

# Terms and Conditions

## **Introduction**

Welcome to Genie Health South Africa (Pty) Ltd (“Genie”)

We offer a digital platform, app, website and services under license, to enable virtual services by connecting our users to physiotherapists, biokineticists, and/or other professionals. We do this through our websites, including, but not limited to, Genie and their related sites, (the “Sites”), the GENIE mobile applications, the biofeedback technology, and other electronic means such as video conferencing, chat, phone, and surveys (together, the “Services”). The Services are owned by GENIE and its affiliates.

GENIE provides the Services through which you can access telehealth, musculoskeletal care, and other wellness services provided by a professional (“Clinical Services”). GENIE does not provide Clinical Services. GENIE contracts with separate entities professional practices, companies and individuals—to engage independent physiotherapists and biokineticists (each a “Professional” or together, the “Professionals”) to provide Clinical Services to you.

By accessing or using the Services, you agree to be bound by these Terms and Conditions (the “Terms”), our [Privacy Policy](#), and any additional optional consents you provide, each of which are incorporated herein by reference.

To help you read these Terms, we have organized them into the following sections:

## **Our services**

### **Who Provides the Services**

Genie provides the platform for Services through which you can access telehealth, musculoskeletal care, and other wellness services provided by a professional ("**Clinical Services**"). Genie Health does not provide the actual Clinical Services. Genie Health contracts with separate entities which includes vetted and monitored physiotherapy and biokinetics professional practices, companies and individuals (the "**Genie Professionals**") to engage physiotherapists and other professionals (each a "**Professional**" or together, the "**Professionals**") to provide Clinical Services to you. Genie does not practice medicine, provide physiotherapy, or provide Clinical Services and is independent from Genie Professionals and the Professionals who provide Clinical Services to you.

All Professionals performing Clinical Services through the Services, hold required professional licenses issued by the professional licensing boards or agencies in the locations where they practice. Genie is not responsible for a Professional's acts, omissions, or for the content of any communications made by a Professional through the Services, including and without any limitation, any medical advice, course of treatment, or diagnosis. You can report a complaint relating to the care provided by a Professional by contacting the professional licensing board in the region where you primarily receive care. In a professional relationship, sexual inuendo or intimacy is never appropriate and should be reported to the relevant professional regulatory board. You can find the contact information for the professional regulatory boards governing healthcare practitioners at <https://hpcs.co.za>. Using the Services, including providing a personal medical history, does not create a healthcare practitioner-patient relationship between you and Genie.

### **Who Can Use the Services**

To use the Services, you must (1) register for an account, (2) be at least 18 years of age and be of legal age in your jurisdiction to form a binding contract, (3) accept these Terms, (4) agree to receive telehealth services, and (5) meet certain physical and medical criteria. You may not create multiple accounts. By seeking care from Genie Professionals through the Services, you give permission to the Professionals to provide Clinical Services to you. You may withdraw this consent at any time by no longer using the Services. Genie, Genie Professionals, and the Professionals each have the right to accept or reject any applicant for the Services, each in its sole and complete discretion.

You acknowledge that as part of your treatment you will engage in physical exercises and use exercise equipment and, as with all such physical activity, there is an inherent risk of injury or complication to any existing conditions. By using the Services, you are voluntarily participating in these physical activities and knowingly and freely assuming all risks of injury, loss, or damage on account of these activities. While the Services are developed in accordance with accepted clinical practice guidelines, results are not guaranteed. You may discuss the purposes and risks associated with all recommended treatment procedures and activities with the Professionals.

You may not be eligible to receive the Services in the following situations: (a) if you suffer from a health condition (including, but not limited to cardiac, respiratory, neurological, or autoimmune) that is incompatible with at least twenty minutes of moderate exercise; (b) if you are experiencing progressive

loss of strength or sensation in your arms or legs that is new in onset or sudden or an unexpected change in urinary or bowel function; (c) if you had a recent fracture that has not yet had a care plan established by a physician; (d) if you recently (in the last four weeks) suffered significant trauma in the area where you feel pain and cannot move the affected body area; (e) if you had musculoskeletal surgery recently (i.e., less than 3 months prior to enrollment) and were told you cannot receive an exercise program; (f) if you have signs of infection in the area of pain, for example, if the area is red and swollen or you are experiencing fever or chills; and (g) if you have an active cancer or are undergoing treatment for cancer and have not been cleared by your oncology physician to participate in a home exercise program. In these cases, or if you are unsure, we advise you to seek clearance from a physician to engage in at least twenty minutes of unsupervised light to moderate exercise before applying to enroll in Genie.

