



# Master Purchase and Service Agreement

This Master Purchase and Service Agreement (“Agreement”) is made by and between Customer and ChyronHego US Holding Corporation (“ChyronHego”), a Delaware Company, or a related named subsidiary ultimately owned by ChyronHego Parent Corporation. Customer and ChyronHego may also each be referred to herein as “Party” or collectively as “Parties”.

The purpose of this Agreement is to establish the general terms and conditions applicable to Customer’s purchase and ChyronHego’s provision of ChyronHego Products and Services (as defined below), along with any exhibit(s) (i.e., Orders or Statement or Work(s)) that may be issued pursuant to this Agreement from time to time and which are mutually agreed to by the Parties and which reference this Agreement. The terms of this Agreement shall be incorporated by reference into each new exhibit. If this Agreement is terminated or expires prior to the termination or expiration of the term of an exhibit(s), the terms and conditions of this Agreement shall continue to apply but only with respect to such exhibit(s). In the event of possible conflict or inconsistency between the main body of this Agreement and any exhibits, the conflict or inconsistency shall be resolved by giving precedence in the following order: (1) the terms of the main body of this Agreement; (2) Orders; (3) all other SOWs or other purchase order documents; (4) ChyronHego response to Customer’s request for RFI, RFP, RFQ; and (5) Customer’s RFI, RFP, RFQ.

In addition, no Statement of Work, Order or other exhibit incorporated into this Agreement after execution of this main body of this Agreement will be construed to amend this main body unless it is specifically stated in such exhibit.

**1. Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms shall have the meaning specified:

“Agreement Term” means the total time covered by the Initial Term and all Extension Terms for each Order or SOW under this Agreement, as may be further specified in Section 7.1.

“Applicable Laws” means all federal, state, county and municipal laws, ordinances, regulations and orders pertaining to the performance and provision of the Services, or any other deliverables under this Agreement, as they exist now and as they may be amended from time to time.

“ChyronHego Products and Services” means the products and services made available to Customer pursuant to this Agreement, which may include SaaS, Software, Services, content from any Services or other required equipment components or other required Hardware, as specified in each Order or SOW.

“Customer Data” means electronic data and information collected and stored by Customer.



“Deliverable” means software, report or other deliverable created pursuant to an Order or a SOW.

“Documentation” means any manuals, implementation plans, notes, instructions and/or guidelines for Hardware, Software, and/or Services which are presented to the Customer, or as updated by ChyronHego from time to time.

“Extension Term” means any term that increases the length of the Initial Term of this Agreement or an Order Term of an Order or SOW.

“Hardware” means any and all physical products or components specified in an Order or SOW, excluding any Software installed thereon.

“Initial Term” shall have the meaning specified in the Order or SOW for the first duration of performance that Customer has access to ChyronHego Products and Services.

“Licensed Software” means Software licensed to Customer pursuant to an Order, SOW or a Software License Agreement for Customer’s use. For the avoidance of doubt Software does not include SaaS, though Licensed Software may interface with SaaS.

“Network” means an aggregation of devices, any of which may perform the functions of computation, data storage, and/or data communications, and which are interconnected by cable or wireless communications means so as to permit the passage of machine-readable information among two or more such devices; Network

includes, without limitation, any publicly accessible communications, systems capable of data and/or voice communications; which systems may be generally known as the Internet, the worldwide web, or other designation.

“Order” means a written order, proposal, sales order or purchase document signed by the Parties in which ChyronHego agrees to provide and Customer agrees to purchase specific ChyronHego Products and Services.

“Order Term” means the then-current duration of performance identified on each Order or SOW (inclusive of Initial Term), for which ChyronHego has committed to provide, and Customer has committed to pay for, ChyronHego Products and Services.

“Rental” An agreement, between Customer and ChyronHego specified in an Order or SOW, by which ChyronHego shall transmit Hardware and/or Software to the Customer, for a limited period, subject to various conditions, in exchange for fees, but which ChyronHego retains ownership rights.

“SaaS” means a software-as-a-service that ChyronHego provides to Customer as a platform designed to perform a group of coordinated functions, tasks or activities for the benefit of the Customer pursuant to a SOW.

“Services” means a task(s) or duty that is ordered by Customer under an Order or SOW and made available by ChyronHego pursuant to the conditions of this Agreement.



“Software” means the ChyronHego products, components and modules identified in an Order or SOW, included but not limited to the SaaS system, excluding any Hardware. The term “Software” also includes any error corrections, patches,

workarounds, updates, upgrades and releases provided by ChyronHego to the Customer as part of maintenance or as specified in an applicable Order. Error corrections, patches, workarounds, updates, upgrades and releases will be provided on a when and if available basis.

“Software License” means the license ordered by Customer under a Proposal and made available by ChyronHego, pursuant to the conditions of this Agreement.

