

## Terms Of Service

### MyGeni's Terms of Service

Effective Date: November 1, 2008

#### Introduction

Welcome to Mygeni.org, the new generation in social networking where users can stay in touch with their friends, family and meet like minded people and effect change in the world around them ('Mygeni Service'). MyGeni.org is operated by MyGeni, Inc. ('MyGeni') and may be accessed through the Internet Mobile Internet and through WAP services provided by certain mobile network providers. By using the MyGeni Service you accept and agree to be bound by the following terms and conditions (the 'Terms of Service'). Where applicable under law, these Terms constitute a 'writing signed by you.'

#### Changes to MyGeni.org and the Terms of Service

We reserve the right, at our sole discretion, to change, modify, add, or delete portions of these Terms of Service at any time without further notice. If we do this, we will post the changes to these Terms of Service on this page and we may send registered users an email notifying you of the change. IF ANY MODIFICATION IS UNACCEPTABLE TO YOU, YOU MAY STOP USING THE MYGENI SERVICE. YOUR CONTINUED USE OF THE MYGENI SERVICE FOLLOWING OUR POSTING OF A CHANGE NOTICE OR NEW AGREEMENT ON OUR SITE OR RECEIVING OUR EMAIL NOTIFYING YOU OF THE CHANGE WILL CONSTITUTE YOUR BINDING ACCEPTANCE OF THE CHANGE.

#### Eligibility and Registration

You must be 13 years or older to use the MyGeni Service. By registering for the MyGeni Service, you represent and warrant that you are 13 or older and that you have the capacity to understand, agree to and comply with these Terms of Service. You should provide true, accurate and complete registration information to be a MyGeni.org member ('Member'). As part of the registration process, you will be asked to select your password and you will be responsible for all activities occurring under this password and for keeping your password secure. We may refuse to grant you access if you impersonate someone else, or may be violating a protected trademark or proprietary rights law, or is vulgar, offensive or otherwise inappropriate, as determined by us in our sole discretion.

#### Member Conduct and Appropriate Content

The MyGeni Service is made available for your personal, and commercial use only. You may not use the MyGeni Service for any illegal or unauthorized purpose. International users agree to comply with all local rules regarding online conduct and acceptable content, including laws regulating the export of data from the United States or your country of residence. You are solely responsible for your conduct and any data, text, information, graphics, photos, profiles, audio and video clips, links and other content ('Materials') that you submit, post, and display on the MyGeni.org Service.

We may, but shall have no obligation to, remove Materials that we determine in our sole discretion are unlawful, fraudulent, threatening, libelous, defamatory, obscene or otherwise objectionable, or infringes or violates any party's intellectual property or other proprietary rights or these Terms of Service. Further, under no circumstances does MyGeni have any obligation to check the accuracy or truthfulness of the any Materials, nor to monitor any Member's use of the MyGeni Service.

## CONDITIONS FOR USE

You agree to abide by all applicable local, state, national and international laws and regulations and are solely responsible for all acts or omissions that occur under your account made by you including the content of your transmissions through the MyGeni Service. By way of example, and not as a limitation, you agree NOT to:

- \* Defame, abuse, harass, stalk, threaten or otherwise violate the rights (such as rights of privacy and publicity) of others.
- \* Publish, distribute and/ or disseminate any harmful, obscene, indecent, unlawful, libelous, profane, defamatory, infringing, inappropriate, hateful, or racially, ethnically or otherwise objectionable material or information.
- \* Use other Members' personal data for purposes other than establishing contact that is reasonably expected to be welcomed by such other Members
- \* Submit Materials that are unlawful or promote or encourage illegal activity or that would violate the property rights of others.
- \* Submit Materials of any third party without such third party's prior written consent, or Materials that falsely express or imply that such Materials are sponsored or endorsed by MyGeni.org
- \* Create a false or misleading identity of, including, but not limited to, a MyGeni employee, or falsely state or otherwise misrepresent your affiliation with a person

or entity, for the purpose of misleading others as to the identity of the sender or the origin of a message or to harvest or otherwise collect information about others.

