

## Prosocial Applications Terms of Service

**Last Updated: June 29, 2020**

Prosocial Applications, Inc. (“Prosocial,” “we” or “us” or “our”), together with its subsidiaries including Smart Health Records, Inc. (“SHARE”), owns and operates a public website, (including any subdomains and mobile versions thereof, the “Site”), a health information exchange and telehealth cloud platform (“Platform”) Platform technology, services and mobile and web computer applications (“Apps”) (collectively “Services”) available to users by subscription (“Subscription”). In order to access and use the Site or Services you must accept the following Terms of Service (the “Terms”) without modification.

PLEASE READ THE FOLLOWING TERMS, AS THEY CONSTITUTE A BINDING LEGAL AGREEMENT BETWEEN YOU AND PROSOCIAL. BY ACCESSING OR BROWSING THE SITE OR OTHERWISE ACCESSING OR USING THE SERVICES, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS AND BY OUR PRIVACY POLICY WITHOUT MODIFICATION. IF YOU DO NOT AGREE TO THE TERMS, THEN YOU MAY NOT USE THE SITE OR THE SERVICES.

Prosocial reserves the right to change or modify these Terms or any policy or guideline of the Site, Services, or Subscriptions at any time. Any changes or modification will be effective immediately upon posting of the revisions on the Site or through the Services, and you waive any right you may have to receive specific notice of such changes or modifications. Your continued use of the Site, Services or Subscriptions following the posting of changes or modifications will confirm your acceptance of such changes or modifications. If the modifications or changes are not acceptable to you, your only option is to stop using the Site, Services or Subscriptions and uninstall and delete data associated with any application contained in the Services from any computers or devices on which you have it installed.

### 1. Definitions

1.1. “**Credentials**” means passwords, tokens, answers to secret questions, and other measures implemented by Prosocial to recognize and authenticate Users authorized to access the contents of a Record and to protect the security, privacy and integrity of User Data and Record Contents.

1.2. “**Distributors**” means third parties (e.g., husband of a breast cancer patient, a dentist, physician or regional health information exchange involved in patient care) that contract with Prosocial to make Services available to Record Owners (e.g., a breast cancer patient) and the Users she has authorized to access contents of her Record (e.g., her husband, dentist, primary-care doctor and oncologist).

1.3. “**Group Data**” means aggregated statistical information that cannot be attributed to particular Record Owners or Users due to the absence of personal identifiers or Protected Health Information and is otherwise anonymized in accordance with applicable legal requirements and best practices.

1.4. **“Protected Health Information (or PHI)”** means the data of a Record Owner and of all other Users she has authorized to access her Record, which have the definitions ascribed to them in the HIPAA Privacy Rule at 45 CFR Part 160 and Subparts A and E of Part 164.

1.5. **“Record”** means a personal health record, possibly stored in the internet cloud, which Prosocial supplies under brand names including “RK360™ Cloud Health Record,” “RedKangaroo® 360 Record,” “SmartPHR®,” “SmartPHR® Health Aware™ Mobile App,” “SmartPHR® Cancer Aware™ Mobile App,” “SmartPHR® Fit Aware™ Mobile App,” “SmartPHR® Heart Aware™ Mobile App,” and “SmartPHR® Kids Aware™ Mobile App.”

1.6. **“Record Administrator”** means a User with the highest level of Record Permissions, who controls access by all other Users to the Record and the usage and disposition of Record Content. The Record Administrator may be an adult Record Owner, the designated personal representative of an adult Record Owner, the parent or guardian of a minor Record Owner or of an incapacitated adult Record Owner, or the individual assigned medical power of attorney for the Record Owner.

1.7. **“Record Content”** means the contents of a Record including information that the Record Owner, Record Administrator and other Users have entered, uploaded, and updated online or via mobile devices (e.g., demographics, photos, health insurance policies), have exported to or imported from electronic medical record and other information systems (e.g., clinical summaries), have requested automation of such export or import, or have synchronized with remote monitoring devices for data export and import (e.g., data streams from activity monitors).

