

## Terms of Use

9 November 2023

**THESE TERMS OF USE (“TOU”) FORM A LEGAL AGREEMENT BETWEEN YOU, THE END USER (“You”) AND PROCHAIN SOLUTIONS, INC. (“Company”) THAT APPLIES EACH TIME YOU USE OR ACCESS COMPANY’S WEBSITE AVAILABLE AT <https://prochain.com>, <https://fusionprojectmanagement.com> AND <https://portal.fusiononline.app> AND ITS ASSOCIATED WEBPAGES, PORTALS, APPLICATIONS, FEATURES, AND CONTENT (collectively, the “Site”). YOU SHOULD THEREFORE READ THE FOLLOWING TERMS AND CONDITIONS CAREFULLY, AS THEY GOVERN YOUR USE OF THE SITE AND ITS FUNCTIONALITY. IF YOU DO NOT AGREE WITH THIS TOU, YOU ARE NOT GRANTED PERMISSION TO ACCESS OR OTHERWISE USE THE SITE AND ARE INSTRUCTED TO EXIT THE SITE IMMEDIATELY.**

### License Grant and Restrictions

This TOU provides to You a personal, revocable, limited, non-exclusive, non-sublicensable, and non-transferable license to use and access the Site during the Term specified herein solely for Your personal, private, informational use, conditioned on Your continued compliance with all provisions of this TOU (including without limitation any external terms and documentation linked or referenced herein).

When using the Site in accordance with the foregoing license, You shall not directly or indirectly (a) use the Site to create any service, software or documentation that performs substantially the same functionality as the Site, (b) disassemble, decompile, reverse-engineer, or use any other means to attempt to discover any source code, algorithms, trade secrets, or applications underlying the Site or any of its webpages, content, or features, (c) encumber, sublicense, transfer, distribute, rent, lease, time-share, or use the Site in any service bureau arrangement or otherwise for the benefit of any third party, (d) adapt, combine, create derivative works of, or otherwise modify the Site, (e) disable, circumvent, or otherwise avoid or undermine any security device, mechanism, protocol, or procedure implemented in the Site, (f) use or access the Site for any unlawful, fraudulent, deceptive, tortious, malicious, or otherwise harmful or injurious purpose, (g) remove, obscure, deface, or alter any proprietary rights notices on any element of the Site or accompanying documentation, or (h) use the Site in any manner which could damage, disable, overburden, or impair the Site or interfere with any third party’s authorized use of the Site.

### User Obligations

You represent that You are at least eighteen (18) years of age or the legal age of majority in Your jurisdiction (whichever is greater) and will, at all times, provide true, accurate, current, and complete information (which You have all necessary rights, permission(s), prior express consent, or authority to provide) when submitting information through the Site. In addition, You are responsible for compliance with all applicable laws, rules, and regulations, including but not limited to all laws and regulations governing consumer protection, unfair competition, commercial electronic mail (email) and messages, advertising, privacy, and data security with respect to Your use of the Site. If You access the Site on behalf of any organization, Your organization shall be bound to this TOU and

be liable for any breach by You. You represent that You have all rights, power, and authority to agree to this TOU on behalf of Your organization.

The Site is not intended for use or access by any individual under the age of thirteen (13) years, and Company does not knowingly, willingly, or intentionally collect personal information from such individuals in any medium for any purpose.

If You access the Site on behalf of any organization, then Your organization shall be bound to this TOU and be liable for any breach by You. In such event, you represent that You have all rights, power, and authority to agree to this TOU on behalf of Your organization.

### **Your Account**

You may be required to register an account to use the Site or certain features of the Site. Each registration is for a single user only, unless otherwise expressly agreed by Company. Registration for the Site may also require access credentials, such as a username and a password, or adherence to other access requirements as designated by Company in its sole discretion from time to time. You hereby agree to treat Your access credentials as confidential and not to disclose such information to any third party without the express prior written consent of Company, which may be granted or withheld in its sole discretion. You shall immediately notify Company if You suspect or become aware of any loss, theft, or unauthorized use of Your login credentials. Company will not be liable for any loss or damage arising from Your failure (whether intentional or unintentional) to comply with these obligations.

By submitting the requested information to the registration form or similar process on the Site, You represent and warrant that the information You submit for registration is complete, true, accurate, and current in all respects. You must maintain and promptly update Your submitted account information to ensure that such information is complete, true, accurate, and current. Company reserves the right to suspend, terminate, or otherwise discontinue Your account and/or pending registration if Company has reasonable grounds to suspect that any information You have submitted is untrue, inaccurate, not current, or incomplete, or that Your registration, account, or use of the Site is in violation of applicable law or this TOU.

