

TERMS OF SERVICE

Effective Date: June 30, 2018

PLEASE READ THIS AGREEMENT CAREFULLY. IT SETS FORTH THE LEGALLY BINDING TERMS AND CONDITIONS FOR YOUR USE OF THE SERVICE.

Introduction and Overview

Welcome! You have arrived at www.BabyGenius.com and/or are otherwise interacting with our Service (defined below), which is owned and operated by Genius Brands International, Inc. (collectively, “**Genius Brands**,” “**we**,” “**our**,” or “**us**”). These Terms of Service (“**Terms**”) govern your use of any online service location (*e.g.*, website or mobile app) that posts a link to these Terms (“**Site**”), and also applies to all features, widgets, plug-ins, applications, content, downloads and other services that are owned and controlled by us and that are available through or interact with a Site, and/or that post or link to these Terms (collectively, the “**Service**”), regardless of how you access or use it, whether via computer, mobile device or otherwise. By using the Service, you acknowledge and accept the Service’s **Privacy Policy** and consent to the collection and use of your data in accordance with the **Privacy Policy**. By using the Service, you further agree that Genius Brands may change, alter, or modify the settings or configurations on your Device (defined below) in order to allow for or optimize your use of the Service.

These terms of use contain an arbitration clause and a class action waiver clause. By using this site, you are accepting the terms of use and, while you may still pursue claims against us, with a few exceptions, you are agreeing that you must pursue your claims in a binding arbitration proceeding (and not in a court) and only on an individual (and not a class action) basis.

Please read these terms of use carefully to understand your rights and responsibilities; but to help facilitate your review, here is a partial list of some of the more significant terms we want to bring to your initial attention that are further detailed below. Capitalized terms have the meanings given to them where defined in these Terms.

- Each time you use the Service, these Terms and any applicable Additional Terms (defined below) then posted apply to that use (subject to **Section 18**), so you should check back each time you return for any updates.
- You may only use the Content (defined below) on the Service in connection with your permitted activities on the Service and not in an offline environment or in connection with another site or service. You grant us a broad license to content you submit or post.
- Except as set forth in the **Privacy Policy** that applies to the Service, you and we do not have a confidential, fiduciary, or any other special relationship by virtue of your use of the Service or your communications to us through or related to the Service.
- You consent to our **Privacy Policy** and our practices detailed in it.
- Many types of disputes that may arise in connection with your access to and use of the Service are subject to mandatory arbitration – which includes your waiver of a right to a jury trial and to class action relief.

- We are providing the Service to you on an “as-is” basis, without any warranty of any kind, and our liability to you in connection with your use of the Service is very limited. Many other limitations and disclaimers relate to your use of the Service.

If you want to use the Service, carefully read these entire Terms, as they constitute a written agreement between you and us and they affect your legal rights and obligations. The Service is intended for parents and teachers of preliterare children and you represent that you are at least the age of majority and will supervise any use by your children or children under your charge and be responsible for their use.

Each time you access and/or use the Service (other than to simply read these Terms), you agree to be bound by and comply with the Terms and any Additional Terms (defined below) then posted (subject to **Section 18**). Therefore, ***do not use the Service if you do not agree.***

The business realities associated with operating the Service are such that, without the limitations that are set forth in these Terms – such as your grants and waivers of rights, the limitations on our liability, your indemnity of us, and our arbitration of certain disputes – we would not make the Service available to you.

In some instances, both these Terms and separate guidelines, rules, or terms of service or sale setting forth additional or different terms and/or conditions will apply to your use of the Service or to a service or product offered via the Service (in each such instance, and collectively “**Additional Terms**”). To the extent there is a conflict between these Terms and any Additional Terms, the Additional Terms will control unless the Additional Terms expressly state otherwise. Please also review the terms of the Service’s **Privacy Policy**, which you accept by using the Service.

1. Service Content, Ownership, Limited License, and Rights of Others

A. Content. The Service contains a variety of: (i) materials and other items relating to Genius Brands its products and services, and similar items from our licensors and other third parties, including all layout, information, articles, posts, text, data, files, images, designs, graphics, button icons, instructions, illustrations, photographs, audio clips, music, sounds, pictures, videos, advertising copy, URLs, technology, software, interactive features, the “look and feel” of the Service, and the compilation, assembly, and arrangement of the materials of the Service and any and all copyrightable material (including source and object code); (ii) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including those of Genius Brands (collectively, “**Trademarks**”); and (iii) other forms of intellectual property (all of the foregoing, collectively “**Content**”).

B. Ownership. The Service (including past, present, and future versions) and the Content are owned or controlled by Genius Brands and our licensors and certain other third parties. All right, title, and interest in and to the Content available via the Service is the property of Genius Brands or our licensors or certain other third parties, and is protected by U.S. and international copyright, trademark, trade dress, patent and/or other intellectual property and unfair competition rights and laws to the fullest extent possible. Genius Brands owns the copyright in the selection, compilation, assembly, arrangement, and enhancement of the Content on the Service.

C. Limited License. Subject to your strict compliance with these Terms and the Additional Terms, Genius Brands grants you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to download (temporary storage only), display, view, use, play, and/or print one copy of the Content (excluding source and object code in raw form or otherwise, other than as made available to access and use to enable display and functionality) on a personal computer, mobile phone or other wireless device, or other Internet enabled device (each, a “**Device**”) for your personal, non-commercial use only. The foregoing limited license (i) does not give you any ownership of, or any other intellectual property interest in, any Content, and (ii) may be immediately suspended or terminated for any reason, in Genius Brands’ sole discretion, and without advance

notice or liability. In some instances, we may permit you to have greater access to and use of Content, subject to certain Additional Terms.

D. Rights of Others. In using the Service, you must respect the intellectual property and other rights of Genius Brands and others. Your unauthorized use of Content may violate copyright, trademark, privacy, publicity, communications, and other laws, and any such use may result in your personal liability, including potential criminal liability. Genius Brands respects the intellectual property rights of others. If you believe that your work has been infringed by means of an improper posting or distribution of it via the Service, then please see **Section 6** and **Section 7** below.

2. Content You Submit and Community Usage Rules

A. User-Generated Content.

(i) General. Genius Brands may now or in the future offer users of the Service the opportunity to create, build, post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available on or submit through the Service (collectively, “**submit**”) messages, text, illustrations, files, images, graphics, photos, comments, responses, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, personally identifiable information, or other information or materials and the ideas contained therein (collectively, but excluding Genius Brands Licensed Elements included therein, “**User-Generated Content**”). Genius Brands may allow you to do this through forums, blogs, message boards, social networking environments, content creation tools, gameplay, social communities, contact us tools, e-mail, and other communications functionality. Subject to the rights and license you grant in these Terms, you retain whatever legally cognizable right, title, and interest that you have in your User-Generated Content and you remain ultimately responsible for it.

(ii) Non-Confidentiality of Your User-Generated Content. Except as otherwise described in the Service’s posted **Privacy Policy** or any Additional Terms, you agree that (a) your User-Generated Content will be treated as non-confidential – regardless of whether you mark them “confidential,” “proprietary,” or the like – and will not be returned, and (b) Genius Brands does not assume any obligation of any kind to you or any third party with respect to your User-Generated Content. Upon Genius Brands’ request, you will furnish us with any documentation necessary to substantiate the rights to such content and to verify your compliance with these Terms or any Additional Terms. You acknowledge that the Internet and mobile communications may be subject to breaches of security and that you are aware that submissions of User-Generated Content may not be secure, and you will consider this before submitting any User-Generated Content and do so at your own risk.