1.8. **“Record Owner”** means the person whose health-related information is stored in a Record.

1.9. **“Record Permissions”** means the specific set of permissions for a User’s access to a Record, which the Record Owner has authorized directly herself or indirectly via her Record Administrator.

1.10. **“Services”** means the Site, the personal health records, mobile device applications or mobile apps, user interfaces, application programming interfaces (APIs), software platforms, databases, web applications and hardware devices made available by Prosocial.

1.11. **“Services Data”** means data that Prosocial automatically collects in order to implement Services, including data related to Users’ computers and mobile devices and usage of Services.

1.12. **“Site”** means the corporate website, [www.redkangaroo.us](http://www.redkangaroo.us), and other related websites where Prosocial offers Services.

1.13. **“Users”** means persons, including healthcare consumers, family caregivers, and patients who subscribe to RK360 Patient Apps and are Record Owners or Record Administrators of RK360 Cloud Health Records and healthcare providers who subscribe to RK360 Provider Apps.

1.14. **“User Data”** means information that points to particular Users due to the inclusion of personal identifiers such as name, address, birth date, or photograph or of professional identifiers such as NPI registration number.

## 2. Beta Version and Changes to Services

2.1. **Beta Version.** You hereby acknowledge that if you have been so notified, and have agreed to serve as a “Beta Tester,” that you may be accessing a version of RK360 Apps or other Platform Services (“**Beta Version**”) that are undergoing beta testing. You understand and agree that the Beta Version may still contain software bugs, suffer disruptions and not operate as intended or designated. Your use of the Beta Version signifies your understanding of and agreement to participate in the testing of the Beta Version. You agree to provide information about bugs and errors encountered in the use of the Beta Version to Prosocial in a timely manner at no charge to Prosocial and not to claim any right, including, but not limited to, any right under patent law and copyright law, with respect to correction or modification of the Beta Version or Services which Prosocial may make using information provided from you. Prosocial reserves the right to discontinue the Beta Version without notice at any time for any reason including, but not limited to launching of or discontinuing a development of a commercial version of the Services. You agree not to claim any damages with respect to discontinuance of access to the Beta Version. You agree that you do not have any right to a future non-Beta commercial version of the Services, if the commercial version of the Services is launched, unless otherwise designated explicitly in writing by Prosocial.

### 2.2. Changes to Services.

Prosocial is not obligated to maintain or support the Services, or to provide you with updates, upgrades or services related thereto. You acknowledge that Prosocial may from time to time in its sole discretion, issue updates or upgrades to the Services, and may automatically update or upgrade the version of the Services that you are using on your computer or device, either automatically or as a result of your request. These updates or upgrades may be designed to fix bugs, security issues, improve performance, add, remove, or update functionality, and generally improve the Services. Prosocial reserves the right to discontinue the Services with or without notice to you. You consent to such updating or upgrading on your computer or device. If you object to any such changes, your sole recourse shall be to cease using the Services. Continued use of the Services following notice of any such changes shall indicate your acknowledgement of such changes and satisfaction with the Services as so modified.

## 3. User Representations, Rights and Responsibilities

3.1. **Representations and Covenants.** By accessing or using the Site, the Apps, or other Services, you expressly represent and warrant to Prosocial that:

- You have the right, authority and capacity to enter into these Terms and to abide by the terms and conditions of these Terms.
- This Site, including the Services, are not intended for children under the age of 18. If you are under the age of 18, please do not use or access this Site or Services at any time or in any manner. By using this Site and the Services, you affirm that you are over the age of 18. We do not seek through this Site or the Services to gather personal information from or about persons under the age of 18 without the consent of a parent or guardian.

