

## Terms & Conditions

Documentation. Your PROTO Order Agreement (the “Agreement” or “Terms”) is made up of the following documents:

- (i) Final Price Sheet
- (ii) Terms & Conditions
- (iii) Software License
- (iv) Warranty
- (v) Privacy Policy
- (vi) Refund & Return Policy
- (vii) Media Services & EULA
- (viii) Cloud Agreement

1. Agreement to Purchase. You agree to purchase the Proto device (the “Device”) described in your Final Price Sheet from Proto, Inc. or its affiliate distributor(s) (“we,” “us” or “our”), pursuant to the terms and conditions of this Agreement. Your Device is priced and configured based on features and options available at the time of order. Options, features or hardware released or changed after you place your order may not be included in or available for your Device.

2. Purchase Price, Taxes and Official Fees. The purchase price of the Device is indicated in your Final Price Sheet. The cost for each device is exclusive of applicable value-added, sales, excise, customs duties or other similar taxes (“Taxes”), relating to the sale, purchase, transfer of ownership, delivery, installation, or license of the Device. The final Taxes and government fees of the Device may change depending on many factors, such as where you purchase the Device, and they will be calculated closer to the time of delivery and indicated on your Final Price Sheet. You are responsible for paying these Taxes and fees. We may elect to charge you interest at the rate of 2% per month (or the highest rate permitted by law, if less) on all late payments.

3. Order Process; Cancellation; Changes. After you submit your completed order, we will begin the process of preparing and coordinating your Device for delivery. If you make changes to your order, you may be subject to potential price increases for any price adjustments made since your original order date. Any changes made by you to your Device order, including changes to the delivery location or estimated delivery date, will be reflected in a subsequent Final Price Sheet that will form part of this Agreement. This Agreement is not made or entered into in anticipation of or pending any conditional sale contract. PROTO has the right to terminate this Agreement should you fail to pay the amount due on your Final Price Sheet at least fifteen (15) days prior to the activation date as set forth on your Final Price Sheet.

4. Delivery. PROTO will arrange for delivery of the Device with a common carrier of its choosing. The risk of loss passes to you at the time the Device is delivered to you. The estimated delivery date of your Device, if provided, is only an estimate as we do not guarantee when your Device will actually be delivered. Your actual delivery date is dependent on many factors, including supplies and manufacturing availability.

5. Obsolete Hardware and Future Firmware Updates. The Device will regularly receive over-the-air software updates that add new features and enhance existing ones over Wi-Fi. Future software updates may not be provided for your Device, or may not include all existing or new features or functionality, due to your Device’s age, configuration, data storage capacity or parts, after the expiration of your Warranty. We are not

liable for any parts, labor or any other cost needed to update or retrofit the Device so that it may receive these updates, or any Device issues occurring after the installation of any software updates due to obsolete, malfunctioning (except as covered by your Warranty) or damaged hardware.

6. Your Responsibilities. You will: (a) be solely responsible for all use of your Device under your Proto account, along with any third party software application or service that you make available to end users that interfaces with the Device (each, a “Customer Application”); (b) not transfer, resell, lease, license, or otherwise make available Proto’s software to third parties (unless you are an authorized distributor, reseller, or agent of Proto and except to make Proto’s software available to end users as a license in connection with the use of each Device as permitted under this Agreement); (c) be solely responsible for all acts, omissions, and activities of anyone who accesses or otherwise uses any Customer Application; and (d) provide reasonable cooperation regarding information request from law enforcement, regulators, or telecommunications providers.

6.1 We will not be liable for any loss or damage arising from unauthorized use of your account. If you are the party that accepted these Terms and you re-assign your account to a third party reseller for administration purposes, such account re-assignment will not excuse your obligations under these Terms. Your use of the Proto Cloud, Software or Device will continue to be subject to these Terms.

7. Use of Marks. You grant us the right to use your name, logo, and a description of your use case to refer to you on our website, earnings releases and calls, or marketing or promotional materials, subject to your standard trademark usage guidelines that you expressly provide to us.

8. Indemnification by Us. Subject to the limitations in this Section 8, Proto will defend you from and against any third-party claim, suit, or proceeding made or brought against you by a third party alleging that the Device infringes or misappropriates such third party’s intellectual property rights (“Infringement Claim”). We will indemnify you from any damages, fines or penalties imposed by a government or regulatory body, attorneys’ fees, and costs awarded against you or for settlement amounts approved by us for an Infringement Claim.

8.1 Infringement Options. If our Device has become, or in our opinion is likely to become, the subject of any Infringement Claim, we may at our option and expense: (a) procure the right to continue providing services for the Device as set forth in these Terms; (b) modify the Device to make it non-infringing; or (c) if the foregoing options are not reasonably practicable, terminate these Terms, or, if applicable, terminate certain Device functionality or features that are the subject of any Infringement Claim, and refund you any unused pre-paid fees.

8.2 Limitations. We will have no liability or obligation under this Section 8 with respect to any Infringement Claim (a) arising out of your use of the Device in breach of these Terms; (b) arising out of the combination, operation, or use of the Device with other applications, portions of applications, products, or services where the Device would not by itself be infringing; or (c) arising from the Device for which there is no charge.

9. Indemnification by You. You will defend us, our officers, directors, employees, and affiliates (collectively, “Proto Indemnified Parties”) from and against any claim, demand, suit, or proceeding made or brought against a Proto Indemnified Party by a third party alleging or arising out of (a) your or any of your end user’s breach of Section 6 (Your Responsibilities) or (b) indemnify, and hold harmless us, our affiliates and licensors, and each of their respective employees, officers, directors, and representatives from and against any losses arising out of or relating to any third-party claim concerning: (i) your or any of your end user’s use of the Device (including any activities under your Proto account and use by your employees and personnel); (ii) breach of this Agreement or violation of applicable law by you, your end users or your content; or (iii) a dispute

between you and any of your end users. You will reimburse us for reasonable attorneys' fees, as well as our employees' and contractors' time and materials spent responding to any third party subpoena or other compulsory legal order or process associated with third party claims described in (a) through (b) above at our then-current hourly rates.

#### 10. Limitation of Liability.

10.1 Limitation on Indirect, Consequential, and Related Damages. In no event will either party have any liability arising out of or related to this Agreement for any lost profits, revenues, goodwill, or indirect, special, incidental, consequential, cover, lost data, business interruption, or punitive 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 or if a party's remedy otherwise fails of its essential purpose. The foregoing disclaimer will not apply to the extent prohibited by law.

10.2 Limitation of Liability. In no event will the aggregate liability of either party arising out of or related to this Agreement exceed the amounts paid or payable by you under these Terms for the Device or services giving rise to the liability during the twelve (12) month period preceding the first incident out of which the liability arose. The foregoing limitation will apply whether an action is contract or tort and regardless of the theory of liability.

10.3 Exceptions to the Limitation of Liability. Notwithstanding anything to the contrary in Section 10.1 (Limitation on Indirect, Consequential, and Related Damages) and Section 10.2 (Limitation of Liability) the limitations in Section 10.1 and 10.2 do not apply to (a) your breach of Section 2 (Purchase Price, Taxes and Official Fees); (b) your breach of Section 6 (Your Responsibilities); or (c) Your breach of Sections 8 and 9 (Indemnification by Us and Indemnification by You).

10.4 The provisions of this Section 10 allocate the risks pursuant to these Terms between the parties, and the parties have relied on the limitations set forth in this Section 10 in determining whether to enter into or otherwise accept these terms.

#### 11. Term, Termination, and Survival.

11.1 Term. These Terms, as may be updated from time to time, will commence on the date they are accepted by you and continue until terminated in accordance with Section 11.2 (Termination).

11.2 Termination. Either Party may terminate these Terms for convenience upon thirty (30) days written notice to the other Party. Notwithstanding and in addition to the preceding sentence, if there is a Final Price Sheet in effect, then the Final Price Sheet's term will govern unless there is a material breach of these Terms, at which case we may immediately terminate these Terms (including all Final Price Sheets and orders) and close all of your Proto accounts.

11.3 Survival. Upon termination of these Terms, the terms of this Section 11.3, and the terms of the following Sections will survive: Section 2 (Purchase Price, Taxes and Official Fees), Section 6 (Your Responsibilities), Section 8 (Indemnification by Us), Section 9 (Indemnification by You), Section 10 (Limitation of Liability), Section 12.5 (Dispute Resolution), Section 12.6 (Governing Law and Venue), Section 12.7 (Class Action Waiver).

## 12. General.

12.1 No Waiver of Order of Precedence. No failure or delay by either party in exercising any right or enforcing any provision under these Terms will constitute a waiver of that right, provision, or any other provision. Any waiver must be in writing and signed by each party to be legally binding. Titles and headings of sections of these Terms are for convenience only and will not affect the construction of any provision of these Terms. In the event of any conflict or inconsistency among the following documents, the order of preference will be: (1) the applicable Final Price Sheet, (2) this Agreement, (3) the applicable documents that collectively form this Agreement, and (4) any other terms incorporated by reference herein.

12.2 Assignment. You will not assign, delegate, or otherwise transfer this Agreement, in whole or in part, without our prior written consent. Any attempt by you to assign, or transfer this Agreement without our consent will be null and void. We may assign, delegate, or otherwise transfer this Agreement in whole or in part, without your consent. Subject to this Section 12.2, this Agreement will be binding on each party and each party's successors and assigns.

12.3 Severability. If any provision of this Agreement is held by an arbitrator or a court or other tribunal of competent jurisdiction to be unenforceable, that provision will be limited or eliminated to the minimum extent necessary to make it enforceable and, in any event, the rest of this Agreement will continue in full force and effect.

12.4 Force Majeure. No failure, delay, or default in performance of any obligation of a party will constitute an event of default or breach of these Terms to the extent that such failure to perform, delay, or default arises out of a cause, existing or future, that is beyond the control and without negligence of such party, including action or inaction of governmental, civil, or military authority, fire, strike, lockout, or other labor dispute, flood, terrorist act, war, riot, theft, earthquake, or other natural disaster. The party affected by such cause will take all reasonable actions to minimize the consequences of such cause.

12.5 Dispute Resolution. In the event of a dispute, claim, or controversy arising out of or in connection with this Agreement or the breach, termination, enforcement, interpretation, or validity thereof (other than for disputes, claims, or controversies related to the intellectual property of a party) (collectively, "Disputes"), each party's senior representatives will engage in good faith negotiations with the other party's senior representatives to amicably resolve a Dispute. If the parties are unable to resolve a Dispute within thirty (30) days after the first request to engage in good faith negotiations or within such other time period as the parties may agree to in writing, then either party may commence binding arbitration under JAMS' Comprehensive Arbitration Rules and Procedures ([www.jamsadr.com](http://www.jamsadr.com)). The parties will share equally the fees and expenses of the JAMS arbitrator. The arbitration will be conducted by a sole arbitrator chosen by the mutual agreement of the parties and will be either (1) a retired judge or (2) an attorney specifically licensed to practice law in the State of California and will be selected by the parties from the JAMS' roster of commercial dispute arbitrators. If the parties are unable to agree upon an Arbitrator within seven (7) days of delivery of the demand for arbitration, then JAMS will appoint the arbitrator in accordance with its rules. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrator will have the authority to grant specific performance or any other equitable or legal remedy, including provisional remedies. Each party will be responsible for its own incurred expenses arising out of any dispute resolution procedure. Any arbitration proceedings will take place in Los Angeles, California.

12.6 Governing Law and Venue. This Agreement will be governed by and interpreted in accordance with the laws of the State of California, without regard to conflicts of laws and principles that would cause the laws of another jurisdiction to apply. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Except as provided in Section 12.5 (Dispute Resolution), any suit, action, or proceeding arising out of or related to this Agreement or the Device related to the intellectual property of a party will be instituted in the applicable courts within the County of San Diego, State of California.