In your communications with Genius Brands, please keep in mind that we do not seek any unsolicited ideas or materials for products or services, or even suggested improvements to products or services, including, without limitation, ideas, concepts, inventions, or designs for music, websites, apps, books, scripts, screenplays, motion pictures, television shows, theatrical productions, software or otherwise (collectively, “**Unsolicited Ideas and Materials**”). Any Unsolicited Ideas and Materials you post on or send to us via the Service are deemed User-Generated Content and licensed to us as set forth below. In addition, Genius Brands retains all of the rights held by members of the general public with regard to your Unsolicited Ideas and Materials. Genius Brands’ receipt of your Unsolicited Ideas and Materials is not an admission by Genius Brands of their novelty, priority, or originality, and it does not impair Genius Brands’ right to contest existing or future intellectual property rights relating to your Unsolicited Ideas and Materials.

(iii) License to Genius Brands of Your User-Generated Content. Except as otherwise described in any applicable Additional Terms (such as a contest official rules), which specifically govern the submission of your User-Generated Content), you hereby grant to Genius Brands, and you agree to grant to Genius Brands, the non-exclusive, unrestricted, unconditional, unlimited, worldwide, irrevocable, perpetual, and cost-free right and license to use, copy, record, distribute, reproduce, disclose, sell, re-sell, sublicense (through multiple

levels), display, publicly perform, transmit, publish, broadcast, translate, make derivative works of, and otherwise use and exploit in any manner whatsoever, all or any portion of your User-Generated Content (and derivative works thereof), for any purpose whatsoever in all formats, on or through any means or medium now known or hereafter developed, and with any technology or devices now known or hereafter developed, and to advertise, market, and promote the same. Without limitation, the granted rights include the right to: (a) configure, host, index, cache, archive, store, digitize, compress, optimize, modify, reformat, edit, adapt, publish in searchable format, and remove such User-Generated Content and combine same with other materials, and (b) use any ideas, concepts, know-how, or techniques contained in any User-Generated Content for any purposes whatsoever, including developing, producing, and marketing products and/or services. In order to further effect the rights and license that you grant to Genius Brands to your User-Generated Content, you also hereby grant to Genius Brands, and agree to grant to Genius Brands, the unconditional, perpetual, irrevocable right to use and exploit your name, persona, and likeness in connection with any User-Generated Content, without any obligation or remuneration to you. Except as prohibited by law, you hereby waive, and you agree to waive, any moral rights (including attribution and integrity) that you may have in any User-Generated Content, even if it is altered or changed in a manner not agreeable to you. To the extent not waivable, you irrevocably agree not to exercise such rights (if any) in a manner that interferes with any exercise of the granted rights. You understand that you will not receive any fees, sums, consideration, or remuneration for any of the rights granted in this Section 2(A)(iii).

(iv) Exclusive Right to Manage Our Service. Genius Brands may, but will not have any obligation to, review, monitor, display, post, store, maintain, accept, or otherwise make use of, any of your User-Generated Content, and Genius Brands may, in its sole discretion, reject, delete, move, re-format, remove or refuse to post or otherwise make use of User-Generated Content without notice or any liability to you or any third party in connection with our operation of User-Generated Content venues in an appropriate manner. Without limitation, we may do so to address content that comes to our attention that we believe is offensive, obscene, lewd, lascivious, filthy, violent, harassing, threatening, abusive, illegal or otherwise objectionable or inappropriate, or to enforce the rights of third parties or these Terms or any applicable Additional Terms, including, without limitation, the content restrictions set forth below in the **Rules** (defined in **Section 2(B)**). Such User-Generated Content submitted by you or others need not be maintained on the Service by us for any period of time and you will not have the right, once submitted, to access, archive, maintain, or otherwise use such User-Generated Content on the Service or elsewhere.

(v) Representations and Warranties Related to Your User-Generated Content. Each time you submit any User-Generated Content, you represent and warrant that you are at least the age of majority in the jurisdiction in which you reside and are the parent or legal guardian, or have all proper consents from the parent or legal guardian, of any minor who is depicted in or contributed to any User-Generated Content you submit, and that, as to that User-Generated Content, (a) you are the sole author and owner of the intellectual property and other rights to the User-Generated Content, or you have a lawful right to submit the User-Generated Content and grant Genius Brands the rights to it that you are granting by these Terms and any Additional Terms, all without any Genius Brands obligation to obtain consent of any third party and without creating any obligation or liability of Genius Brands; (b) the User-Generated Content is accurate; (c) the User-Generated Content does not and, as to Genius Brands' permitted uses and exploitation set forth in these Terms, will not infringe any intellectual property or other right of any third party; and (d) the User-Generated Content will not violate these Terms (including the Rules) or any Additional Terms, or cause injury or harm to any person.

(vi) Enforcement. Genius Brands has no obligation to monitor or enforce your intellectual property rights to your User-Generated Content, but you grant us the right to protect and enforce our rights to your User-Generated Content, including by bringing and controlling actions in your name and on your behalf (at Genius Brands' cost and expense, to which you hereby consent and irrevocably appoint Genius Brands as your attorney-in-fact, with the power of substitution and delegation, which appointment is coupled with an interest).

B. Community Usage Rules. As a user of the Service, these Community Usage Rules (“**Rules**”) are here to help you understand the conduct that is expected of members of the Service’s online communities (“**Communities**”).

(i) **Nature of Rules.** Your participation in the Communities is subject to all of the Terms, including these Rules:

- **Your User-Generated Content.** All of your User-Generated Content either must be original with you or you must have all necessary rights in it from third parties in order to permit you to comply with these Terms and any Additional Terms. Your User-Generated Content should not contain any visible logos, phrases, or trademarks that belong to third parties. Do not use any User-Generated Content that belongs to other people and pass it off as your own; this includes any content that you might have found elsewhere on the Internet. If anyone contributes to your User-Generated Content or has any rights to your User-Generated Content, or if anyone appears in the User-Generated Content, then you must also have their permission to submit such User-Generated Content to Genius Brands. (For example, if someone has taken a picture of you and your friend, and you submit that photo to Genius Brands as your User-Generated Content, then you must obtain your friend’s and the photographer’s permission to do so.)
- **Speaking of Photos: No Pictures, Videos, or Images of Anyone Other Than You and Your Friends and Family.** If you choose to submit photos to the Service, link to embedded videos, or include other images of real people, then make sure they are of you or of you and someone you know – and only if you have their express permission to submit it.
- **Act Appropriately.** All of your Service activities must be venue appropriate, as determined by us. Be respectful of others’ opinions and comments so we can continue to build Communities for everyone to enjoy. If you think your User-Generated Content might offend someone or be embarrassing to someone, then chances are it probably will and it doesn’t belong on the Service. Cursing, harassing, stalking, insulting comments, personal attacks, gossip, and similar actions are prohibited. Your User-Generated Content must not threaten, abuse, or harm others, and it must not include any negative comments that are connected to race, national origin, gender, sexual orientation, or physical handicap. Your User-Generated Content must not be defamatory, slanderous, indecent, obscene, pornographic, or sexually explicit.
- **Do Not Use for Commercial or Political Purposes.** Your User-Generated Content must not advertise or promote a product or service or other commercial activity, or a politician, public servant, or law.
- **Do Not Use for Inappropriate Purposes.** Your User-Generated Content must not promote any infringing, illegal, or other similarly inappropriate activity.
- **Be Honest and Do Not Misrepresent Yourself or Your User-Generated Content.** Do not impersonate any other person, user, or company, and do not submit User-Generated Content that you believe may be false, fraudulent, deceptive, inaccurate, or misleading, or that misrepresents your identity or affiliation with a person or company.
- **Others Can See.** We hope that you will use the Communities to exchange information and content and have venue appropriate discussions with other members. However, please remember that the Communities are public or semi-public and User-Generated Content that you submit on the Service within a Community may be accessible and viewable by other users. Do not submit personally identifying information (e.g., first and last name together, password, phone number, address, credit card number, medical information, e-mail address, or other personally identifiable

information or contact information) on Community spaces and take care when disclosing this type of information to others.