- You accurately supply and update your personal identifiers (e.g., name, birthdate, and mobile phone number).
- If applicable, you accurately supply and update professional identifiers (e.g., your NPI registration number, your business address and phone number) and professional credentials (e.g., your state licenses, board certification and health insurance plan affiliations). When requested, you supply relevant documentation.
- When subscribing to the Services as a healthcare consumer, you accurately represent your status as a Record Owner, as a Record Administrator acting on your own behalf, or as a Record Administrator acting as personal HIPAA representative on behalf of another Record Owner.
- When subscribing to the Services as a Record Administrator acting as personal HIPAA representative on behalf of another Record Owner, when requested, you supply Medical Power of Attorney or other evidence of your role.
- You do not use aliases to create multiple Records, Subscriptions or Credentials for real and/or bogus Users.
- You do not authorize others to employ your User authorization, status or Record Permissions, and you do not assign or otherwise transfer your Credentials, Record Permissions, or Record to any other person or entity.
- You agree to comply with all applicable laws from your home nation, the country, state and city in which you are present while using the Services.
- You only access the Services using authorized means.
- You always check to ensure you download the correct, most recent versions of web and mobile Apps. Prosocial is not liable if you do not have a compatible computer, device or handset or if you have downloaded the wrong version of Apps for your computer, device or handset. Prosocial reserves the right to terminate the Services should you be using the Services with an incompatible or unauthorized computer, device or handset.
- You only use the Services for lawful purposes; you do not use the Services for sending or storing any unlawful material or for fraudulent purposes.
- You do not use the Services to cause nuisance, annoyance or inconvenience to any person or entity.
- You do not try to harm the Site or the Services in any way or to impair the proper operation of the Prosocial's servers or network.
- You keep secure and confidential your password, Credentials, or any identification we give you which allows access to the Services.
- You give us with whatever proof of identity we may reasonably request.

- If you access the Services from a mobile device, you may incur additional message or data charges. Please contact your mobile service provider for more information.
- By registering for the Services, you agree to: (i) provide accurate, current and complete User Data; (ii) maintain the security of your User Data and Credentials; (iii) maintain and promptly update any User Data that you provide to us in order to keep it accurate, current and complete; (iv) immediately notify us of any unauthorized use of your password, Credentials, Record Permissions, or Record, or any other breach of security, (v) access Records consistent with your Record Permissions; (vi) ensure that you log out from a Record at the end of each session.
- You acknowledge and agree that you shall be solely liable for all activities with respect to the use of the Services by any third party who accesses the Services using your Credentials. Prosocial will not be liable for any loss or damage arising from your failure to comply with this section, and your Credentials, User Data, and Record Permissions may be deleted or suspended without warning if we have reason to believe that you do not meet eligibility requirements.

**3.2. Credentials** Prosocial enrolls individuals as Users only after issuing them with Credentials based on User Data that Prosocial requests and Users supply. It is each User's responsibility to respond to Prosocial's requests for User Data and for Credentials while preventing unauthorized third parties from accessing User Data or Credentials. Users must access Services periodically to avoid permanent cancellation of Credentials and deletion of User Data. Prosocial will prompt Users to login after prolonged periods of absence and Prosocial will assist Users in resetting passwords and Credentials but does not guarantee that Users will avoid cancellation of Credentials and Record Permissions or deletion of User Data and Record Content.

**3.3. Record Access by Distributors and Corporate Entities** Whether Record Owners or duly authorized Record Administrators subscribe directly to Services or are enrolled by Distributors, such as healthcare providers, Record Administrators control access to Record Content. When Distributors are individual persons, they may not access Records unless they agree to these Terms and Record Administrators grant them Record Permissions. When Distributors are corporate or government healthcare or health insurance or other entities, they may not access Records except if they identify individual corporate or government representatives who agree to these Terms and to whom Record Administrators grant Record Permissions. Distributors may not supply Records to Record Owners and assign corporate or government representatives as Record Administrators before Record Owners (or their personal representatives if Record Owners are minors or incapacitated adults) have an opportunity to select Record Administrators who are not controlled or influenced by Distributors. This provision supersedes any HIPAA Business Associates Agreement or Notice of Privacy Practices of distributors and of corporate or government entities even if agreed to by patients or their personal representatives.