In certain circumstances, in order to receive the Services, a physician, surgeon or other authorized clinician may need to examine you and approve your use of the Services. Depending on your location, this approval may need to happen before, or at a specific point during, your use of the Services.

Depending on your region of residence, you may need a medical referral to use the Services. If this is the case, then a medical referral may be obtained for you through a third-party physician group during your enrollment for the Services. During enrollment, you will be asked to agree to the third party's Terms of Use. Please read this document carefully.

Subject to these Terms, Genie grants you a personal, non-exclusive, non-transferable, non-sublicensable, revocable, limited license to use the Services for your own personal use only and not for any business purpose or commercial activity.

### **Your Privacy When Using the Services**

Genie will only use your information as permitted by our Privacy Policy, and applicable law. In addition, when you enroll in the Services, Genie is acting as a Covered Entity or Business Associate under the POPI Act) and our Notice of Privacy Practices applies. If you have any questions regarding privacy and security, please read our Privacy Policy in addition to these Terms and Conditions.

If you use Genie's mobile services to enter and maintain your information, you understand that you are responsible for safeguarding and securing your mobile device and the associated credentials (such as user

identifiers and passwords). If you leave your mobile device unattended or if it is lost or stolen, your information may be accessible to others. We cannot authenticate, moderate, or monitor the security of the internet connection (wired or wireless) that you choose to use to access this platform from your device.

### **Site Content is Not a Substitute for Actual Medical Advice**

The material presented within the Services is not intended to serve as a substitute for the guidance of a non-physiotherapy general practitioner. For any health concerns that extend beyond the realm of physiotherapy or biokineticist care, it is advisable to seek counsel from a licensed medical professional. In case of medical emergencies, please contact emergency medical services or your designated healthcare provider.

### **Promises You Make to Genie While Using the Services**

When you register and use the Services, you agree to:

- provide accurate and complete information that you own or have the right to use;
- use the Services only for your own personal use;
- seek medical advice from a qualified professional before using the Services if you have a pre-existing medical condition that may impact your ability to use the Services;
- comply with all applicable laws, regulations, and ordinances;
- maintain the confidentiality and security of your username and password and immediately notify Genie of any unauthorized use of your password or account;
- be fully responsible for all activities that occur on your account;
- not seek treatment from Genie; for injuries eligible for compensation under workers' compensation, employer's liability, or occupational disease regulations;
- Abstain from claiming reimbursement for the Services from healthcare schemes, such as the Medical Schemes Act or other applicable programs do not export or re-export anything from the Services, except in compliance with applicable laws and regulations;
- not copy, distribute, or share any aspect of the Services with a third party, except your healthcare providers or Medical Scheme, for any purpose;
- not resell the Services or prepare derivative works from the Services, whether by manual or automated methods;

- not circumvent, disable, breach, or otherwise interfere with security-related features of the Services, including by using bots, crawlers, spiders, data miners, scraping, or other tools;
- not interfere with, disrupt, damage, or compromise the Services, Sites or the systems used to provide the Services, including by using viruses, denial-of-service attacks, packet injection, or by imposing an unreasonable load on the Services;
- not attempt to decipher, decompile, disassemble, or reverse engineer any of the code or software used to provide the Services; and
- not assist or permit any third party to do anything prohibited by these Terms.

### **You or Genie Can Suspend or Terminate Your Use of the Services**

You or Genie can terminate your account. Genie can also suspend or terminate your access to the Services. To terminate your account, contact Genie at [support@geniesa.health](mailto:support@geniesa.health) and a team member will verify your identity and complete your request. Genie may suspend or terminate your use of the Services for any reason at any time including, but not limited to, a belief that your conduct or use of the Services: (1) fails to comply with these Terms; (2) violates applicable laws; (3) is harmful to Genie, Genie Professionals, the Professionals, or our clients or other users; or (4) is abusive, harassing, threatening, or otherwise inappropriate or illegal conduct.

Genie may limit, modify, suspend, or terminate the Services, as it deems appropriate or in response to a legal or regulatory change. If your use of the Services is terminated, Genie will have no further obligation to provide you with access to the Services, except to the extent that Genie must provide you access to your health records, or the Professionals are required to provide you with continuing care under their professional obligations to you, or otherwise required by law.

## **Communications**

### **How We Communicate with You**

As part of Genie providing the Services, and Genie Professionals and the Professionals providing Clinical Services to you, we need to communicate with you by sending appointment reminders, program information, service announcements, notices, administrative messages, or other communications (“**Communications**”).

