

**PROTECTION OF PERSONAL INFORMATION
POLICY**

OF

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BEHAVIOUR CONSULTANT**

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1. Interpretation

1.1. In this document:

1.1.1. defined terms and words are, in general, signified in the text of the document by using capital initial letters, but the absence of such letters does not necessarily signify that a term, or word, is not defined;

1.1.2. the clause headings are for convenience and shall be disregarded in construing its content; and

1.1.3. unless the context indicates a contrary intention, the singular shall include plural and *vice versa*.

1.2. Unless the context clearly indicates a contrary intention, the following expressions in this document shall bear the meanings set opposite them below and cognate expressions shall bear corresponding meanings –

1.2.1. **"the Act"** – means the Protection of Personal Information Act, 4 of 2013, and any regulation or code made under the Act.

1.2.2. **"Client(s)"** - means any client of the Responsible Party.

1.2.3. **"Consent"** - means any voluntary, specific, and informed expression of will in terms of which permission is given for the processing of Personal Information or Special Personal Information;

1.2.4. **"Data Subject"** – means any person to whom Personal Information or Special Personal Information relates, including the Responsible Party's, Client employees, employment candidates etc;

1.2.5. **"Deputy Information Officer"** – means any person who has been designated by the Information Officer to perform certain delegated duties and responsibilities of the Information Officer.

1.2.6. **"Information Officer"** - means the head of a private body being either the Chief Executive Officer, or an equivalent officer or any person duly authorised by that officer.

1.2.7. **"Operator"** – means a person who processes Personal Information or Special Personal Information for a Responsible Party in terms of the law, a contract or mandate, without coming under the direct authority of that party.

1.2.8. **"Personal Information"** - means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including but not limited to:

- 1.2.8.1. information relating to the race, gender, sex, pregnancy, marital status, national, ethnic, or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language, and birth of the person;
- 1.2.8.2. information relating to the education or the medical, financial, criminal or employment history of the person; any identifying number, symbol, email address, physical address, telephone number, location information, online identifier, or other particular assignment to the person;
- 1.2.8.3. the biometric information of the person;
- 1.2.8.4. the personal opinions, views, or preferences of the person;
- 1.2.8.5. correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- 1.2.8.6. the views of opinions of another individual about the person;
- 1.2.8.7. the name of the person if it appears with other Personal Information or Special Personal Information relating to the person or if the disclosure of the name itself would reveal information about the person.
- 1.2.9. **“Processing” “Processes” and “Processed”** - means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information and /or Special Personal Information, including:
 - 1.2.9.1. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation, or use;
 - 1.2.9.2. dissemination by means of transmission, distribution or making available in any other form;
 - 1.2.9.3. or
 - 1.2.9.4. merging, linking as well as restriction, degradation, erasure, or destruction of information.
- 1.2.10. **“Regulator”** - means the Information Regulator established in terms of Section 39 of the Act;
- 1.2.11. **“Responsible Party”** means, for purposes of this policy, Ms Katherine Brown, being the person who, alone or in conjunction with others, determines

the purpose of and means for processing Personal Information and Special Personal Information.

1.2.12. **“Responsible Party’s Contact Details”** – means:

1.2.12.1. Physical address: 58 Derby Road,
Kensington,
Johannesburg
2094

1.2.12.2. Cell Phone: 0729542423

1.2.13. E-mail address: kbehave@gmail.com

1.2.14. **“Special Personal Information”** - means the Personal Information referred to in Section 26 of the Act, namely Personal Information concerning religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a Data Subject to the extent that such information relates to the alleged commission of any offence by the Data Subject or any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings.

1.2.15. **“Record”** - means any recorded information regardless of form or medium that is in the possession or under the control of a responsible party, whether or not it was created by a responsible party and regardless of when it came into existence. Such information can include any of the following:

1.2.15.1. writing on any material;

1.2.15.2. information produced, recorded, or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded, or stored.

1.2.15.3. label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;

1.2.15.4. book, map, plan, graph, or drawing;

- 1.2.15.5. Photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced.

2. Recordal, purpose & scope

- 2.1. The Responsible Party gathers, processes and records Personal Information and Special Personal Information for its business purpose, to service its Clients and for its own internal employee- and business administration.
- 2.2. This policy will regulate the processing of Personal Information and Special Personal Information by the Responsible Party and will be used to protect the rights and interests of all Data Subjects who provide Personal Information and Special Personal Information to the Responsible Party.
- 2.3. This policy shall apply to all Personal Information and Special Personal Information processed by the Responsible Party.

