

SmartGenePrivacyPolicy_2021

Simply Managing Complex Data

Table of Contents

1 Introduction.....	3
2 Definitions.....	6
3 Information SmartGene collects.....	7
3.1 Information from Cookies and other Tracking Technologies.....	8
4 How we use information we collect.....	8
5 How we share information we collect.....	9
5.1 Data sharing with Customers and Authorities or in a legal dispute.....	9
5.2 With our Vendors.....	9
5.3 Government Data Requests.....	9
5.4 Other.....	10
6 Transparency & Security.....	10
7 International Data Transfer.....	11
8 Your choices.....	11
8.1 Choices Data Subjects have about their data residing in a SmartGene Record.....	11
8.2 Choices Users have about their data on SmartGene's service platforms.....	12
8.3 Choices Customers have about their data on SmartGene's Service platforms.....	12
9 Enforcement and Arbitration; Governing Law.....	13
10 Privacy Statement for Children.....	13
11 Changes to our Privacy Policy.....	13
12 Questions or Concerns.....	14

1 Introduction

This Privacy Policy applies to the websites related to the professional Services at the SmartGene domains (the “Websites”) owned and operated by SmartGene GmbH and affiliates (referred to as “SmartGene”, “us”, “our” and “we”). SmartGene is a company whose mission is to provide professional software application services (referred to as the “Service” or “Services”) for the management, analysis, and hosting of genetic data and related annotations. The Service is for professional use only and thus restricted to personnel who are instructed and authorized to use the Services (referred to as the “User”) by the Customer. Users are generally members of staff of an institution, a laboratory, or a company (herein referred to as “Customer”).

This Privacy Policy describes how SmartGene collects and uses the personal information that Users of the Service provide through our Websites. It also describes the choices available to the Customer and the User regarding the use of personal information and how this information can be accessed, updated and corrected.

Privacy is important to SmartGene. We believe that our privacy practices and transparency are essential to a successful collaboration between SmartGene and our Customers. This Privacy Policy focuses primarily on Users and people whose data have been entered into SmartGene’s Services by Users acting in a professional capacity.

Our privacy practices are based on the following levels of openness and privacy:

1. **Data Subject data:** A User of the Service will create an entry in the Service to register sequence data and annotation data (a “Record”). The generation of a Record is performed pursuant to the arrangements held by the Customer. Customer is responsible for submitting only pseudonymized data to the Service, in accordance with the applicable laws and regulations applicable to Customer. Customer is responsible for establishing and maintaining technical and organizational measures which ensure that the pseudonymized data submitted to the Service cannot be attributed to an identified or identifiable person or individual, without access to a protected resource external to the Service.
2. **User data:** In order to receive access to the Service, User agrees that his name, telephone number, e-mail address, and authorized access parameters are submitted to

SmartGene and stored in a protected manner at SmartGene or at a Third Party mandated by SmartGene to do so. This information enables the User to logon and to be contacted by SmartGene representatives for support or information regarding the Service. This information can be reviewed by the Customer and by the User for updating.

3. **Usage data:** The Services are equipped with tools (log and audit trail) ensuring traceability of Users' interactions with, and data transactions performed in, the Service. Typical data collected in this regard are: logon, User's Account ID, time, IP address, transaction performed, and Records accessed. This information is kept confidential at SmartGene and is accessible to SmartGene staff for support and trouble-shooting. It can be made available to Users (with Customer's agreement) and to Customer representatives upon, receipt of a written request.
4. **Interaction with Users, potential Customers and Customers:** SmartGene documents its e-mail and personal interactions with Users, potential Customers, and Customers electronically on a protected email served and protected Customer Relation Management system (hereafter "CRM"). Typical information stored are name, affiliation of a User or a Customer, contact information, and the purpose of the contact or the follow-up desired. Also interactions of Users, potential Customers, and Customers who initiate contact requests may be recorded in the CRM. This information can be used by SmartGene for marketing purposes. Upon written request, Customers and Users can review their contact information for updating or deletion. Only authorized SmartGene staff has access to the CRM.
5. **Record sharing between Customers:** Customers may decide to share pseudonymized and/or anonymized data stored in the Service with other Customers. When requested by Customers, SmartGene can make available additional Services such as a Data Collector which support protected data sharing between Customers. It is at the discretion of the Customer, and the Customer's mandated Users, which Records are shared. The sharing of Records and their pseudonimization or anonymization is at the sole discretion and responsibility of the sharing Customer.