You agree that we may send you Communications through electronic means including but not limited to: (1) by an Email that you provide to Genie (2) by text messages or short messaging service (“SMS”) to the mobile number you gave us during registration (“SMS Messages”), (3) by push notifications on your personal device, (4) through the Genie Affiliate Providers, and (5) by posting Communications on the Sites. The delivery of any Communications from us is effective when sent by us, regardless of whether you read it. You are responsible for any internet or mobile charges that you may incur while using the Services, including data charges. If you are unsure what those charges may be, ask your service provider before using our Services. You can withdraw your consent to receive Communications by contacting us at [support@geniesa.health](mailto:support@geniesa.health)

### **Consent to Calling and Texting**

When you provide your phone number to Genie and automatically opt-in to SMS messages, you are giving consent to us by texting you with Communications at the phone number you provided. When you provide your phone number to Genie and opt-in to calls, you expressly consent to us calling you with Communications at the phone number you provided. SMS Messages frequency varies. Message and data rates may apply. Genie and your carriers are not liable for delayed or undelivered messages. If you have questions about your text or data plan, contact your carrier.

### **Privacy of Emails and SMS Messages**

When you elect Email and/or SMS Messages as a way to communicate with Genie, you acknowledge that such messages will be sent to the phone number or Email address you provided to Genie. Such messages will typically not include any Confidential Health Information (“CHI”), however, out of an abundance of caution, consider that they may, and whoever has access to devices connected to your phone number or Email address will also be able to see this information. Additionally, you acknowledge that Emails and SMS Messages may not be a secure method of communication and that they may be sent through an unencrypted method of communication and that information contained in an unencrypted message is at risk of being intercepted and read by, or disclosed to, unauthorized third parties, such as your carrier, or Email service provider’s, internal systems. This is why we communicate direct messages pertaining to your health and care plan with the secure app itself and not through text. We only communicate reminders about appointments through text, and during the onboarding process to get you signed up. To learn more about our practices for collecting, storing, and processing the personal information of users of our Services, please visit our Privacy Policy at <https://geniesa.health>

### **Intellectual property**

The Services and their contents, features, and functionality (including but not limited to all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof), are owned by Genie, its licensors, or other providers of such material and are protected by copyright, trademark, patent, trade secret, and other laws.

Except as expressly set forth in these Terms, (1) no licenses or rights are granted to you by implication or otherwise under any intellectual property rights owned or controlled by Genie or its licensors and (2) you may not use or license the copyrights, trademarks, or patents without the express written permission of Genie, or the intellectual property owner, as applicable. All rights not expressly granted to you by these Terms are hereby reserved.

### **Feedback**

We welcome and encourage feedback from our users. You agree that all comments, suggestions, ideas, or feedback you provide us about the Services ("**Feedback**") will be the sole and exclusive property of Genie, and without limiting the foregoing, Genie may freely use, copy, make, sell, reproduce, or modify Feedback in any manner without consent, obligation, or compensation to you.

### **Third Party Sources**

Genie does not recommend or endorse any websites, tests, physicians or other health care providers, products, or procedures that may be referenced or discussed as part of the Services. The Services may include links to third-party websites or resources ("**Third Party Sources**"). In providing such links, Genie does not warrant or guarantee, and is not responsible for, (1) the availability, terms, or privacy policies of such Third-Party Sources, or (2) the content, products, or services available on or through such Third-Party Sources. We do not endorse, credential, or accredit any opinions, recommendations, or information included on Third Party Sources. Your use of such Third-Party Sources is at your own risk. We do not accept and expressly disclaim any liability arising out of any material contained on Third Party Sources.

### **Copyright Act**

To the extent that you are able to post content through our Services, such as through a message board, this paragraph applies to you. The Copyright Act of 1978 (the "CA") provides recourse for copyright owners who believe that material appearing on the Internet infringes their rights under South African. copyright

law. If you believe in good faith that materials appearing on the Sites infringe your copyright, you (or your agent) may send us a notice requesting that the material be removed, or access to it blocked. In addition, if you believe in good faith that a notice of copyright infringement has been wrongly filed against you, the CA permits you to send us a counter-notice. Notices and counter-notices must meet statutory requirements imposed by the CA. One place to find more information is the Copyright Website, currently located at [https://www.gov.za/sites/default/files/gcis\\_document/201504/act-98-1978.pdf](https://www.gov.za/sites/default/files/gcis_document/201504/act-98-1978.pdf). In accordance with the CA, Genie has designated an agent to receive notification of alleged copyright infringement in accordance with the CA. Any written Notification of Claimed infringement should comply with Section 77 of the Electronic Communications and Transactions Act (ECTA) and should be provided in writing to Genie via the methods described in the Contact Information section of these Terms.

