

Prysm Inc. (“Prysm”) is a provider of software (the “CHC Software”) that may be installed in object form on a customer server to enable real-time, multi-site collaboration among authorized users (the “Prysm Application Suite”). These Terms of Service outline the terms and conditions on which Prysm licenses the CHC Software to your organization (the “Subscriber” and, together with Prysm, the “Parties”).

The CHC Software to be provided to Subscriber will be set forth in a proposal issued by Prysm or an authorized reseller of Prysm to Subscriber that is accepted by Subscriber either by countersigning the proposal, issuing a purchase order referencing the proposal or by clicking “accept” or “proceed” in the case of an online proposal (any such accepted proposal is referred to herein as an “Order”). By accepting the proposal, Subscriber agrees that these Terms of Service, as updated from time to time, shall apply to all current and future use of the CHC Software by Subscriber and its individual users; and the representative of Subscriber accepting the proposal and these Terms of Service represents and warrants that he/she has the right, power, and authority to accept these Terms of Service on behalf of Subscriber.

## 1. Subscription to Prysm CHC Software

- a. Subscription Grant. Prysm hereby grants to Subscriber a worldwide, non-transferable, non-sublicensable, non-exclusive, limited license to install and use a single instance of the CHC Software purchased by Subscriber for its own business purposes from Prysm or a Prysm authorized reseller in accordance with these Terms of Service and the technical specifications relating to the CHC Software (“Documentation”).
- b. Subscription Terms. The Subscription grant to the CHC Software is subject to limitations on the number of users set forth in the Order. The right to use the CHC Software is limited to the subscription term set forth in the Order (the “Subscription Term”). The Subscription Term will commence upon delivery of CHC Software to Subscriber, unless otherwise set forth in the Order. Subscriber shall pay the subscription fees applicable to the CHC Software (the “Subscription Fees”), which will be due upon invoice net 30. Subscriber is responsible for payment of all taxes and duties of every kind imposed in connection with the license to Subscriber of the CHC Software. Following the initial Subscription Term, Subscription shall automatically renew for additional one-year periods at Prysm’s then current pricing; provided that after the Subscription Term, each Party will have the right to cancel such automatic renewal by delivering a written notice of termination to the other Party at least thirty (30) days prior to the end of the applicable subscription term. The Parties understand and agree that subscriptions to the CHC Software as set forth in an Order are firm commitments that are non-cancellable for the Subscription Term.
- c. Subscriber’s Responsibilities. Subscriber will (i) be responsible for users’ (including guest users’) compliance with these Terms of Service, (ii) be responsible for the accuracy, quality and legality of Subscriber’s data and the means by which Subscriber acquired Subscriber’s data and Subscriber’s use of the data in connection with the CHC Software, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the CHC Software or the Prysm Application Suite, and notify Prysm promptly of any such unauthorized access or use, (iv) use the CHC Software only in accordance with these Terms of Service, the Order Form and applicable laws and government regulations, and (v) comply with terms of service of any non-Prysm application with which Subscriber uses the CHC Software. Subscriber will not (i) make the Prysm Application Suite available to, or use for the benefit of anyone other than Subscriber, its users and its permitted guests, and (ii) access the CHC Software or the Prysm Application Suite in order to build a competitive product or service or to benchmark with a non-Prysm product or service, or (iii) reverse engineer the CHC Software or the Prysm Application Suite. Subscriber is responsible for meeting the then-current hardware, operating system, browser and other technical requirements necessary to properly install, access and use the CHC Software.
- d. Customer Acknowledgment. Subscriber acknowledges and agrees that (i) the CHC Software may include functionality to track the number of active user identifications and to disallow use by more than the authorized number of user identifications, (ii) user identifications and passwords cannot be shared or used by more than one user, (iii) Subscriber is responsible for all activities that occur under Subscriber’s user accounts; and (iv) the products and services purchased by Subscriber, directly or indirectly, from Prysm shall be subject to these Terms of Service and other terms, conditions and limitations available at [www.prysm.com/legal](http://www.prysm.com/legal) and as set forth in any Order and Statement of Work between Prysm and Subscriber.
- e. Proprietary Rights. Subscriber acknowledges that in providing the Services, Prysm’s CHC Software and the Prysm Application Suite utilize technology that is proprietary to Prysm (collectively, “Prysm Technology”). Subject to the express limited rights granted to Subscriber hereunder, as between Prysm and Subscriber, Prysm retains all rights, title and interest, including all intellectual property rights, in and to the Prysm Technology, and any and all modifications, enhancements, customizations or

improvements to any of the foregoing, and nothing herein shall be deemed or interpreted to grant or transfer any such rights, whether by implication, estoppel, or otherwise.

- f. Grant of License to Display/Control Software. If Subscriber has purchased Prysm hardware, Prysm grants to Subscriber a license to use the Prysm software installed on such Prysm hardware in accordance with the Prysm End User License Agreement available at [prysm.com/legal](http://prysm.com/legal).
- g. Privacy Policy. Subscriber acknowledges and agrees that the CHC Software is subject to the terms of Prysm's Product Privacy Policy available at [www.prysm.com/legal](http://www.prysm.com/legal).