This Privacy Policy also covers the visiting of SmartGene's Website www.smartgene.com and others. In this document, we also use "you" and "your" to refer to Users, Customers, and Data Subjects or website visitors.

Our Websites and Registry may contain links to and from sites maintained by Third Parties. This Privacy Policy does not cover your activities on those sites, nor any information you may provide to those sites, nor information that may be collected about you by those sites.

If you have a question about our Privacy Policy, please contact SmartGene at [contact\(at\)smartgene.com](mailto:contact(at)smartgene.com).

With the set-up of a User Account, User agrees to the terms of this Privacy Policy, and accepts the hosting of their information in Switzerland or in another jurisdiction whose privacy laws may be different from those in your country.

If you are visiting our Website, you understand that you agree to the terms of this Privacy Policy and by accessing our Website you are permitting the storing of your personal information (IP address, etc.) into our Internet Registry system understanding that this may include the transfer of your personally identifiable information (IP address, etc.) to Switzerland or another jurisdiction whose privacy laws may differ from those in your country.

2 Definitions

We use the following terms frequently in this Privacy Policy:

- **Audit Trail and Log Trail:** An automated record system monitoring access to the Services of SmartGene and tracing all operations which create, search, edit, export, or delete a Record.
- **Customers:** The institutions or laboratories to which the Users are affiliated. A natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of a Record. The entity with which SmartGene is contracted, or otherwise mandated, to provide Services.
- **Data breach:** Security breach leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or unauthorized access to, infrastructure and data about SmartGene, Data Subjects, Users, Customers or Trusted Individuals.
- **Data Subject:** An identified or identifiable person about whom information is stored. Can be an individual or a patient who is undergoing evaluation or treatment by a Customer. Data Subjects must not be identifiable with the data recorded in the Service, when the Service is hosted by SmartGene, in accordance with Swiss law and the laws applicable at the Customer location. A Data Subject may be a non-human as in the case of our veterinarian Services.
- **Pseudonymization:** A Record which cannot be re-identified without access to a protected resource external to the Service, which protected resource is not accessible to SmartGene.
- **Record:** A data entry derived from a Source generated by a User. It usually contains one or several gene sequences (of mostly infectious agents) plus annotation data derived from a Source. When the Service is hosted by SmartGene, the Record must not contain data which allow the identification of a Data Subject on the basis of the Record alone. Identifiers related to Data Subjects must be submitted in a coded manner into the Service in a way that only authorized Users of a Customer with access to a protected resource external to the Service can identify an individual (Data Subject).

- **Service:** Professional application service, Web-based or not, provided by SmartGene to Customers and their authorized Users.
- **Source:** A Data Subject, an animal, a sample site which provides a sample from which data are generated and derived to become a Record in the Service.
- **Trusted Individual:** Is a User mandated by a Customer to access, analyze and manage a Record on the Service in the context of the professional activity of the Customer and according to the terms and conditions of use of the Service. SmartGene staff and Third Parties mandated by SmartGene are also Trusted Individuals and thus may have access to Records and Usage Records on a need-to-know basis, in their professional capacity, such as to operate the Service. The access to and use of Records by Trusted Individuals who are part of SmartGene's staff or mandated Third Parties is limited and subject to a confidentiality agreement between the Trusted Individual and SmartGene.
- **Trusted Organization:** A SmartGene Customer to which Data Subjects have given the right to view, edit, and/or deposit specific data into the Service for the purpose of performing analyses in the context of the professional activity of the Customer.
- **Usage Record:** The composite data containing system data (e.g., user ID, password, log files) of a User and Record Information about searches, views, and edits of Records.
- **User:** Personnel who are Trusted Individuals and instructed in using the Service. They are authorized by Customer or a Trusted Organization to access the Service.
- **User Account:** Enables the access to the Services via a login and a secret and private password. A User Account is configured on demand of a Customer and defines which Services and which functionalities within a Service can be accessed and used by a User.