- \* Transmit, email or post any material that contains in any form software viruses or such programs as including but not limited to, Trojan horses, worms, time bombs, cancel-bots, computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment.

- \* Use the MyGeni Service in any unlawful manner or in any other manner that could damage, disable, overburden or impair the website.

- \* Attempt to gain unauthorized access to the MyGeni Service, other accounts, computer systems or networks connected to the MyGeni Service, through password mining or any other means.

- \* Modify, adapt, translate, or reverse engineer any portion of the MyGeni Service, or use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the MyGeni.org Service.

- \* Reformat or frame any portion of the web pages that are part of the MyGeni.org Service.

- \* Disseminate content that infringes any patent, trademark, trade secret, copyright, rights of privacy or publicity, or other proprietary right of any party or infringes any intellectual property law or any other applicable law.

- \* Remove any copyright, trademark or other proprietary rights notices contained in or on the MyGeni Service.

- \* Disseminate any unsolicited or unauthorized advertising, promotional materials, 'junk mail', 'spam', 'chain letters', 'pyramid schemes', or any other form of such solicitation.

- \* Interfere with another Member's use and enjoyment of the MyGeni Service.

- \* Harvest or collect email addresses or other contact information of Members, including usernames, from the MyGeni website by electronic or other means.

- \* Have multiple accounts in order to falsify your credibility and earn additional Wishes on you account with false screen impressions.

## Proprietary Rights

MYgeni does not claim any ownership rights in any Materials that you submit, post, or display on or through the MyGeni Services or on the MyGeni.org Web site. After submitting, posting or displaying Materials on or through the MyGeni Services or on the MyGeni.org Web site, you continue to retain all ownership rights in such Materials, and you continue to have the right to use your Materials in any way you choose. By submitting, posting or displaying any Materials on or through

the MyGeni Service, you hereby grant to MyGeni a limited license to use, modify, publicly perform, publicly display, reproduce, and distribute such Materials solely on and through the MyGeni Service according to the levels of privacy attached to such content.

Without this license, MyGeni would be unable to provide the MyGeni Service. For example, without the right to modify your Materials, MyGeni would not be able to digitally compress music files that you or other Members submit or otherwise format Materials to satisfy technical requirements, and without the right to publicly perform Materials, MyGeni could not allow users and Members to listen to music posted by Members. The license you grant to MyGeni is non-exclusive (meaning you are free to license your Materials to anyone else in addition to MyGeni), fully-paid and royalty-free (meaning that MyGeni is not required to pay you for the use on the MyGeni Service of the Materials that you post), sub licensable (so that MyGeni is able to use its affiliates and subcontractors such as Internet and WAP content delivery networks to provide the MyGeni Service), and worldwide (because the Internet and the MyGeni Service are global in reach). This license will terminate at the time you remove your Materials from the MyGeni Service, except that you agree that the license will continue solely with respect to other Members' continued use of your Materials that are not music or videos (i.e. photos or articles); provided, however if you remove any of the Materials from the MyGeni Service, MyGeni reserves the right to remove all of your Materials from other Member's pages. The license does not grant MyGeni the right to sell your Materials, nor does the license grant MyGeni the right to distribute your Materials outside of the MyGeni Service. You represent and warrant that: (i) you own the Materials posted by you on or through the MyGeni Service or otherwise have the right to grant the license set forth in this section, and (ii) the posting of your Materials on or through the MyGeni Service does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person. You agree to pay for all royalties, fees, and any other monies owing any person by reason of any Materials posted by you to or through the MyGeni Service.

MyGeni, Inc. and its affiliates and licensor's own and retain all rights in the MyGeni.org Web site and MyGeni Service, which contain proprietary and confidential information that is protected by applicable intellectual property and other laws, including without limitation all (1) text, (2) software, (3) photographs, (4) graphics, (5) page layout, and (6) design presented through and as part of the MyGeni Service by MyGeni.org. Except as expressly authorized by MyGeni.org, you may not copy, modify, publish, transmit, distribute, perform, display or sell any of

MyGeni's proprietary information. 'MyGeni' and 'MyGeni.org' are trademarks of MyGeni, Inc.