“Specifications” refers to such technical and functional specifications for Licensed Software, SaaS, Hardware and/or Deliverables.

“Statement of Work” or “SOW” means a written order, proposal, or purchase document that is signed by both Parties and describes the ChyronHego Products and Services to be provided and/or performed by ChyronHego. Each SOW shall describe the Parties’ performance obligations and any assumptions or contingencies associated with the implementations of the ChyronHego Products and Services, as specified in each SOW placed hereunder.

“Subscription” means the continued use of Hardware, Software, SaaS, Software updates and Support services, pursuant to an Order or SOW and conditions of this Agreement, for a recurring payment in exchange for fees, but which ChyronHego retains ownership rights.

“Support” means the ongoing support and maintenance services performed by ChyronHego related to the ChyronHego Products and Services as specified in each Order or SOW placed between the Parties.

“System” means Hardware and Embedded Software interacting together to create a functioning product as described in an Order or SOW. The term “System” may also be referred to herein as a “Product”.

“Trade-in Product” means the Product that Customer is returning to ChyronHego in exchange for value to be used for a new Order or SOW, as authorized by ChyronHego.

## **2. Ordering and Scope**

**2.1. Ordering ChyronHego Products and Services.** The ChyronHego Products and Services, Deliverables, the Subscription fees, maintenance fees, Product purchase fees, Services fees, payment terms, and any special terms of this Agreement will be specified in one or more Orders signed by both Parties and any SOW entered into in connection with this Agreement. Orders for Products may contain additional terms and conditions as specified in paragraph 4.4 below or as may be attached to the relevant Order (“Product Terms and Conditions”).

**2.2. Support.** Basic support related to standard ChyronHego Products and Services is described in this Agreement or in the relevant SOW or Order are included within the fees paid during the Order Term. ChyronHego may update its Support obligations under this Agreement, so long as the functionality purchased by Customer is not materially diminished.



**2.3. Future Functionality.** Customer acknowledges that any purchase or license hereunder is not contingent on the delivery of any future functionality or features, all of which may be subject to separate fees and charges

**2.4. Acceptance and Changes.** Any delivery of ChyronHego Products or Services shall be deemed accepted by Customer if (i) Customer notifies ChyronHego in writing of its acceptance, in which event the acceptance date shall be the date of such notice, or (ii) Customer fails to notify ChyronHego in writing within ten (10) business days after receipt of such Products or Services. In event that Customer desires to make changes to any Order, SOW or Customer-issued purchase order, Customer must notify ChyronHego of any changes in writing prior to shipment of the Products or delivery of the Services, and Customer will be responsible for any and all costs associated with the change order.

**2.5. Reimbursement of Expenses for Professional Services.** Travel, meal, lodging and other expenses incurred by ChyronHego in providing training and other professional services purchased by Customer, when performed at a non- ChyronHego location at the Customer's request, are the sole responsibility of the Customer, unless otherwise agreed in writing between Customer and ChyronHego in the applicable Order or SOW.

### **3. Use of ChyronHego Products and Services and Proprietary Rights**

#### **3.1. ChyronHego Products and Services.**

The ChyronHego Products and Services are purchased or licensed by Customer during an Order Term specified in each Order or SOW. Additional ChyronHego Products and Services may be added during an Order Term as described in Section 2.1.

**3.2. Permitted Use.** Subject to the terms and conditions of this Agreement, including but not limited to, any restrictions or obligations contained in any Software License Agreements, Order or SOW, ChyronHego hereby grants during each Order Term, and Customer hereby accepts, solely for its internal use, a worldwide, limited, revocable, non-exclusive, non-transferable right to use the ChyronHego Products and Services (collectively the "Permitted Use"). The Permitted Use shall also include the right, subject to the conditions and restrictions set forth herein, to use the ChyronHego Products and Services up to the levels limited in the applicable Order or SOW. For the avoidance of doubt, ChyronHego is and shall remain the sole owner of all ChyronHego Products and Services, including without limitation any intellectual property rights therein, Software, source code, algorithms, processes, data, know-how, improvements, plans, arrangements, developments, etc., and nothing in this Agreement should be construed as giving Customer any ownership and/or exploitation right in any Product or Service beyond that which is expressly given herein.



In the event that any Products sold to Customer contain Embodied Software of ChyronHego, Customer's limited right to use such Embodied Property will terminate upon

**3.2.1. Data Sources.** Data uploaded into ChyronHego Products and Services must be brought in from Customer sources.

**3.2.2. Passwords.** Passwords are not transferable to any third party. Customer is responsible for keeping all passwords secure and all use of the ChyronHego Products and Services accessed through Customer's passwords.

**3.2.3. Content.** Customer can only use ChyronHego Products and Services to share content that is created by and owned by Customer and not for other organizations that do not have a ChyronHego subscription or license.