12.7 Class Action Waiver. Each party agrees that any Disputes between the parties must be brought against each other on an individual basis only. That means neither party can bring a Dispute as a plaintiff or class member in a class action, consolidated action, or representative action. An arbitrator cannot combine more than one person's or entity's Disputes into a single case and cannot preside over any consolidated class or representative proceeding. Each party agrees the arbitrator's decision or award in one person's or entity's case can only impact the person or entity that brought a Dispute and cannot impact or otherwise be used to decide Disputes with other people or entities, including other Proto customers.

12.8 No Resellers; Discontinuation; Cancellation. PROTO, its authorized distributors, resellers and its affiliates sell Devices directly to end users, and we may unilaterally cancel any order that we believe has been made with a view toward resale of the Device or that has otherwise been made in bad faith. We may also cancel your order if we discontinue a product, feature or option after the time you place your order or if we determine that you are acting in bad faith.

12.9 Default and Remedies. You will be in default of this Agreement if you provide false or misleading information in your order, or do anything else the law says is a default. If you are in default, we may, after any legally required notice or waiting period: (a) do anything to protect our interest in the Device, including repossessing the Device using legally permitted means; (b) locate and disable the Device electronically remotely; (c) bring an appropriate action to recover the Device; and (d) charge you for amounts we spend taking these actions.

This Agreement is entered into and effective as of the date you accept this Agreement, by electronic means or otherwise. By confirming and accepting this Agreement, you agree to the terms and conditions of this Agreement and all Documentation referred to herein.

Updated: June 2024

## PROTO SOFTWARE LICENSE AGREEMENT

IMPORTANT: BY USING YOUR PROTO DEVICE (“DEVICE”), YOU ARE AGREEING TO BE BOUND BY THE FOLLOWING TERMS:

1. PROTO SOFTWARE LICENSE AGREEMENT
2. NOTICES FROM PROTO

PROTO INC  
PROTO SOFTWARE LICENSE AGREEMENT Single Use License

PLEASE READ THIS SOFTWARE LICENSE AGREEMENT (“LICENSE”) CAREFULLY BEFORE USING YOUR DEVICE OR DOWNLOADING THE SOFTWARE UPDATE ACCOMPANYING THIS LICENSE. BY USING YOUR DEVICE OR DOWNLOADING A SOFTWARE UPDATE, AS APPLICABLE, YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS LICENSE. IF YOU DO NOT AGREE TO THE TERMS OF THIS LICENSE, DO NOT USE THE DEVICE OR DOWNLOAD THE SOFTWARE UPDATE

### 1. General

(a) The software (including Boot ROM code, embedded software and third party software), documentation, interfaces, content, fonts and any data that came with your Device (“Original PROTO Software”), as may be updated or replaced by feature enhancements, software updates or system restore software provided by PROTO (“PROTO Software Updates”), whether in read only memory, on any other media or in any other form (the Original PROTO Software and PROTO Software Updates are collectively referred to as the “PROTO Software”) are licensed, not sold, to you by PROTO Inc. (“PROTO”) for use only under the terms of this License. PROTO and its licensors retain ownership of the PROTO Software itself and reserve all rights not expressly granted to you. You agree that the terms of this License will apply to any PROTO-branded app that may be built-in on your Device, unless such app is accompanied by a separate license, in which case you agree that the terms of that license will govern your use of that app. PROTO leverages high availability infrastructure and data centers to provide its cloud services and PROTO Software.

(b) There is an annual fee to the software license. PROTO, at its discretion, may make available future PROTO Software Updates. The PROTO Software Updates, if any, may not necessarily include all existing software features or new features that PROTO releases for newer or other models of Devices. The terms of this License will govern any PROTO Software Updates provided by PROTO, unless such PROTO Software Update is accompanied by a separate license, in which case you agree that the terms of that license will govern.

(c) If you use the express setup feature to set up a new Device based on your existing Device, you agree that the terms of this License will govern your use of the PROTO Software on your new Device, unless it is accompanied by a separate license, in which case you agree that the terms of that license will govern your use of that PROTO Software. Your Device will periodically check with PROTO for PROTO Software Updates. If an update is available, the update may automatically download and install onto your Device and, if applicable, your peripheral devices. By using the PROTO Software, you agree that PROTO may download and install automatic PROTO Software Updates onto your Device and your peripheral devices.

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(e) In order to complete certain app and/or website action shortcuts, the PROTO Software may need to access certain third party software applications, services or websites on your Device. You expressly consent to such use to the extent necessary to complete the Shortcut with the PROTO Software.

(f) You agree to use the PROTO Software and the Services (as defined in Section 5 below) in compliance with all applicable laws, including local laws of the country or region in which you reside or in which you download or use the PROTO Software and Services. Features of the PROTO Software and the Services may not be available in all languages or regions, some features may vary by region, and some may be restricted or unavailable from your service provider. A Wi-Fi or cellular data connection is required for some features of the PROTO Software and Services.

(g) You acknowledge that many features, built-in apps, and Services of the PROTO Software transmit data and could impact charges to your data plan, and that you are responsible for any such charges. You can view and control which applications are permitted to use cellular data and view an estimate of how much data such applications have consumed under Cellular Data Settings. In addition, Wi-Fi Assist will automatically switch to cellular when you have a poor Wi-Fi connection, which might result in more cellular data use and impact

charges to your data plan. Wi-Fi Assist is on by default, but can be disabled under Settings. For more information, please consult the User Guide for your Device.

(h) If you choose to allow automatic app updates, your Device will periodically check with PROTO for updates to the apps on your Device and, if one is available, the update will automatically download and install onto your Device. You can turn off the automatic app updates altogether at any time.

3. Transfer. You may not rent, lease, lend, sell, redistribute, or sublicense the PROTO Software.

4. Consent to Use of Data. When you use your Device, certain unique identifiers for your Device may be sent to PROTO in order to allow features like analytics, voice recognition, and artificial intelligence design functions may require information from your Device to provide their respective functions. When you turn on or use these features, details may be provided regarding what information is sent to PROTO and how the information may be used.

5. Services and Third Party Materials.

(a) The PROTO Software may enable access to third party services and web sites (collectively and individually, "Services"). Use of these Services requires Internet access and use of certain Services may require you to accept additional terms and may be subject to additional fees. By using this software in connection with your Device, or other PROTO Services, you agree to the applicable terms of service.

(b) You understand that by using any of the Services, you may encounter content that may be deemed offensive, indecent, or objectionable, which content may or may not be identified as having explicit language, and that the results of any search or entering of a particular URL may automatically and unintentionally generate links or references to objectionable material. Nevertheless, you agree to use the Services at your sole risk and that PROTO, its affiliates, agents, principals, or licensors shall have no liability to you for content that may be found to be offensive, indecent, or objectionable.

(c) Certain Services may display, include or make available content, data, information, applications or materials from third parties ("Third Party Materials") or provide links to certain third party web sites. By using the Services, you acknowledge and agree that PROTO is not responsible for examining or evaluating the content, accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect of such Third Party Materials or web sites. PROTO, its officers, affiliates and subsidiaries do not warrant or endorse and do not assume and will not have any liability or responsibility to you or any other person for any third-party Services, Third Party Materials or web sites, or for any other materials, products, or services of third parties. Third Party Materials and links to other web sites are provided solely as a convenience to you.

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6. Termination. This License is effective until terminated. Your rights under this License will terminate automatically or otherwise cease to be effective without notice from PROTO if you fail to comply with any term(s) of this License. Upon the termination of this License, you shall cease all use of the PROTO Software. Sections 4, 5, 6, 7, 8, 9, 10, 12 and 13 of this License shall survive any such termination.

## 7. Disclaimer of Warranties

7.1 YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, USE OF THE PROTO SOFTWARE AND ANY SERVICES PERFORMED BY OR ACCESSED THROUGH THE PROTO SOFTWARE IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU.

7.2 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PROTO SOFTWARE AND SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND PROTO AND PROTO'S LICENSORS (COLLECTIVELY REFERRED TO AS "PROTO" FOR THE PURPOSES OF SECTIONS 7 AND 8) HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE PROTO SOFTWARE AND SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, QUIET ENJOYMENT, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

7.3 PROTO DOES NOT WARRANT AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE PROTO SOFTWARE AND SERVICES, THAT THE FUNCTIONS CONTAINED IN, OR SERVICES PERFORMED OR PROVIDED BY, THE PROTO SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE PROTO SOFTWARE AND SERVICES WILL BE UNINTERRUPTED OR ERROR- FREE, THAT ANY SERVICES WILL CONTINUE TO BE MADE AVAILABLE, THAT DEFECTS IN THE PROTO SOFTWARE OR SERVICES WILL BE CORRECTED, OR THAT THE PROTO SOFTWARE WILL BE COMPATIBLE OR WORK WITH ANY THIRD PARTY SOFTWARE, APPLICATIONS OR THIRD PARTY SERVICES. INSTALLATION OF THIS PROTO SOFTWARE MAY AFFECT THE AVAILABILITY AND USABILITY OF THIRD PARTY SOFTWARE, APPLICATIONS OR THIRD PARTY SERVICES, AS WELL AS PROTO PRODUCTS AND SERVICES.

7.4 YOU FURTHER ACKNOWLEDGE THAT THE PROTO SOFTWARE AND SERVICES ARE NOT INTENDED OR SUITABLE FOR USE IN SITUATIONS OR ENVIRONMENTS WHERE THE FAILURE OR TIME DELAYS OF, OR ERRORS

OR INACCURACIES IN THE CONTENT, DATA OR INFORMATION PROVIDED BY THE PROTO SOFTWARE OR SERVICES COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE, INCLUDING WITHOUT LIMITATION THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, LIFE SUPPORT OR WEAPONS SYSTEMS.

7.5 NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY PROTO OR A PROTO AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE PROTO SOFTWARE OR SERVICES PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU.

8. Limitation of Liability. TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT SHALL PROTO, ITS AFFILIATES, AGENTS OR PRINCIPALS BE LIABLE FOR PERSONAL INJURY, OR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, CORRUPTION OR LOSS OF DATA, FAILURE TO TRANSMIT OR RECEIVE ANY DATA (INCLUDING WITHOUT LIMITATION COURSE INSTRUCTIONS, ASSIGNMENTS AND MATERIALS), BUSINESS INTERRUPTION OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY

TO USE THE PROTO SOFTWARE AND SERVICES OR ANY THIRD PARTY SOFTWARE, APPLICATIONS OR SERVICES IN CONJUNCTION WITH THE PROTO SOFTWARE OR SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT OR OTHERWISE).

9. Digital Certificates. The PROTO Software contains functionality that allows it to accept digital certificates either issued from PROTO or from third parties. YOU ARE SOLELY RESPONSIBLE FOR DECIDING WHETHER OR NOT TO RELY ON A CERTIFICATE WHETHER ISSUED BY PROTO OR A THIRD PARTY. YOUR USE OF DIGITAL CERTIFICATES IS AT YOUR SOLE RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PROTO MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ACCURACY, SECURITY, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS WITH RESPECT TO DIGITAL CERTIFICATES.

10. Government End Users. The PROTO Software and related documentation are “Commercial Items”, as that term is defined at 48 C.F.R. §2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation”, as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

11. Governing Law and Venue. Governing law and venue for this License is set forth in Proto’s Terms and Conditions, Section 12.6 “Governing Law and Venue”.

12. Complete Agreement. This License constitutes the entire agreement between you and PROTO relating to the PROTO Software and supersedes all prior or contemporaneous understandings regarding such subject matter. No amendment to or modification of this License will be binding unless in writing and signed by PROTO.

Updated: June 2024

## **PROTO One (1) Year Limited Warranty**

**IMPORTANT: BY PURCHASING YOUR PROTO DEVICE YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THE PROTO ONE (1) YEAR LIMITED WARRANTY ("WARRANTY") AS SET OUT BELOW.**

### WHAT IS COVERED BY THIS WARRANTY?

PROTO Inc. of Van Nuys, California ("PROTO") warrants the PROTO-branded hologram device hardware product contained in the original packaging ("PROTO Product") against defects in materials and workmanship when used normally in accordance with PROTO's published guidelines for a period of one (1) year from the date of shipment ("Warranty Period"). PROTO's published guidelines include but are not limited to information contained in technical specifications, user manuals and service communications.