- **Don't Share Other Peoples' Personal Information.** Your User-Generated Content should not reveal another person's address, phone number, e-mail address, social security number, credit card number, medical information, financial information, or any other information that may be used to track, contact, or impersonate that individual, unless, and in the form and by the method, specifically requested by Genius Brands.
- **Don't Damage the Service or Anyone's Computers or Other Devices.** Your User-Generated Content must not submit viruses, Trojan horses, spyware, or any other technologies or malicious code that could impact the operation of the Service or any computer or other Device.

If you submit User-Generated Content that Genius Brands reasonably believes violates these Rules, then we may take any legally available action that we deem appropriate, in our sole discretion. However, we are not obligated to take any action not required by law. We may require, at any time, proof of the permissions referred to above in a form acceptable to us. Failure to provide such proof may lead to, among other things, the User-Generated Content in question being removed from the Service.

(ii) **Your Interactions With Other Users; Disputes.** You are solely responsible for your interaction with other users of the Service, whether online or offline. We are not responsible or liable for the conduct or content of any user. We reserve the right, but have no obligation, to monitor or become involved in disputes between you and other users. Exercise common sense and your best judgment in your interactions with others (*e.g.*, when you submit any personal or other information) and in all of your other online activities.

C. **Alerting Us of Violations.** If you discover any content that violates these Terms, then you may report it to us in the following ways: Postal Mail: Genius Brands International, Inc., 131 S. Rodeo Drive, #250, Beverly Hills, CA 90212; By e-mail: info@gnusbrands.com. For alleged infringements of intellectual property rights, see **Section 6** and **Section 7**, below.

3. **Service and Content Use Restrictions**

A. **Service Use Restrictions.** You agree that you will not: (i) aside from your purchase of goods or services offered for sale by Genius Brands or its affiliates, use the Service for any political or commercial purpose (including, without limitation, for purposes of advertising, soliciting funds, collecting product prices, and selling products); (ii) use any meta tags or any other "hidden text" utilizing any Trademarks; (iii) engage in any activities through or in connection with the Service that seek to attempt to or do harm any individuals or entities or are unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third party, or are otherwise objectionable to Genius Brands; (iv) reverse engineer, decompile, disassemble, reverse assemble, or modify any Service source or object code or any software or other products, services, or processes accessible through any portion of the Service; (v) engage in any activity that interferes with a user's access to the Service or the proper operation of the Service, or otherwise causes harm to the Service, Genius Brands, or other users of the Service; (vi) interfere with or circumvent any security feature of the Service or any feature that restricts or enforces limitations on use of or access to the Service, the Content, or the User-Generated Content; (vii) harvest or otherwise collect or store any information (including personally identifiable information about other users of the Service, including e-mail addresses, without the express consent of such users); (viii) attempt to gain unauthorized access to the Service, other computer systems or networks connected to the Service, through password mining or any other means; or (ix) otherwise violate these Terms or any Additional Terms.

B. **Content Use Restrictions.** You also agree that, in using the Service: (i) you will not monitor, gather, copy, or distribute the Content (except as may be a result of standard search engine activity or use of a

standard browser) on the Service by using any robot, rover, “bot”, spider, scraper, crawler, spyware, engine, device, software, extraction tool, or any other automatic device, utility, or manual process of any kind; (ii) you will not frame or utilize framing techniques to enclose any such Content (including any images, text, or page layout); (iii) you will keep intact all Trademark, copyright, and other intellectual property notices contained in such Content; (iv) you will not use such Content in a manner that suggests an unauthorized association with any of our or our licensors’ products, services, or brands; (v) you will not make any modifications to such Content (other than to the extent of your permitted use of the Genius Brands Licensed Elements, if applicable); (vi) you will not copy, modify, reproduce, archive, sell, lease, rent, exchange, create derivative works from, publish by hard copy or electronic means, publicly perform, display, disseminate, distribute, broadcast, retransmit, circulate or transfer to any third party or on any third-party application or website, or otherwise use or exploit such Content in any way for any purpose except as specifically permitted by these Terms or any Additional Terms or with the prior written consent of an officer of Genius Brands or, in the case of Content from a licensor, the owner of the Content; and (vii) you will not insert any code or product to manipulate such Content in any way that adversely affects any user experience.

C. Availability of Service and Content. Genius Brands may immediately suspend or terminate the availability of the Service and Content (and any elements and features of them), in whole or in part, for any reason, in Genius Brands’ sole discretion, and without advance notice or liability. However, if we do so before a subscription period of a subscription you have paid for expires, we will provide you with a pro rata refund.

D. Reservation of All Rights Not Granted as to Content and Service. These Terms and any Additional Terms include only narrow, limited grants of rights to Content and to use and access the Service. No right or license may be construed, under any legal theory, by implication, estoppel, industry custom, or otherwise. All rights not expressly granted to you are reserved by Genius Brands and its licensors and other third parties. *Any unauthorized use of any Content or the Service for any purpose is prohibited.*

4. Accounts

In order to access or use some (or potentially all) of the features on the Service, you must first register through our online registration process at www.gnusbrands.com. The Service’s practices governing any resulting collection and use of your personal information are disclosed in its **Privacy Policy**. If you are under the age of eighteen (18), then you are not permitted to register as a user or otherwise use the Service or submit personal information to us.

If you register for any feature that requires a password and/or username, then you will select your own password at the time of registration (or we may send you an e-mail notification with a randomly generated initial password) and you agree that: (i) You will not use a username (or e-mail address) that is already being used by someone else, may impersonate another person, belongs to another person, violates the intellectual property or other right of any person or entity, or is offensive. We may reject the use of any password, username, or e-mail address for any other reason in our sole discretion; (ii) You will provide true, accurate, current, and complete registration information about yourself in connection with the registration process and, as permitted, to maintain and update it continuously and promptly to keep it accurate, current, and complete; (iii) You are solely responsible for all activities that occur under your account, password, and username – whether or not you authorized the activity; (iv) You are solely responsible for maintaining the confidentiality of your password and for restricting access to your Device so that others may not access any password protected portion of the Service using your name, username, or password; (v) You will immediately notify us of any unauthorized use of your account, password, or username, or any other breach of security; and (vi) You will not sell, transfer, or assign your account or any account rights.

We will not be liable for any loss or damage (of any kind and under any legal theory) to you or any third party arising from your inability or failure for any reason to comply with any of the foregoing obligations.

If any information that you provide, or if we have reasonable grounds to suspect that any information that you provide, is false, inaccurate, outdated, incomplete, or violates these Terms, any Additional Terms, or any applicable law, then we may suspend or terminate your account. We also reserve the more general and broad right to terminate your account or suspend or otherwise deny you access to it or its benefits – all in our sole discretion, for any reason, and without advance notice or liability (subject to **Section 5**).

