



Minutes of the Springbrook National Users Group Board of Directors Meeting

November 10, 2016 | 4:45 pm (PST)

The meeting of the Springbrook National Users Group (SNUG) Board of Directors was called to order on November 10 2016 at 8:18 am Pacific Time by President Julie Interrante. Other board members present were Hubert Wenzel, Rhett Hogan, Art Martinez, Heidi Bova and Stacey Barrett (staff).

Guests: Sharon Talkington, Jaime Nawrocki and Nam Ha

Approval of Consent Agenda/Additional Agenda Items

President Interrante requested if there were any changes to the agenda previously emailed out to the board for the meeting.

- Approval of October 13, 2016 Board Meeting Minutes
- Barrett noted that the October 2016 Month End Financials were not available for approval. She will send the financials out once available.

A motion and second was made to approve the consent agenda as presented. The motion was unanimously approved.

SNUG/Accela Source Code Agreement

Barrett reported that she is working with the attorney for the Source Code agreement and provided a report via email for review. Adam Anderson with Jordan Ramis PC stated the following:

1. Until we see the further documentation you requested from Accela earlier this week (especially the "Registration Agreement" referenced in 7.1 of the Accela/ NCC Escrow Agreement) it is unclear whether SNUG will continue to have the same access to source code under the Accela/ NCC Escrow Agreement (the "Accela Agreement") that it has under the 2012 License Agreement with Springbrook (the "2012 Agreement"). The Accela Agreement itself does not have a list of specific escrow release events that can be compared against those under Section 4 of the 2012 Agreement. It appears that the Registration Agreement would provide such a list.
2. That said, even if the release events under the two agreements prove to be substantially the same, we believe that SNUG would still be better protected under the 2012 Agreement, for a variety of reasons: (1) Section 7 of Accela Agreement imposes a variety of additional conditions upon an escrow release that are not a part of the 2012 Agreement (e.g., payment of escrow fees by Accela; duty of SNUG to show that a release event has actually occurred before source code is to be released, followed by Accela's opportunity to object); (2) disputes under the Accela Agreement must be resolved in California, under California law, rather than Oregon under the 2012 Agreement (Sections 15.1 v Sections 11 & 12); (3) any disputes under the 2012 Agreement give rise to a right to prevailing

party attorney fees (Section 15), whereas there is no such protection under the Accela Agreement; and (4) in general, the 2012 Agreement is specifically tailored to, and specifically references the rights of SNUG, whereas SNUG is only a third-party beneficiary to the Accela Agreement. In sum, these are significant, material terms of the original agreement that I would not give up lightly, even if all else was equal.

3. As such, we think SNUG should seek to affirm the enforceability of the 2012 Agreement. We are surprised by the position of Accela's counsel that the Amendment to the 2012 Agreement, signed in May by Tim Rosener, is ineffective. The relevant legal question is whether he had the "apparent authority" to bind Accela. In other words, even if Accela did not give him the actual authority to sign, did SNUG reasonably have reason to know that was the case, given prior history, SNUG's actual knowledge, or how he was holding himself out to SNUG. My understanding is that he had generally been your point of contact. He signed the agreement as a "General Manager" of Accela, and is currently shown on Accela's website as a member of the executive team. These are strong facts in favor of his "apparent authority." Indeed, given his current position with Accela, he may in fact have actual authority. In addition, even aside from the issue of authority, Section 5 itself binds Springbrook's successors (i.e, Accela) to all terms of the 2012 Agreement, and the Amendment is evidence that Accela had reason to know that was the case. We think these facts should be presented to Accela's counsel, and Accela should be asked to present in further detail why, given such facts, the Amendment is nevertheless ineffective. If the Amendment is indeed effective, then ALL terms of the 2012 Agreement remain in effect (and not just the specific release events).
4. Future communication with Accela could take the form of a phone call or demand letter from us, if you'd like us to take that step.

Barrett noted that Accela's legal counsel has changed. She stated that Diane Jankiewicz, Manager Contract/Legal Administration with Accela has contacted SNUG regarding further discussion. It was the consensus of the board that Barrett, Interrante and Martinez meet with Jankiewicz regarding the agreement and the recommendations of SNUG's attorney.

Membership

Barrett noted that a SNUG expired list was provided to the board. A discussion ensued regarding the list.

SNUG Branding

A discussion ensued regarding a new logo. The board agreed that Accela National User Group (ANUG) was the best choice. A motion and second was made to change the association's name from Springbrook National User Group (SNUG) to Accela National User Group (ANUG). The motion was unanimously approved.

Talkington joined the conference call at 8:36 am.

Barrett noted that with a name change they would need review the current mission and update date it. It was consensus of the board to review the mission statement in December and schedule the announcement of the name change immediately.

Ha joined the conference call at 8:44 am.

Nawrocki joined the conference call at 8:46 am.

There was no additional old business and no new business.

The next meeting will be December 8, 2016 at 8:00 am (PST).

The meeting adjourned at 8:45 am.

Respectfully submitted,



Stacey Barrett
SNUG Association Manager

Accela

A discussion ensued regarding the follow up with requests to Accela from the SNUG board. Accela reported on the following:

- Interrante inquired about Accela's Service Level Agreement. Talkington reported that Accela is still finalizing the F&A SLA. A discussion ensued regarding the SNUG board reviewing the SLA and give suggestions to Accela. Talkington suggested having a Task Force. The Board agreed and will working directly with Talkington to create.
- Accela reported that this time they are unable to provide SNUG with the list of KVS and SoftRight users. They noted that the KVS and SoftRight users are still using a different platform.
- Ha reported that he is hiring more support within his department. They are continuing to have the webinars and will continue to send Barrett information on upcoming events and notifications. Wenzel inquired about the possibility of providing questions for the November 23rd webinar to allow those who are unable to attend to still have questions answered. Talkington agreed and will work with Martinez on creating an email and questions to send out the SNUG Members.
- Nawrocki reported that in Spring 2017, Accela will start planning User Groups meetings with more focus on the F&A Software.
- Nawrocki noted that Accela is looking at restructuring the conference for all users.