### WHAT IS NOT COVERED BY THIS WARRANTY?

This Warranty does not apply to any non-PROTO branded hardware products or any software, even if packaged or sold with PROTO hardware. Manufacturers, suppliers, or publishers, other than PROTO, may provide their own warranties to you. Please contact them for further information. Software distributed by PROTO with or without the PROTO brand (including, but not limited to system software) is not covered by this Warranty. Please refer to the licensing agreement accompanying the software for details of your rights with respect to its use. PROTO does not warrant that the operation of the PROTO Product will be uninterrupted or error-free. PROTO is not responsible for damage arising from failure to follow instructions relating to the PROTO Product's use.

**This Warranty does not apply: (a) to cosmetic damage, including but not limited to scratches, dents and broken glass on ports unless failure has occurred due to a defect in materials or workmanship; (b) to damage caused by use with a third party component or product that does not meet the PROTO Product's specifications (PROTO Product specifications are available at [www.protohologram.com](http://www.protohologram.com) under the technical specifications for the product); (c) to damage caused by accident, abuse, misuse, fire, liquid contact, earthquake or other external cause; (d) to damage caused by operating the PROTO Product outside PROTO's published guidelines; (e) to damage caused by service (including upgrades and expansions) performed by anyone who is not a representative of PROTO or a PROTO Authorized Service Provider ("PASP"); (f) to a PROTO Product that has been modified to alter functionality or capability without the written permission of PROTO; (g) to defects caused by normal wear and tear or otherwise due to the normal aging of the PROTO Product; (h) if any serial number has been removed or defaced from the PROTO Product; or (i) if PROTO receives information from relevant public authorities that the product has been stolen or if you are unable to deactivate passcode-enabled or other security measures designed to prevent unauthorized access to the PROTO Product.**

### IMPORTANT RESTRICTION FOR PROTO HOLOGRAM SERVICE.

PROTO may restrict warranty service for the PROTO hologram device to the country where PROTO or its Authorized Distributors originally sold the device.

### YOUR RESPONSIBILITIES

YOU SHOULD MAKE PERIODIC BACKUP COPIES OF THE INFORMATION CONTAINED ON THE PROTO PRODUCT STORAGE MEDIA TO PROTECT THE CONTENTS AND AS A PRECAUTION AGAINST POSSIBLE OPERATIONAL FAILURES.

Before receiving warranty service, PROTO or its agents may require that you respond to questions designed to assist with diagnosing potential issues and follow PROTO's procedures for obtaining warranty service. Before submitting your PROTO Product for warranty service you should maintain a separate backup copy of

the contents of its storage media, remove all personal information that you want to protect and disable all security passwords.

DURING WARRANTY SERVICE THE CONTENTS OF THE STORAGE MEDIA MAY BE DELETED AND REFORMATTED. PROTO AND ITS AGENTS ARE NOT RESPONSIBLE FOR ANY LOSS OF SOFTWARE PROGRAMS, DATA OR OTHER INFORMATION CONTAINED ON THE STORAGE MEDIA OR ANY OTHER PART OF THE PROTO PRODUCT SERVICED.

Following warranty service your PROTO Product or a replacement device will be returned to you as your PROTO Product was configured when originally purchased, subject to applicable updates. PROTO may install system software updates as part of warranty service that will prevent the PROTO Product from reverting to an earlier version of the system software. Third party applications installed on the PROTO Product may not be compatible or work with the PROTO Product as a result of the system software update. You will be responsible for reinstalling all other software programs, data and information. Recovery and reinstallation of other software programs, data and information are not covered under this Warranty.

**Important: Do not open the PROTO Product. Opening the PROTO Product may cause damage that is not covered by this Warranty. Only PROTO or a PASP should perform service on this PROTO Product.**

#### WHAT WILL PROTO DO IN THE EVENT A CLAIM IS SUBMITTED?

If during the Warranty Period you submit a claim to PROTO or a PASP in accordance with this warranty, PROTO will, at its option:

- (i) repair or service the PROTO Product using new or previously used parts that are equivalent to new in performance and reliability, or
- (ii) replace the PROTO Product with the same model (or with your consent a product that has similar functionality) formed from new and/or previously used parts that are equivalent to new in performance and reliability.

PROTO may request that you replace certain user-installable parts or PROTO Products. A replacement part or PROTO Product, including a user-installable part that has been installed in accordance with instructions provided by PROTO, assumes the remaining term of the Warranty or ninety (90) days from the date of replacement or repair, whichever provides longer coverage for you. When a PROTO Product or part is replaced or a refund provided, any replacement item becomes your property and the replaced or refunded item becomes PROTO's property.

#### HOW TO OBTAIN WARRANTY SERVICE?

Please access and review the online help resources described below before seeking warranty service. If the PROTO Product is still not functioning properly after making use of these resources, please contact a PROTO representative or, if applicable, a PASP, using the information provided below. A PROTO representative or PASP will help determine whether your PROTO Product requires service and, if it does, will inform you how PROTO will provide it. When contacting PROTO via telephone, other charges may apply depending on your location. Online information with details on obtaining warranty service is provided below.

#### WARRANTY SERVICE OPTIONS

A deductible of \$100 applies if a PROTO representative or PASP needs to visit your location to fix your PROTO Product. We may offer warranty service through a PASP in your area, if available. We reserve the right to choose the most suitable way to service your PROTO Product, considering availability in your country. Service options, parts availability, and response times may vary by location. If your PROTO Product can't be serviced locally, you will be responsible for shipping, handling and/or travel charges.

Please note that you are responsible for all costs and expenses incurred during a triage event or crisis where PROTO and/or a PASP discovers that the device was damaged or made inoperable as a result of your actions or negligence not covered under this Warranty.

EXCEPT AS PROVIDED IN THIS WARRANTY AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, PROTO IS NOT RESPONSIBLE FOR DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF USE; LOSS OF REVENUE; LOSS OF ACTUAL OR ANTICIPATED PROFITS (INCLUDING LOSS OF PROFITS ON CONTRACTS); LOSS OF THE USE OF MONEY; LOSS OF ANTICIPATED SAVINGS; LOSS OF BUSINESS; LOSS OF OPPORTUNITY; LOSS OF GOODWILL; LOSS OF REPUTATION; LOSS OF, DAMAGE TO, COMPROMISE OR CORRUPTION OF DATA; OR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED INCLUDING THE REPLACEMENT OF EQUIPMENT AND PROPERTY, ANY COSTS OF RECOVERING, PROGRAMMING, OR REPRODUCING ANY PROGRAM OR DATA STORED IN OR USED WITH THE PROTO PRODUCT OR ANY FAILURE TO MAINTAIN THE CONFIDENTIALITY OF INFORMATION STORED ON THE PROTO PRODUCT.

PROTO DISCLAIMS ANY REPRESENTATION THAT IT WILL BE ABLE TO REPAIR ANY PROTO PRODUCT UNDER THIS WARRANTY OR REPLACE THE PROTO PRODUCT WITHOUT RISK TO OR LOSS OF INFORMATION STORED IN THE PROTO PRODUCT.

GENERAL

No PROTO agent, or employee is authorized to make any modification, extension, or addition to this Warranty. If any term is held to be illegal or unenforceable, the legality or enforceability of the remaining terms shall not be affected or impaired. This Warranty is governed by and construed under the laws of the country in which the PROTO Product purchase took place. PROTO or its successor in title is the warrantor under this Warranty.

Updated: June 2024

## **PROTO Privacy**

Privacy is one of PROTO's core values. Your device is important to many aspects of your business. Our aim is to keep your business your business.

### **Collection and Use of Data**

Data referred to under this policy can be used to identify or contact a user of a PROTO Device. You may be asked to provide information anytime you are in contact with PROTO or a PROTO affiliated company. PROTO and its affiliates may share this information with each other and use it consistent with this Privacy Policy. They may also combine it with other information to provide and improve our products, services, and content. You are not required to provide the information that we have requested, but, if you chose not to do so, in many cases we will not be able to provide you with our products or services or respond to any queries you may have. Here are some examples of the types of information PROTO may collect and how we may use it:

### **What information we collect**

- When you download a software update, connect to our services, contact us or participate in an online survey, we may collect a variety of information, including your organization's name, mailing address, phone number, email address, contact preferences, device identifiers, IP address, location information, and credit card information, if applicable.

### **How we use your information**

We may process your information: for the purposes described in this Privacy Policy, with your consent, for compliance with a legal obligation to which PROTO is subject, for the performance of a contract to which you are party, in order to protect your vital interests, or when we have assessed it is necessary for the purposes of the legitimate interests pursued by PROTO or a third party to whom it may be necessary to disclose information. If you have questions about this legal basis you can contact the Data Protection Officer.

- The data information we collect allows us to keep you posted on PROTO's latest product announcements, software updates, and upcoming events. If you don't want to be on our mailing list, you can opt-out anytime by updating your preferences.
- We also use data information to help us create, develop, operate, deliver, and improve our products, services, content and advertising. We may also use your information for account and network security purposes, including in order to protect our services for the benefit of all our users, and pre-screening or scanning uploaded content for potentially illegal content.
- From time to time, we may use your data information to send important notices, such as communications about changes to our terms, conditions, and policies. Because this information is important to your interaction with PROTO, you may not opt out of receiving these communications.
- We may also use data information for internal purposes such as auditing, data analysis, and research to improve PROTO's products, services, and customer communications.

### **Source of your information where they are not collected from you**

We may validate the information provided by you when creating a PROTO ID when applicable with a third party for security and fraud prevention purposes.

### **Collection and Use of Information**

We also collect data in a form that does not, on its own, permit direct association with any specific organization. We may collect, use, transfer, and disclose information for any purpose. The following are some examples of information that we collect and how we may use it:

- We may collect information such as industry, zip code, area code, unique device identifier, referrer URL, location, and the time zone where a PROTO product is used so that we can better understand customer behavior and improve our products, services, and advertising.
- We may collect information regarding customer activities on our website, cloud services, and from our other products and services. This information is aggregated and used to help us provide more useful information to our customers and to understand which parts of our website, products, and services are of most interest.
- We may collect and store details of how you use our services, including search queries. This information may be used to improve the relevancy of results provided by our services. Except in limited instances to ensure quality of our services over the Internet, such information will not be associated with your IP address.
- With your explicit consent, we may collect data about how you use your device and applications in order to help app developers improve their apps.

### **Cookies and Other Technologies**

PROTO's websites, online services, interactive applications, email messages, and advertisements may use "cookies" and other technologies such as pixel tags and web beacons. These technologies help us better understand user behavior, tell us which parts of our websites people have visited, and facilitate and measure the effectiveness of advertisements and web searches. We treat information collected by cookies and other technologies as non-specific identifier information.

As is true of most internet services, we gather some information automatically and store it in log files. This information includes Internet Protocol (IP) addresses, browser type and language, Internet service provider (ISP), referring and exit websites and applications, operating system, date/time stamp, and clickstream data. We use this information to understand and analyze trends, to administer the site, to learn about user behavior on the site, to improve our product and services. PROTO may use this information in our marketing and advertising services.

### **Transfer of Personal Data Between Countries**

PROTO products and offerings connect you to the world. To make that possible, your personal data may be transferred to or accessed by entities around the world. PROTO complies with laws on the transfer of personal data between countries to help ensure your data is protected, wherever it may be.

If you do not reside in the U.S., your personal data may be processed by PROTO. For example, imagery and associated data may be collected by PROTO around the world to improve video latency and to support PROTO's video capture features.

PROTO's international transfer of personal data collected in the European Area, the United Kingdom, and Switzerland is governed by Standard Contractual Clauses found at [https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc\\_en](https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc_en). PROTO's international transfer of personal data collected in participating Asia-Pacific Economic Cooperation (APEC) countries abides by the APEC Cross-Border Privacy Rules (CBPR) System and Privacy Recognition for Processors (PRP) System for the transfer of personal data. If you have questions or unresolved concerns, contact our Chief Technology Officer at [support@protohologram.com](mailto:support@protohologram.com).

