

## 1. DEFINITIONS

- 1.1. In this Policy (as defined below), unless the context requires otherwise, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –
- 1.1.1. **“Data Breach”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Information under the control of or in the possession of WB;
  - 1.1.2. **“Data Subject”** means the person to whom Personal Information relates;
  - 1.1.3. **“Direct Marketing”** means to approach a person, by electronic communication, for the purpose of promoting or offering to supply, in the ordinary course of business, any goods or services to the Data Subject;
  - 1.1.4. **“Direct Marketer”** means a supplier who employs Direct Marketing as an advertising mechanism;
  - 1.1.5. **“Employees”** means any employee of the WB;
  - 1.1.6. **“Operator”** means a person or entity who Processes Personal Information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of that Responsible Party;
  - 1.1.7. **“Personal Information”** means information relating to a Data Subject, including but not limited to
    - 1.1.7.1. views or opinions of another individual about the Data Subject; and
    - 1.1.7.2. information relating to such Data Subject’s –
      - 1.1.7.2.1. race, sex, gender, sexual orientation, pregnancy, marital status, nationality, ethnic or social origin, colour, age, physical or mental health, well-being, disability, religion, conscience, belief, cultural affiliation, language, and birth;
      - 1.1.7.2.2. education, medical, financial, criminal or employment history;
      - 1.1.7.2.3. names, identity number and/or any other personal identifier, including any number(s), which may uniquely identify a Data Subject, account or client number, password, pin code, customer or Data Subject code or number, numeric, alpha, or alpha-numeric design or configuration of any nature, symbol, email address, domain name or IP address, physical address, cellular phone number, telephone number or other assignment;
      - 1.1.7.2.4. blood type, fingerprint, or any other biometric information;
      - 1.1.7.2.5. personal opinions, views, or preferences;
      - 1.1.7.2.6. correspondence that is implicitly or expressly of a personal, private, or confidential nature (or further correspondence that would reveal the contents of the original correspondence); and
      - 1.1.7.2.7. corporate structure, composition, and business operations (in circumstances where the Data Subject is a juristic person) irrespective of whether such information is in the public domain or not;
  - 1.1.8. **“Policy”** means this Privacy Policy;
  - 1.1.9. **“POPIA”** means the Protection of Personal Information Act 4 of 2013;
  - 1.1.10. **“Processing”** means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –
    - 1.1.10.1. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation, or use;
    - 1.1.10.2. dissemination by means of transmission, distribution or making available in any other form by electronic communications or other means; or
    - 1.1.10.3. merging, linking, blocking, degradation, erasure, or destruction. For the purposes of this definition. “Process” has a corresponding meaning;
  - 1.1.11. **“Regulator”** means the South African Information Regulator established in terms of POPIA;
  - 1.1.12. **“Responsible Party”** means a public or private body or any other person which alone or in conjunction with others, determines the purpose of and means for Processing Personal Information;
  - 1.1.13. **“Special Personal Information”** means Personal Information concerning a Data Subject’s religious or philosophical beliefs, race or ethnic origin, trade union membership, political opinions, health, sexual life, sexual orientation, genetic information, biometric information, or criminal behaviour;
  - 1.1.14. **“Third Party”** means any independent contractor, agent, consultant, sub-contractor, or other representative of WB; and
  - 1.1.15. **“WB”** means Ward Brink of 12<sup>th</sup> Floor, Touchstone House, 7 Bree Street, Cape Town;
  - 1.1.16. **“Website”** means the WB website currently located at [www.wardbrink.com](http://www.wardbrink.com).

## 2. PURPOSE OF THIS POLICY

The purpose of this Policy is to inform Data Subjects about how WB Processes their Personal Information.