**3.4. Record Permissions** It is the responsibility of Distributors, Record Owners and Record Administrators to select trusted Users for Record Permissions, grant them

suitable permissions, review Audit Reports, change or remove User permissions as needed, promptly report User misconduct to Prosocial and the appropriate authorities, and take all necessary actions to remedy User misconduct and prevent additional misconduct. This provision supersedes any HIPAA Business Associates Agreement or Notice of Privacy Practices of distributors and of corporate or government entities even if agreed to by patients or their personal representatives.

**3.5. Protection of User Data.** Users are responsible for protecting the security and privacy of User Data. Prosocial reserves the right to review User actions for protection of the security and privacy of their own and others' User Data, to remove Credentials and Record Permissions of Users in breach of these Terms, and otherwise to enforce these Terms.

**3.6. Creating Record Content** Users, consistent with their Record Permissions, control and are responsible for Record Content they have authorized for import from other sources or have entered, updated, altered, annotated or removed from Records. Prosocial claims no ownership of Record Content, except for Record Content created or copyrighted by Prosocial. Users represent and warrant that for the duration of these Terms, they have all rights necessary for Record Content and that use of Record Content does not violate any law. Users who introduce Record Content, such as spam or viruses, which jeopardizes others' safety, security, privacy or intellectual property rights, threatens the privacy, security, or functionality of Services or is prohibited by applicable government rules and regulations are in breach of these Terms. Prosocial reserves the right to review Record Content for purposes of enforcing these Terms, block and remove prohibited Record Content, remove access permissions of Users in violation of these Terms, and otherwise enforce these Terms.

**3.7. Sharing Record Content** Users are responsible for controlling access to their own Records and for properly exercising Record Permissions on others' Records. Users who share others' User Data and Record Content in public forums and Users who employ their access to Services to infringe on others' safety, security, privacy or intellectual property rights, thereby breach these Terms.

**3.8. Data Outages** Services offered by Prosocial may experience unexpected or planned outages to improve services and functionality. In case of such outages Prosocial will not be liable in anyway due to the lack of access to the offered services.

**4. Data Protection** As described further in our Privacy Policy, Prosocial takes reasonable measures to protect the security and privacy of data, including User Data and Record Content, from unauthorized access, disclosure, or use in ways such as the following (provided, however, that these security measures may change in the sole discretion of Prosocial, provided that Prosocial will not materially reduce the security measures in place to protect User Data or Record Content):

## **5. Termination or Cancellation of Services**

**5.1. Usage of Services** If Users stop usage of Services, at any time for any reason, and allow their Credentials to expire through prolonged inactivity, Prosocial may terminate Users' access to Services.

**5.2. Record Termination by Users** Record Administrators may close the Records they administer for themselves or for other Record Owners, at any time for any reason, employing methods that Prosocial supplies for exporting Record Content to external storage devices and requesting deletion of User Data and Record Content from Prosocial's servers. Following Record Termination by Users, Prosocial may retain Group Data related to closed Records.

**5.3. Access Termination** Upon termination of a User's access to Services, by the User or by Prosocial, the User's right to access Services and Records stops immediately. Prosocial may delete the User's User Data and Record Content from its servers and has no obligation to return any information including User Data and Record Content to the User. Following Access Termination, Prosocial may retain the Audit Logs of terminated Users and Group Data related to terminated Users.

**5.4. Record Termination or Suspension by Prosocial** Prosocial reserves the right to suspend or terminate any Record upon one of the following events:

5.4.1. A material breach of these Terms (other than the payment of amounts due hereunder) and the User or Distributor fails to cure such breach within ten (10) calendar days after written notice of the breach;

5.4.2. A failure by the User or Distributor to pay any amounts due to Prosocial under these Terms or otherwise;

5.4.3. With respect to any User or Distributor, the occurrence of an action in bankruptcy, an assignment for the benefit of creditors, the appointment of a receiver or trustee or the liquidation of all or substantially all of its assets or Prosocial determines that the User or Distributor is not creditworthy;

5.4.4. Upon a determination by any governmental authority with jurisdiction over the parties that any provision of these Terms is contrary to existing laws, rules or regulations;

5.4.5. The passage of adoption of any law, rule or regulation that in the reasonable judgment of Prosocial will make it materially more expensive or difficult to provide Services under these Terms.