### **Others**

It may be necessary – by law, legal process, litigation, and/or requests from public and governmental authorities within or outside your country of residence – for PROTO to disclose your information. We may also disclose information about you if we determine that for purposes of national security, law enforcement, or other issues of public importance,

disclosure is necessary or appropriate. We may also disclose information about you, but only where there is a lawful basis for doing so, if we determine that disclosure is reasonably necessary to enforce our terms and conditions or protect our operations or users. This could include providing information to public or governmental authorities. Additionally, in the event of a reorganization, merger, or sale we may transfer any and all information we collect to the relevant third party.

### **Protection of Information**

PROTO takes the security of your information very seriously. PROTO online services protect your information during transit using encryption. When your data is stored by PROTO, we use computer systems with limited access housed in facilities using security measures. Cloud data is stored in encrypted form including when we utilize third-party storage.

### **Retention of Information**

We will retain your information for the period necessary to fulfill the purposes outlined in this Privacy Policy and our service specific privacy summaries. Data is retained indefinitely unless deletion is requested by the customer, in which case, data is deleted within thirty (30) days of request.

### **Location-Based Services**

To provide location-based services on PROTO products, PROTO and our partners and licensees, such as maps data providers, may collect, use, and share precise location data, including the real-time geographic location of your PROTO device. Where available, location-based services may use GPS, Bluetooth, and your IP Address, along with crowd-sourced Wi-Fi hotspot and cell tower locations, and other technologies to determine your devices' approximate location. Unless you provide consent, this location data is collected anonymously in a form that does not uniquely identify you and is used by PROTO and our partners and licensees to provide and improve location-based products and services. For example, your device may share its geographic location with application providers when you opt in to their location services.

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

PROTO websites, products, applications, and services may contain links to third-party websites, products, and services. Our products and services may also use or offer products or services from third parties – for example, a third-party app.

Information collected by third parties, which may include such things as location data or contact details, is governed by their privacy practices. We encourage you to learn about the privacy practices of those third parties. If you purchase a subscription in a third party app, we may offer the ability to create a Subscriber ID that is unique to you and the developer or publisher which we use to provide reports to the developer or publisher that include information about the subscription you purchased, and your country of domicile.

### **California Privacy Disclosures**

Although the California Consumer Privacy Act ("CCPA") does not currently apply to PROTO, the CCPA provides California consumer residents with specific rights regarding their personal information. This section describes a California resident's CCPA rights.

The following is not applicable to de-identified or aggregated personal information or data publicly available.

### **Information we collect**

In the execution of our services and when visiting our website we collect information that identifies, relates to, describes, references, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or device. In particular, we may collect and disclose for a business purpose the following categories of data from our users:



Category	Examples	
A. Identifiers	A real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address	COLLECT: YES  DISCLOSE: YES, to affiliates, service providers, and other vendors, if any, mentioned in our Privacy Policy.
B. Personal information categories listed in the California Customer Records statute (Cal. Civ. Code § 1798.80(e))	A name, signature, Social Security number, physical characteristics or description, address, telephone number, passport number, driver’s license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information  Some personal information included in this category may overlap with other categories.	COLLECT: NO  DISCLOSE: NO
C. Protected classification characteristics under California or federal law	Age (40 years or older), race, color, ancestry, national origin, citizenship, religion or creed, marital status, medical condition, physical or mental disability, sex (including gender, gender identity, gender expression, pregnancy or childbirth and related medical conditions), sexual orientation, veteran or military status, genetic information (including familial genetic information).	COLLECT: NO  DISCLOSE: NO
D. Commercial information	Records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies.	COLLECT: YES  DISCLOSE: YES, to affiliates, service providers, and other vendors mentioned in this Privacy Policy.
E. Biometric information	Genetic, physiological, behavioral, and biological characteristics, or activity patterns used to extract a template or other identifier or identifying information, such as, fingerprints, faceprints, and voiceprints, iris or retina scans, keystroke, gait, or other physical patterns, and sleep, health, or exercise data.	COLLECT: NO  DISCLOSE: NO
F. Internet or other similar network activity	Browsing history, search history, information on a user’s interaction with a website, application, advertisements or other content.	COLLECT: YES  DISCLOSE: YES, to affiliates, service providers, and other vendors mentioned in this Privacy Policy.
G. Geolocation data	Physical location or movements, or the location of your device.	COLLECT: YES

		DISCLOSE: YES, to affiliates, service providers, and other vendors mentioned in this Privacy Policy.
H. Sensory data	Audio, electronic, visual, thermal, olfactory, or similar information	COLLECT: NO  DISCLOSE: NO
I. Professional or employment-related information	Current or past job history or performance evaluations	COLLECT: NO  DISCLOSE: NO
J. Non-public education information (per the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g, 34 C.F.R. Part 99))	Education records directly related to a student maintained by an educational institution or party acting on its behalf, such as grades, transcripts, class lists, student schedules, student identification codes, student financial information, or student disciplinary records.	COLLECT: NO  DISCLOSE: NO

We disclose your data for a business purpose to the following categories of third parties:

- Service providers
- Third parties to whom we disclose your personal information in connection with products or services we provide to you, and to accomplish our business purposes and objectives as set forth in the Privacy Policy.

**Data from children?**

We do not intentionally collect information from children under the age of eighteen (18) years as we do not offer services to them. Parents who set up a profile holding information about children under the age of eighteen (18) years can only do so by granting parental consent which consent choices can be changed by the adults in the family. We do not direct services to children under the age of sixteen (16) years old. As a result, we do not knowingly process data or information from children under sixteen (16) years old.

**Do not sell?**

We do not respond to “Do Not Sell” requests as we do not track your data across third party websites, nor do we sell your data to third parties to provide targeted advertising. Nonetheless, we aim to make your online experience and interaction with our websites as informative, relevant and supportive as possible. One way of achieving this is to use cookies or similar techniques, which store information about your visit to our site on your computer. For more information on how we use cookies and other tracking technologies, read our Cookie Policy.

**Our Companywide Commitment to Your Privacy**

To make sure your information is secure, we communicate our privacy and security guidelines to PROTO employees and strictly enforce privacy safeguards within the company. PROTO is committed to the protection, security, availability, and confidentiality of customer data within the PROTO Cloud application.

**Privacy Questions**

If you have any questions or concerns about PROTO's Privacy Policy or data processing, you would like to contact our Data Protection Officer, or if you would like to make a complaint about a possible breach of local privacy laws, please contact us. You can always contact us by phone at the relevant PROTO support number for your country or region.

When a privacy question or question about information received in response to an access/download request is received we have a dedicated team which triages your contact to address your issue. Where your issue may be more substantive in nature, we may request more information from you. All such substantive contacts receive a response within seven (7), days wherever possible - providing a response on the issue raised, requesting additional information where necessary or indicating that a response will require additional time.

Where your complaint indicates an improvement could be made in our handling of privacy issues we will take steps to make such an update at the next reasonable opportunity. In the event that a privacy issue has resulted in a negative impact on your organization then we will take steps to address that with you.

PROTO may update its Privacy Policy from time to time. When we change the policy in a material way, a notice will be posted on our website along with the updated Privacy Policy. We will also contact you via your contact information on file, for example by email, notification or some other equivalent method.

Updated: June 2024

## **PROTO Refund and Return Policy**

### **Refund Policy**

There are terms and conditions that apply to transactions at PROTO. We'll be as brief as possible. The main thing to remember is that by placing an order through PROTO or through an authorized Distributor/Reseller, you agree to the terms set forth below along with PROTO's Privacy Policy, Software License, Warranty, and Terms and Conditions.

At this time, PROTO will not refund any purchase of its products. Please visit the PROTO's Warranty page if the product was received with a defect upon inspection. Additionally, the deposit placed for any PROTO product is NON-REFUNDABLE.

### **Return Policy**

We fundamentally believe you will be thrilled with the products you purchase from PROTO. We strive to ensure that they're designed and built with the end user in mind. At this time, PROTO does not accept returns for any reason unless the product is damaged upon arrival. In that case, you are required to work with PROTO or a PROTO Authorized Service Professional (PASP) to diagnose, repair, or potentially replace a component for the device subject to PROTO's Warranty policy.

Please visit PROTO's Warranty page for complete details on how to work with PROTO and the Warranty.

Updated: June 2024

## **PROTO Media Services and End User License Agreement**

These terms and conditions create a contract between you and PROTO (the “Agreement”). Please read the Agreement carefully. To confirm your understanding and acceptance of the Agreement, click “Agree.”

### **A. INTRODUCTION TO OUR SERVICES**

This Agreement governs your use of PROTO’s services (“Services”), through which you can buy, get, license, rent or subscribe to content, Apps (as defined below), and other in-app services (collectively, “Content”). Content may be offered through the Services by PROTO or a third party. Our Services are available for your use in your country or territory of residence (“Home Country”). By creating an account for use of the Services in a particular country or territory you are specifying it as your Home Country. To use our Services, you need compatible hardware, software (latest version recommended and sometimes required) and Internet access (fees may apply). Our Services’ performance may be affected by these factors.

### **B. USING OUR SERVICES**

#### **PAYMENTS, TAXES, AND REFUNDS**

You can acquire Content on our Services for free or for a charge, either of which is referred to as a “Transaction.” Each Transaction is an electronic contract between you and PROTO, and/or you and the entity providing the Content on our Services.

PROTO will charge your selected payment method (such as your credit card, debit card or gift card/code) for any paid Transactions, including any applicable taxes. If we cannot charge your selected payment method for any reason (such as expiration or insufficient funds), you remain responsible for any uncollected amounts, and we will attempt to charge the payment method again as you may update your payment method information. If you preorder Content, you will be charged when the Content is delivered to you (unless you cancel prior to the Content’s availability). In accordance with local law, PROTO may update information regarding your selected payment method if provided such information by your financial institution.

All Transactions are final. Content prices may change at any time. If technical problems prevent or unreasonably delay delivery of Content, your exclusive and sole remedy is either replacement of the Content or refund of the price paid, as determined by PROTO. From time to time, PROTO may refuse a refund request if we find evidence of fraud, refund abuse, or other manipulative behavior that entitles PROTO to a corresponding counterclaim.

#### **ACCOUNT**

Using our Services and accessing your Content may require a PROTO ID. A PROTO ID is the account you use across PROTO’s ecosystem. Your account is valuable, and you are responsible for maintaining its confidentiality and security. PROTO is not responsible for any losses arising from the unauthorized use of your account. Please contact PROTO if you suspect that your account has been compromised. You must be age 13 (or equivalent minimum age in your Home Country, as set forth in the registration process) to create an account and use our Services. PROTO IDs for persons under this age can be created by a parent or legal guardian using Family Sharing or by an approved educational institution.

#### **PRIVACY**

Your use of our Services is subject to PROTO’s Privacy Policy, which is available at [www.protohologram.com](http://www.protohologram.com).

## SERVICES AND CONTENT USAGE RULES

Your use of the Services and Content must follow the rules set forth in this section (“Usage Rules”). Any other use of the Services and Content is a material breach of this Agreement. PROTO may monitor your use of the Services and Content to ensure that you are following these Usage Rules.

### All Services:

- PROTO’s delivery of Services or Content does not transfer any commercial or promotional use rights to you, and does not constitute a grant or waiver of any rights of the copyright owners.
- Manipulating play counts, downloads, ratings, or reviews via any means — such as (i) using a bot, script, or automated process; or (ii) providing or accepting any kind of compensation or incentive — is prohibited.
- It is your responsibility not to lose, destroy, or damage Content once downloaded. We encourage you to back up your Content regularly.
- You may not tamper with or circumvent any security technology included with the Services.
- You may access our Services only using PROTO’s software, and may not modify or use modified versions of such software.

### App Store Content:

- The term “Apps” includes apps and app clips for any PROTO platform and/or operating system, including any in-app purchases, extensions, stickers, and subscriptions made available in such apps or app clips.