## Wish account

MyGeni will at its sole discretion allocate the appropriate wishes to your wish account that it deems are accurate. At the end of each monthly period this will be adjusted to meet the exact % revenue generated per page impression. MyGeni's wish is linked to the Euro and there is a 1 to 1 ration which shall not fluctuate. MyGeni grants you permission to withdraw all or some of your wishes accumulated in your account. This may be transfered into any bank account you so choose. You may also transfer Wishes to another persons account for goods or services acquired. MyGeni will not be held liable for any discrepancies within these accounts and these accounts do not accrue interest whatsoever. You may not use the MyGeni service to launder money of any nature and if MyGeni suspects you of doing so you will have your account frozen and all money confiscated by MyGeni and reported to your local authority.

## Privacy Policy

We take your privacy very seriously and collection and use of personal information is governed by our Privacy Policy. [Click here](#) to review the MyGeni.org Privacy Policy.

## Copyright Policy

You may not post, modify, distribute, or reproduce in any way any copyright material, trademarks, or other proprietary information belonging to others without obtaining the prior written consent of the owner of such proprietary rights. MyGeni respects the intellectual property rights of others and will terminate any user's access to the MyGeni.org website according to these terms of use if MyGeni is notified that such user's activities infringe the rights of third parties on more than one occasion. If you believe that your work (or the work of a third party on whose behalf you are entitled to act) has been copied in a way that constitutes copyright infringement, please file a copyright infringement notification (Notice) with us, by sending a written communication which should include the following information, in the same order as is set out in (i) to (x) below:

(i) statement that you have identified material on the MyGeni.org website which infringes your copyright (or infringes the copyright of a third party on whose

behalf you are entitled to act, if applicable); (ii) a description of the copyrighted work that you claim has been infringed, which should include the type of work (such as a book or a sound recording) and any relevant further details (such as the title and date of publication, as applicable); (iii) the country or countries to which your copyright applies; (iv) a description of the way in which the copyright material has been infringed; (v) a description of where the material that you claim is infringing is located on the MyGeni.org web site (including a URL and/or screen shot); (vi) your address, telephone number, and email address so that we may get in contact with you; (vii) the contact details that you would like us to provide to the alleged infringer so that they may contact you directly, in order to attempt to resolve the complaint; (viii) a statement by you that you have a good faith belief that the disputed use of the copyright work is not authorized by the copyright owner (or by a third party who is legally entitled to do so on behalf of the copyright owner) and is not otherwise permitted by law; (ix) a statement by you, made under penalty of perjury, that the above information in the Notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf and (x) an electronic or physical signature (which may be a scanned copy) of the copyright owner.

Once you have completed the Notice, having included all of the information set out above, please send it to:

[Attn: MyGeni Copyright Infringement Notification]

Anthony Cohen

Fax: +27 (21) 462 4795

Email: [anthony@mygeni.org](mailto:anthony@mygeni.org)

If you are unsure as to your rights in respect of your copyright material, or whether there has been an infringement of your rights, we suggest that you take legal advice before sending a Notice to MyGeni. This 'notice and takedown' process is regulated by statute. There may be negative consequences if you falsely allege copyright infringement or send a Notice to MyGeni in bad faith.

If you believe that any material that you have uploaded on to the MyGeni.org website has been removed in error, or that the content in question does not infringe the copyright of any third party, you may file a counter-notice ('Counter-Notice') with us, by sending a written communication which should include the following information, in the same order as is set out in (i) to (iv) below:

(i) specific details of the material that has been removed or to which MyGeni has disabled access and the accompanying location of such material; (ii) your name, address, telephone number, email address and a statement that you will accept service from the person (or an authorized representative of such person) who provided MyGeni with the complaint in question; (iii) a statement by you that you believe (acting in good faith) that the material identified above was removed as a result of a mistake or incorrect identification of the material to be removed and (iv) an electronic or physical copy of your signature (which may be a scanned copy).