Prosocial may take action against Users who are in breach of these Terms including, without limitation, cancellation of Credentials; suspension, termination or deletion of a Record; deletion of User Data and Record Contents; denial of access to Services; or referral to the proper authorities.

## **6. Intellectual Property; License to Service.**

All right, title and interest including, but not limited to, copyright and other intellectual property rights in and to the Services (including but not limited to all html, asp, aspx, dll, graphic/image, and text files) are owned by Prosocial. Such rights are protected by United States copyright laws, other applicable patent laws, copyright laws, and international treaty provisions. Prosocial retains all rights not expressly granted herein.

Subject to your compliance with these Terms, Prosocial hereby grants you a revocable, non-exclusive, non-transferable, non-sublicenseable license to access and use the Services and to install and use the executable form of any applications contained in the

Services on computers or devices which are owned or controlled by you. This license is revocable at any time

You will not use, copy, adapt, modify, prepare derivative works based upon, distribute, license, sell, transfer, reverse engineer, decompile, publicly display, publicly perform, transmit, stream, broadcast or otherwise exploit the Site, the Services, the User Data or Record Content, except as expressly permitted in these Terms. No licenses or rights are granted to you by implication or otherwise under any intellectual property rights owned or controlled by Prosocial or its licensors, except for the licenses and rights expressly granted in this Agreement. Prosocial reserves the right to refuse permission to use the Services to any individual or company for any reason and may do so without notice. You may not delete, alter or remove any copyright notices, including any references to “Prosocial,” “Prosocial Applications, Inc.,” “Smart Health Records,” “SHARE,” “Red Kangaroo 360,” “RK360,” “SmartPHR,” “Cancer Aware,” “Fit Aware,” “Heart Aware,” or “Kids Aware,” in any of the source code, such as those in asp/asp.net scripts. Any use of the Site or the Services other than as specifically authorized in these site terms, without our prior written permission, is strictly prohibited and will terminate the license granted in these site terms. Such unauthorized use may also violate applicable laws.

You reserve all rights over any Record Content that you own or for which you have a license (other than Feedback, as defined and described in the section entitled “Feedback” below). In order to allow Prosocial to adequately operate and provide the Services, you grant to Prosocial a worldwide, non-exclusive, fully paid, royalty-free, sublicenseable, and transferable license to use, reproduce, distribute, prepare derivative works of, display, and perform your Record Content for the purpose of operating the Site and the Services and Prosocial’s (and its successor’s) business; provided that such use is in accordance with U.S. federal and state law, including HIPAA. You may terminate this license with respect to any Record Content posted by you on the Site of which you are the owner by deleting the information from the Site. Otherwise, such license will be perpetual and irrevocable.

**7. Disclaimer and Limitation of Liability for Damages.** EXCEPT AS PROVIDED IN THIS PARAGRAPH, THE SITE, ANY THIRD PARTY CONTENT, RECORD CONTENT, USER DATA, AND ALL SERVICES ARE DELIVERED “AS IS” AND WITHOUT WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OR CONDITION OF TITLE. IN NO EVENT SHALL PROSOCIAL BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR INTERRUPTION OF BUSINESS, WHETHER SUCH DAMAGES ARE ALLEGED IN TORT, CONTRACT, INDEMNITY, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN APPRISED OF THE POSSIBILITY OF SUCH DAMAGES. The foregoing limitations include and apply to, without limitation, any liability arising out of the performance or failure to perform of any hardware, software, or Internet connection, from any errors, omissions, interruptions in or failure to provide Internet service; from interruptions in web page availability; from the consequences of computer viruses transferred over the Internet or otherwise; or from communication line failure, breach of



security due to use of the Internet, or any loss of information or confidentiality due thereto.