## DOWNLOADS

You may be limited in the amount of Content you may download, and some downloaded Content may expire after a given amount of time after downloaded or first played. Certain Content may not be available for download at all.

You may be able to redownload previously acquired Content (“Redownload”) to your devices that are signed in with the same PROTO ID (“Associated Devices”). Content may not be available for Redownload if that Content is no longer offered on our Services.

## SUBSCRIPTIONS

The Services and certain Apps may allow you to purchase access to Content or Services on a subscription basis (“Paid Subscriptions”). Paid Subscriptions automatically renew until cancelled in the Manage Subscriptions section of your account settings. To learn more about cancelling your subscriptions, visit [www.protohologram.com](http://www.protohologram.com). We will notify you if the price of a Paid Subscription increases and, if required, seek your consent to continue. You will be charged no more than 24 hours prior to the start of the latest Paid Subscription period. If we cannot charge your payment method for any reason (such as expiration or insufficient funds), you remain responsible for any uncollected amounts, and we will attempt to charge the payment method as you may update your payment method information. This may result in a change to the start of your next Paid Subscription period and may change the date on which you are billed for each period. We reserve the right to cancel your Paid Subscription if we are unable to successfully charge your payment method to renew your subscription.

Certain Paid Subscriptions may offer a free trial prior to charging your payment method. If you decide to unsubscribe from a Paid Subscription before we start charging your payment method, cancel the subscription at least 24 hours before the free trial ends. If you start a free trial to a Paid Subscription offered by PROTO as Content provider (an “PROTO Paid Subscription”) and cancel before it ends, you cannot reactivate the free trial.

When your Paid Subscription to any Service ends, you will lose access to any functionality or Content of that Service that requires a Paid Subscription.

#### CONTENT AND SERVICE AVAILABILITY

Terms found in this Agreement that relate to Services, Content types, features or functionality not available in your Home Country are not applicable to you unless and until they become available to you. Certain Services and Content available to you in your Home Country may not be available to you when traveling outside of your Home Country.

#### THIRD-PARTY DEVICES AND EQUIPMENT

If you use our Services on a non-PROTO-branded device, you may not be able to access all features or Content types. Terms in this Agreement relating to unavailable features or Content types are not applicable to you. If you later choose to access our Services from a PROTO-branded device, you agree that all terms of this Agreement will apply to your use on such device. Additionally, certain Services may require, direct, or suggest you use third-party equipment in some circumstances and/or for certain activities; such use is subject to the terms and conditions of such equipment and should be made in accordance with the applicable manufacturer's instructions.

#### **C. YOUR SUBMISSIONS TO OUR SERVICES**

Our Services may allow you to submit or post materials such as comments, ratings and reviews, pictures, videos, and podcasts (including associated metadata and artwork). Your use of such features must comply with the Submissions Guidelines below, which may be updated from time to time. If you see materials that do not comply with the Submissions Guidelines, please report this to PROTO.

You hereby grant PROTO a worldwide, royalty-free, perpetual, nonexclusive license to use the materials you submit within the Services and related marketing, and PROTO internal purposes. PROTO may monitor and decide to remove or edit any submitted material.

Submissions Guidelines: You may not use the Services to:

- post any materials that (i) you do not have permission, right or license to use, or (ii) infringe on the rights of any third party;
- post personal, private or confidential information belonging to others;
- post child pornography or harmful acts against a minor;
- request personal information from a minor;
- impersonate or misrepresent your affiliation with another person, or entity;
- post, modify, or remove a rating or review in exchange for any kind of compensation or incentive;
- post a fake rating or review;
- plan or engage in any illegal, fraudulent, or manipulative activity.

If you find content that violates this policy, report it to PROTO.

Don't post content to your PROTO device if it fits any of the descriptions noted below.

- Inciting others to commit violent acts against individuals
- Fights involving minors
- Content where there's infliction of unnecessary suffering or harm deliberately causing an animal distress.
- Content where animals are encouraged or coerced to fight by humans

Please note this is not a complete list.

#### **D. PERSONALIZED RECOMMENDATION FEATURES**

The Services may recommend Content to you based on your downloads, purchases and other activities. You may opt out from receiving such personalized recommendations for some Services in your account settings. Some recommendation features may require your permission before they are turned on. If you turn on these features, you will be asked to give PROTO permission to collect and store certain data, including but not limited to data about your device activity, location, and usage. Please carefully read the information presented when you turn on these features.

#### **E. ADDITIONAL APP STORE TERMS**

##### **LICENSE OF APP STORE CONTENT**

App licenses are provided to you by PROTO or a third party developer (“App Provider”). If you are a customer of PROTO, the merchant of record is PROTO, Inc., which means that you acquire the App license from PROTO but the App is licensed by the App Provider. An App licensed by PROTO is a “PROTO App;” an App licensed by an App Provider is a “Third Party App.” PROTO acts as an agent for App Providers in providing the App Store and is not a party to the sales contract or user agreement between you and the App Provider. Any App that you acquire is governed by the Licensed Application End User License Agreement (“Standard EULA”) set forth below, unless PROTO or the App Provider provides an overriding custom license agreement (“Custom EULA”). The App Provider of any Third Party App is solely responsible for its content, warranties, and claims that you may have related to the Third Party App. You acknowledge and agree that PROTO is a third party beneficiary of the Standard EULA or Custom EULA applicable to each Third Party App and may therefore enforce such agreement. Certain Apps may not appear on the device but can be accessed and used elsewhere.

##### **IN-APP PURCHASES**

Apps may offer content, services or functionality for use within such Apps (“In-App Purchases”). In-App Purchases that are consumed during the use of the App cannot be transferred among devices and can be downloaded only once. You must authenticate your account before making In-App Purchases – separate from any authentication to obtain other Content – by entering your password or using Touch ID or Face ID, if applicable. You will be able to make additional In-App Purchases for fifteen minutes without re-authenticating unless you’ve asked us to require a password for every purchase or have enabled Touch ID or Face ID, if applicable. You can turn off the ability to make In-App Purchases by following these instructions: [www.protohologram.com](http://www.protohologram.com).

##### **APP MAINTENANCE AND SUPPORT**

PROTO is responsible for providing maintenance and support for PROTO Apps only, or as required under applicable law. App Providers are responsible for providing maintenance and support for Third Party Apps.

##### **APP BUNDLES**

Some Apps may be sold together as a bundle (“App Bundle”). The price displayed with an App Bundle is the price you will be charged upon purchasing the App Bundle. The App Bundle price may be reduced to account for Apps you have already purchased or acquired, but may include a minimum charge to complete the App Bundle.

##### **LICENSED APPLICATION END USER LICENSE AGREEMENT**

Apps made available through the App Store are licensed, not sold, to you. Your license to each App is subject to your prior acceptance of either this Licensed Application End User License Agreement (“Standard EULA”), or a custom end user license agreement between you and the Application Provider (“Custom EULA”), if one is provided. Your license to any PROTO App under this Standard EULA or Custom EULA is granted by PROTO, and your license to any Third Party App under this Standard EULA or Custom EULA is granted by the Application Provider of that Third Party App. Any App that is subject to this Standard EULA is referred to herein as the



“Licensed Application.” The Application Provider or PROTO as applicable (“Licensor”) reserves all rights in and to the Licensed Application not expressly granted to you under this Standard EULA.

a. **Scope of License:** Licensor grants to you a nontransferable license to use the Licensed Application on any PROTO-branded products that you own or control and as permitted by the Usage Rules. The terms of this Standard EULA will govern any content, materials, or services accessible from or purchased within the Licensed Application as well as upgrades provided by Licensor that replace or supplement the original Licensed Application, unless such upgrade is accompanied by a Custom EULA. Except as provided in the Usage Rules, you may not distribute or make the Licensed Application available over a network where it could be used by multiple devices at the same time. You may not transfer, redistribute or sublicense the Licensed Application and, if you sell your PROTO Device to a third party, you must remove the Licensed Application from the PROTO Device before doing so. You may not copy (except as permitted by this license and the Usage Rules), reverse-engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the Licensed Application, any updates, or any part thereof (except as and only to the extent that any foregoing restriction is prohibited by applicable law or to the extent as may be permitted by the licensing terms governing use of any open-sourced components included with the Licensed Application).

b. **Consent to Use of Data:** You agree that Licensor may collect and use technical data and related information—including but not limited to technical information about your device, system and application software, and peripherals—that is gathered periodically to facilitate the provision of software updates, product support, and other services to you (if any) related to the Licensed Application. Licensor may use this information, as long as it is in a form that does not personally identify you, to improve its products or to provide services or technologies to you.

c. **Termination.** This Standard EULA is effective until terminated by you or Licensor. Your rights under this Standard EULA will terminate automatically if you fail to comply with any of its terms.

d. **External Services.** The Licensed Application may enable access to Licensor’s and/or third-party services and websites (collectively and individually, “External Services”). You agree to use the External Services at your sole risk. Licensor is not responsible for examining or evaluating the content or accuracy of any third party External Services, and shall not be liable for any such third-party External Services. Data displayed by any Licensed Application or External Service, including but not limited to financial, medical and location information, is for general informational purposes only and is not guaranteed by Licensor or its agents. You will not use the External Services in any manner that is inconsistent with the terms of this Standard EULA or that infringes the intellectual property rights of Licensor or any third party. You agree not to use the External Services to harass, abuse, stalk, threaten or defame any person or entity, and that Licensor is not responsible for any such use. External Services may not be available in all languages or in your Home Country, and may not be appropriate or available for use in any particular location. To the extent you choose to use such External Services, you are solely responsible for compliance with any applicable laws. Licensor reserves the right to change, suspend, remove, disable or impose access restrictions or limits on any External Services at any time without notice or liability to you.

e. **NO WARRANTY: YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE LICENSED APPLICATION IS AT YOUR SOLE RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LICENSED APPLICATION AND ANY SERVICES PERFORMED OR PROVIDED BY THE LICENSED APPLICATION ARE PROVIDED “AS IS” AND “AS AVAILABLE,” WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND LICENSOR HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE LICENSED APPLICATION AND ANY SERVICES, EITHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, OF QUIET ENJOYMENT, AND OF NONINFRINGEMENT OF THIRD-PARTY RIGHTS. NO ORAL OR**

WRITTEN INFORMATION OR ADVICE GIVEN BY LICENSOR OR ITS AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SHOULD THE LICENSED APPLICATION OR SERVICES PROVE DEFECTIVE, YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION.

f. Limitation of Liability. TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL LICENSOR BE LIABLE FOR PERSONAL INJURY OR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OF OR INABILITY TO USE THE LICENSED APPLICATION, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE) AND EVEN IF LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In no event shall Licensor's total liability to you for all damages (other than as may be required by applicable law in cases involving personal injury) exceed the amount of fifty dollars (\$50.00). The foregoing limitations will apply even if the above stated remedy fails of its essential purpose.

g. You may not use or otherwise export or re-export the Licensed Application except as authorized by United States law and the laws of the jurisdiction in which the Licensed Application was obtained. In particular, but without limitation, the Licensed Application may not be exported or re-exported (a) into any U.S.-embargoed countries or (b) to anyone on the U.S. Treasury Department's Specially Designated Nationals List or the U.S. Department of Commerce Denied Persons List or Entity List. By using the Licensed Application, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not use these products for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture, or production of nuclear, missile, or chemical or biological weapons.

h. The Licensed Application and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. § 2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. § 12.212 or 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. § 12.212 or 48 C.F.R. §§ 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

i. Except to the extent expressly provided in the following paragraph, this Agreement and the relationship between you and PROTO shall be governed by the laws of the State of California, excluding its conflicts of law provisions. You and PROTO agree to submit to the personal and exclusive jurisdiction of the courts located within the county of Los Angeles, California, to resolve any dispute or claim arising from this Agreement.