Once you have completed the Counter-Notice, having included all of the information set out above, please send it to:

[Attn: MyGeni Copyright Infringement Counter-Notification]

Anthony Cohen

Fax: +27 (21) 462 4795

Email: [anthony@mygeni.org](mailto:anthony@mygeni.org)

If you are unsure as to your rights in respect of your material, or whether there has been an infringement of copyright, we suggest that you take legal advice before sending a Counter-Notice to MyGeni. This 'notice and takedown' process is regulated by statute. There may be negative consequences if you make false allegations or send a Counter-Notice to MyGeni in bad faith.

#### Internet/WAP Access

MyGeni shall not be responsible for any connection or access to the MyGeni.org website by you or the quality of the transmission of any information passing between you and the website. You will be responsible for providing your own communications equipment to access the MyGeni.org website via the Internet or WAP service, and the Internet/WAP access charges thereon. You recognize that MyGeni shall not be responsible for any reduced functionality resulting from, or in connection with, your use of the MyGeni Service via WAP.

#### Termination of the MyGeni Service

These Terms of Service will apply to your use of the MyGeni Service. At any time, you can terminate your account which will remove your profile and other personal information from view. To cancel your account click [here](#). We may terminate your membership immediately at any time, for any reason. Once your membership

terminates, you will have no right to use the MyGeni Service. Our proprietary rights, disclaimer of warranties, indemnities, limitations of liability and miscellaneous provisions shall survive any termination of your membership.

MyGeni may also, in its sole discretion and at any time, discontinue temporarily or permanently providing the MyGeni Service, or any part thereof, with or without notice. You agree that any termination of access to the MyGeni Service under any provision of the Terms of Service may be effected without notice, and acknowledge and agree that MyGeni may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the MyGeni Service. Where possible, MyGeni will use reasonable efforts to give Members fair notice of termination or suspension of their access to the MyGeni Service. Further you agree that MyGeni shall not be liable to you or any third party for any termination or suspension of access to the MyGeni Service or modification of the MyGeni Service.

#### Disclaimer of Warranties

MyGeni, Inc. and its affiliates, licensor, partners, members, suppliers, employees, consultants and agents ('MyGeni') disclaim any and all responsibility or liability for the accuracy, content, completeness, legality, reliability, or operability or availability of information or Materials displayed on the MyGeni Service.

MyGeni further expressly disclaims (1) that the MyGeni Service will meet your requirements and will be uninterrupted, error-free, timely, or secure, (2) that defects or errors will be corrected, (3) that the MyGeni Service or the server that makes it available are free of viruses or other harmful components, and (4) that the use of or the results of the use of the MyGeni Service or the content made available as part of the MyGeni Service will be correct, accurate, timely, or otherwise reliable.

MyGeni expressly disclaims any and all responsibility and liability for the conduct of any other Member, and expressly disclaims that the content and Materials of the MyGeni Service input by other Members is correct or accurate.

MYGENI, ON BEHALF OF ITSELF, AND ITS LICENSEES, PROVIDES THE MYGENI SERVICE, AND ALL MATERIALS, INFORMATION (INCLUDING, WITHOUT LIMITATION, TEXT, GRAPHICS, LINKS OR ANY INFORMATION OR MATERIALS OBTAINED OR ACCESSED THROUGH THE MYGENI SERVICES), PRODUCTS, AND SERVICES INCLUDED THEREIN ARE PROVIDED 'AS IS,' 'WITH ALL FAULTS,' 'AS AVAILABLE,' WITH NO WARRANTIES WHATSOEVER. MYGENI EXPRESSLY DISCLAIMS TO THE FULLEST

EXTENT PERMITTED BY LAW ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, FREEDOM FROM COMPUTER VIRUS, TITLE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS. Some states do not allow the exclusion or limitation of implied warranties, so the above disclaimers and exclusions may not apply to you.

YOU AGREE THAT YOUR USE OF THE MYGENI SERVICE IS ENTIRELY AT YOUR OWN RISK.