3 Information SmartGene collects

SmartGene will collect information about your use of the Websites and Services. We do this for a variety of reasons, including to monitor who accesses our Services, when and by whom Records have been added or changed, to help identify and block intrusions, and also to monitor traffic on the Websites and Services, and assure the security of our operations. When a visitor accesses our Websites or a User accesses the Service, we collect certain information using

web analytic tools or cookies (see below), including details about the Users, such as the visitor's IP address. Other information which may be collected are the type and version of the Internet browser that is being used, the site from which the visitor accesses our Websites, the type of device being used (e.g. computer, smart phone, tablet), the screen resolution, and details about usage, including page traffic. We may combine this automatically collected log information with other information we collect about you. We will not use this information for marketing purposes or transmit it to Third Parties.

3.1 Information from Cookies and other Tracking Technologies

We use cookies or similar technologies to store Users' session ID's and preferences. These cookies help to manage the User session. Users can control the use of cookies at the individual browser level. If you reject cookies, you may still use our Websites, but your ability to use some features or areas of our Websites and Service may be limited. You will find more information about our cookie policy at <https://www.smartgene.com/cookies.html>

4 How we use information we collect

We use the information we collect to operate the SmartGene Services, improve the Services, provide support, and develop new functionalities and Services. For example:

- We use User, Usage data, and Record information to analyze processes and results in case of support requested by a User and to address problems or questions. We also use Record information for validating bug fixes (to ensure that a fix does not alter the results obtained previously) and validating newly developed tools and functions.
- We also use User and Usage data for monitoring our Services and for operational purposes (e.g. to verify that the hardware infrastructure supports swift operations).
- The use of User, Usage data, and Record information is monitored, documented, and restricted to Trusted Individuals (collaborators) of SmartGene and trusted Third Parties who are bound by specific contractual secrecy and confidentiality obligations.
- SmartGene will not disclose Customer data to Third Parties without prior consent of the Customer. We also use this information to send messages to you. We send messages to the email address which you provided to us to inform you about an update, a maintenance interruption, or the availability of new functionality and Services. **Given the**

nature of these communications, we recommend that you do not opt-out from receiving them.

- We may contact you to send you newsletters and information about SmartGene. You may subscribe or unsubscribe by sending an e-mail to **contact(at)smartgene.com** or by requesting a change to your contact information in your User Account.

5 How we share information we collect

Except as set forth in this Privacy Policy, SmartGene does not share any non-public information about you with other parties. For example, we do not share your information about Records or Users, and we do not share or sell your information to marketers, advertisers, or other entities.

5.1 Data sharing with Customers and Authorities or in a legal dispute

If there is a dispute regarding Record data of a Data Subject, we may share Record, User, and Usage data as well as Customer data with the relevant authority but only upon written request by the Customer or by court order. No access is given to and no disclosure is made of Records, User, nor Usage data from other Customers without the written request of the Customer or by court order.

5.2 With our Vendors

We may share your information with agents or contractors (for example, a vendor may host SmartGene's servers, or a SmartGene contractor may need to check Records for data consistency), but only on a "need-to-know" basis to assist in the operation of the Services and Websites, and only if the vendor agrees to maintain the confidentiality and security of your information and not to use it for other purposes. These companies are authorized as "Trusted Individuals" to use your personally identifiable information only as necessary to provide these services to us.

5.3 Government Data Requests

If we are required by law, public safety, or public policy, or we are served with a warrant, court order, or subpoena, we may provide Records, User, and Usage data to regulators, enforcement agents, courts, and/or other government entities. To protect the privacy interests of our Users and Customers, SmartGene will provide only such data as we deem necessary in the situation. To the extent allowed, we will promptly provide information about any government data requests received and User Accounts affected to the relevant Customers.