5. Subscriptions and Credits

Some aspects of the Service may require a paid subscription, with is subject to Additional Terms. Each subscription period is typically either twelve (12) months or thirty (30) days, and unless otherwise provided in the applicable Additional Terms, automatically renew unless you give notice of termination prior to the end of the then current period. All sales are final. We may terminate the term of your subscription at any time; provided, however if we do so merely for our own convenience we will give you a pro rata credit towards other Genius Brands products or services. We may also give away or sell credits or loyalty points, which are nonrefundable, have no monetary value (i.e., are not a cash account or equivalent), and are only a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable right to use certain aspects of the Services.

6. Procedure For Alleging Copyright Infringement

A. DMCA Notice. Genius Brands will respond appropriately to notices of alleged copyright infringement that comply with the U.S. Digital Millennium Copyright Act (“**DMCA**”), as set forth below. If you own a copyright in a work (or represent such a copyright owner) and believe that your (or such owner’s) copyright in that work has been infringed by an improper posting or distribution of it via the Service, then you may send us a written notice that includes all of the following:

- (i) a legend or subject line that says: “DMCA Copyright Infringement Notice”;
- (ii) a description of the copyrighted work that you claim has been infringed or, if multiple copyrighted works are covered by a single notification, a representative list of such works;
- (iii) a description of where the material that you claim is infringing or is the subject of infringing activity is located that is reasonably sufficient to permit us to locate the material (please include the URL of the Service on which the material appears);
- (iv) your full name, address, telephone number, and e-mail address;
- (v) a statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law;
- (vi) a statement by you, made under penalty of perjury, that all the information in your notice is accurate, and that you are the copyright owner (or, if you are not the copyright owner, then your statement must indicate that you are authorized to act on the behalf of the owner of an exclusive right that is allegedly infringed); and
- (vii) your electronic or physical signature.

Genius Brands will only respond to DMCA Notices that it receives by mail, e-mail, or facsimile at the addresses below:

By Mail: **Genius Brands International, Inc.**
131 S. Rodeo Drive, #250
Beverly Hills, CA 90212

By E-Mail: info@gnusbrands.com

It is often difficult to determine if your copyright has been infringed. Genius Brands may elect to not respond to DMCA Notices that do not substantially comply with all of the foregoing requirements, and Genius Brands may elect to remove allegedly infringing material that comes to its attention via notices that do not substantially comply with the DMCA.

Please note that the DMCA provides that any person who knowingly materially misrepresents that material or activity is infringing may be subject to liability.

We may send the information that you provide in your notice to the person who provided the allegedly infringing work. That person may elect to send us a DMCA Counter-Notification.

Without limiting Genius Brands' other rights, Genius Brands may, in appropriate circumstances, terminate a repeat infringer's access to the Service and any other website owned or operated by Genius Brands. See **Section 4**, above.

B. Counter-Notification. If access on the Service to a work that you submitted to Genius Brands is disabled or the work is removed as a result of a DMCA Notice, and if you believe that the disabled access or removal is the result of mistake or misidentification, then you may send us a DMCA Counter-Notification to the addresses above. Your DMCA Counter-Notification should contain the following information:

- (i) a legend or subject line that says: "DMCA Counter-Notification";
- (ii) a description of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled (please include the URL of the Service from which the material was removed or access to it disabled);
- (iii) a statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled;
- (iv) your full name, address, telephone number, e-mail address, and the username of your account;
- (v) a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which your address is located (or, if the address is located outside the U.S.A., to the jurisdiction of the United States District Court for the Central District of California), and that you will accept service of process from the person who provided DMCA notification to us or an agent of such person; and
- (vi) your electronic or physical signature.

Please note that the DMCA provides that any person who knowingly materially misrepresents that material or activity was removed or disabled by mistake or misidentification may be subject to liability.

If we receive a DMCA Counter-Notification, then we may replace the material that we removed (or stop disabling access to it) in not less than ten (10) and not more than fourteen (14) business days following receipt of the DMCA Counter-Notification. However, we will not do this if we first receive notice at the addresses above that the party who sent us the DMCA Copyright Infringement Notice has filed a lawsuit asking a court for an order restraining the person who provided the material from engaging in infringing activity relating to the material on the Service.

You should also be aware that we may forward the Counter-Notification to the party who sent us the DMCA Copyright Infringement Notice.

7. Procedure For Alleging Infringement of Other Intellectual Property

If you own intellectual property other than copyrights and believe that your intellectual property has been infringed by an improper posting or distribution of it via the Service, then you may send us a written notice to the addresses set forth above that includes all of the following:

- (a) a legend or subject line that says: "Intellectual Property Infringement Notice";
- (b) a description of the intellectual property that you claim has been infringed;
- (c) a description of where the material that you claim is infringing or is the subject of infringing activity is located that is reasonably sufficient to permit us to locate the material (please include the URL of the Service on which the material appears);
- (d) your full name, address, telephone number, and e-mail address;
- (e) a statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the owner of the intellectual property, its agent, or the law;
- (f) a statement by you, made under penalty of perjury, that all the information in your notice is accurate, and that you are the owner of the intellectual property at issue (or, if you are not the owner, then your statement must indicate that you are authorized to act on the behalf of the owner of the intellectual property that is allegedly infringed); and
- (g) your electronic or physical signature.

We will act on such notices in our sole discretion. Any user of the Service that fails to respond satisfactorily to Genius Brands with regard to any such notice is subject to suspension or termination. We may send the information that you provide in your notice to the person who provided the allegedly infringing material.

8. Notices, Questions and Customer Service

You agree that: (1) we may give you notices of new, revised or changed terms and other important matters by prominently posting notice on the home page of the Service, or in another reasonable manner; and (2) we may contact you by mail or e-mail sent to the address provided by you. You agree to promptly notify us if you change your e-mail or mailing address by updating your Account. All legal notices to us must be sent to Genius Brands International, Inc., 131 S. Rodeo Drive, #250, Beverly Hills, CA 90212, *Attn. Legal Dept.*

If you have a question regarding using the Service, you may contact Genius Brands Customer Support in the following ways: Postal Mail: Genius Brands International, Inc., 131 S. Rodeo Drive, #250, Beverly Hills, CA 90212; By e-mail: info@gnusbrands.com. You acknowledge that the provision of customer support is at Genius Brands' sole discretion and that we have no obligation to provide you with customer support of any kind. We may provide you with customer support from time to time, at our sole discretion, provided that you have created an Account and that you submit your customer support inquiries using such Account.

9. Product Specifications; Pricing; Returns; Typographical Errors

We do our best to describe every product or service offered on this Service as accurately as possible. However, we are human, and therefore we do not warrant that product specifications, pricing, or other content on the Service is complete, accurate, reliable, current, or error-free. In the event of any errors relating to the pricing or specifications, we shall have the right to refuse or cancel any orders in its sole discretion. If we charged your credit card or other account prior to cancellation, we will issue a credit to your account in the amount of the charge. Additional terms may apply. If a physical product you purchased from us is not as described, or if it is damaged or defective, your sole remedy is to return it for exchange in unused condition, complete and undamaged, in the original packaging.

10. Seller; Risk of Loss

Genius Brands is the seller of the subscription video services, DVDs, and other products and services made available for sale on the Service. All items purchased from the Service are made pursuant to a shipment contract. This means that the risk of loss and title for such items pass to you upon delivery to the carrier.