IF ANY PART OF THIS LIMITATION OF LIABILITY IS FOUND TO BE INVALID, ILLEGAL OR UNENFORCEABLE FOR ANY REASON, THEN THE AGGREGATE LIABILITY OF PROSOCIAL UNDER SUCH CIRCUMSTANCES TO YOU OR ANY PERSON OR ENTITY CLAIMING THROUGH YOU FOR LIABILITIES THAT OTHERWISE WOULD HAVE BEEN LIMITED WILL NOT EXCEED ONE HUNDRED U.S. DOLLARS.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR CERTAIN TYPES OF DAMAGES. ACCORDINGLY, SOME OF THE ABOVE DISCLAIMERS OF WARRANTIES AND LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

Further, you acknowledge that you may have or may in the future have claims against us which you do not know or suspect to exist in your favor when you agreed to these Terms and which if known, might materially affect your consent to these Terms. You expressly waive all rights you may have under Section 1542 of the California Civil Code, which states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

IF THIS CLAUSE IS HELD TO BE UNENFORCEABLE IN WHOLE OR IN PART IN ANY JURISDICTION DUE TO RELEVANT LAWS, THEN IN NO EVENT SHALL PROSOCIAL'S TOTAL LIABILITY TO YOU EXCEED \$100.00. NOTHING IN THIS CLAUSE SHALL LIMIT OR EXCLUDE ANY LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM NEGLIGENCE.

**8. Indemnification.** Each User, Record Owner, Record Administrator, and Distributor (each, an "**Indemnifying Party**") will defend, indemnify, and hold harmless Prosocial, its affiliates, directors, licensors, employees, and agents harmless from and against any claim, action, proceeding, loss, cost, expense, damages, and liability, including reasonable attorneys' fees, arising from:

- 8.a. The Indemnifying Party's access to, use of or other actions relating to the Services and/or
- 8.b. The Indemnifying Party's breach of any provision of these Terms; and
- 8.c Any User Data or Record Content provided by the Indemnifying Party.

## **9. No Medical Advice**

The Services include no provision of medical or healthcare advice or directions and are not intended to be and should not be used in place of the advice of your physician or other medical professionals or a visit, call or consultation with your physician or other medical professionals. You should never disregard medical advice or delay in seeking medical advice because of any content or information presented on this site, and you

should not use our content for diagnosing or treating a health problem. If you have any concerns about your health, you should always consult with a physician or other health-care professional. Users are responsible for consulting with qualified healthcare providers before drawing any conclusions based on information they access via the Services.

Although the Services may allow the User to monitor symptoms, physical findings and laboratory results, and to visualize temporal correlation to medications, supplements and life-style choices, there is no intent to provide medical advice or directions. Any conclusions drawn by the User from this data need to be discussed with the User's health care provider(s) before implementing any actions or changes in actions.

The transmission and receipt of User Data or Record Content, in whole or in part, or communication via the internet, e-mail or other means does not constitute or create a doctor-patient, therapist-patient or other healthcare professional relationship between you and us.

Reference to any Provider, product, recording, event, process, publication, service, or offering of any third party by name, trade name, trademark, service mark, company name or otherwise does not constitute or imply the endorsement or recommendation of such by Prosocial or SHARE. Any views expressed by third parties on the Site or Services are solely the views of such third party and we assume no responsibility for the accuracy or veracity of any statement made by such third party.

**10. Copyright Complaints.** In the event that you find content posted on our Site or Services which you believe to be an infringement of the copyright ownership or other intellectual property rights of your company or any third party, you are requested to immediately contact the Company. To report any alleged infringement, please contact us in writing by providing a signed statement containing the following information pursuant to the Digital Millennium Copyright Act ("**DMCA**"):

- 1) Your name, address, telephone number, and email address, and if you are acting on behalf of the owner of the intellectual property, the name of the owner;
- 2) a statement, made under penalty of perjury, that you are the owner of the copyright or are authorized to act on behalf of the owner;
- 3) a detailed description of the copyrighted work or other intellectual property that you claim has been infringed;
- 4) if your claim is based on a registered work, the registration number, and the date of issuance of the registration;
- 5) a description of the infringing material and the URL where such material is located on the Site or Services, or a description of where on our Site or Services you found such material;
- 6) your written statement that you believe, in good faith, that the use of the work on our Site or Services has not been authorized by the true owner of the work, its agent, or as a matter of law; and
- 7) a statement that all of the information you have provided is true.