5.4 Other

- **Aggregated Data:** We may share aggregated or summarized data with Third Parties or the scientific community, so that these persons can understand how the Services are being used. We will only do so in a way that the information is anonymized. No individual User nor Usage data specifically attributed to an individual Customer will be provided without permission. An example of aggregated data would be the overall Usage statistics in a certain country over a given time.
- **Legal Reasons:** We may provide Record, User, or Usage data if we need to defend against legal claims. We may also use and share User or Usage data to enforce our General Business Conditions (including investigation of potential violations). To the extent possible in the relevant situation, we will promptly provide the relevant Customer with information about any such disclosures.
- **Corporate Reorganization:** If SmartGene is involved in a merger, consolidation, acquisition, asset sale, or other corporate restructuring, we will give Customers notice (by posting on the SmartGene Website), and the option to extract their data before the Services are transferred or become subject to a different privacy policy.

6 Transparency & Security

To ensure the transparency of the SmartGene Service, we keep an Audit Trail and Log Trail of when and by which User a Record has been deposited, analyzed, changed, or deleted. SmartGene will use this information to support Users, to address concerns about results obtained with certain Records by using the Service, and to investigate potential Data breaches. Upon request, SmartGene will provide you with information about what kind of User and Usage information we hold. SmartGene makes reasonable efforts to assure that unauthorized persons will not be able to hack the Service or otherwise defeat our security measures. Customer accepts however that all possibilities of corruption, copying, or theft of data cannot be excluded.

Your User access to our Services is password protected and managed by the User Account maintained at SmartGene. To maintain the security of your information and the Records you're entitled to access (or any other information on the Service that you are authorized to view), you are required to keep your username(s) and password(s) strictly confidential and not disclose them to anyone. We also recommend that you sign out of your Account at the end of each session. You may also wish to close your browser window when you have finished your work, especially if you share a computer with someone else or are using a computer in a public place.

You are solely responsible for any action, activities, and access to the Service that are carried out using your username and password which occurred before you notified us of your username and password being compromised. More details can be found in our SmartGene General Business Conditions. If you have any questions about the security of our Services or your User Account, please contact us at **contact(at)smartgene.com**.

7 International Data Transfer

Note that we may store and process personal information on servers located outside of the country where you originally submitted the data to the Service. The data protection laws of the country or countries where this personal information will be stored or processed might not be as comprehensive as those in your country. Regardless of where we store and process data, we take steps to protect your information, consistent with the principles set forth in this Privacy Policy which are intended to comply with the laws and regulations currently in effect as of the date of this document including the Privacy Shield Framework issued by the U.S. Department of Commerce and with Article 26 of the EU Data Protection Directive covering data transfers. Additionally, we have thoroughly reviewed our privacy practices and procedures to comply with the European General Data Protection Regulation 2016/679 (GDPR).

By using our hosted Services, Customers and Users agree that (i) Records, User, and Usage data will be transferred to our facilities and those of Trusted Individuals with whom we share it as described in this Privacy Policy and (ii) any claims of any kind that you have regarding this Privacy Policy and our use and sharing of data shall be resolved in accordance with the procedures set forth in section 9.

8 Your choices

8.1 Choices Data Subjects have about their data residing in a SmartGene Record

SmartGene is committed to providing a secure, professional service. Customer is responsible for only submitting pseudonymized data to the Service in accordance with the applicable legislation pertinent to Customer. Customer is responsible for establishing and maintaining technical and organizational measures which ensures that the pseudonymized data submitted to the Service cannot be attributed to an identified or identifiable person, without access to a protected resource external to the Service. In the agreement between the Data Subject and the Customer, Data Subject implicitly or explicitly agrees to the Customer submitting data for a

Record on the Service. If a Data Subject wants to understand, view, edit, or delete a Record pertaining to him, he shall address this request to the Customer, and the Customer will then mandate that Customer's Users perform the tasks. If Customer's Users cannot perform the tasks themselves, SmartGene will be notified by Customer to perform the necessary work. In the context of a request to delete Records, legal constraints with regard to traceability and obligation to archive medical data, as applicable to the Customer or SmartGene, may prevail over the request to delete or edit a Record. In such cases, Customer will provide written notice to SmartGene to discharge SmartGene of this responsibility to delete or edit Records.