**3.2.3.1. Disclaimers.** Any text, data, graphics, or any other material displayed or published on Customer's website must be free from violation of or infringement of copyright, trademark, service mark, patent, trade secret, statutory, common law or proprietary or intellectual property rights of others.

**3.3. Restrictions.** Customer shall not:

**3.3.1.** Misuse any ChyronHego resources or cause any disruption;

**3.3.2.** Use any process, program, or tool for gaining unauthorized access to the Systems, Networks, or accounts of other parties, including but not limited to, other ChyronHego customers;

termination of the Order Term. Customer's right to use the purchased Product containing the Embodied Property, however, will remain for so long as Customer owns the Product.

**3.3.3.** Customer must not use the ChyronHego Products and Services in a manner in which system or network resources are unreasonably denied to other ChyronHego customers;

**3.3.4.** Access or use any portion of ChyronHego Products and Services, except as expressly allowed by this Agreement or each Order or SOW placed hereunder;

**3.3.5.** Disassemble, decompile, or otherwise reverse engineer all or any portion of the ChyronHego Products and Services;

**3.3.6.** Use the ChyronHego Products and Services for any unlawful purposes;

**3.3.7.** Export or allow access to the ChyronHego Products and Services in violation of U.S. laws or regulations;

**3.3.8.** Except as expressly permitted in this Agreement, subcontract, disclose, rent, or lease the ChyronHego Products and Services, or any portion thereof, for third party use; or

**3.3.9.** Modify, adapt, or use the ChyronHego Products and Services to develop any software application intended for resale which uses the ChyronHego Products and Services in whole or in part or create derivative works based on the Products and Services.



**3.3.10.** Customer agrees to ensure that there is no breach, compromise or violation, by Customer employees, consultants, or independent contractors, of such obligations and ChyronHego's rights and title to the Products and Services. Customer shall be responsible for any breach, compromise or violation of this Agreement by any employees, consultants or independent contractors of Customer.

**3.4. Customer Feedback.** Customer assigns to ChyronHego any suggestion, enhancement, request, recommendation,

correction or other feedback provided by Customer relating to the use of the ChyronHego Products and Services. ChyronHego may use such submissions as it deems appropriate in its sole discretion.

**3.5. Reservation of Rights.** There are no implied licenses under this Agreement. Subject to the limited rights expressly granted hereunder, ChyronHego and/or its licensors reserve all right, title and interest in the ChyronHego Products and Services, the Documentation and resulting product including all related intellectual property rights. The ChyronHego name, the ChyronHego logo, and the Product names associated with the Services are trademarks of ChyronHego or its suppliers, and no right or license is granted to use them.

**3.6. Returns.** Products shall be deemed returned to ChyronHego when it has been delivered to a location agreed upon by both Parties. Customer shall continue to bear any and all risk of loss and/or damage to the

Product until the return has been completed. Products that have been damaged or destroyed while in the possession of the Customer, an agent of the Customer or any third-party carrier shall not be deemed to have been returned to ChyronHego until such time as it has been repaired. If the Product has not been returned to Customer within 90 days after the end of the Term, ChyronHego will invoice the Customer for the full replacement value from the Customer or the Customer's insurer, including payment of any continuing charges.

#### **4. Payment**

**4.1. Fees.** Customer agrees to pay all fees, costs and other amounts as specified in each Order or SOW. Annual fees are due according to the billing frequency specified in each Order or SOW. ChyronHego reserves the right to suspend any ChyronHego Products and Services should there be a lapse in payment. A lapse in the term of each Order or SOW will require the payment of a setup fee to reinstate the subscription. All fees or prices stated in an Order or SOW, are exclusive of any sales, use, consumption, value-added, gross receipts, service, excise, duty or similar taxes or surcharges that may be applicable to Customer's order. All such taxes or surcharges will be invoiced to and borne by Customer, whether invoiced currently or in arrears. If Customer provides ChyronHego with a properly completed and executed exemption certificate, ChyronHego shall neither invoice nor collect such taxes or surcharges as may be covered by the certificate.



**4.2. Disputed Invoiced Amounts.** Customer shall provide ChyronHego with detailed written notice of any amount(s) Customer reasonably disputes within thirty (30) days of the date of invoice for said amount(s) at issue. ChyronHego will not exercise its rights under 4.1 above if Customer has, in good faith, disputed an invoice and is diligently trying to resolve the dispute. Customer's failure to provide ChyronHego with notice of any disputed invoiced amount(s) shall be deemed to be Customer's acceptance of the content of such invoice.

**4.3. Price Increases.** Any price increases not negotiated in advance shall be provided by ChyronHego to the Customer at the end of the Order Term. Upon each yearly anniversary during the term of this Agreement (including the Initial Term, all Extended Terms, and all Order Terms), the ChyronHego

Product and Services fees shall increase from the previous term's fees at the discretion of ChyronHego. ChyronHego reserves the right to increase prices at its sole discretion, whether being from an increase in labor costs, component cost, tariff changes, or any other event.

