reverse engineer, disassemble or decompile any component of the Resource Scheduler System; (b) interfere in any manner with the operation of the Resource Scheduler Service, or the Resource Scheduler System or the hardware and network used to operate the Resource Scheduler Service; (c) sublicense or transfer any of Customer's rights under this Agreement, except as otherwise provided in this Agreement, or otherwise use the Resource Scheduler Service for the benefit of a third party or to operate a service bureau; (d) modify, copy or make derivative works based on any part of the Resource Scheduler System; (e) create Internet "links" to or from the Resource Scheduler Service, or

"frame" or "mirror" any Resource Scheduler's content which forms part of the Resource Scheduler Service (other than on Customer's own internal intranets); or (f) otherwise use the Resource Scheduler Service in any manner that exceeds the scope of use permitted under **Section 1.1** hereof.

**2.4 Support.** Upon payment in full of all applicable subscription fees, PeopleCube will respond as described below to Error reports that Customer submits to us during Working Hours via the online Customer Care Center at <http://connect.peoplecube.com> or telephone in the US at 508-416-3600 (or 800-282-7319) or in Europe at +41 840 30 26 00. The specific contact mechanisms or phone number may change as PeopleCube may designate from time to time. "Error" means (a) a material failure of Customer's supported PeopleCube software to function in accordance with its documentation, or (b) any other alleged material defect in or malfunctioning of Customer's supported PeopleCube software. "Business Hours" and "Business Day" mean 8:00 a.m. EST to 8:00 p.m. EST on weekdays, exclusive of PeopleCube company holidays.

**2.5 Contact.** Contact with PeopleCube Customer Care must be channeled through named contact representatives who have been trained by PeopleCube at Customer's expense in the use of the software. When reporting an Error, the named contact must describe the Error in reasonable detail, indicate the severity of the Error using the terminology set forth in the chart below, and specify any and all error messages observed. PeopleCube will use commercially reasonable efforts to respond to Customer's Error reports within the times indicated

Priority	Failure Description	Standard Support	Premium Support
1	Critical (no useful work can be done)	4 business hours	2 hours (24x7)
2	High - Severe Impact (functionality disabled): errors which result in a lack of application functionality or cause intermittent system failure	1 business day	2 business hours
3	Medium - Degraded Operations: errors causing malfunction of non critical functions	1 business day	4 business hours
4	Low - Minimal Impact: attributes and/or options to utility programs do not operate as stated	Future release, on business justifiable basis	Future release, on business justifiable basis
	Enhancement Request	As needed	As needed

**2.6 Acknowledgement of Error Reports.** PeopleCube's acknowledgements of Error reports will contain either a resolution of the Error or a support plan describing the steps being taken by PeopleCube, and any steps to be taken by Customer, to correct the Error. If PeopleCube requests further information about an Error, Customer must promptly provide the requested information. Information requested by PeopleCube may include, by way of example and not limitation, manuals related to Customer's hardware, network, or third party software; examples of software output; or configuration information, including .ini files and database files. PeopleCube will use commercially reasonable efforts to correct, within a commercially reasonable period of time, any substantiated Error in the unaltered software reported by Customer as specified above. PeopleCube will determine the form of any Error correction, which may include, by way of example and not limitation, an individual patch, a work around, or a maintenance release provided in the normal course of PeopleCube maintenance release schedule.

If PeopleCube responds to a reported Error and the Error is determined to be outside the scope of PeopleCube maintenance obligations, PeopleCube may charge for its time and reasonable expenses responding to the reported Error, and Customer must pay the charges. PeopleCube time will be billed at its standard daily consulting rate in effect for such services at the time the services are rendered. PeopleCube customer care services do not include Professional Services. These services are available for additional fees.

### **3.0 FEES, PAYMENT AND SUSPENSION OF SERVICES.**

As consideration for the subscription to the Resource Scheduler Service and the services provided by PeopleCube under this Agreement, Customer will pay PeopleCube the fees ("**Fees**") set forth in and in accordance with the agreed upon Order Form. All Fees will be billed on an annual basis and are due within thirty (30) days of receipt of invoice, unless otherwise agreed to in the order documents. Overdue amounts shall accrue interest at the rate of 1 ½% per month, or at the highest legal interest rate, if less. All Fees owed by Customer in connection with this Agreement are exclusive of, and Customer shall pay, all sales, use, excise and other taxes that may be levied upon Customer in connection with this Agreement, or other transactions contemplated under this Agreement, except for employment taxes and taxes based on PeopleCube's net income. PeopleCube reserves the right (in addition to any other rights or remedies PeopleCube may have) to discontinue the Resource Scheduler Service and suspend all UserID's and Customer's access to the Resource Scheduler Service if any Fees set forth in the Order Form that are more than thirty (30) days overdue until such amounts are paid in full. Customer shall maintain complete, accurate and up-to-date Customer billing and contact information at all times.

### **4.0 CONFIDENTIAL INFORMATION.**

**4.1 Obligation.** Each party agrees (a) to hold the other party's information labelled as "Confidential Information" in strict confidence, (b) to limit access to the other party's Confidential Information to those of its employees or agents having a need to know and who are bound by confidentiality obligations at least as restrictive as those contained herein, and (c) not to use such Confidential Information for any purpose except as expressly permitted hereunder.