### **Data Privacy**

You understand, acknowledge, and agree that the operation of certain features of the service may require or involve the provision, use, and dissemination of various items of personally identifiable information, including without limitation personal contact information. Please refer to Company's [Privacy Policy](https://fusionprojectmanagement.com/privacy-policy), available at <https://fusionprojectmanagement.com/privacy-policy> (as updated from time to time), for a summary of Company's policies and use practices regarding personally identifiable information.

### **Submissions**

Certain features of the Site may permit You to upload, post, display, transmit, or otherwise provide messages, comments, reviews, and other public communications to the Site (each a "Submission" and collectively "Submissions").

You hereby grant to Company a perpetual, worldwide, irrevocable, royalty-free, fully transferable, fully sublicensable license to use, display, copy, perform, reproduce, modify, record, distribute, and create derivative works of Submissions in connection with: (i) Company's operation of the Site and its features and functionalities; and (ii) Company's research, development, and improvement of the Site.

In addition, You agree that You will not upload, post, display, or transmit any Submission(s) that:

(a) are illegal, defamatory, deceptive, fraudulent, discriminatory, tortious, obscene, pornographic, or otherwise objectionable;

(b) infringe, misappropriate, or otherwise violate the personal or proprietary rights of others;

(c) contain any virus, malware, worm, Trojan horse, disabling device, or any other harmful or malicious script, code, or tool;

(d) impersonates any person or entity or falsely states or otherwise misrepresents Your affiliation with a person or entity;

(e) unsolicited communications, promotions, or advertisements, or spam;

(f) harms, harasses, threatens, or violate the rights of any third party, or promotes, provokes, or incites violence; or

(g) constitutes false advertising, false endorsement, or is otherwise false, misleading, or likely to cause consumer confusion.

Company may screen, review, edit, moderate, or monitor Submissions from time to time at its discretion, but has no obligation to do so. In any event, Company is not responsible for Your or any other user's Submissions, and shall have no liability or responsibility for the quality, content, accuracy, legality, or effectiveness of any Submissions.

By uploading, posting, displaying, transmitting, or otherwise providing a Submission to the Site, You represent and warrant that: (i) You possess all legal rights required to upload, post, display, and/or transmit each Submission and permit Company to use such Submission as set forth herein (including without limitation any necessary third-party license rights or required consents under applicable law); (ii) each Submission is in full compliance with all applicable laws and regulations; and (iii) Your Submissions do not infringe, misappropriate, or otherwise violate the personal or proprietary rights of any third party.

### **Electronic Communications**

Company may send emails or other electronic messages to You concerning Your use of the Site, including without limitation by providing alerts or notifications within the Site. You consent to receive such electronic communications and You agree that all such electronic communications constitute valid legal notices satisfying any requirement that such notices be in writing.

### **Purchases and Payments**

The Site may contain the option for You to purchase certain of Company's products and services, or a subscription to access certain features of the Site, or to otherwise conduct business transactions

with Company. The applicable fees (and any applicable discounts, if available), license or subscription period, renewal opportunities, and permitted payment methods will be specified in the Site at the time of order.

Company may request further information from You in order to confirm the order and method of payment. Company reserves the right to terminate or suspend access to the Site or any related license, subscription, product, or service if You fail to pay any amounts when due. You shall reimburse Company for all reasonable costs incurred (including reasonable attorney's fees) in collecting past-due amounts. Unless otherwise specified herein, all payment obligations with respect to amounts due to Company in connection with the Site shall survive the expiration or termination of the TOU for any reason.

When making a purchase, You agree to pay using the payment methods indicated and grant authorization to Company and/or the applicable third party payment-processor to charge Your selected payment methods. Company and/or the applicable third-party payment processor shall charge, and You shall be responsible for, all taxes, tariffs, levies, or duties applicable to Your payment, excluding taxes applied against Company's net income. Unless otherwise expressly indicated at the time of purchase, all transactions listed through the Site are denominated in U.S. dollars (USD). You are responsible for: (a) the accuracy of all payment method information that You provide to us; and (b) maintaining the confidentiality and security of Your account information, including without limitation with respect to payment methods. You should not disclose Your payment information to anyone. If Your account information is lost or stolen, anyone who obtains possession of either could utilize the payment methods associated with Your account. You are responsible for all transactions on Your account, including unauthorized transactions.

### **Links to Third-Party Sites and Services**

Certain services, features, or components made available via the Site are delivered by third-party providers. By using any feature, service, or functionality originating from the Site, You hereby acknowledge and consent that Company may share information and data with the applicable third-party provider as may be required to enable and facilitate the requested third-party product, service, or functionality, subject to Company's Privacy Policy.