#### 4.4 Purchase of Products.

**4.4.1 Price Quotes.** ChyronHego's invoice and sales quotation related to a Customer's Order for Products may contain additional Product Terms and Conditions with respect to the sale and purchase of certain Products and Services specified therein. No modifications of the Product Terms and Conditions set forth in the invoice and sales quotation form shall be of any force unless

such modification shall be signed by the Party claimed to be bound thereby.

**4.4.2 Delivery and Risk of Loss.** Delivery shall be F.O.B. Melville, N.Y. (or, if international, FCA Melville, N.Y., U.S.A.) unless otherwise agreed to in writing by ChyronHego. Upon request by Customer, ChyronHego shall prepay insurance and freight and invoice Customer for such costs. Title and Risk of Loss shall pass to the Customer when the products are delivered to the carrier. Title to Hardware will pass to Customer upon receipt of final payment to ChyronHego, with the exception of Hardware which is under a Rental or Subscription Order or SOW.

**4.4.3 Payment.** ChyronHego's payment terms, conditioned on approved credit, are "net 30" days from date of invoice unless otherwise stated in writing by ChyronHego in the applicable Order or SOW. ChyronHego specifically reserves the right to modify the payment terms provided herein if, in ChyronHego's opinion, the payment record or financial condition of the Customer so warrants. Late payments shall be subject to a charge of 1.5 % interest per month, or the highest rate allowed under Applicable Laws, on the unpaid balance. For international sales, payment shall be made by (a) an irrevocable Letter of Credit issued in favor of ChyronHego, as beneficiary, to be advised, confirmed and payable at the counters of the bank identified on the face thereof. The Letter of Credit must be opened sixty (60) days prior to the acknowledged ship date with validity held forty-five (45) days past such date and be payable at sight in the currency quoted



and invoiced for 100% of the amount invoiced.

In the event that a foreign government does not permit payment at sight. Customer must give ChyronHego written notice with a copy of applicable regulations. Transshipment - partial shipments and export from any U.S.A. port shall be allowed. (b) Sight Draft Prior to shipment Customer must confirm that all import formalities are complete and clearance will not be delayed. All documents permitting usual clearance will be forwarded to the processing bank at destination. Payment must be in the currency quoted and invoiced for 100% of the invoiced amount. (c) Cash in Advance Payment may be by check, payable to ChyronHego in the currency quoted and invoiced for 100% of the invoiced amount. Payment must include estimated shipping and transport service charges shown for this quotation, unless shipped collect. Overpayment of such charges shall be refunded. (d) Open Account Payment shall be net thirty (30) days in the currency quoted and invoiced for 100% of the invoiced amount. Customer Default; Cancellation. ChyronHego may discontinue performance if Customer fails to pay any sum due, or after thirty (30) days written notice Customer has not cured any other failure to perform under these Terms. Security Interest. ChyronHego retains a security interest in Products until payment. Customer shall execute any paperwork required by ChyronHego to effectuate any such security interest.

**4.4.4 Cancellation.** It is understood that Orders placed pursuant to this Agreement or any Order or SOW, may not be cancelled or rescheduled without ChyronHego's written

consent and shall be subject to cancellation charges determined by ChyronHego. After the cancellation date, ChyronHego reserves the right to charge Customer for any actual costs incurred with third-party suppliers.

**4.4.5 Compliance with U.S. Laws.** (a) Export Control. The Products and technical information (including, but not limited to services and training) provided under this Agreement, including any Order or SOW, are subject to U.S. export laws and regulations and any use or transfer of such Products must be authorized under those laws and regulations. Customer will not use, distribute, transfer or transmit the Products or technical information except in compliance with U.S. export regulations. If requested by ChyronHego, Customer also agrees to sign written assurances and other export-related documents as may be required for ChyronHego to comply with U.S. export regulations. (b) Ethical Business Practices. Customer acknowledges and agrees that it and its owners, directors, officers, employees, or agents, have not and will not make or promise payments of money or anything of value, directly or indirectly, to any government or public foreign officials, political parties, or candidates for political office, for the purpose of obtaining or retaining business or securing any improper advantage. In addition, Customer agrees that it will accurately document all transactions related to this Agreement in its financial books and records, and in any reports provided to ChyronHego. Customer agrees that any violation of this section constitutes





just cause for the immediate termination by ChyronHego of these Terms without any liability to ChyronHego.

Customer specifically agrees to indemnify and hold ChyronHego, its subsidiaries and affiliates, its subcontractors, licensors and suppliers harmless from any claims, losses and liabilities (including government fines and penalties) resulting from the breach of any obligations under this Section. The obligations of this Section shall survive the termination or expiration of this Agreement.