## **Disclaimer of warranties, limitation of liability, your indemnity, and governing law**

### **Disclaimer of Warranties**

We provide the Services to you on an “as-is” and “as available” basis. To the maximum extent permitted by law, Genie, Genie PROFESSIONALS, AND PROFESSIONALS DISCLAIM ALL WARRANTIES OF ANY KIND, whether express or implied, including, but not limited to any warranties of merchantability, fitness for a particular use or purpose, non-infringement, title, operability, condition, quiet enjoyment, value, accuracy of data, and system integration.

### **Limitation of Liability**

WE LIMIT OUR LIABILITY TO THE FULLEST EXTENT ALLOWED BY THE LAW. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL Genie, Genie PROFESSIONALS, OR PROFESSIONALS BE LIABLE FOR ANY SPECIAL, PUNITIVE, CONSEQUENTIAL, INCIDENTAL, DIRECT, OR INDIRECT DAMAGES, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY AND WHETHER YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER GENIE, GENIE PROFESSIONALS, PROFESSIONALS, NOR ANYONE ELSE INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES IS LIABLE FOR THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY INFORMATION ON THE SERVICES. IN NO EVENT WILL GENIE, GENIE PROFESSIONALS, OR PROFESSIONALS BE LIABLE FOR ANY DAMAGES CAUSED BY YOUR, OR ANY THIRD PARTY’S, ACTS OR OMISSIONS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR CERTAIN TYPES OF DAMAGES. ACCORDINGLY, ONLY THE



ABOVE LIMITATIONS THAT ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU. THE LIMITATIONS SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THIS AGREEMENT AND THE SERVICES WOULD NOT BE PROVIDED TO YOU ABSENT SUCH LIMITATIONS.

### **Your Indemnity**

You agree to indemnify, defend, and hold Genie harmless, Genie Professionals, the Professionals, our shareholders, affiliates, officers, directors, managers, employees, or customers from and against any claims, actions, demands, liabilities, and settlements including, without limitation, reasonable legal and accounting fees and other expenses, that arise directly or indirectly out of or from (1) your violation of these Terms, (2) your activities in connection with use of the Services, and (3) your receipt of Clinical Services from a Professional through the Services. You agree to cooperate as reasonably required in the defense of any such claim. Genie reserves the right to assume the exclusive defense and control of any matter otherwise subject to indemnification under this section and, in any event, you agree not to settle any such matter without the prior written consent of Genie.

### **Governing Law**

If you access the Services in South Africa, the laws of South Africa govern these Terms and the use of the Services. All claims not subject to arbitration and brought in South Africa will be subject to the jurisdiction of the courts of South Africa.

### **Dispute resolution**

We work hard to keep our customers satisfied. If a dispute arises between you and Genie, our goal is to resolve the dispute. If you have any concern or dispute about the Services, you agree to first try to resolve the dispute informally by contacting us by the methods listed in the Contact Information section at the end of these Terms or by sending an email to [support@geniesa.health](mailto:support@geniesa.health)

### **Arbitration and Class Action Waiver**

**PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT.** You and Genie, Genie Professionals, and the Professionals agree that these Terms affect commerce and that the Arbitration Act 1965 governs the interpretation and enforcement of

these arbitration provisions. If any dispute, claim, or controversy between you and Genie, the Genie Professionals, or the Professionals (for the purpose of this section, collectively, "Genie") is not resolved within 30-days after contacting us, then you agree to resolve it through final and binding arbitration, with the following three exceptions:

1. You may assert your dispute, if it qualifies, in small claims court.
2. Both you and Genie may bring a suit in court in the Magistrates Court with jurisdiction to hear the matter for a claim of infringement or other misuse of intellectual property rights.
3. If it qualifies, you may bring a claim to the attention of a relevant authority that may seek relief against us on your behalf.