3. Information Officer & Deputy Information Officer

- 3.1. The Responsible Party is the Information Officer for purposes of the Act, and she can appoint 1 (one) person, as its Deputy Information Officer who she mandates and authorises to carry out the duties as listed in Section 55 (1) of the Act.
- 3.2. The Deputy Information Officer will take up his/her duties as listed in Section 55 (2) of the Act.
- 3.3. The identity and contact detail of the Responsible Party's Information Officer and Deputy Information Officer may be obtained from the Responsible Party at the Responsible party's Contact Details, alternatively, from the Regulator, as defined in the Act.

4. Warranty

The Responsible Party warrants that:

- 4.1. this policy will be made easily available on request; and
- 4.2. it has the resources and capacity to implement the constructs of this policy.

5. Lawful Processing of Personal Information and Special Personal Information

The Responsible Party shall, in terms of Section 4 of the Act, process Personal Information lawfully by adhering to the following conditions:

- 5.1. Accountability -
 - 5.1.1. At the time that the determination of the purpose for which the Personal Information or Special Personal Information is being processed, the

Responsible Party will ensure that effect is given to such conditions and that compliance with the Act and this policy is ensured.

5.2. Processing Limitation –

5.2.1. Personal Information and Special Personal Information will only be processed if it is adequate, relevant, and not excessive.

5.2.2. Personal Information and Special Personal Information may be processed under circumstances where lawful and/or Consent is obtained from the Data Subject, either directly in person or by having given personal, written Consent to a third party or one of the Responsible Party's Clients to on-send that Personal Information or Special Personal Information to the Responsible Party for processing.

5.2.3. Personal written Consent from the Data Subject given to a third party or a client of the Responsible Party under circumstances listed in Sections 12 (2)(a), (c), (d), (e) and (f) of the Act.

5.2.4. Personal Information and Special Personal Information may further be processed under circumstances where processing is necessary to carry out actions for the conclusion or performance of a contract to which the Data Subject is a party, processing complies with an obligation imposed by law on the Responsible Party, processing protects a legitimate interest of the Data Subject, processing is necessary for the proper performance of a public law duty or processing is necessary for pursuing the legitimate interests of the Responsible Party or of a third party to whom the Personal Information and Special Personal Information is supplied.

5.2.5. The Responsible Party bears the onus of ensuring that the Data Subject's Consent was obtained, in circumstances not listed in clause 5.2.3 above, and the Responsible Party's systems will cater for the recording of proof of the Data Subject's Consent.

5.2.6. Data Subjects may withdraw their Consent or object, at any time, to the processing of Personal Information or Special Personal Information, provided that the lawfulness of processing information in terms of clause 5.2.3 above, is not affected and provided that no legislation exists that obliges the Responsible Party to process such Personal Information or Special Personal Information. Objections or withdrawals of Consent must be brought to the attention of the Deputy Information Officer by the Data Subject.

5.3. Purpose Specification -

- 5.3.1. Personal Information and Special Personal Information shall only be processed for a specific, explicit, defined, and lawful purpose relating to the Responsible Party's purpose, lawful obligations and business and internal administration and governance. In all forms, consents, documents, questionnaires etc. Provision will be made to ensure that the Data Subject is aware of the purpose for the collection of the Personal Information and Special Personal Information.
- 5.3.2. Records of Personal Information and Special Personal Information of the Data Subject shall not be retained any longer than is necessary to achieve its purpose bearing in mind considerations pertaining to retention of records required by law, requirements for lawful purposes, contractual obligations, and Consent by a competent person.
- 5.3.3. Where the Responsible Party has used a record of Personal Information of a Data Subject to make a decision about that Data Subject, it will retain that record for such period as may be required by law or a code of conduct and if no law or code of conduct exists, it shall retain that record for a reasonable period of time which will afford the Data Subject the reasonable opportunity, taking all considerations relating to the use of the Personal Information into account, to request access to the record.
- 5.3.4. Personal Information and Special Personal Information of a Data Subject shall be destroyed or deleted in a manner that prevents its reconstruction after the Responsible Party is no longer authorised to keep it on record.
- 5.3.5. The Responsible Party will restrict processing of any Personal Information or Special Personal Information under circumstances where it discovers that its accuracy is contested by the Data Subject, that is no longer needs the Personal Information or Special Personal Information for achieving the purpose for which the information was collected, the processing is unlawful and the Data Subject opposes its destruction or deletion and requests the restriction instead or the Data Subject requests to submit the Personal Information or Special Personal Information into another automated processing system.
- 5.4. Further Processing Limitation -
 - 5.4.1. In the event that further processing of Personal Information or Special Personal Information is required, it will only be done so in accordance with the purposes for which it was initially collected and will only be further processed in strict compliance with Sections 15(2) and (3) of the Act.