Please send your notice of alleged infringement to the following:

By Postal Mail:

Prosocial Applications

1905 15th St. #4585

Boulder CO 80302-4585

United States

Attn: Legal Department

By email:

legal@redkangaroo.com

Prosocial may give notice of a claim of copyright infringement to our Users by means of a general notice on the Site, electronic mail to a User's email address in our records, or by written communication sent by first-class mail to a User's address in our records. In accordance with the DMCA, we may terminate use of our Site or Services by repeat infringers in appropriate circumstances.

**11. Feedback.** Any comments or materials sent to Prosocial including feedback data, such as questions, comments, suggestions, or the like regarding the Site, the Service, the Record, the App or any other products or programs of Prosocial (collectively "Feedback"), shall be deemed to be non-confidential. Prosocial shall have no obligation of any kind with respect to such Feedback and shall be free to reproduce, use, disclose, exhibit, display, transform, create derivative works and distribute the Feedback to others without limitation. Further, Prosocial shall be free to use any ideas, concepts, know-how or techniques contained in such Feedback for any purpose whatsoever, including but not limited to developing, manufacturing and marketing products incorporating such Feedback. The foregoing does not apply to any materials posted in your Record.

**12. Miscellaneous.**

12.1. These Terms and the relationship between the parties hereto will be governed by the laws of the State of Colorado, United States of America.

12.2. Unless otherwise provided herein, any claim or controversy arising out of or relating to these Terms or its breach shall, upon the request of any party involved, be submitted to and settled by a sole arbitrator in Colorado, in accordance with the rules of the American Arbitration Association. The decision made pursuant to arbitration shall be rendered within sixty (60) days of submission to arbitration and shall be binding and conclusive on all parties involved; and judgment upon that decision may be entered in the highest court of any forum, federal or state, having jurisdiction. In the event that any arbitration proceeding is brought forth to enforce or interpret these Terms, the prevailing party shall be entitled to collect from the other party its expenses and reasonable arbitration fees exclusive of attorney fees. We each agree that any dispute resolution

proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any reason a claim proceeds in court rather than in arbitration, we each waive any right to a jury trial.

12.3. In the event a court of competent jurisdiction determines that any part or provision of these Terms is invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of these Terms.

12.4. The article and paragraph headings used herein are for reference purposes only and shall not in any way affect the meaning or interpretation of these Terms and the terms and provisions herein.

12.5. Under California Civil Code Section 1789.3, California users of our Site and Services are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Blvd., Sacramento, CA 95834, or by telephone at (916) 445-1254 or (800) 952-5210.

12.6. You agree that Prosocial may communicate with you electronically regarding your use of the Services and that any notices, agreements, disclosures or other communications that Prosocial sends to you electronically will satisfy any legal communication requirements, including that the communications be in writing. To withdraw your consent from receiving electronic notice, please notify Prosocial at [support@redkangoo.us](mailto:support@redkangoo.us).

12.7. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of our Service or relating to these Terms of Use must be filed within one (1) year after such claim or cause of action arose or be forever barred.

12.8. No agency, partnership, joint venture, or employee-employer relationship is intended or created by these Terms of Use.

12.9 We will not be liable for any failure or deficiency in the performance or availability of the Site or Services by reason of the occurrence of any event beyond our reasonable control, including without limitation, a labor disturbance, an Internet outage, interruption of service, communication outage, failure by our service provider(s), fire, terrorism, natural disaster, or war.

**12.10. These Terms, including any exhibits attached hereto, sets forth the entire agreement and understanding of the parties hereto and supersedes and merges any and all prior proposals, negotiations, representations, agreements, arrangements or understandings, both oral and written, relating to the subject matter hereof. The parties hereto have not relied on any proposal, negotiation or representation, whether written or oral, that is not expressly set forth herein.**