### **5.0 OWNERSHIP.**

**5.1 Resource Scheduler Service.** Customer acknowledges that PeopleCube retains all right, title and interest in and to the Resource Scheduler software, materials, formats, interfaces, information and technology used by PeopleCube or provided to Customer in connection with the Resource Scheduler Service, and that the Resource Scheduler Software is protected by intellectual property rights owned by or licensed to PeopleCube. Other than as expressly set forth in this Agreement, no license or other rights in the PeopleCube Technology are granted to the Customer, and all such rights are hereby expressly reserved by PeopleCube.

**5.2 Customer Data.** Customer retains all right, title and interest in and to the Customer Data. PeopleCube will only use Customer Data to provide the Resource Scheduler Service under this Agreement. Customer will be solely responsible for

providing all Customer Data required for the proper operation of the Resource Scheduler Service. Customer grants to PeopleCube all necessary licenses in and to such Customer Data solely as necessary for PeopleCube to provide the Resource Scheduler Service to Customer. PeopleCube will not knowingly use or access any Customer Data unless authorized to do so by Customer and, in such circumstances, PeopleCube will access and use such Customer Data only as required to perform requested services on behalf of Customer.

## **6.0 TERM AND TERMINATION.**

The initial term of this Agreement will commence on the Effective Date and continue for two (2) years, unless otherwise agreed to in the order documents. Thereafter, this Agreement will renew for additional one (1) year terms unless either party gives the other party prior written notice of non-renewal within sixty (60) days prior to the expiration of the then-current term. PeopleCube reserves the right to increase the Fees applicable to any renewal term upon written notice to Customer. PeopleCube may terminate this Resources Scheduler Service on written notice if Customer breaches any provision of this Agreement.

## **7.0 LIMITATION OF LIABILITY.**

PEOPLECUBE'S TOTAL CUMULATIVE LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT (UNDER ANY LEGAL THEORY INCLUDING CLAIMS IN CONTRACT OR TORT), OR THE RESOURCE SCHEDULER SERVICE WILL NOT EXCEED THE AMOUNTS ACTUALLY PAID TO PEOPLECUBE BY CUSTOMER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE CUSTOMER'S FORMAL WRITTEN NOTICE OF THE CLAIM FOR LIABILITY HEREUNDER. ALL CLAIMS THAT CUSTOMER MAY HAVE AGAINST PEOPLECUBE WILL BE AGGREGATED TO SATISFY THIS LIMIT AND MULTIPLE CLAIMS WILL NOT ENLARGE THIS LIMIT. IN NO EVENT WILL PEOPLECUBE BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (UNDER ANY LEGAL THEORY INCLUDING CLAIMS IN CONTRACT OR TORT), INCLUDING, BUT NOT LIMITED TO, INTERRUPTED COMMUNICATIONS, LOST DATA OR LOST PROFITS, AND DAMAGES THAT RESULT FROM INCONVENIENCE, DELAY OR LOSS OF USE OF ANY INFORMATION OR DATA OR OF THE RESOURCE SCHEDULER SERVICE, EVEN IF PEOPLECUBE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN.

## **8.0 GENERAL PROVISIONS**

**8.1 Assignment.** Neither party may assign any rights or obligations arising under this Agreement, whether by operation or law or otherwise, without the prior written consent of the other; *except* that either party may assign this Agreement without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Customer agrees that PeopleCube may subcontract certain aspects of the Resource Scheduler Service to qualified third parties, *provided that* any such subcontracting arrangement will not relieve PeopleCube of any of its obligations hereunder. Subject to the foregoing limitation, this Agreement shall inure to the benefit of and shall be binding on the successors and assignees of the parties.

**8.2 Governing Law and Venue.** This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without giving effect to principles of conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Any

action or proceeding arising from or relating to this Agreement must be brought in a federal or state court sitting in the Commonwealth of Massachusetts, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding. If a dispute arising under this Agreement results in litigation, the non-prevailing party shall pay the court costs and reasonable attorneys' fees of the prevailing party.

**8.3 Notices.** Any notice or other communication required or permitted under this Agreement and intended to have legal effect must be given in writing to the other party at the address set forth in the signature block on the Order From, or to PeopleCube at the following address: 111 Speen Street, Suite 510, Framingham, MA 01701 or such other address as either party may from time to time notify to the other pursuant to this section.

**8.4 Severability and Waiver.** In the event that any provision of this Agreement is held to be invalid or unenforceable, the valid or enforceable portion thereof and the remaining provisions of this Agreement will remain in full force and effect. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. All waivers must be in writing. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**8.5 Relationship of the Parties.** The parties to this Agreement are independent contractors, and no agency, partnership, franchise, joint venture or employee-employer relationship is intended or created by this Agreement. Neither party shall be responsible for the acts or omissions of the other, nor shall either party have any authority to make any representation or incur any obligation on behalf of the other party unless expressly authorized herein.

NOTE: *If you have any questions concerning this Agreement, or desire to contact PeopleCube for any reason, you may do so through the sales representative offices listed below (this document appears within our web site at [www.peoplecube.com](http://www.peoplecube.com)):*

FOR AMERICAS INSTALLATIONS:  
**PeopleCube**  
111 Speen Street  
Framingham, MA 01701 USA  
Main Number: +1 508-416-3600  
Toll Free Number: +1 800 282-7319  
Main Fax: +1 508-416-3601  
Email: [sales@peoplecube.com](mailto:sales@peoplecube.com)

FOR EMEA AND OTHER INSTALLATIONS:  
**PeopleCube**  
Twining House  
43-57 London Road  
Twickenham, Middlesex. TW1 3SZ  
Phone: +44 208 744 3207  
Fax: +44 208 744 3028  
Email: [europa@peoplecube.com](mailto:europa@peoplecube.com)