**COMPANY EXPRESSLY DISCLAIMS RESPONSIBILITY AND LIABILITY FOR ANY THIRD-PARTY MATERIALS, PROGRAMS, APPLICATIONS, TOOLS, PRODUCTS, AND SERVICES SET FORTH, DESCRIBED ON, OR ACCESSED THROUGH THE SITE, AND YOU AGREE THAT COMPANY SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF YOUR USE OF OR ACCESS TO SUCH THIRD-PARTY MATERIALS.**

### **Third-Party Terms and Conditions**

Additional notices, terms, and conditions may apply to services, receipt of (or access to) certain materials, participation in a particular program, and/or to specific portions or features of the Site, including without limitation the terms of third-party tools, applications, and APIs utilized by or incorporated in the Site. Your use of any such third-party feature, tool, application, or API is conditioned on your acceptance of all third-party terms applicable thereto, and You agree to abide by all such terms in connection with Your use of the Site. You hereby agree that (a) this TOU

operates in addition to any terms of use imposed or required by any such third-party provider; and (b) the terms of this TOU supplement and do not alter or amend any such third-party terms of use.

### **Proprietary Rights**

All content included as part of the Site, such as text, graphics, logos, and images, as well as the compilation thereof, and any software or other proprietary materials used on or integrated with the Site, are the property of Company or its applicable third-party licensors, and are protected by copyright and other domestic and international laws governing intellectual property and proprietary rights. Company reserves all rights in the Site not expressly granted herein.

You agree that You do not acquire any ownership rights in any part of the Site under this TOU or through Your use of the Site. Company does not grant You any rights or licenses, express or implied, to any intellectual property hereunder except as specifically authorized by this TOU.

### **Indemnification**

You agree to indemnify, defend, and hold harmless Company and its officers, directors, employees, agents, successors, and assigns from and against any losses, liabilities, damages, debts, demands, costs, and expenses (including reasonable attorneys' fees) relating to or arising out of (a) Your violation of this TOU, (b) Your infringement, misappropriation, or violation of any personal or proprietary rights of a third party, and/or (c) Your violation of applicable laws, rules, or regulations. Company reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by You, in which event You will fully cooperate with Company in asserting any available defenses.

### **Disclaimers and Excluded Liability**

**COMPANY DOES NOT REPRESENT OR WARRANT THAT THE SITE WILL OPERATE ERROR-FREE OR ON AN UNINTERRUPTED BASIS. THE SITE IS PROVIDED "AS IS" AND "AS AVAILABLE," AND TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, COMPANY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT WARRANT THAT THE SITE WILL MEET YOUR EXPECTATIONS, SPECIFICATIONS, OR REQUIREMENTS, OR THAT THE SITE WILL BE FREE OF VIRUSES, MALWARE, OR ERRORS. COMPANY FURTHER EXPRESSLY DISCLAIMS ANY WARRANTY REGARDING THE LOSS OR CORRUPTION OF DATA OR CONTENT UPLOADED TO, STORED BY, OR TRANSMITTED BY THE SITE OR SERVICES.**

**IN NO EVENT SHALL COMPANY BE LIABLE HEREUNDER, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STATUTORY LIABILITY OR OTHERWISE), FOR ANY LOSS OR INACCURACY OF DATA, LOSS, OR INTERRUPTION OF USE, OR COST OF PROCURING SUBSTITUTE TECHNOLOGY, GOODS OR SERVICES, OR ANY INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF BUSINESS, REVENUES, PROFITS AND/OR GOODWILL, EVEN IF SUCH DAMAGES WERE REASONABLY FORESEEABLE OR IF COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**CERTAIN JURISDICTIONS AND LAWS MAY NOT PERMIT SOME OR ALL OF THE DISCLAIMERS OF LIABILITY SET FORTH IN THIS SECTION. IN THE EVENT THAT SUCH A JURISDICTION OR LAW APPLIES TO THE SUBJECT MATTER OF THIS TOU, THE FOREGOING DISCLAIMERS WILL APPLY TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW.**

### **No Professional Advice**

The content and information contained in or made available through the Site, as well as the transactions and other features performed on the Site, cannot replace or substitute for the services of qualified professionals in any field, and nothing contained on the Site should be treated or construed as professional advice on financial, tax, medical, or legal matters. You are solely responsible for the outcomes and results of any purchase, sale, or other transaction that You conduct via the Site.