### **Arbitration Rules**

Arbitration will be conducted by Arbitration Foundation of Southern Africa (AFSA) in accordance with the AFSA's Small Claims Arbitration Tribunal (SCAT) for claims that do not exceed R60 000.00 and the AFSA's Standard Procedure Rules and the Summary Procedure Rules for claims exceeding R60 000.00 in effect at the time the arbitration is initiated, excluding any rules or procedures governing or permitting class actions. The arbitrator has exclusive authority to resolve all disputes arising out of or relating to the interpretation, applicability, enforceability, or formation of these Terms, the Privacy Statement, or the Notice of Privacy Practices, including but not limited to any claim that all or any part of these documents is void or voidable, whether a claim is subject to arbitration, or the question of waiver by litigation conduct. The arbitrator can grant whatever relief would be available in a court under law or in equity. The arbitrator's award must be written, will be binding on the parties, and may be entered as a judgment in any court of competent jurisdiction. To start an arbitration, go to <https://arbitration.co.za/> and follow the instructions for creating an Arbitration application online, which will include sending a copy to: Genie Health South Africa (Pty) Ltd, Attn: Legal Department, 17 Midas Ave, Olympus, Pretoria, 0081 and [support@geniesa.health](mailto:support@geniesa.health). Arbitration may take place in the province where you reside at the time of filing. You and Genie further agree to submit to the personal jurisdiction of any Magistrates court in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.

### **Fees**

You will be required to pay R2500.00 to initiate an arbitration against us. If the arbitrator finds the arbitration to be non-frivolous, Genie will pay all other fees invoiced by AFSA, including filing fees and

arbitrator and hearing expenses. You are responsible for your own attorneys' fees unless the arbitration rules or applicable law provide otherwise.

### **No Class Actions**

You and Genie each agree that each party may only resolve disputes with the other on an individual basis and may not bring a claim as a plaintiff or a class member in a class, consolidated, or representative action. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable or that an arbitration can proceed on a class basis, then Genie may determine to not arbitrate.

### **Changes to This Section**

Genie will provide thirty (30) days' notice of any changes affecting the substance of this section "Arbitration and Class Action Waiver" by posting notice of modifications to the Terms on the Services, sending you a message, notifying you when you are logged into your account, or other Communications. Amendments will become effective thirty (30) days after they are posted on the Services or sent to you.

### **Survival of Provisions**

This Dispute Resolution section survives any termination of your account or the Services.

## **Miscellaneous**

### **Changes to the Terms or Services**

Genie may contact you within the Services, via SMS Messages, email, sign into the app blocked by an acknowledgment of updated terms, or physical mail to inform you of changes to the Services or these Terms. You agree that contact in any of these ways will satisfy any legal requirements, including that communication be in writing. Changes to the Terms will be effective immediately with the exception of any changes to the Arbitration and Class Action Waiver section of these Terms. You further agree that continued use of the Services constitutes your agreement to the modified Terms. The features and specifications of products or services described or depicted as part of the Services are subject to change at any time without prior notice.

### **Use of Your Device and the Internet to Access the Services**

With the exception of physical hardware provided to you by Genie (typically no hardware needed or provided), you are responsible for the software, hardware, or other equipment necessary to access the Services (the “**Network**”), including but not limited to obtaining internet services through a provider of your choice at your own expense, installing and maintaining security software, and utilizing updated web browsers. You have made your own decision to use the Services and, in doing so, you acknowledge that the security, availability, and other risks inherent in using the internet and the Network to access the Services are acceptable to you. Genie is not responsible for the security or availability of the Network or the internet or any problems you may have relating to the delay, failure, interruption, or corruption of any data or information transmitted in connection with your use of the Services.

#### **Severability, No Waiver, and Course of Conduct**

Except as explicitly provided herein, the unenforceability of any clause in these Terms will not affect the enforceability of the remaining Terms. We may replace any unenforceable clause with one that is enforceable. Our failure to enforce any provision does not constitute a waiver. Neither the course of conduct between the parties nor trade practice will modify any provision of these Terms.

#### **Force Majeure**

Genie will not be deemed to be in breach or liable for any breach of these Terms due to any event or occurrence beyond our reasonable control, including without limitation, acts of God, an epidemic or pandemic, terrorism, war, invasion, failure of public networks, natural disaster, civil disorder, strikes, embargoes, or other disaster.

#### **Third Party Rights, Assignment, Acquisition, and Relationship**

The indemnification and other legal provisions in these Terms are for the benefit of Genie and third-party providers of data, software, and content. Each of these individuals or entities has the right to assert and enforce these provisions directly against you on its own behalf. Genie may assign our rights and duties under these Terms to any party at any time without notice to you or your approval. Nothing in this agreement creates an agency, partnership, or joint venture.

#### **Entire Agreement**

If you have not signed a separate agreement with Genie, these Terms, including all documents incorporated herein by reference, state the entire agreement between you and Genie, between you and Genie Professionals, and between you and the Professionals.

**Contact information**

Genie Health South Africa (Pty) Ltd

Attn: Legal Department

17 Midas Ave

Olympus

Pretoria

0081

Please send any questions or report any violations of these Terms to [support@geniesa.health](mailto:support@geniesa.health)

*Last updated on and effective on: September 18<sup>th</sup>, 2023*