**4.4.6 Design Changes.** ChyronHego reserves the right to make changes in Product design or specifications at any time without providing prior notice to the Customer.

**4.4.7 Purchased Product Warranty.** ChyronHego warrants each Product it manufactures to be free from defects in material and workmanship under normal use and service. Software is warranted to operate in accordance with its programmed instructions on appropriate ChyronHego Products; it is not warranted to be error free. The warranty period is one year from the date of purchase by the Customer; unless agreed to otherwise in the Order or SOW. Product repairs are warranted for ninety (90) days. This warranty extends only to the original purchaser and shall not apply to fuses, disposable batteries, computer media, or any product or parts which have been

subject to misuse, neglect, accident, or abnormal conditions of operation. ChyronHego's obligation under this warranty is limited to repairing or replacing a product which is returned to ChyronHego or an authorized service center, or at ChyronHego's

option repaired or replaced in the field, within the applicable warranty period and which, upon examination, ChyronHego determines to be defective. If ChyronHego determines the failure has been caused by misuse, neglect, accident or abnormal condition of operation, repairs will be made and Customer shall be billed for the reasonable costs of repair. If a failure occurs, obtain a material return authorization number from ChyronHego's customer service department and ship the product, transportation prepaid, to ChyronHego or to the nearest service center. All items returned to ChyronHego, or to the nearest service center, must have a returned merchandise authorization number indicated on the outside of the package (provided by ChyronHego's customer service). After repairs are made, the product will be returned, transportation prepaid. ChyronHego assumes no risk for in- transit damage. ChyronHego's obligations and Customer's exclusive remedy with respect to the Products shall be limited to replacement or repair F.O.B. (or FCA, as applicable) Melville, N.Y. In the event any purchased license devices have been lost, misplaced or damaged after delivery, the Customer will be required to purchase a new license.

**4.4.8 Rights in Intellectual Property.** (a) The Products use techniques, designs, technologies, innovations and processes that are the property of ChyronHego. No title or other ownership rights in any Products, documentation or any copies thereof shall pass to Customer under this Agreement or



any performance hereunder. The Products may be accompanied by Software and an applicable ChyronHego Software License Agreement and/or by third-party software and ChyronHego grants Customer a non-exclusive, non-transferable license to “Use”, in object code form, the version or release of the Software delivered with a ChyronHego accepted Order and such Use is deemed a Permitted Use hereunder. For purposes of this Agreement, unless otherwise specified in the Software License Agreements or applicable Order or SOW, “Use” means to install, store, load, execute, and display one copy of the Software and third-party software on one device at a time for Customer's internal business purposes. Customer's Use of the Software and any third-party software is subject to this Agreement, the applicable Use restrictions and authorizations and applicable Software License Agreements (collectively, the “Software Licenses”). The Software Licenses confer no title or ownership and is not a sale of any rights in the Software or third-party applications. ChyronHego makes no representations or warranties regarding any third-party software included with the Products.

**4.4.9 Government Contracts.** In the event the Customer's Order cites a U.S. Government contract number or is certified under DMS Reg. 1 or DPS Reg. 1, the applicable provisions of the United States Procurement Regulations are incorporated herein by reference thereto.

**4.5. Trade-In Product Return.** All Trade-In Products must be returned to ChyronHego, within 90 days after shipment of the New

applicable third-party software license agreements (collectively, the “Software License Agreements”).

Product to the Customer. Failure by the Customer to

return the Trade-In Product within 90 days of shipment of New Product will entitle ChyronHego to invoice for the full amount of the value assigned to the unreturned trade-in products. Customer assumes all responsibility for the erasure of any proprietary or confidential information from Trade-In Product.

**4.6. Fees for unused Services.** Fees for Services will be invoiced in advance of the performance of the service(s). If after sixty (60) days from the date of sale the services remain unused, ChyronHego reserves the right to cancel the obligation to perform such services, with no refund or credit owed to the Customer.

## **5. General Representations, Warranties and Disclaimers**

**5.1. Representations.** Each Party represents that it has validly entered into this Agreement and has the legal power to do so.

**5.2. Warranties.** ChyronHego warrants that it takes all precautions that are standard in the industry to increase the likelihood of a successful performance for the ChyronHego Products and Services; however, except as expressly provided herein, the ChyronHego Products and Services are provided “AS IS” and as available.

**5.3. Disclaimers.** EXCEPT AS PROVIDED IN SECTIONS 4.4.7 and 5.2 ABOVE, EACH PARTY



HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

CHYRONHEGO DOES NOT WARRANT THAT CHYRONHEGO PRODUCTS AND SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED, UNPENETRABLE OR ERROR FREE.