5.5. Information Quality -

5.5.1. The Responsible Party will take all reasonably practicable steps to ensure that the Personal Information or Special Personal Information is complete, accurate, not misleading and updated where necessary. In doing so, it will have regard to the purpose for which that Personal Information or Special Personal Information was gathered and where necessary involve the Data Subject in this process.

5.6. Openness -

5.6.1. Whenever processing Personal Information and Special Personal Information of a Data Subject, the Responsible Party will take all reasonable steps to ensure that the Data Subject is aware of:

5.6.1.1. the information being collected and under circumstances where it is not being collected directly from the Responsible Party, the source from where it is being collected;

5.6.1.2. the name and address of the Responsible Party, the purpose for which the information is being collected, whether or not the supply of information is voluntary or mandatory, the consequences on not supplying the information, any particular law requiring the collection of the information;

5.6.1.3. whether the Responsible Party intends transferring the information to a third country or international organisation and the level of protection afforded the information by the third country or international organisation;

5.6.1.4. any further information such as the recipient or category of recipients of the information, nature or category of the information, existence of the right of access to and the right to rectify the information collected, existence to the right to object to the processing of the information and the right to lodge a complaint to the Regulator together with the contact details of the Regulator.

5.6.2. In circumstances where the Personal Information or Special Personal Information is taken from the Data Subject directly, the steps highlighted above will be taken before the information is collected from the Data Subject, by publishing same on forms, consents, documents, questionnaires etc.

5.7. Security Safeguards –

- 5.7.1. The Responsible Party will treat all Personal Information and Special Personal Information in its possession as confidential. It will not disclose it for any unlawful purpose and will take all reasonable, appropriate, technical and organisational measures to prevent loss or damage and unlawful access to or processing Personal Information and Special Personal Information in its possession.
- 5.7.2. The Responsible Party will and has taken reasonable measures to identify all reasonably foreseeable internal and external risks to Personal Information and Special Personal Information in its possession. It has established and maintained appropriate safeguards against those risks and regularly verifies that the safeguards are effectively implemented. Furthermore, it ensures and will continue to ensure that its safeguards are continually updated in response to new risks and to deficiencies in previously implemented safeguards.
- 5.7.3. The Responsible Party may appoint Operators to assist in processing Personal Information and Special Personal Information of the Data Subjects and will ensure that any Operator appointed will be contractually bound to abide by the terms of this policy, that it maintains the security measures mentioned herein and notify the Responsible Party immediately following any suspicion on reasonable grounds that Personal Information or Special Personal Information has been unlawfully accessed, acquired or compromised by an unauthorised person.
- 5.7.4. Under circumstances where there are reasonable grounds to believe that Personal Information or Special Personal Information has been unlawfully accessed, acquired, or compromised by an unauthorised person, the Regulator and the Data Subject shall immediately be notified in writing and will provide sufficient information notifying the Data Subject of any and all protective measures that the Responsible Party is taking.
- 5.8. Data Subject Participation -
 - 5.8.1. Upon verification of the identity of a Data Subject, the Responsible Party shall notify him or her, free of charge, of whether it holds Personal Information or Special Personal Information about the Data Subject.
 - 5.8.2. Under circumstances where the Responsible Party does have Personal Information or Special Personal Information concerning the Data Subject on record, it will, at his or her request make available the record or a description of the Personal Information or Special Personal Information about the Data

Subject including information relating to the identity of all third parties or categories of third parties who have or who have had access to the Personal Information or Special Personal Information; within a reasonable time, at a prescribed fee (if any); in a reasonable manner and format and in a form that is generally understandable.