8.2 Choices Users have about their data on SmartGene's service platforms

SmartGene is committed to providing a secure, professional service. With the generation of a User Account, the User agrees that his contact details and Usage Records are saved on the Service. Users may request to view and update their contact data for valid User Accounts in agreement with Customer. In the context of a request to delete User and Usage Records, legal constraints with regard to traceability and obligation to archive medical data as applicable to the Customer or SmartGene' may prevail over the desire to delete. In such case, Users and Customers will discharge SmartGene of this responsibility to delete data.

(Legal provisions for Data safe-keeping of medical data. Selection (status June 2018):

Switzerland: <https://www.edoeb.admin.ch/edoeb/fr/home/protection-des-donnees/gesundheit/dossier-medical-et-droit-d-acces.html#1994728071> ;

Belgium: https://ec.europa.eu/health/sites/health/files/ehealth/docs/laws_belgium_en.pdf ;

other European countries: https://ec.europa.eu/health/ehealth/projects/nationallaws_electronichealthrecords_en)

8.3 Choices Customers have about their data on SmartGene's Service platforms

SmartGene is committed to providing a secure, professional service. With the execution of a hosted service agreement and license, the Customer agrees that Customer Data such as Record, User, and Usage data are recorded and archived on the Service in the context of Customer's professional activity. Hosting is carried out on infrastructure controlled by SmartGene or Trusted Individuals which may not be located in Switzerland nor in the Customer's country. Customers can request to view Record, User, and Usage data in exchange for a fee covering the work and expense incurred by SmartGene. In the context of a request to delete Customer Data, legal constraints with regard to traceability and obligation to archive medical data as applicable to the Customer or SmartGene may apply and prevail over the desire to delete. In such case Customer will discharge SmartGene of this responsibility.

9 Enforcement and Arbitration; Governing Law

If you have any concerns or claims with respect to our Privacy Policy, please contact us as indicated in section 12: Questions or Concerns. We will investigate and attempt to resolve any complaints or disputes regarding our storage use and disclosure of personal information. If you have questions or concerns about the accuracy of a Record, you may contact us, and we will endeavor to put you in contact with the relevant Customer who has contracted with us and is responsible for the content of the Record.

This Privacy Policy is governed by the laws of Switzerland, and any disputes shall be resolved under the laws of Switzerland at the Arbitration Court of SmartGene's domicile.

10 Privacy Statement for Children

Our Services and Websites are directed to a professional audience. We do not knowingly collect any personally identifiable information from anyone under the age of 18.

11 Changes to our Privacy Policy

We may change our Privacy Policy from time to time. We will post any changes to this Privacy Policy on our Website. Your continued use of our Service or our Website will be deemed conclusive acceptance of modifications. Please check this Privacy Policy from time to time for changes. We will not reduce your rights under this Privacy Policy with respect to data previously deposited without your consent. If in our discretion we think that any changes are significant, we will take additional steps to inform you (for example, by posting a notice of changes on our Websites or by sending you an email to inform you of such changes) and offering you an option to opt-in or opt-out (for example, by having you agree to the changes the next time you log onto the Website or clicking an "I consent" button in an email).

This Privacy Policy was last reviewed on the 8th of January 2021.

12 Questions or Concerns

If you have any additional questions about this Privacy Policy or our practices, please contact SmartGene at:

SmartGene Services

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CH-1015 Lausanne,
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Phone: +41 21 508 4800

E-mail: [contact\(at\)smartgene.com](mailto:contact(at)smartgene.com)

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