#### **F. ADDITIONAL TERMS FOR CERTAIN CONTENT ACQUIRED FROM THIRD PARTIES**

Some Content available in certain Services are acquired by You from the third-party provider of such Content (as displayed on the product page and/or during the acquisition process for the relevant Content), not PROTO. In such case, PROTO acts as an agent for the Content provider in providing the Content to you, and therefore PROTO is not a party to the Transaction between you and the Content provider. In that scenario, Content is licensed by the Content provider. The Content provider reserves the right to enforce the terms of use relating to such Content. The Content provider is solely responsible for such Content, any warranties to the extent that such warranties have not been disclaimed, and any claims that you or any other party may have relating to such Content.

## **H. ADDITIONAL PROTO FITNESS TERMS**

PROTO Fitness is for entertainment and/or informational purposes only and is not intended to provide any medical advice. You should always seek the advice of an appropriately qualified healthcare professional regarding (a) the safety and advisability of any given activity, or (b) any specific medical condition or symptoms.

## **I. CARRIER MEMBERSHIP**

Where available, you may be offered to purchase a Service membership from your wireless carrier (a "Carrier Membership"). If you purchase a Carrier Membership, your carrier is the merchant of record, which means that you acquire the Service license from your carrier, which will bill you for the cost of your Service membership, but the Service is provided by PROTO. Your purchase relationship with the carrier is governed by the carrier's terms and conditions, not this Agreement, and any billing disputes related to a Carrier Membership must be directed to your carrier, not PROTO. By using a Service through a Carrier Membership, you agree that your carrier may exchange your carrier account information, telephone number and subscription information with PROTO, and that PROTO may use this information to determine the status of your Carrier Membership.

## **J. MISCELLANEOUS TERMS APPLICABLE TO ALL SERVICES**

### **DEFINITION OF PROTO**

"PROTO" means: PROTO Inc., located at 7111 Hayvenhurst Ave, Van Nuys, CA 91406, for all users.

### **CONTRACT CHANGES**

PROTO reserves the right at any time to modify this Agreement and to add new or additional terms or conditions on your use of the Services. Such modifications and additional terms and conditions will be effective immediately and incorporated into this Agreement. Your continued use of the Services will be deemed acceptance thereof.

### **THIRD-PARTY MATERIALS**

PROTO is not responsible or liable for third party materials included within or linked from the Content or the Services.

### **INTELLECTUAL PROPERTY**

You agree that the Services, including but not limited to Content, graphics, user interface, audio clips, video clips, editorial content, and the scripts and software used to implement the Services, contain proprietary information and material that is owned by PROTO and/or its licensors, and is protected by applicable intellectual property and other laws, including but not limited to copyright. You agree that you will not use such proprietary information or materials in any way whatsoever except for use of the Services for personal, noncommercial uses in compliance with this Agreement. No portion of the Services may be reproduced in any form or by any means, except as expressly permitted by this Agreement. You agree not to modify, rent, loan, sell, or distribute the Services or Content in any manner, and you shall not exploit the Services in any manner not expressly authorized.

The PROTO name, the PROTO logo, and other PROTO trademarks, service marks, graphics, and logos used in connection with the Services are trademarks or registered trademarks of PROTO in the U.S. and other countries throughout the world. You are granted no right or license with respect to any of the aforesaid trademarks.

### **COPYRIGHT**

Unless otherwise noted, Services and Content provided by PROTO are PROTO Inc. and its subsidiaries. If you believe that any Content available through the Services infringe a copyright claimed by you, please contact PROTO at [www.protohologram.com](http://www.protohologram.com).

#### TERMINATION AND SUSPENSION OF SERVICES

If you fail, or PROTO suspects that you have failed, to comply with any of the provisions of this Agreement, PROTO may, without notice to you: (i) terminate this Agreement and/or your PROTO ID, and you will remain liable for all amounts due under your PROTO ID up to and including the date of termination; and/or (ii) terminate your license to the software; and/or (iii) preclude your access to the Services. PROTO further reserves the right to modify, suspend, or discontinue the Services (or any part or Content thereof) at any time with or without notice to you, and PROTO will not be liable to you or to any third party should it exercise such rights.

#### DISCLAIMER OF WARRANTIES; LIABILITY LIMITATION

PROTO DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, AND YOU AGREE THAT FROM TIME TO TIME PROTO MAY REMOVE THE SERVICES FOR INDEFINITE PERIODS OF TIME, CANCEL THE SERVICES AT ANY TIME, OR OTHERWISE LIMIT OR DISABLE YOUR ACCESS TO THE SERVICES WITHOUT NOTICE TO YOU. YOU EXPRESSLY AGREE THAT YOUR USE OF, OR INABILITY TO USE, OR ACTIVITY IN CONNECTION WITH THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES AND ALL CONTENT DELIVERED TO YOU THROUGH THE SERVICES ARE (EXCEPT AS EXPRESSLY STATED BY PROTO) PROVIDED "AS IS" AND "AS AVAILABLE" FOR YOUR USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, THE ABOVE EXCLUSION OF IMPLIED WARRANTIES MAY NOT APPLY TO YOU. IN NO CASE SHALL PROTO, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, OR LICENSORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING FROM YOUR USE OF ANY OF THE SERVICES OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR USE OF THE SERVICES AND/OR CONTENT, INCLUDING, BUT NOT LIMITED TO, ANY ERRORS OR OMISSIONS IN ANY CONTENT, OR ANY INJURY, LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE SERVICES, EVEN IF ADVISED OF THEIR POSSIBILITY. BECAUSE SOME COUNTRIES, STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH COUNTRIES, STATES OR JURISDICTIONS, PROTO'S LIABILITY SHALL BE LIMITED TO THE EXTENT SUCH LIMITATION IS PERMITTED BY LAW.

PROTO SHALL USE REASONABLE EFFORTS TO PROTECT INFORMATION SUBMITTED BY YOU IN CONNECTION WITH THE SERVICES, BUT YOU AGREE THAT YOUR SUBMISSION OF SUCH INFORMATION IS AT YOUR SOLE RISK, AND YOU HEREBY RELEASE PROTO FROM ANY AND ALL LIABILITY TO YOU FOR ANY LOSS OR LIABILITY RELATING TO SUCH INFORMATION IN ANY WAY. PROTO DOES NOT REPRESENT OR GUARANTEE THAT THE SERVICES WILL BE FREE FROM LOSS, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING, OR OTHER SECURITY INTRUSION, AND YOU HEREBY RELEASE PROTO FROM ANY LIABILITY RELATING THERETO. YOU SHALL BE RESPONSIBLE FOR BACKING UP YOUR OWN SYSTEM, INCLUDING ANY CONTENT ACQUIRED OR RENTED THROUGH THE SERVICES. PROTO IS NOT RESPONSIBLE FOR DATA CHARGES YOU MAY INCUR IN CONNECTION WITH YOUR USE OF THE SERVICES.

#### WAIVER AND INDEMNITY

BY USING THE SERVICES, YOU AGREE, TO THE EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD PROTO, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, AND LICENSORS HARMLESS WITH RESPECT TO ANY CLAIMS ARISING OUT OF YOUR BREACH OF THIS AGREEMENT, YOUR USE OF THE SERVICES, OR ANY ACTION TAKEN BY PROTO AS PART OF ITS INVESTIGATION OF A SUSPECTED VIOLATION OF THIS AGREEMENT OR AS A RESULT OF ITS FINDING OR DECISION THAT A VIOLATION OF THIS AGREEMENT HAS OCCURRED. YOU AGREE THAT YOU SHALL NOT SUE OR RECOVER ANY DAMAGES FROM PROTO, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, AND LICENSORS AS A RESULT OF ITS DECISION TO REMOVE OR REFUSE TO PROCESS ANY INFORMATION OR CONTENT, TO WARN YOU, TO SUSPEND OR TERMINATE YOUR ACCESS TO THE SERVICES, OR TO TAKE ANY OTHER ACTION DURING THE INVESTIGATION OF

A SUSPECTED VIOLATION OR AS A RESULT OF PROTO'S CONCLUSION THAT A VIOLATION OF THIS AGREEMENT HAS OCCURRED. THIS WAIVER AND INDEMNITY PROVISION APPLIES TO ALL VIOLATIONS DESCRIBED IN OR CONTEMPLATED BY THIS AGREEMENT.

#### STATUTORY EXCEPTIONS FOR PUBLIC INSTITUTIONS

If you are a qualified public educational or government institution and any part of this Agreement, such as, by way of example, all or part of the indemnification section, is invalid or unenforceable against you because of applicable local, national, state or federal law, then that portion shall be deemed invalid or unenforceable, as the case may be, and instead construed in a manner most consistent with applicable governing law.

#### GOVERNING LAW

Governing law and venue for this Media Services Agreement is set forth in Proto's Terms and Conditions, Section 12.6 "Governing Law and Venue".

#### OTHER PROVISIONS

This Agreement constitutes the entire agreement between you and PROTO and governs your use of the Services, superseding any prior agreements with respect to the same subject matter between you and PROTO. You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, third-party software, or additional services. If any part of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. PROTO's failure to enforce any right or provisions in this Agreement will not constitute a waiver of such or any other provision. PROTO will not be responsible for failures to fulfill any obligations due to causes beyond its control. You agree to comply with all local, state, federal, and national laws, statutes, ordinances, and regulations that apply to your use of the Services. Your use of the Services may also be subject to other laws. Risk of loss for all electronically delivered Transactions pass to the acquirer upon electronic transmission to the recipient. No PROTO employee or agent has the authority to vary this Agreement. PROTO may notify you with respect to the Services by sending an email message to your email address or a letter via postal mail to your mailing address, or by a posting on the Services. Notices shall become effective immediately. PROTO may also contact you by email or push notification to send you additional information about the Services. You hereby grant PROTO the right to take steps PROTO believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement. You agree that PROTO has the right, without liability to you, to disclose any data and/or information to law enforcement authorities, government officials, and/or a third party, as PROTO believes is reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement (including but not limited to PROTO's right to cooperate with any legal process relating to your use of the Services and/or Content, and/or a third-party claim that your use of the Services and/or Content is unlawful and/or infringes such third party's rights). Children under the age of majority should review this Agreement with their parent or guardian to ensure that the child and parent or legal guardian understand it.

Updated: June 2024

## Proto Cloud Terms and Conditions

### Welcome to Proto Cloud

THIS LEGAL AGREEMENT BETWEEN YOU AND PROTO GOVERNS YOUR USE OF THE PROTO CLOUD PRODUCT, SOFTWARE, SERVICES, AND WEBSITES (COLLECTIVELY REFERRED TO AS THE "SERVICE"). IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THE FOLLOWING TERMS. BY CLICKING "AGREE," YOU ARE AGREEING THAT THESE TERMS WILL APPLY IF YOU CHOOSE TO ACCESS OR USE THE SERVICE.

Proto is the provider of the Service, which permits you to utilize certain Internet services, including storing your personal content (such as content, photos, and app data) and making it accessible on your compatible devices and computers, and certain location based services, only under the terms and conditions set forth in this Agreement. When Proto Cloud is enabled, your content will be automatically stored by Proto on Proto's or third party providers' servers, so you can later access that content or have content wirelessly pushed to your other Proto Cloud-enabled devices or computers.

#### 1. Requirements for Use of the Service

a. Age. The Service is only available to individuals aged 13 years or older (or equivalent minimum age in the relevant jurisdiction), unless you are under 13 years old and your Proto ID was provided to you as a result of a request by an approved educational institution or established by your parent or guardian. We do not knowingly collect, use or disclose personal information from children under 13, or equivalent minimum age in the relevant jurisdiction, without verifiable parental consent. Parents and guardians should also remind any minors that conversing with strangers on the Internet can be dangerous and take appropriate precautions to protect children, including monitoring their use of the Service.