**You acknowledge that You are solely responsible and accountable for your decisions, actions, and results regarding financial, tax, medical, and legal matters, and agree that Company shall not be held liable for any decisions made by You in reliance or with reference to any content or information that You access on the Site with respect to such matters.**

### **Term, Termination, and Suspension**

This TOU takes effect (or re-takes effect) at the earlier of: (i) your electronic acceptance of this TOU on the Site; and (ii) moment You first access, use, and/or log into the Site. Company reserves the right at any time and on any grounds, including without limitation any reasonable belief of fraudulent or unlawful activity, to deny or suspend Your access to the Site or to any portion thereof in order to protect its name and goodwill, its business, the security and stability of the Site, and/or the rights of others.

This TOU terminates automatically if You fail to comply with any provision hereof, subject to the survival rights of certain provisions identified below. You may also terminate this TOU at any time by ceasing to use the Site, but each subsequent login, re-access, or renewed use of the Site constitutes Your renewed acceptance of this TOU. Upon termination or expiration of the TOU for any reason, all licenses granted by Company hereunder shall immediately terminate, and You must immediately cease all use of the Site. The provisions of this TOU concerning Company's proprietary rights, disclaimers of warranty and liability, limitations of liability, waiver and severability, entire agreement, indemnification rights, injunctive relief, and governing law will survive the termination of this TOU for any reason.

Company reserves the right, in its sole discretion, to terminate or suspend Your access to the Site or any feature or portion thereof at any time, without notice to You, if Company reasonably determines or suspects that You are in violation of this TOU and/or that Your continued use thereof would cause harm to any person or entity.

### **Governing Law and Venue**

This TOU is governed by the laws of the Commonwealth of Virginia, United States of America, without reference to its principles of conflict of laws. The Site may not be used or accessed from or in any jurisdiction that does not give effect to all provisions of this TOU, including without limitation

this paragraph. Any claim, suit, or other proceeding arising under or in connection with this TOU shall be brought exclusively before the state and federal courts sitting in Fairfax County, Virginia, and You consent to the exclusive jurisdiction of such courts for the final resolution thereof.

### **Independent Contractors**

The relationship between You and Company under this TOU is that of independent contractors, and nothing herein or in Your use of the Site shall be construed as creating any joint venture, partnership, employment, or agency relationship.

### **Security and Compliance**

Company reserves the right to view, monitor, and record Your activity on the Site without notice or permission from You. Company's provision of the Site is subject to existing laws and legal process, and nothing contained herein shall restrict or reduce Company's ability to comply with governmental, court, and law enforcement requests or requirements involving Your use of the Site or information provided to or gathered by Company with respect to such use.

### **Export Controls**

You represent and warrant that You are not: (a) located in a country that is subject to a U.S. government embargo; or (b) listed on any U.S. government list of prohibited or restricted parties. You hereby agree that (i) You will comply with all applicable sanctions and export control laws, and (ii) You are solely responsible for ensuring that the Site is used, disclosed, and/or accessed only in accordance with all applicable sanctions and export control laws.

### **Severability and Waiver**

If any part of this TOU is determined to be invalid or unenforceable pursuant to court order or other operation of applicable law, such provision shall be deemed severed from this TOU, and the remainder of this TOU shall continue in full force and effect to the maximum extent permitted under applicable law.

Failure to insist on strict performance of any of this TOU will not operate as a waiver of any subsequent default or failure of performance. No waiver by Company of any right under this TOU will be deemed to be either a waiver of any other right or provision or a waiver of that same right or provision at any other time.

### **Injunctive Relief**

You acknowledge that any breach, threatened or actual, of this TOU would cause irreparable injury to Company not readily quantifiable as money damages, such that Company would not have an adequate remedy at law. You therefore agree that Company shall be entitled, in addition to other available remedies, to seek and be awarded an injunction or other appropriate equitable relief from a court of competent jurisdiction restraining any such breach of Your obligations, without the necessity of posting bond or other security.

### **Changes to Terms**

**Please note that Company reserves the right to change the terms and conditions of this TOU by posting a revised set of terms, or mailing and/or emailing notice thereof to You (or such other method as may be required or permitted by applicable law). In addition, Company may add, modify, or delete any aspect, component, or feature of the Site, but Company is not under any obligation to provide any upgrade, enhancement, or modification. Your continued use of the Site following any announced change will be deemed as conclusive acceptance of any change to the TOU. Accordingly, please review the TOU on a periodic basis.**

### **Contact Us**

If You have any questions or comments regarding this TOU, please contact Company at:

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Below are the Terms of Service for Fusion Online and Fusion Desktop.