11. Links by You to the Service

We grant you a limited, non-exclusive, revocable, non-assignable, personal, and non-transferable license to create hyperlinks to the Service, so long as: (a) the links only incorporate text, and do not use any Trademarks, (b) the links and the content on your website do not suggest any affiliation with Genius Brands or cause any other confusion, and (c) the links and the content on your website do not portray Genius Brands or its products or services in a false, misleading, derogatory, or otherwise offensive matter, and do not contain content that is unlawful, offensive, obscene, lewd, lascivious, filthy, violent, threatening, harassing, or abusive, or that violate any right of any third party or are otherwise objectionable to Genius Brands. Genius Brands reserves the right to suspend or prohibit linking to the Service for any reason, in its sole discretion, without advance notice or any liability of any kind to you or any third party.

12. Third-Party Sites; Advertisements; Dealings with Third Parties

A. Third-Party Content and Sites; Advertisements. The Service may contain third party plug-ins and/or or applications, and/or links to third-party websites that are not owned, controlled or operated by Genius Brands, and the Service may also include links to third-party ads on the Service or otherwise, to or from third-party websites (collectively, “**Third-Party Sites**”), including websites operated by advertisers, licensors, licensees, and certain other third parties who may have business relationships with Genius Brands. Genius Brands may have no control over the content, operations, policies, terms, or other elements of Third-Party Sites, and Genius Brands does not assume any obligation to review any Third-Party Sites. Genius Brands does not endorse, approve, or sponsor any Third-Party Sites, or any third-party content, advertising, information, materials, products, services, or other items. Furthermore, Genius Brands is not responsible for the quality or delivery of the products or services offered, accessed, obtained by or advertised at such sites. Finally, Genius Brands will under no circumstances be liable for any direct, indirect, incidental or special loss or other damage, whether arising from negligence, breach of contract, defamation, infringement of copyright or other intellectual property rights, caused by the exhibition, distribution or exploitation of any information or content contained within these Third-Party Sites. Any activities you engage in connection with any of the same are subject to the privacy and other policies, terms and conditions of use and/or sale, and rules issued by the operator of the Third-Party Sites. Genius Brands disclaims all liability in connection therewith.

B. Dealings with Third Parties. Any interactions, correspondence, transactions, and other dealings that you have with any third parties found on or through the Service (including on or via Third-Party Sites) are solely between you and the third party (including issues related to the content of third-party advertisements,

payments, delivery of goods, warranties (including product warranties), privacy and data security, and the like). Genius Brands disclaims all liability in connection therewith.

13. Wireless and Location-Based Features

A. Wireless Features. The Service may offer certain features and services that are available to you via your wireless Device. These features and services may include the ability to access the Service's features and upload content to the Service, receive messages from the Service, and download applications to your wireless Device (collectively, "**Wireless Features**"). Standard messaging, data, and other fees may be charged by your carrier to participate in Wireless Features. Fees and charges may appear on your wireless bill or be deducted from your pre-paid balance. Your carrier may prohibit or restrict certain Wireless Features and certain Wireless Features may be incompatible with your carrier or wireless Device. You should check with your carrier to find out what plans are available and how much they cost. Contact your carrier with questions regarding these issues.

B. Terms of Wireless Features. You agree that as to the Wireless Features for which you are registered for, we may send communications to your wireless Device regarding us or other parties. Further, we may collect information related to your use of the Wireless Features. If you have registered via the Service for Wireless Features, then you agree to notify Genius Brands of any changes to your wireless contact information (including phone number) and update your Account on the Service to reflect the changes.

C. Location-Based Features. If you have enabled GPS, geo-location or other location-based features on any mobile app(s) or feature(s), you acknowledge that your Device location will be tracked and may be shared with others consistent with the **Privacy Policy**. Some mobile app(s) or feature(s) allow for you to disable location-based features or manage preferences related to them. However, you can terminate Device location tracking by us by uninstalling any mobile app(s) or feature(s). The location-based services offered in connection with our mobile app(s) or feature(s) are for individual use only and should not be used or relied on as an emergency locator system, used while driving or operating vehicles, or used in connection with any hazardous environments requiring fail-safe performance, or any other situation in which the failure or inaccuracy of use of the location-based services could lead directly to death, personal injury, or severe physical or property damage.

14. Dispute Resolution

Certain portions of this Section 14 are deemed to be a "written agreement to arbitrate" pursuant to the Federal Arbitration Act. You and Genius Brands agree that we intend that this Section 14 satisfies the "writing" requirement of the Federal Arbitration Act. This Section 14 can only be amended by mutual agreement.

A. First – Try To Resolve Disputes and Excluded Disputes. If any controversy, allegation, or claim arises out of or relates to the Service, the Content, your User-Generated Content, these Terms, or any Additional Terms, whether heretofore or hereafter arising (collectively, "**Dispute**"), or to any of Genius Brands' actual or alleged intellectual property rights (an "**Excluded Dispute**", which includes those actions set forth in Section 14.D), then you and we agree to send a written notice to the other providing a reasonable description of the Dispute or Excluded Dispute, along with a proposed resolution of it. Our notice to you will be sent to you based on the most recent contact information that you provide us. But if no such information exists or if such information is not current, then we have no obligation under this Section 14.A. Your notice to us must be sent to: **Genius Brands International, Inc., 131 S. Rodeo Drive, #250, Beverly Hills, CA 90212, Attn. Legal Dept.** For a period of sixty (60) days from the date of receipt of notice from the other party, Genius Brands and you will engage in a dialogue in order to attempt to resolve the Dispute or Excluded Dispute, though nothing will require either you or Genius Brands to resolve the Dispute or Excluded Dispute on terms with respect to which you and Genius Brands, in each of our sole discretion, are not comfortable.

B. Forums For Alternative Dispute Resolution

(i) **Arbitration.** If we cannot resolve a Dispute as set forth in Section 14.A within sixty (60) days of receipt of the notice, then either you or we may submit the Dispute to formal arbitration in accordance with this Section 14.B. If we cannot resolve an Excluded Dispute as set forth in Section 14.A within sixty (60) days of receipt of the notice, then either you or we may submit the Excluded Dispute to formal arbitration only if you and Genius Brands consent, in a writing signed by you and an Officer or legal representative of Genius Brands, to have that Excluded Dispute subject to arbitration. In such a case (and only in such a case), that Excluded Dispute will be deemed a “Dispute” for the remainder of this Section 14.B.

Upon expiration of the applicable sixty-day period and to the fullest extent permitted by applicable law, a Dispute will be resolved solely by binding arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association (“AAA”). If the Dispute has a claimed value of not more than \$250,000, then the arbitration will be heard and determined by a single neutral arbitrator who is a retired judge or a lawyer with not less than fifteen (15) years experience as a practicing member of the bar in the substantive practice area related to the Dispute, who will administer the proceedings in accordance with the AAA’s Supplementary Procedures for Consumer Related Disputes. If the Dispute has a claimed value of more than \$250,000, or if Genius Brands elects in its sole discretion to bear the costs of arbitration in excess of those that would occur for a proceeding before a single neutral arbitrator, then the arbitration will be heard and determined by a three-member panel, with one member to be selected by each party and the third (who will be chair of the panel) selected by the two party-appointed members or by the AAA in accordance with the Commercial Arbitration Rules. The arbitrator or arbitration panel, as the case may be, will apply applicable law and the provisions of these Terms and any Additional Terms, will determine any Dispute according to the applicable law and facts based upon the record and no other basis, and will issue a reasoned award. If you and Genius Brands do not both consent to the arbitration of an Excluded Dispute as set forth in the immediately preceding paragraph of this Section 14.B(i), then this paragraph and the remainder of this Section 14.B will not apply to the Excluded Dispute.