## **6. Confidential Information**

**6.1. Confidential Information.** It is expected that one Party ("Disclosing Party") may disclose to the other Party ("Receiving Party") certain information which may be considered confidential and/or trade secret information ("Confidential Information"). Confidential Information shall include: (i) ChyronHego Products and Services, including any intellectual property, trade secret, know-how, source code, algorithms and/or other proprietary business information embodied therein, (ii) nonpublic information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (iii) non-public information of the Disclosing Party if it is identified as confidential and/or proprietary before, during, or promptly after presentation or communication and (iv) any information that should be reasonably understood to be confidential or proprietary to the Receiving Party, given the nature of the information and the context in which disclosed.

Each Receiving Party agrees to receive and hold any Confidential Information in strict

INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE,

confidence. Without limiting the scope of the foregoing, each Receiving Party also agrees: to protect and safeguard the Confidential Information against use any Confidential Information except as specifically authorized by the Disclosing Party; (c) not to use any Confidential

Information for any purpose other than as stated above; (d) to restrict access to Confidential Information to those of its advisors, officers, directors, employees, agents, consultants, contractors and lobbyists who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (e) to exercise at least the same standard of care and security to protect the confidentiality of the Confidential Information received by it as it protects its own confidential information.

If a Receiving Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any Confidential Information, it will notify the Disclosing Party as promptly as practicable so that the Disclosing Party may seek an appropriate protective order or waiver for that instance.

**6.2. Exceptions.** Confidential Information shall not include information which: (i) is or becomes public knowledge through no fault



of the Receiving Party; (ii) was in the Receiving Party's possession before receipt from the Disclosing Party; (iii) is rightfully received by the Receiving party from a third

Party without use or reference to the Disclosing Party's Confidential Information;

**6.3. Storage and Sending.** In the event that ChyronHego Products and Services will be used to store and/or send Confidential Information (including Customer Data), ChyronHego must be notified in writing, in advance of the storage or sending. Should Customer provide such notice, Customer must ensure that Confidential Information (including Customer Data) is stored behind a secure interface and that ChyronHego Products and Services be used only to notify people of updates to the information that can be accessed after authentication against a secure interface managed by Customer. The Customer is ultimately accountable for the security and privacy of data held by ChyronHego on its behalf. Except as otherwise provided, ChyronHego does not own any Customer Data. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership of all user data, and ChyronHego shall not be responsible or liable for the deletion, correction, destruction, damage, loss, failure or misuse of any Customer Data except as set forth below. If for some reason Customer Data is accessed or stored, ChyronHego will maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. Those safeguards will include, but will

party without any duty of confidentiality; (iv) is disclosed by the Disclosing Party without any duty of confidentiality on the third party; (v) is independently developed by the Receiving

or (vi) is disclosed with the prior written approval of the Disclosing Party.

not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by ChyronHego personnel except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by law, or (c) as Customer expressly permit in writing.

CHYRONHEGO DOES NOT GUARANTEE THAT THE SYSTEM WILL NOT BE THE SUBJECT OF A SECURITY BREACH AND MAKES NO WARRANTY THAT INFORMATION STORED IN ANY SYSTEM WILL BE COMPLETELY SECURE. Except as set forth above, Customer acknowledges and agrees that information used and stored within the System are not the responsibility or liability of ChyronHego.

**6.4. Return of Confidential Information.**

Each Receiving Party shall return or destroy the Confidential Information immediately upon written request by the Disclosing Party; provided, however, that each Receiving Party may retain one copy of the Confidential Information in order to comply with applicable laws and the terms of this Agreement. Customer understands and agrees that it may not always be possible to completely remove or delete all personal data from ChyronHego's databases without some residual data because of backups and for other reasons.



## **7. Term and Termination**

**7.1. Agreement Term.** The Agreement Term shall begin on the date Customer acknowledges, accepts, and signs this Agreement, incorporating any additional Product terms and conditions that may be attached to an Order or SOW, and will continue through the latest date of the Order Term of each Order or SOW under this Agreement, unless otherwise terminated as provided in this Section 7. Each Order or SOW will specify an Order Term for the ChyronHego Products and Services provided under the respective Order or SOW. Customer's right to access or use the ChyronHego Products and Services will cease at the end of the Order Term identified within each Order or SOW, unless either extended or earlier terminated as provided in this Section 7. Unless a Party has given written notice to the other Party at least ninety (90) days prior to the end of the then-current Order Term, the ChyronHego Products and Services will automatically renew at the end of each term for an "Extension Term" of one (1) year with a Price Increase, if applicable.

**7.2. Effect of Termination.** If the Parties agree to terminate this Agreement and an Order or SOW is still in effect at the time of termination, then the terms and conditions contained in this Agreement shall continue to govern the outstanding Order or SOW until termination or expiration thereof. If the Agreement is terminated for cause due to Customer's material breach, then unless otherwise agreed to in writing, all outstanding Orders or SOWs shall immediately terminate as of the Agreement termination date. Unless

otherwise stated in this Agreement, in no event shall Customer be entitled to a refund of any prepaid fees upon termination.

