

## Proto Cloud Terms and Conditions

### 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 servers or a third party provider's 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

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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

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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. Subscription. The Proto Cloud plan is available for purchase on a subscription basis.

a. Payment. By creating a Proto Cloud Account, you authorize Proto to automatically charge the subscription fee, including any applicable taxes, to the payment method associated with your Proto account on a recurring basis. Proto may also obtain preapproval for an amount up to the transaction value and will periodically send billing reminders and other account-related communications to the email address associated with your Proto account.

You can change your subscription under the Proto Cloud section of settings on your device.

b. The applicable fee will take effect immediately. YOU ARE RESPONSIBLE FOR THE TIMELY PAYMENT OF ALL FEES AND FOR PROVIDING PROTO WITH VALID CREDIT CARD OR PAYMENT ACCOUNT DETAILS FOR PAYMENT OF ALL FEES. If Proto is unable to successfully charge your credit card or payment account for fees due, Proto reserves the right to revoke or restrict access to your stored content, delete your stored content, or terminate your Account. If you want to designate a different credit card or payment account or if there is a change in your credit card or payment account status, you must change your information online in the Account information section of Proto Cloud; this may temporarily disrupt your access to the Services while Proto verifies your new payment information. We may contact you via email regarding your account, for reasons including, without limitation, reaching or exceeding your storage limit.

c. Credit Consumption. Services are billed in Credits according to the applicable App or Service Rate Card, including any stated rounding rules, and all Credits purchased, consumed, or re-credited are tracked through the Credit Ledger displayed in the customer dashboard, which will serve as the system of record subject only to correction for manifest error. Certain features depend on third-party vendors, and required changes imposed by those providers may affect Credit consumption; Proto will provide 10 days prior notice of any material increases. As between the parties, the customer retains all rights in its inputs, and PROTO grants the customer the applicable license rights in any resulting outputs as set forth in the Media Services & EULA, which is hereby incorporated by reference.

d. Effects of Cancellation. You may not be able to access your Proto Cloud account or create any more Proto Cloud backups or use certain features unless you have a current Proto Cloud Account.

4. 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

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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.

### 5. 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

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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.

### 6. 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.

### 7. 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.

## 8. 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.

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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.

9. 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.

10. 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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YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE SERVICE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. PROTO AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. IN PARTICULAR, PROTO AND ITS AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS MAKE NO WARRANTY THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS; (II) YOUR USE OF THE SERVICE WILL BE TIMELY, UNINTERRUPTED, SECURE OR ERROR-FREE; (III) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF THE SERVICE WILL BE ACCURATE OR RELIABLE; AND (IV) ANY DEFECTS OR ERRORS IN THE SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICE WILL BE CORRECTED.

PROTO DOES NOT REPRESENT OR GUARANTEE THAT THE SERVICE WILL BE FREE FROM LOSS, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING, OR OTHER SECURITY INTRUSION, AND PROTO DISCLAIMS ANY LIABILITY RELATING THERETO.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE, COMPUTER, OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. YOU FURTHER ACKNOWLEDGE THAT THE SERVICE IS 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 SERVICE COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

### 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.

11. 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 13.6 "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.

## Proto Cloud Terms and Conditions

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).