- 5.8.3. If, at the request by a Data Subject, Personal Information or Special Personal Information is communicated to him or her, the Data Subject will be advised of their right to have the Personal Information or Special Personal Information that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading, or obtained unlawfully corrected, destroyed, or deleted. The Responsible Party will upon receipt of such request correct, destroy or delete the information and provide the Data Subject credible proof thereof.

6. Processing of Special Personal Information

The Responsible Party shall seek to obtain the express, informed, written Consent of the Data Subject before processing their Special Personal Information and ordinarily will not do so without obtaining such Consent. Notwithstanding this, failure to obtain such Consent will not preclude the Responsible Party from Processing the Special Personal Information in certain circumstances where it is expressly permitted to do so in accordance with the provisions of the Act and more especially in circumstances envisaged at Section 27 of the Act.

7. Personal Information and Special Personal Information of employees and job applicants

7.1. Recruitment and appointment

- 7.1.1. The Responsible Party will from time to time, process Personal Information or Special Personal Information, in the recruitment process, from a Data Subject who is an employment applicant. When processing such Personal Information, the Responsible Party will adhere to its obligations in terms of the Act and of this policy.

- 7.1.2. As a consequence of any existing employment relationship that exists between a Data Subject, who is an employee of the Responsible Party, and the Responsible Party; Personal Information and Special Personal Information of that Data Subject will be processed by the Responsible Party. The Responsible Party will ensure that in processing an employee's Personal Information and Special Personal Information, that it will adhere to its obligations in terms of the Act and of this policy.

- 7.1.3. The Responsible Party shall take reasonable steps to ensure that any employment applicant and that all of its employees understand the purposes for the processing of their Personal Information or Special Personal Information and that Consent is obtained prior to processing any of their Personal Information or Special Personal Information.
- 7.1.4. The Responsible Party shall endeavour to collect and process Personal Information and Special Personal Information from employment applicants and its employees directly, unless the information is derived from a public record or has been deliberately made public by the employment applicant or employee or has been made available to the Responsible Party, with the Consent of the employment or employee, by an employment agency, trade union or authorised third party.
- 7.1.5. Notwithstanding clause 7.1.3 and 7.1.4 above, failure to obtain such Consent, will not preclude the Responsible Party from processing Personal Information and Special Personal Information, in certain circumstances where it is obligated and/or permitted to do so in accordance with the provisions of the Act.
- 7.1.6. The Responsible Party undertakes to and will take all reasonable steps to ensure an employment applicant's Personal Information or Special Personal Information will only be used for the purposes connected with the recruitment process.
- 7.1.7. The Responsible Party undertakes to and will take all reasonable steps to ensure all of its employees Personal Information and Special Personal Information will only be used for the purposes connected with the human resource function and employment relationship.
- 7.2. Storage of personal information and special personal information of employees
- 7.2.1. Personal Information and Special Personal Information of employees of the Responsible Party is kept on record and contained in personal files which are safely kept in the Human Resources Department, to which access is secure and limited to authorised personnel only.
- 7.2.2. Upon termination of the employment contract between the Responsible Party and an employee, Personal Information or Special Personal Information will be handed to the relevant Operators for the purposes of post-employment benefits, if any, and save as required by law, thereafter, will be destroyed, deleted or de-identified.

8. Distribution of Personal Information and Special Personal Information to third parties

- 8.1. Personal Information and Special Personal Information of Data Subjects may be distributed to third parties with the express, informed, written approval of the Data Subject and for the express purposes for which the Personal Information and Special Personal Information was collected.
- 8.2. In circumstances where Personal Information and Special Personal Information of Data Subjects is distributed to third parties, such third parties shall be contractually bound to abide by this policy and to agree to comply with same.

9. Transborder information flows

The Responsible Party shall only transfer Personal Information and Special Personal Information of a Data Subject to a third party who is in a foreign country if that third party is subject to a law, rules or policies which provides adequate protection to the same degree or to a greater degree than the Act and shall only be done so with the express, informed, written approval of the Data Subject or subject to the provisions of Section 72 of the Act.

10. Review

This policy is a working document and will be amended, improved, and expanded on in order to provide greater protection to Personal Information and Special Personal Information pertaining to Data Subjects or to comply with amendments to the Act or law. Under circumstances where any such changes are made, the updated policy will be published to the relevant parties.

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