**7.3. Termination for Cause.** ChyronHego may terminate this Agreement upon written notice if the Customer is in material breach of this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice of the breach. ChyronHego may also terminate this Agreement immediately upon notice if the Customer: (a) is liquidated, dissolved, or adjudged to be in a state of bankruptcy or receivership; (b) is insolvent, unable to pay its debts as they become due, makes an assignment for the benefit of creditors or takes advantage of any law for the benefit of debtors; or (c) ceases to conduct business for any reason on an ongoing basis leaving no successor in interest. ChyronHego may, without liability, immediately suspend or terminate any or all Order or SOW issued hereunder if any Fees owed under this Agreement are past due pursuant to Section 4.4.

**7.4. Rights and Obligations after Termination.** In the event of expiration or termination of this Agreement, Customer shall immediately pay to ChyronHego any fees due to ChyronHego through the date of expiration or termination.

**7.5. Survival.** All rights granted hereunder shall terminate the latter of the termination or expiration date of this Agreement, or each Order or SOW. The provisions of this Agreement with respect to warranties, liability, choice of law and jurisdiction, and confidentiality shall survive termination of this Agreement and continue in full force and effect.



## **8. Limitation of Liability**

### **8.1. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES.**

UNDER NO CIRCUMSTANCES SHALL CHYRONHEGO BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, CHYRONHEGO SHALL NOT BE LIABLE FOR: (A) ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF CUSTOMER DATA; (B) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (C) LOSS OF BUSINESS; (D) DAMAGES ARISING OUT OF ACCESS TO OR INABILITY TO ACCESS THE SERVICES, SOFTWARE, CONTENT, OR RELATED TECHNICAL SUPPORT; OR (E) FOR ANY MATTER BEYOND CHYRONHEGO' REASONABLE CONTROL, EVEN IF CHYRONHEGO HAS BEEN ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING LOSSES OR DAMAGES.

**8.2. LIMITATION OF LIABILITY.** EXCEPT FOR CUSTOMER'S BREACH OF SECTIONS 3.3, 4.4.5 and 4.4.8, IN NO INSTANCE SHALL EITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THE FEES PAID BY CUSTOMER FOR THE CHYRONHEGO PRODUCTS AND SERVICES DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES.

CHYRONHEGO SHALL NOT BE RESPONSIBLE FOR ANY LOST PROFITS OR OTHER DAMAGES, INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR ANY OTHER DAMAGES, HOWEVER CAUSED. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF NOR IN CONNECTION WITH THIS AGREEMENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN. THE ABOVE LIMITATIONS WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS HEREUNDER.

## **9. Indemnification**

### **9.1. Indemnification by ChyronHego.**

ChyronHego will defend Customer from and against all losses, liabilities, damages and expenses arising from any claim or suit by a third party

unaffiliated with either Party to this Agreement ("Claims") and shall pay all losses, damages, liabilities, settlements, judgments, awards, interest, civil penalties, and reasonable expenses (collectively, "Losses," and including reasonable attorneys' fees and court costs), to the extent arising out of any Claims by any third party that ChyronHego Products and Services infringe a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW. In the event of such a Claim, if ChyronHego determines that an affected Order or SOW is likely, or if the solution is determined in a final, non-appealable judgment by a court of competent jurisdiction, to infringe a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW, ChyronHego will, in its discretion: (a) replace the affected



ChyronHego Products and Services; (b) modify the affected ChyronHego Products and Services to render it non-infringing; or (c) terminate this Agreement or the applicable

Notwithstanding the foregoing, ChyronHego shall have no obligation to indemnify, defend, or hold Customer harmless from any Claim to the extent it is based upon: (i) any unauthorized modification to any solution, Product or Service by Customer (or by anyone under Customer's direction or control or using logins or passwords assigned to Customer); (ii) a modification made by ChyronHego pursuant to Customer's required instructions or specifications or in reliance on materials or information provided by Customer; or (iii) Customer's use (or use by anyone under Customer's direction or control or using logins or passwords assigned to Customer) of any ChyronHego Products and Services other than in accordance with this Agreement. This Section 9.1 sets forth Customer's sole and exclusive remedy, and ChyronHego's entire liability, for any Claim that the ChyronHego Products and Services or any other materials provided by ChyronHego violate or infringe upon the rights of any third party.

#### **9.2. Indemnification by Customer.**

Customer shall defend, indemnify, and hold ChyronHego harmless from and against any Claims, and shall pay all Losses, to the extent arising out of or related to (a) Customer's (or that of anyone authorized by Customer or using logins or passwords assigned to Customer) use or modification of any ChyronHego Products and Services, (a) any Customer content; (c) Customer's violation

Order or SOW with respect to the affected solution and refund to Customer any prepaid fees for the then-remaining or unexpired portion of the Order or SOW Term.

of applicable law; or (d) Customer's negligence.