## 2. Compliance

- a. Government End-Users. Subscriber hereby agrees that the CHC Software qualifies as "commercial" computer software. Government technical data and software rights related to the software include only those rights customarily provided to the public as defined in these Terms of Service. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data - Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation).
- b. Export Compliance. Subscriber represents and warrants that neither it nor any of its employees is a person or entity with whom U.S. entities are restricted from doing business under regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order or other governmental action.

## 3. Disclaimer

- a. Prysm makes no warranty or representation that (a) the CHC Software or other Prysm products and services will meet Subscriber's requirements, (b) work in combination with any hardware, applications or software products provided by Subscriber or third parties, (c) the operation of the CHC Software will be uninterrupted or error-free, or (d) all defects in the CHC Software will be corrected.
- b. Third Party Software. Third party software supplied by Prysm, executing on third party hardware or Prysm hardware, is only warranted pursuant to the terms provided by the original product manufacturer without extension. The CHC Software may contain certain third-party code (including code which may be made available to Subscriber in source code form) licensed pursuant to applicable third party licenses listed along with their terms at <https://www.prysm.com/hubfs/downloads/legal/prysm-third-party-software-notice.pdf>.
- c. Disclaimer. The warranties set forth above shall be Prysm's exclusive warranties regarding the CHC Software and other Prysm products and services. Except as set forth above, the CHC Software and all Prysm products and services are provided to Subscriber on an “as-is” basis. Prysm disclaims all warranties of any kind, whether express or implied, relating to the CHC Software and other Prysm products and services, including: (i) any implied warranty of merchantability, fitness for a particular purpose, title, or quiet enjoyment; (ii) any warranty arising out of course of dealing, usage, or trade; and (iii) any warranty arising out of the use of third-party service providers. In no event will Prysm be liable to Subscriber for any indirect, incidental, special, consequential or punitive damages (including damages for loss of profits, goodwill, or any other intangible loss) arising out of or relating to Subscriber's access to or use of, or Subscriber's inability to access or use, the CHC Software or other Prysm products or services, whether based on warranty, contract, tort (including negligence), statute, or any other legal theory, and whether or not Prysm has been informed of the possibility of damage. Subscriber agrees that the maximum aggregate liability of Prysm to Subscriber for all claims arising out of or relating to these Terms of Service, the use of or any inability to use the CHC Software or other products or services, whether in contract, tort, or otherwise, is limited to the price paid by Subscriber for such CHC Software, or products and services, as applicable, for the six (6) month period immediately preceding the date a claim is made by Subscriber.

## 4. Feedback and Promotion

- a. Feedback. If Subscriber provides Prysm with reports of defects in the Prysm products or services, reports on the operation of the Prysm products or services or any improvements, enhancements or other changes or modifications proposed or suggested by Subscriber to the Prysm products or services (collectively, “Feedback”), Prysm shall have all the rights to use such Feedback at its

discretion including, but not limited to the incorporation of such suggested changes or modifications into Prysm products, services and the right to assign, license or to otherwise transfer to third parties the products and services so changed or modified without obligation to or recourse of Subscriber. If Subscriber has purchased a Prysm subscription, Subscriber agrees that Prysm may refer to Subscriber as a customer and use Subscriber's logo in Prysm's marketing materials and on its website.

## 5. Miscellaneous

- a. Assignment. Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other Party's prior written consent (not to be unreasonably withheld); provided, however, either Party may assign its rights and obligations in their entirety (together with all Orders), without the other Party's consent in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if Subscriber is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of Prysm, then Prysm may terminate all Orders and all license grants hereunder upon written notice to Subscriber. Subject to the foregoing, these Terms of Service will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- b. Force Majeure. Except for the obligation to pay money, neither Party will be liable for any delay or failure to perform any obligation under these Terms of Service where the delay or failure results from any cause beyond its reasonable control, including acts of God, labor disputes or other industrial disturbances, systemic, electrical, telecommunications, or utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, cyber-attacks or war, hosting or similar services outages or denial of service (such as Microsoft Azure or Amazon Web Services outages or denial of service), worms, bots, or similar malware ("Force Majeure").
- c. Governing Law; Jurisdiction and Venue. These Terms of Service shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof. Any dispute, controversy or claim arising out of or relating to these Terms of Service, or the breach, termination or invalidity thereof, shall be finally settled by binding arbitration conducted in the English language in Santa Clara County, California under the commercial arbitration rules of the American Arbitration Association ("AAA"). The award of the arbitrator shall be the sole and exclusive remedy of the parties and shall be enforceable in any court of competent jurisdiction, subject only to revocation on grounds of fraud or clear bias on the part of the arbitrator. Notwithstanding this, application may be made to any court for a judicial acceptance of the award or order of enforcement.
- d. Entire Agreement. These Terms of Service, together with the Order, contain the entire agreement of the Parties with respect to the purchase and sale of the CHC Software, and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the Parties with respect to said subject matter. To the extent of any conflict or inconsistency between these Terms of Service and any Order, SOW or any other document related to the Parties obligations hereunder, the terms of this Agreement shall govern unless otherwise expressly agreed by the Parties in writing.

November 7, 2017