If a party properly submits the Dispute to the AAA for formal arbitration and the AAA is unwilling or unable to set a hearing date within sixty (60) days of the filing of a “demand for arbitration,” then either party can elect to have the arbitration administered by the Judicial Arbitration and Mediation Services Inc. (“JAMS”) using JAMS’ streamlined Arbitration Rules and Procedures, or by any other arbitration administration service that you and an officer or legal representative of Genius Brands consent to in writing. The substantive practice area requirements for the arbitrator and the \$250,000 threshold for the number of arbitrators assigned to the Dispute set forth in the paragraph above for the AAA arbitration will also apply to any such arbitration under JAMS or another arbitration service.

You can obtain AAA and JAMS procedures, rules, and fee information as follows:

AAA: 800.778.7879

JAMS: 949.224.1810

<http://www.adr.org/>

<http://www.jamsadr.com/>

(ii) **Nature, Limitations, and Location of Alternative Dispute Resolution.** In arbitration, as with a court, the arbitrator must honor the terms of these Terms (and any Additional Terms) and can award the prevailing party damages and other relief (including attorneys’ fees). However, WITH ARBITRATION (A) THERE IS NO JUDGE OR JURY, (B) THE ARBITRATION PROCEEDINGS AND ARBITRATION OUTCOME ARE SUBJECT TO CERTAIN CONFIDENTIALITY RULES, AND (C) JUDICIAL REVIEW OF THE ARBITRATION OUTCOME IS LIMITED. All parties to the arbitration will have the right, at their own expense, to be represented by an attorney or other advocate of their choosing. If an in-person arbitration hearing is required, then it will be conducted in the “metropolitan statistical area” (as defined by the U.S. Census Bureau) where you are a resident at the time the Dispute is submitted to arbitration. You and we will pay the administrative and arbitrator’s fees and other costs in accordance with the applicable arbitration rules; but if applicable arbitration rules or laws require Genius Brands to pay a greater portion or all of such fees and costs in order for this Section

14 to be enforceable, then Genius Brands will have the right to elect to pay the fees and costs and proceed to arbitration, or to decline to do so and have the matter resolved through the courts. Discovery will be permitted pursuant to the applicable arbitration rules. The arbitrator's decision must consist of a written statement stating the disposition of each claim of the Dispute, and must provide a statement of the essential findings and conclusions on which the decision and any award (if any) is based. Judgment on the arbitration decision and award (if any) may be entered in or by any court that has jurisdiction over the parties pursuant to Section 9 of the Federal Arbitration Act.

C. Limited Time To File Claims. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IF YOU OR WE WANT TO ASSERT A DISPUTE (BUT NOT A EXCLUDED DISPUTE) AGAINST THE OTHER, THEN YOU OR WE MUST COMMENCE IT (BY DELIVERY OF WRITTEN NOTICE AS SET FORTH IN SECTION 14.A) WITHIN ONE (1) YEAR AFTER THE DISPUTE ARISES – OR IT WILL BE FOREVER BARRED.

D. Injunctive Relief. The foregoing provisions of this Section 14 will not apply to any legal action taken by Genius Brands to seek an injunction or other equitable relief in connection with, any loss, cost, or damage (or any potential loss, cost, or damage) relating to the Service, any Content, your User-Generated Content and/or Genius Brands' intellectual property rights (including such Genius Brands may claim that may be in dispute), Genius Brands' operations, and/or Genius Brands' products or services.

E. Small Claims Matters Are Excluded From Arbitration Requirement. Notwithstanding the foregoing, either of us may bring qualifying claim of Disputes (but not Excluded Disputes) in small claims court, subject to Section 14.G.

F. No Class Action Matters. Disputes will be arbitrated only on an individual basis and will not be consolidated with any other arbitration or other proceedings that involve any claim or controversy of any other party. But if, for any reason, any court with competent jurisdiction or any arbitrator selected pursuant to Section 14.B(i) holds that this restriction is unconscionable or unenforceable, then our agreement in Section 14.B to arbitrate will not apply and the Dispute must be brought exclusively in court pursuant to Section 14.G.

G. Federal and State Courts in Los Angeles. Except to the extent that arbitration is required in Section 14.B, and except as to the enforcement of any arbitration decision or award, any action or proceeding relating to any Dispute or Excluded Dispute may only be instituted in state or federal court in Los Angeles, CA. Accordingly, you and Genius Brands consent to the exclusive personal jurisdiction and venue of such courts for such matters.

15. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

YOUR ACCESS TO AND USE OF THE SERVICE IS AT YOUR SOLE RISK.

THE SERVICE IS PROVIDED ON AN "AS IS", "AS AVAILABLE", AND "WITH ALL FAULTS" BASIS. Therefore, to the fullest extent permissible by law, Genius Brands International, Inc. and its subsidiaries and each of their respective employees, directors, members, managers, shareholders, agents, vendors, licensors, licensees, contractors, customers, successors, and assigns (collectively, "**Genius Brands Parties**") hereby disclaim and make no representations, warranties, endorsements, or promises, express or implied, as to:

- (a) the Service (including the Content and the User-Generated Content);
- (b) the functions, features, or any other elements on, or made accessible through, the Service;
- (c) any products, services, or instructions offered or referenced at or linked through the Service;

- (d) security associated with the transmission of your User-Generated Content transmitted to Genius Brands or via the Service;
- (e) whether the Service or the servers that make the Service available are free from any harmful components (including viruses, Trojan horses, and other technologies that could adversely impact your Device);
- (f) whether the information (including any instructions) on the Service is accurate, complete, correct, adequate, useful, timely, or reliable;
- (g) whether any defects to or errors on the Service will be repaired or corrected;
- (h) whether your access to the Service will be uninterrupted;
- (i) whether the Service will be available at any particular time or location; and
- (j) whether your use of the Service is lawful in any particular jurisdiction.

EXCEPT FOR ANY SPECIFIC WARRANTIES PROVIDED HEREIN OR IN ADDITIONAL TERMS PROVIDED BY A GENIUS BRANDS PARTY, GENIUS BRANDS PARTIES HEREBY FURTHER DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES, TITLE, CUSTOM, TRADE, QUIET ENJOYMENT, SYSTEM INTEGRATION, AND FREEDOM FROM COMPUTER VIRUS.

Some jurisdictions limit or do not allow the disclaimer of implied or other warranties so the above disclaimers may not apply to the extent such jurisdictions' laws are applicable.

16. LIMITATIONS OF OUR LIABILITY

UNDER NO CIRCUMSTANCES WILL ANY GENIUS BRANDS PARTIES BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, including personal injury or death or for any direct, indirect, economic, exemplary, special, punitive, incidental, or consequential losses or damages that are directly or indirectly related to:

- (a) the Service (including the Content and the User-Generated Content);
- (b) your use of or inability to use the Service, or the performance of the Service;
- (c) any action taken in connection with an investigation by Genius Brands Parties or law enforcement authorities regarding your access to or use of the Service;
- (d) any action taken in connection with copyright or other intellectual property owners or other rights owners;
- (e) any errors or omissions in the Service's technical operation; or
- (f) any damage to any user's computer, hardware, software, modem, or other equipment or technology, including damage from any security breach or from any virus, bugs, tampering, fraud, error, omission, interruption, defect, delay in operation or transmission, computer line, or network failure or any other technical or other malfunction, including losses or damages in the form of

lost profits, loss of goodwill, loss of data, work stoppage, accuracy of results, or equipment failure or malfunction.