To use the Service, you cannot be a person barred from receiving the Service under the laws of the United States or other applicable jurisdictions, including the country in which you reside or from where you use the Service. By accepting this Agreement, you represent that you understand and agree to the foregoing.

b. Devices and Accounts. Use of the Service may require compatible devices, Internet access, and a Proto software license (fees may apply); may require periodic updates; and may be affected by the performance of these factors. Proto reserves the right to limit the number of Proto Cloud accounts ("Accounts") that may be created from a device and the number of devices associated with an Account. The latest version of required software may be required for certain transactions or features. You agree that meeting these requirements is your responsibility.

c. Limitations on Use. You agree to use the Service only for purposes permitted by this Agreement, and only to the extent permitted by any applicable law, regulation, or generally accepted practice in the applicable jurisdiction. Your Account is allocated 1 TB of storage capacity. Additional storage is available for purchase, as described below. Exceeding any applicable or reasonable limitation of bandwidth, or storage capacity (for example, backup or content account space) is prohibited and may prevent you from backing up to Proto Cloud, or adding content. If your use of the Service or other behavior intentionally or unintentionally threatens Proto's ability to provide the Service or other systems, Proto shall be entitled to take all reasonable steps to protect the Service and Proto's systems, which may include suspension of your access to the Service. Repeated violations of the limitations may result in termination of your Account.

If you are a covered entity, business associate or representative of a covered entity or business associate (as those terms are defined at 45 C.F.R § 160.103), You agree that you will not use any component, function or other facility of Proto Cloud to create, receive, maintain or transmit any "protected health information" (as

such term is defined at 45 C.F.R § 160.103) or use Proto Cloud in any manner that would make Proto (or any Proto Subsidiary) your or any third party's business associate.

d. Availability of the Service. The Service, or any feature or part thereof, may not be available in all languages or in all countries and Proto makes no representation that the Service, or any feature or part thereof, is appropriate or available for use in any particular location. To the extent you choose to access and use the Service, you do so at your own initiative and are responsible for compliance with any applicable laws.

e. Changing the Service. Proto reserves the right at any time to modify this Agreement and to impose new or additional terms or conditions on your use of the Service, provided that Proto will give you 30 days' advance notice of any material adverse change to the Service or applicable terms of service, unless it would not be reasonable to do so due to circumstances arising from legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or due to a natural disaster, catastrophic event, war, or other similar occurrence outside of Proto's reasonable control. In the event that Proto does make material adverse changes to the Service or terms of use, you will have the right to terminate this Agreement and your account, in which case Proto will provide you with a pro rata refund of any pre-payment for your then-current paid term. Proto shall not be liable to you for any modifications to the Service or terms of service made in accordance with this Section 1.e.

## 2. Features and Services

a. Third Party Apps. If you sign in to certain third party apps with your Proto Cloud credentials, you agree to allow that app to store data in your personal Proto Cloud account and for Proto to collect, store and process such data on behalf of the relevant third-party app developer in association with your use of the Service and such apps. The data that the app stores in your personal Proto Cloud account will count towards your storage limit. Such data may be shared with another app that you download from the same app developer.

b. Use of Location-Based Services. Proto and its partners and licensors may provide certain features or services that rely upon device-based location information using GPS (or similar technology, where available) and crowdsourced Wi-Fi access points and cell tower locations. To provide such features or services, where available, Proto and its partners and licensors must collect, use, transmit, process and maintain your location data, including but not limited to the geographic location of your device and information related to your Account and any devices registered thereunder, including but not limited to your Proto ID, device ID and name, and device type.

You may withdraw consent to Proto and its partners' and licensors' collection, use, transmission, processing and maintenance of location and Account data at any time by not using the location-based features and turning this feature off in Settings on your device. When using third party services that use or provide location data as part of the Service, you are subject to and should review such third party's terms and privacy policy on use of location data by such third party services. Any location data provided by the Service is not intended to be relied upon in situations where precise location information is needed or where erroneous, inaccurate, time-delayed or incomplete location data may lead to death, personal injury, property or environmental damage. Proto shall use reasonable skill and due care in providing the Service, but neither Proto nor any of its service and/or content providers guarantees the availability, accuracy, completeness, reliability, or timeliness of location data or any other data displayed by the Service. LOCATION-BASED SERVICES ARE NOT INTENDED OR SUITABLE FOR USE AS AN EMERGENCY LOCATOR SYSTEM.

c. Backup. Proto Cloud Backup periodically creates automatic backups for Epic and M devices, when the device is connected to a power source, and connected to the Internet via a Wi-Fi network. If a device

has not backed up to Proto Cloud for a period of one hundred and eighty (180) days, Proto reserves the right to delete any backups associated with that device. Backup may include device settings, device characteristics, photos and videos, and other app data. Proto shall use reasonable skill and due care in providing the Service, but, TO THE GREATEST EXTENT PERMISSIBLE BY APPLICABLE LAW, PROTO DOES NOT GUARANTEE OR WARRANT THAT ANY CONTENT YOU MAY STORE OR ACCESS THROUGH THE SERVICE WILL NOT BE SUBJECT TO INADVERTENT DAMAGE, CORRUPTION, LOSS, OR REMOVAL IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT, AND PROTO SHALL NOT BE RESPONSIBLE SHOULD SUCH DAMAGE, CORRUPTION, LOSS, OR REMOVAL OCCUR. It is your responsibility to maintain appropriate alternate backup of your information and data.

### 3. Your Use of the Service

a. **Your Account.** As a registered user of the Service, you must establish an Account. Don't reveal your Account information to anyone else. You are solely responsible for maintaining the confidentiality and security of your Account and for all activities that occur on or through your Account, and you agree to immediately notify Proto of any security breach of your Account. You further acknowledge and agree that you should not share your Account and/or password details with another individual or organization. Provided we have exercised reasonable skill and due care, Proto shall not be responsible for any losses arising out of the unauthorized use of your Account resulting from you not following these rules.

In order to use the Service, you must enter your Proto ID and password to authenticate your Account. You agree to provide accurate and complete information when you register with, and as you use, the Service ("Service Registration Data"), and you agree to update your Service Registration Data to keep it accurate and complete. Failure to provide accurate, current and complete Service Registration Data may result in the suspension and/or termination of your Account. You agree that Proto may store and use the Service Registration Data you provide for use in maintaining and billing fees to your Account.

b. **Use of Other Proto Products and Services.** Particular components or features of the Service provided by Proto and/or its licensors may require separate software or other license agreements or terms of use. You must read, accept, and agree to be bound by any such separate agreement as a condition of using these particular components or features of the Service.

c. **No Conveyance.** Nothing in this Agreement shall be construed to convey to you any interest, title, or license in a Proto ID or similar resource used by you in connection with the Service.

d. **No Right of Survivorship.** Except as required by law, if you are an individual, you agree that your Account is non-transferable and that any rights to your Proto ID or content within your Account terminate upon your death. Upon receipt of a copy of a death certificate your Account may be terminated and all content within your Account deleted. Contact Proto for further assistance.

e. **No Resale of Service.** You agree that you will not reproduce, copy, duplicate, sell, resell, rent or trade the Service (or any part thereof) for any purpose.

### 4. Content and Your Conduct.

a. **Content.** "Content" means any information that may be generated or encountered through use of the Service, such as data files, device characteristics, written text, software, music, graphics, photographs, images, sounds, videos, messages and any other like materials. You understand that all Content, whether publicly posted or privately transmitted on the Service is the sole responsibility of the person from whom such Content originated. This means that you, and not Proto, are solely responsible for any Content you



upload, download, post, transmit, store or otherwise make available through your use of the Service. You understand that by using the Service you may encounter Content that you may find offensive, indecent, or objectionable, and that you may expose others to Content that they may find objectionable. Proto does not control the Content posted via the Service, nor does it guarantee the accuracy, integrity or quality of such Content. You understand and agree that your use of the Service and any Content is solely at your own risk.

b. Your Conduct. You agree that you will NOT use the Service to:

i. upload, download, post, email, transmit, store, share, import or otherwise make available any Content that is unlawful, harassing, threatening, tortious, defamatory, libelous, abusive, or invasive of another's privacy;

ii. stalk, harass, or threaten another;

iii. if you are an adult, request personal or other information from a minor (any person under the age of 18 or such other age as local law defines as a minor) who is not personally known to you, including but not limited to any of the following: full name or last name, home address, zip/postal code, telephone number, picture, or the names of the minor's school, church, athletic team or friends;

iv. pretend to be anyone, or any entity, you are not — you may not impersonate or misrepresent yourself as another person (including celebrities), entity, another Proto Cloud user, a Proto employee, or a civic or government leader, or otherwise misrepresent your affiliation with a person or entity (Proto reserves the right to reject or block any Proto ID or email address which could be deemed to be an impersonation or misrepresentation of your identity, or a misappropriation of another person's name or identity);

v. engage in any copyright infringement or other intellectual property infringement (including uploading any content to which you do not have the right to upload), or disclose any trade secret or confidential information in violation of a confidentiality, employment, or nondisclosure agreement;

vi. upload, post, email, transmit, store or otherwise make available any material that contains viruses or any other computer code, files or programs designed to harm, interfere or limit the normal operation of the Service (or any part thereof), or any other computer software or hardware;

vii. interfere with or disrupt the Service (including accessing the Service through any automated means, like scripts or web crawlers), or any servers or networks connected to the Service, or any policies, requirements or regulations of networks connected to the Service (including any unauthorized access to, use or monitoring of data or traffic thereon);

viii. plan or engage in any illegal activity; and/or

ix. gather and store personal information on any other users of the Service to be used in connection with any of the foregoing prohibited activities.

c. Removal of Content. You acknowledge that Proto is not responsible or liable in any way for any Content provided by others and has no duty to screen such Content. However, Proto reserves the right at all times to determine whether Content is appropriate and in compliance with this Agreement, and may screen,

move, refuse, modify and/or remove Content at any time, without prior notice and in its sole discretion, if such Content is found to be in violation of this Agreement or is otherwise objectionable.

d. **Back up Your Content.** You are responsible for backing up, to your own computer or other device, any important videos, images or other Content that you store or access via the Service. Proto shall use reasonable skill and due care in providing the Service, but Proto does not guarantee or warrant that any Content you may store or access through the Service will not be subject to inadvertent damage, corruption or loss.

e. **Access to Account and Content.** Proto reserves the right to take steps Proto believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement. You acknowledge and agree that Proto may, without liability to you, access, use, preserve and/or disclose your Account information and any Content to law enforcement authorities, government officials, and/or a third party, as Proto believes is reasonably necessary or appropriate, if legally required to do so or if Proto has a good faith belief that such access, use, disclosure, or preservation is reasonably necessary to: (a) comply with legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Proto, its users, a third party, or the public as required or permitted by law. You acknowledge that Proto is not responsible or liable in any way for any Content provided by others and has no duty to screen such Content. However, consistent with Proto's privacy policy, Proto reserves the right at all times to determine whether Content is appropriate and in compliance with this Agreement, and may prescreen, move, refuse, modify and/or remove Content at any time, without prior notice and in its sole discretion, if such Content is found to be in violation of this Agreement or is otherwise objectionable.

## 5. Content Submitted or Made Available by You on the Service.

a. **License from You.** Except for material we may license to you, Proto does not claim ownership of the materials and/or Content you submit or make available on the Service. However, by submitting or posting such Content on areas of the Service that are accessible by the public or other users with whom you consent to share such Content, you grant Proto a worldwide, royalty-free, non-exclusive license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and publicly display such Content on the Service solely for the purpose for which such Content was submitted or made available, without any compensation or obligation to you. You agree that any Content submitted or posted by you shall be your sole responsibility, shall not infringe or violate the rights of any other party or violate any laws, contribute to or encourage infringing or otherwise unlawful conduct. By submitting or posting such Content on areas of the Service that are accessible by the public or other users, you are representing that you are the owner of such material and/or have all necessary rights, licenses, and authorization to distribute it.

b. **Changes to Content.** You understand that in order to provide the Service and make your Content available thereon, Proto may transmit your Content across various public networks, in various media, and modify or change your Content to comply with technical requirements of connecting networks or devices or computers. You agree that the license herein permits Proto to take any such actions.

c. **Trademark Information.** Proto, the Proto logo, and other Proto trademarks, service marks, graphics, and logos used in connection with the Service are trademarks or registered trademarks of Proto Inc. in the US and/or other countries. Other trademarks, service marks, graphics, and logos used in connection with the Service may be the trademarks of their respective owners. You are granted no right or license in any of the aforesaid trademarks, and further agree that you shall not remove, obscure, or alter any proprietary notices (including trademark and copyright notices) that may be affixed to or contained within the Service.