#### Hold Harmless and Indemnity

You agree to hold harmless and indemnify, and at MyGeni's request defend, MyGeni, its parents, subsidiaries, and affiliates, and their respective owners, officers, managers, members, agents, and employees, from and against any third party claim arising from or in any way related to your use of or conduct on the MyGeni.org Service, including any liability or expense arising from all claims, liabilities, losses, damages (actual and consequential), suits, judgments, litigation costs, expenses, and attorneys' fees, of every kind and nature. In such a case, MyGeni will provide you with written notice of such claim, suit or action.

#### Limitation of Liability

YOUR USE OF THE MYGENI SERVICE IS AT YOUR SOLE RISK. UNDER NO CIRCUMSTANCES WILL MYGENI, ITS PARENTS, SUBSIDIARIES, AND AFFILIATES, AND THEIR RESPECTIVE OWNERS, OFFICERS, MANAGERS, MEMBERS, AGENTS, AND EMPLOYEES, BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OR LOSSES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES), WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH USE OF, OR INABILITY TO USE, THE MYGENI SERVICE, WHETHER OR NOT MYGENI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSS. SUCH LIMITATION OF LIABILITY SHALL APPLY (I) WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON THE MYGENI SERVICE, FROM INABILITY TO USE THE MYGENI SERVICE, OR FROM THE INTERRUPTION, SUSPENSION, OR TERMINATION OF THE MYGENI SERVICE (INCLUDING SUCH DAMAGES INCURRED BY THIRD PARTIES), AND (II) NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND TO THE FULLEST EXTENT PERMITTED BY LAW. IF YOU ARE DISSATISFIED WITH THE MYGENI SERVICE OR ANY PART OF THE MYGENI SERVICE

YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE MYGENI SERVICE AND ITS RELATED WEBSITE. UNDER NO CIRCUMSTANCES SHALL MYGENI BE LIABLE TO YOU FOR ANY AMOUNT EXCEEDING ONE THOUSAND DOLLARS (\$1,000.00). SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN LIABILITIES (INCLUDING, IN THE UNITED KINGDOM, IN RESPECT OF (I) DEATH OR PERSONAL INJURY CAUSED BY THE NEGLIGENCE OF MYGENI OR (II) THE TORT OF DECEIT OR FRAUDULENT MISREPRESENTATION), SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU IN SO FAR AS SUCH EXCLUSIONS AND LIMITATIONS ARE NOT PERMITTED.

## Notices

MyGeni may provide you with notices regarding the MyGeni.org Service or these Terms of MyGeni Service by regular mail, email, or postings to this Web site.

## Legal Compliance

You shall comply with all applicable domestic and international laws, statutes, ordinances, regulations, contracts and applicable licenses regarding your use of the MyGeni Services.

## Miscellaneous

These Terms of Service will be governed by and construed in accordance with the laws of the Isle Of Mann, without giving effect to its conflict of laws provisions or your actual state or country of residence. The parties agree to submit to the personal and exclusive jurisdiction of the courts located in the Isle of Mann. If for any reason a court of competent jurisdiction finds any provision or portion of the Terms of Service to be unenforceable, the remainder of the Terms of Service will continue in full force and effect. You shall not assign these Terms of Service or assign any rights or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without our prior written consent. Any such purported assignment or delegation will be null and void and of no force or effect. Each of MyGeni's affiliates are express and intended third party beneficiaries of these Terms of Service and may enforce any of its terms and exercise any of the rights to the same extent as MyGeni.

Without limiting the foregoing, under no circumstances shall MyGeni be held liable for any delay or failure in performance resulting directly or indirectly from acts of nature, forces, or causes beyond its reasonable control, including, without

limitation, Internet failures, computer equipment failures, telecommunication equipment failures, other equipment failures, electrical power failures, strikes, labor disputes, riots, insurrections, civil disturbances, shortages of labor or materials, fires, floods, storms, explosions, acts of God, war, governmental actions, orders of domestic or foreign courts or tribunals, non-performance of third parties, or loss of or fluctuations in heat, light, or air conditioning.

These Terms of Service constitute the entire agreement between you and MyGeni with respect to the subject matter hereof and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. Any waiver of any provision of the Terms of Service by a party will be effective only if in writing and signed by a party.