The foregoing limitations of liability will apply even if any of the foregoing events or circumstances were foreseeable and even if Genius Brands Parties were advised of or should have known of the possibility of such losses or damages, regardless of whether you bring an action based in contract, negligence, strict liability, or tort (including whether caused, in whole or in part, by negligence, acts of god, telecommunications failure, or destruction of the Service).

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages of the sort that are described above, so the above limitation or exclusion may not apply to you.

EXCEPT AS MAY BE PROVIDED IN ANY ADDITIONAL TERMS, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL GENIUS BRANDS PARTIES' TOTAL LIABILITY TO YOU, FOR ALL POSSIBLE DAMAGES, LOSSES, AND CAUSES OF ACTION IN CONNECTION WITH YOUR ACCESS TO AND USE OF THE SERVICE AND YOUR RIGHTS UNDER THESE TERMS, EXCEED AN AMOUNT EQUAL TO THE AMOUNT YOU HAVE PAID GENIUS BRANDS IN CONNECTION WITH THE TRANSACTION(S) THAT UNDERLIE THE CLAIM(S); PROVIDED, HOWEVER, THIS PROVISION WILL NOT APPLY IF A TRIBUNAL WITH APPLICABLE JURISDICTION FINDS SUCH TO BE UNCONSCIONABLE. FOR PURPOSES OF CLARITY, THE PRIOR SENTENCE DOES NOT EXPAND OR LIMIT ANY EXPRESS, WRITTEN PRODUCT WARRANTY THAT IS PROVIDED BY GENIUS BRANDS OR A MANUFACTURER OF A PHYSICAL PRODUCT.

17. Waiver of Injunctive or Other Equitable Relief

IF YOU CLAIM THAT YOU HAVE INCURRED ANY LOSS, DAMAGES, OR INJURIES IN CONNECTION WITH YOUR USE OF THE SERVICE, THEN THE LOSSES, DAMAGES, AND INJURIES WILL NOT BE IRREPARABLE OR SUFFICIENT TO ENTITLE YOU TO AN INJUNCTION OR TO OTHER EQUITABLE RELIEF OF ANY KIND. THIS MEANS THAT, IN CONNECTION WITH YOUR CLAIM, YOU AGREE THAT YOU WILL NOT SEEK, AND THAT YOU WILL NOT BE PERMITTED TO OBTAIN, ANY COURT OR OTHER ACTION THAT MAY INTERFERE WITH OR PREVENT THE DEVELOPMENT OR EXPLOITATION OF ANY WEBSITE, APPLICATION, CONTENT, USER-GENERATED CONTENT, PRODUCT, SERVICE, OR INTELLECTUAL PROPERTY OWNED, LICENSED, USED OR CONTROLLED BY GENIUS BRANDS (INCLUDING YOUR LICENSED USER-GENERATED CONTENT) OR A LICENSOR OF GENIUS BRANDS.

18. Updates to Terms. These Terms (or if applicable Additional Terms), in the form posted at the time of your use of the applicable services to which it applies, shall govern such use (including transactions entered during such use). However, notwithstanding anything herein to the contrary, that the Terms that applied at the beginning of an applicable paid subscription term will continue to apply until that term expires or is terminated. AS OUR SERVICE EVOLVES, THE TERMS AND CONDITIONS UNDER WHICH WE OFFER THE SERVICE MAY PROSPECTIVELY BE MODIFIED AND WE MAY CEASE OFFERING THE SERVICE UNDER THE TERMS OR ADDITIONAL TERMS FOR WHICH THEY WERE PREVIOUSLY OFFERED. ACCORDINGLY, EACH TIME YOU SIGN IN TO OR OTHERWISE USE THE SERVICE YOU ARE ENTERING INTO A NEW AGREEMENT WITH US ON THE THEN APPLICABLE TERMS AND CONDITIONS (EXCEPT AS TO CURRENT SUBSCRIPTION TERMS AS EXPLAINED IN THE PRIOR SENTENCE) AND YOU AGREE THAT WE MAY NOTIFY YOU OF OTHER TERMS BY POSTING THEM ON THE SERVICE (OR IN ANY OTHER REASONABLE MANNER OF NOTICE WHICH WE ELECT), AND THAT YOUR USE OF THE SERVICE AFTER SUCH NOTICE CONSTITUTES YOUR GOING FORWARD AGREEMENT TO THE OTHER TERMS FOR YOUR NEW USE AND TRANSACTIONS. Therefore, you should review the posted terms of service and any applicable Additional Terms each time you use

the Service (at least prior to each transaction or submission). The Additional Terms will be effective as to new use, subscriptions and transactions as of the time that we post them, or such later date as may be specified in them or in other notice to you. However, the Terms (and any applicable Additional Terms) that applied when you previously used the Service will continue to apply to such prior use and any then current subscription period (i.e., changes and additions are prospective only) unless mutually agreed. In the event any notice to you of new, revised or additional terms is determined by a tribunal to be insufficient, the prior agreement shall continue until sufficient notice to establish a new agreement occurs. You should frequently check the home page and the e-mail you associated with your Account for notices, all of which you agree are reasonable manners of providing you notice. You can reject any new, revised or Additional Terms by discontinuing use of the Service and related services.

19. General Provisions

A. Genius Brands' Consent or Approval. As to any provision in these Terms or any Additional Terms that grants Genius Brands a right of consent or approval, or permits Genius Brands to exercise a right in its "sole discretion," Genius Brands may exercise that right in its sole and absolute discretion. No Genius Brands consent or approval may be deemed to have been granted by Genius Brands without being in writing and signed by an officer of Genius Brands.

B. Applicable Law. These Terms and any Additional Terms will be governed by and construed in accordance with, and any Dispute and Excluded Dispute will be resolved in accordance with, the laws of the California, U.S.A., without regard to its conflicts of law provisions.

C. Indemnity. You agree to, and you hereby, defend, indemnify, and hold Genius Brands Parties harmless from and against any and all claims, damages, losses, costs, investigations, liabilities, judgments, fines, penalties, settlements, interest, and expenses (including attorneys' fees) that directly or indirectly arise from or are related to any claim, suit, action, demand, or proceeding made or brought against any Genius Brands Party, or on account of the investigation, defense, or settlement thereof, arising out of or in connection with, whether occurring heretofore or hereafter: (i) your User-Generated Content; (ii) your use of the Service and your activities in connection with the Service; (iii) your breach or alleged breach of these Terms or any Additional Terms; (iv) your violation or alleged violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities in connection with your use of the Service or your activities in connection with the Service; (v) information or material transmitted through your Device, even if not submitted by you, that infringes, violates, or misappropriates any copyright, trademark, trade secret, trade dress, patent, publicity, privacy, or other right of any person or entity; (vi) any misrepresentation made by you; and (vii) Genius Brands Parties' use of the information that you submit to us (including your User-Generated Content) (all of the foregoing, "**Claims and Losses**"). You will cooperate as fully required by Genius Brands Parties in the defense of any Claim and Losses. Notwithstanding the foregoing, Genius Brands Parties retain the exclusive right to settle, compromise, and pay any and all Claims and Losses. Genius Brands Parties reserve the right to assume the exclusive defense and control of any Claims and Losses. You will not settle any Claims and Losses without, in each instance, the prior written consent of an officer of a Genius Brands Party.