6. Software.

a. Proto's Proprietary Rights. You acknowledge and agree that Proto and/or its licensors own all legal right, title and interest in and to the Service, including but not limited to graphics, user interface, the scripts and software used to implement the Service, and any software provided to you as a part of and/or in connection with the Service (the "Software"), including any and all intellectual property rights that exist therein, whether registered or not, and wherever in the world they may exist. You further agree that the Service (including the Software, or any other part thereof) contains proprietary and confidential information that is protected by applicable intellectual property and other laws, including but not limited to copyright. You agree that you will not use such proprietary information or materials in any way whatsoever except for use of the Service in compliance with this Agreement. No portion of the Service may be reproduced in any form or by any means, except as expressly permitted in these terms.

b. License From Proto. THE USE OF THE SOFTWARE OR ANY PART OF THE SERVICE, EXCEPT FOR USE OF THE SERVICE AS PERMITTED IN THIS AGREEMENT, IS STRICTLY PROHIBITED AND INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS AND MAY SUBJECT YOU TO CIVIL AND CRIMINAL PENALTIES, INCLUDING POSSIBLE MONETARY DAMAGES, FOR COPYRIGHT INFRINGEMENT.

c. Public Beta. From time to time, Proto may choose to offer new and/or updated features of the Service (the "Beta Features") as part of a Public Beta Program (the "Program") for the purpose of providing Proto with feedback on the quality and usability of the Beta Features. You understand and agree that your participation in the Program is voluntary and does not create a legal partnership, agency, or employment relationship between you and Proto, and that Proto is not obligated to provide you with any Beta Features. Proto may make such Beta Features available to Program participants by online registration or enrollment via the Service. You understand and agree that Proto may collect and use information from your Account, devices and peripherals in order to enroll you in a Program and/or determine your eligibility to participate. You understand that once you enroll in a Program you may be unable to revert to the earlier non-beta version of a given Beta Feature. In the event such reversion is possible, you may not be able to migrate data created within the Beta Feature back to the earlier non-beta version. Your use of the Beta Features and participation in the Program is governed by this Agreement and any additional license terms that may separately accompany the Beta Features. The Beta Features are provided on an "AS IS" and "AS AVAILABLE" basis and may contain errors or inaccuracies that could cause failures, corruption or loss of data and/or information from your device and from peripherals (including, without limitation, servers and computers) connected thereto. Proto strongly encourages you to backup all data and information on your device and any peripherals prior to participating in any Program. You expressly acknowledge and agree that all use of the Beta Features is at your sole risk. YOU ASSUME ALL RISKS AND ALL COSTS ASSOCIATED WITH YOUR PARTICIPATION IN ANY PROGRAM, INCLUDING, WITHOUT LIMITATION, ANY INTERNET ACCESS FEES, BACKUP EXPENSES, COSTS INCURRED FOR THE USE OF YOUR DEVICE AND PERIPHERALS, AND ANY DAMAGE TO ANY EQUIPMENT, SOFTWARE, INFORMATION OR DATA. Proto may or may not provide you with technical and/or other support for the Beta Features. If support is provided it will be in addition to your normal support coverage for the Service and only available through the Program. You agree to abide by any support rules or policies that Proto provides to you in order to receive any such support. Proto reserves the right to modify the terms, conditions or policies of the Program (including ceasing the Program) at any time with or without notice, and may revoke your participation in the Program at any time. You acknowledge that Proto has no obligation to provide a commercial version of the Beta Features, and that should such a commercial version be made available, it may have features or functionality different than that contained in the Beta Features. As part of the Program, Proto will provide you with the opportunity to submit comments, suggestions, or other feedback regarding your use of the Beta Features. You agree that

in the absence of a separate written agreement to the contrary, Proto will be free to use any feedback you provide for any purpose.

d. Updates. From time to time, Proto may update the Software used by the Service. In order to continue your use of the Service, such updates may be automatically downloaded and installed onto your device or computer. These updates may include bug fixes, feature enhancements or improvements, or entirely new versions of the Software.

## 7. Termination.

a. Voluntary Termination by You. You may delete your Proto ID and/or stop using the Service at any time. If you wish to stop using Proto Cloud on your device, you may disable Proto Cloud from a device by opening Settings on your device, tapping Proto Cloud, and tapping "Sign Out". To terminate your Account and delete your Proto ID, contact Proto Support at [www.protohologram.com](http://www.protohologram.com). If you terminate your Account and delete your Proto ID, you will not have access to other Proto or third party products and services that you set up with that Proto ID. This action may be non-reversible. Any fees paid by you prior to your termination are nonrefundable (except as expressly permitted otherwise by this Agreement), including any fees paid in advance for the billing year during which you terminate. Termination of your Account shall not relieve you of any obligation to pay any accrued fees or charges.

b. Termination by Proto. Proto may at any time, under certain circumstances and without prior notice, immediately terminate or suspend all or a portion of your Account and/or access to the Service. Cause for such termination shall include: (a) violations of this Agreement or any other policies or guidelines that are referenced herein and/or posted on the Service; (b) a request by you to cancel or terminate your Account; (c) a request and/or order from law enforcement, a judicial body, or other government agency; (d) where provision of the Service to you is or may become unlawful; (e) unexpected technical or security issues or problems; (f) your participation in fraudulent or illegal activities; or (g) failure to pay any fees owed by you in relation to the Service, provided that in the case of non-material breach, Proto will be permitted to terminate only after giving you 30 days' notice and only if you have not cured the breach within such 30-day period. Any such termination or suspension shall be made by Proto in its sole discretion and Proto will not be responsible to you or any third party for any damages that may result or arise out of such termination or suspension of your Account and/or access to the Service. In addition, Proto may terminate your Account upon 30 days' prior notice via email to the address associated with your Account if (a) your Account has been inactive for one (1) year; or (b) there is a general discontinuance of the Service or any part thereof. Notice of general discontinuance of service will be provided as set forth herein, unless it would not be reasonable to do so due to circumstances arising from legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or due to a natural disaster, a catastrophic event, war, or other similar occurrence outside of Proto's reasonable control. In the event of such termination, Proto will provide you with a pro rata refund of any pre-payment for your then-current paid term. Proto shall not be liable to you for any modifications to the Service or terms of service in accordance with this Section VIIB.

c. Effects of Termination. Upon termination of your Account you may lose all access to the Service and any portions thereof, including, but not limited to, your Account, Proto ID, and Content. In addition, after a period of time, Proto will delete information and data stored in or as a part of your account(s). Any individual components of the Service that you may have used subject to separate software license agreements will also be terminated in accordance with those license agreements.

8. Links and Other Third Party Materials. Certain Content, components or features of the Service may include materials from third parties and/or hyperlinks to other web sites, resources or Content. Because Proto

may have no control over such third party sites and/or materials, you acknowledge and agree that Proto is not responsible for the availability of such sites or resources, and does not endorse or warrant the accuracy of any such sites or resources, and shall in no way be liable or responsible for any Content, advertising, products or materials on or available from such sites or resources. You further acknowledge and agree that Proto shall not be responsible or liable in any way for any damages you incur or allege to have incurred, either directly or indirectly, as a result of your use and/or reliance upon any such Content, advertising, products or materials on or available from such sites or resources.

9. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, AS SUCH, TO THE EXTENT SUCH EXCLUSIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, SOME OF THE EXCLUSIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

PROTO SHALL USE REASONABLE SKILL AND DUE CARE IN PROVIDING THE SERVICE. THE FOLLOWING DISCLAIMERS ARE SUBJECT TO THIS EXPRESS WARRANTY.

PROTO DOES NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND YOU AGREE THAT FROM TIME TO TIME PROTO MAY REMOVE THE SERVICE FOR INDEFINITE PERIODS OF TIME, OR CANCEL THE SERVICE IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.

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#### LIMITATION OF LIABILITY

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY BY SERVICE PROVIDERS. TO THE EXTENT SUCH EXCLUSIONS OR LIMITATIONS ARE SPECIFICALLY PROHIBITED BY APPLICABLE LAW, SOME OF THE EXCLUSIONS OR LIMITATIONS SET FORTH BELOW MAY NOT APPLY TO YOU.

PROTO SHALL USE REASONABLE SKILL AND DUE CARE IN PROVIDING THE SERVICE. THE FOLLOWING LIMITATIONS DO NOT APPLY IN RESPECT OF LOSS RESULTING FROM (A) PROTO'S FAILURE TO USE REASONABLE SKILL AND DUE CARE; (B) PROTO'S GROSS NEGLIGENCE, WILFUL MISCONDUCT OR FRAUD; OR (C) DEATH OR PERSONAL INJURY.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT PROTO AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSSES (EVEN IF PROTO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (I) THE USE OR INABILITY TO USE THE SERVICE (II) ANY CHANGES MADE TO THE SERVICE OR ANY TEMPORARY OR PERMANENT CESSATION OF THE SERVICE OR ANY PART THEREOF; (III) THE UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (IV) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE AND/OR SEND OR RECEIVE YOUR TRANSMISSIONS OR DATA ON OR THROUGH THE SERVICE; (V) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; AND (VI) ANY OTHER MATTER RELATING TO THE SERVICE.

#### INDEMNIFICATION

You agree to defend, indemnify and hold Proto, its affiliates, subsidiaries, directors, officers, employees, agents, partners, contractors, and licensors harmless from any claim or demand, including reasonable attorneys' fees, made by a third party, relating to or arising from: (a) any Content you submit, post, transmit, or otherwise make available through the Service; (b) your use of the Service; (c) any violation by you of this Agreement; (d) any action taken by Proto as part of its investigation of a suspected violation of this Agreement or as a result of its finding or decision that a violation of this Agreement has occurred; or (e) your violation of any rights of another. This means that you cannot sue Proto, its affiliates, subsidiaries, directors, officers, employees, agents, partners, contractors, and licensors as a result of its decision to remove or refuse to process any information or Content, to warn you, to suspend or terminate your access to the Service, or to take any other action during the investigation of a suspected violation or as a result of Proto's conclusion that a violation of this Agreement has occurred. This waiver and indemnity provision applies to all violations described in or contemplated by this Agreement. This obligation shall survive the termination or expiration of this Agreement and/or your use of the Service. You acknowledge that you are responsible for all use of the Service using your Account, and that this Agreement applies to any and all usage of your Account. You agree to comply with this Agreement and to defend, indemnify and hold harmless Proto from and against any and all claims and demands arising from usage of your Account, whether or not such usage is expressly authorized by you.

#### 10. GENERAL.

a. Notices. Proto may provide you with notices regarding the Service, including changes to this Agreement, by email to your email address used for your Proto ID (and/or other alternate email address associated with your Account if provided), SMS, by regular mail, or by postings on our website and/or the Service.

b. Governing Law and Venue. Governing law and venue for this License is set forth in Proto's Terms and Conditions, Section 12.6 "Governing Law and Venue".

c. Entire Agreement. This Agreement constitutes the entire agreement between you and Proto, governs your use of the Service and completely replaces any prior agreements between you and Proto in relation to the Service. You may also be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, or third-party software. If any part of this Agreement is held invalid

or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. The failure of Proto to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. You agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this agreement.

d. "Proto" as used herein means: Proto Inc., located at 7111Hayvenhurst Ave, Van Nuys, CA 91406.

#### ELECTRONIC CONTRACTING

Your use of the Service includes the ability to enter into agreements and/or to make transactions electronically. YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH AGREEMENTS AND TRANSACTIONS. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO ON THIS SERVICE, INCLUDING NOTICES OF CANCELLATION, POLICIES, CONTRACTS, AND APPLICATIONS. In order to access and retain your electronic records, you may be required to have certain hardware and software, which are your sole responsibility.

e. Privacy. Your use of the Service is subject to Proto's Privacy Policy, which is available at [www.protohologram.com](http://www.protohologram.com).

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