**9.3. Defense.** With regard to any Claim subject to indemnification pursuant to this Section 9: (a) the Party seeking indemnification shall promptly notify the indemnifying Party upon becoming aware of the Claim; (b) the indemnifying Party shall promptly assume sole defense and control of such Claim upon becoming aware thereof; and (c) the indemnified Party shall reasonably cooperate with the indemnifying Party regarding such Claim. Nevertheless, the indemnified Party may reasonably participate in such defense, at its expense, with counsel of its choice, but shall not settle any such Claim without the indemnifying Party's prior written consent. The indemnifying Party shall not settle or compromise any Claim in any manner that imposes any obligations upon the indemnified Party without the prior written consent of the indemnified Party.

### **10. General**

#### **10.1. Relationship of the Parties.**

ChyronHego and Customer acknowledge that they operate independent of each other. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, agency, or parties. Employee-Employer relationship between the Parties for any purpose, including, but not limited to, taxes or employee benefits. Each Party will be solely responsible for the payment of all



taxes and insurance for its employees and business operations.

**10.2. Subcontractors.** ChyronHego agrees that it shall be responsible for all acts and omissions of its subcontractors to the same extent ChyronHego would be responsible if committed directly by ChyronHego.

**10.3. Headings.** The various section headings of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed to modify, define, limit, or expand the intent of the Parties.

**10.4. Amendments.** This Agreement may not be amended or modified except by a written instrument signed by authorized representatives of both Parties. Notwithstanding the foregoing, ChyronHego retains the right to revise the policies referenced herein at any time, so long as the revisions are reasonable and consistent with industry practices, legal requirements, and the requirements of any third-party suppliers.

**10.5. Severability.** To the extent permitted by Applicable Laws, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

**10.6. Assignment.** Neither Party may assign, delegate, or otherwise transfer this

Agreement or any of its rights or obligations hereunder, either voluntarily or by operation of law, without the prior written consent of the other Party (such consent not to be unreasonably withheld); provided, however, that either Party may assign this Agreement without the other Party's consent to an affiliate within the same control group, or in the event of any successor or assign that has acquired all, or substantially all, of the assigning Party's business by means of merger, stock purchase, asset purchase, or otherwise. Any assignment or attempted assignment in violation of this Agreement shall be null and void.

**10.7. No Third-Party Beneficiaries.** Subject to Section 10.6, this Agreement is binding upon, and insures solely to the benefit of the Parties hereto and their respective permitted successors and assigns; there are no third-party beneficiaries to this Agreement.

**10.8. Notice.** Other than routine administrative communications, which may be exchanged by the Parties via email or other means, all notices, consents, and approvals hereunder shall be in writing and shall be deemed to have been given upon: (a) personal delivery; (b) the day of receipt, as shown in the applicable carrier's systems, if sent via FedEx,

UPS, DHL, or other nationally recognized express carrier; (c) the third business day after sending by U.S. Postal Service, First Class, postage prepaid, return receipt requested; or (d) sending by email, with confirmed receipt from the receiving Party.





**10.9. Force Majeure.** Any delay in the performance by either Party hereto of its obligations hereunder shall be excused when such delay in performance is due to any cause or event of any nature whatsoever beyond the reasonable control of such Party, including, without limitation, any act of God; any fire, flood, or weather condition; any computer virus, worm, denial of service attack; any earthquake; any act of a public enemy, war, insurrection, riot, explosion or strike; provided, that written notice thereof must be given by such Party to the other Party within twenty (20) days after occurrence of such cause or event.

**10.10. Choice of Law and Jurisdiction.** This Agreement shall be governed by and interpreted under the laws of the State of New York, without reference to the State's principles of conflicts of law. The Parties expressly consent and submit to the exclusive jurisdiction of the state and federal courts of New York County, New York.

**10.11. Entire Agreement.** This Agreement, together with all Orders or SOWs referenced herein, sets forth the entire understanding of the Parties with respect to the subject matter of this Agreement, and supersedes any and all prior oral and written understandings, quotations, communications, and agreements. ChyronHego and Customer agree that any and all Orders or SOWs are incorporated herein by this reference.

**10.12. Reference.** Notwithstanding any other terms to the contrary contained herein, Customer grants ChyronHego the right to use Customer's name and logo in customer lists, the ChyronHego website (including pre-approved videos clips demonstrating

Customer's use of the ChyronHego Products and Services) and marketing and advertising materials. ChyronHego also reserves the right to send out a press release regarding any sale stating the name of the Customer, order value and Product and/or Services sold.

**10.13. Injunctive Relief.** ChyronHego is entitled to obtain injunctive relief if Customer's use of ChyronHego Products and Services is in violation of any restrictions set forth in this Agreement.