D. Operation of Service; Availability of Products and Services; International Issues. Genius Brands controls and operates the Service from its U.S.-based offices in the U.S.A., and Genius Brands makes no representation that the Service is appropriate or available for use beyond the U.S.A. If you use the Service from other locations, you are doing so on your own initiative and are responsible for compliance with applicable local laws regarding your online conduct and acceptable content, if and to the extent local laws apply. The Service may describe products and services that are available only in the U.S.A. (or only parts of it) and are not available worldwide. We reserve the right to limit the availability of the Service and/or the provision of any content, program, product, service, or other feature described or available on the Service to any person, entity, geographic area, or jurisdiction, at any time and in our sole discretion, and to limit the quantities of any content, program, product, service, or other feature that we provide. You and we disclaim any application to these Terms of the Convention on Contracts for the International Sale of Goods.

E. Export Controls. Software related to or made available by the Service may be subject to export controls of the U.S.A. No software from the Service may be downloaded, exported, or re-exported (i) into (or to a national or resident of) any country or other jurisdiction to which the U.S.A. has embargoed goods, software, technology or services (which, as of the effective date of these Terms, includes Cuba, North Korea, Iran, Sudan, and Syria), or (ii) to anyone on the U.S. Treasury Department’s list of Specially Designated Nationals or the U.S. Commerce Department’s Table of Deny Orders, or (iii) to anyone on the U.S. Department of Commerce’s Bureau of Industry and Security Entities List as published in the Export Administration Regulations (including entities engaged in weapons of mass destruction proliferation in various countries and persons and entities that are suspected of diverting U.S. origin items to embargoed countries or terrorist end-uses). You are responsible for complying with all trade regulations and laws both foreign and domestic. Except as authorized by law, you agree and warrant not to export or re-export the software to any county, or to any person, entity, or end-user subject to U.S. export controls, including as set forth in subsections (i) – (iii) above.

F. Severability; Interpretation. If any provision of these Terms, or any Additional Terms, is for any reason deemed invalid, unlawful, void, or unenforceable by a court or arbitrator of competent jurisdiction, then that provision will be deemed severable from these Terms or the Additional Terms, and the invalidity of the provision will not affect the validity or enforceability of the remainder of these Terms or the Additional Terms (which will remain in full force and effect). To the extent permitted by applicable law, you agree to waive, and you hereby waive, any applicable statutory and common law that may permit a contract to be construed against its drafter. Wherever the word “including” is used in these Terms or any Additional Terms, the word will be deemed to mean “including, without limitation.” The summaries of provisions and section headings are provided for convenience only and shall not limit the full Terms.

G. Communications. When you communicate with us electronically, such as via e-mail and text message, you consent to receive communications from us electronically. Please note that we are not obligated to respond to inquiries that we receive. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

H. Investigations; Cooperation with Law Enforcement; Termination; Survival. Genius Brands reserves the right, without any limitation, to: (i) investigate any suspected breaches of its Service security or its information technology or other systems or networks, (ii) investigate any suspected breaches of these Terms and any Additional Terms, (iii) investigate any information obtained by Genius Brands in accordance with its **Privacy Policy** in connection with reviewing law enforcement databases or complying with criminal laws, (iv) involve and cooperate with law enforcement authorities in investigating any of the foregoing matters, (v) prosecute violators of these Terms and any Additional Terms, and (vi) discontinue the Service, in whole or in part, or, except as may be expressly set forth in any Additional Terms, suspend or terminate your access to it, in whole or in part, including any user accounts or registrations, at any time, without notice, for any reason and without any obligation to you or any third party. Any suspension or termination will not affect your obligations to Genius Brands under these Terms or any Additional Terms. Upon suspension or termination of your access to the Service, or upon notice from Genius Brands, all rights granted to you under these Terms or any Additional Terms will cease immediately, and you agree that you will immediately discontinue use of the Service. The provisions of these Terms and any Additional Terms, which by their nature should survive your suspension or termination will survive, including the rights and licenses you grant to Genius Brands in these Terms, as well as the indemnities, releases, disclaimers, and limitations on liability and the provisions regarding jurisdiction, choice of law, no class action, and mandatory arbitration.

I. Assignment. Genius Brands may assign its rights and obligations under these Terms and any Additional Terms, in whole or in part, to any party at any time without any notice. These Terms and any Additional Terms may not be assigned by you, and you may not delegate your duties under them, without the prior written consent of an officer of Genius Brands.

J. No Waiver. Except as expressly set forth in these Terms or any Additional Terms, (i) no failure or delay by you or Genius Brands in exercising any of rights, powers, or remedies under will operate as a waiver of that or any other right, power, or remedy, and (ii) no waiver or modification of any term of these Terms or any Additional Terms will be effective unless in writing and signed by the party against whom the waiver or modification is sought to be enforced.

K. U.S. Government Restricted Rights. If you are a government end user, then this provision applies to you. The Service provided in connection with these Terms has been developed entirely at private expense, as defined in FAR section 2.101, DFARS section 252.227-7014(a)(1) and DFARS section 252.227-7015 (or any equivalent or subsequent agency regulation thereof), and is provided as “commercial items,” “commercial computer site” and/or “commercial computer site documentation.” Consistent with DFARS section 227.7202 and FAR section 12.212 and to the extent required under U.S. federal law, the minimum restricted rights as set forth in FAR section 52.227-19 (or any equivalent or subsequent agency regulation thereof), any use, modification, reproduction, release, performance, display, disclosure or distribution thereof by or for the U.S. Government shall be governed solely by these Terms and shall be prohibited except to the extent expressly permitted by these Terms.

L. California Consumer Rights.

Residents of California are entitled to the following specific consumer rights information: you may contact the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs by mail at: 400 R St., Suite 1080, Sacramento, California, 95814, or by telephone at (916) 445-1254. Their website is located at: <http://www.dca.ca.gov>.

M. Connectivity. You are responsible for obtaining and maintaining all Devices and other equipment and software, and all internet service provider, mobile service, and other services needed for your access to and use of the Service and you will be responsible for all charges related to them.

20. Terms Applicable For Apple iOS.

If you are accessing or using the Service through an Apple Device, the following additional terms and conditions are applicable to you and are incorporated into the Terms by this reference:

- (i) To the extent that you are accessing the Service through an Apple Device, you acknowledge that these Terms are entered into between you and Genius Brands and, that Apple, Inc. (“**Apple**”) is not a party to these Terms other than as third-party beneficiary as contemplated below.
- (ii) The license granted to you in **Section 1** of these Terms is subject to the permitted Usage Rules set forth in the App Store Terms of Service (see: <http://www.apple.com/legal/itunes/us/terms.html>) and any third party terms of agreement applicable to the Service.
- (iii) You acknowledge that Genius Brands, and not Apple, is responsible for providing the Service and Content thereof.
- (iv) You acknowledge that Apple has no obligation whatsoever to furnish any maintenance or any support services to you with respect to the Service.
- (v) To the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Service.
- (vi) Notwithstanding anything to the contrary herein, and subject to the terms in these Terms, you acknowledge that, solely as between Apple and Genius Brands, Genius Brands, and not Apple is

responsible for addressing any claims you may have relating to the Service, or your possession and/or use thereof, including, but not limited, to: (i) product liability claims, (ii) any claim that the Service fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

- (vii) Further, you agree that if the Service, or your possession and use of the Service, infringes on a third party's intellectual property rights, you will not hold Apple responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claims.
- (viii) You acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of these Terms, and that, upon your acceptance of the terms and conditions of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary thereof.
- (ix) When using the Service, you agree to comply with any and all third-party terms that are applicable to any platform, website, technology or service that interacts with the Service.]

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