## 3. APPLICATION

- 3.1. WB, in its capacity as Responsible Party and/or Operator, shall strive to observe, and comply with its obligations under POPIA as well as accepted information protection principles, practices and guidelines when it Processes Personal Information from or in respect of a Data Subject.
- 3.2. This Policy applies to Personal Information collected by WB in connection with the services which we offer and provide. This includes information collected directly from you as a Data Subject, as well as information we collect indirectly through our Direct Marketing campaigns and online through our websites, branded pages on Third Party platforms and applications accessed or used through such websites or Third-Party platforms which are operated by or on behalf of WB.
- 3.3. This Privacy Policy does not apply to the information practices of Third-Party companies who we may engage with in relation to our business operations (including, without limitation, their websites, platforms and/or applications) which we do not own or control; or individuals that WB does not manage or employ. These Third-Party sites may have their own privacy policies and terms and conditions, and we encourage you to read them before using them.

#### **4. PROCESS OF COLLECTING PERSONAL INFORMATION**

- 4.1. WB collects Personal Information directly from Data Subjects unless an exception is applicable.
- 4.2. WB will always collect Personal Information in a fair, lawful and reasonable manner to ensure that it protects the Data Subject's privacy, and will Process the Personal Information based on legitimate grounds in a manner that does not adversely affect the Data Subject in question.
- 4.3. WB often collects Personal Information directly from the Data Subject and/or in some cases, from Third Parties.
- 4.4. Where WB obtains Personal Information from Third Parties, WB will ensure that it obtains the consent of the Data Subject to do so or will only Process the Personal Information without the Data Subject's consent where WB is permitted to do so.

#### **5. LAWFUL PROCESSING OF PERSONAL INFORMATION**

- 5.1. Where WB is the Responsible Party, it will only Process a Data Subject's Personal Information where –
  - 5.1.1. consent of the Data Subject is obtained;
  - 5.1.2. Processing is necessary to carry out the actions for conclusion of a contract to which a Data Subject is party;
  - 5.1.3. Processing complies with an obligation imposed by law on WB;
  - 5.1.4. Processing protects a legitimate interest of the Data Subject;
  - 5.1.5. Processing is necessary for pursuing the legitimate interests of WB or of a third party to whom the information is supplied; and/or
  - 5.1.6. Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in WB.
- 5.2. WB will only Process Personal Information where one of the legal bases referred to in paragraph 5.1 above are present.
- 5.3. WB will make the manner and reason for which the Personal Information will be Processed clear to the Data Subject.
- 5.4. Where WB is relying on a Data Subject's consent as the legal basis for Processing Personal Information, the Data Subject may withdraw his/her/its consent or may object to WB's Processing of the Personal Information at any time.
- 5.5. If the consent is withdrawn or if there is otherwise a justified objection against the use or the Processing of such Personal Information, WB will ensure that the Personal Information is no longer Processed.

#### **6. SPECIAL PERSONAL INFORMATION AND PERSONAL INFORMATION OF CHILDREN**

- 6.1. Special Personal Information is sensitive Personal Information of a Data Subject and WB acknowledges that it will generally not Process Special Personal Information unless -
  - 6.1.1. processing is carried out in accordance with the Data Subject's explicit consent; or
  - 6.1.2. information has been deliberately made public by the Data Subject; or
  - 6.1.3. processing is necessary for the establishment, exercise, or defence of a right or legal claim or obligation in law); or
  - 6.1.4. processing is for historical, statistical or research purposes, subject to stipulated safeguards; or – for purposes of POPIA –
    - 6.1.4.1. specific authorisation has been obtained in terms of POPIA;
    - 6.1.4.2. Processing is necessary to protect the vital interests of the data subject or of another natural person where the Data Subject is physically or legally incapable of giving consent;
    - 6.1.4.3. Processing is necessary for the establishment, exercise, or defence of legal claims or whenever courts are acting in their judicial capacity; or
    - 6.1.4.4. Processing is necessary for reasons of substantial public interest.
- 6.2. WB acknowledges that it may not Process any Personal Information concerning a Child and will only do so where it has obtained the consent of the parent or guardian of that Child or where it is permitted to do so in accordance with applicable laws.

## **7. PURPOSE FOR PROCESSING PERSONAL INFORMATION**

- 7.1. WB understands its obligation to make Data Subjects aware of the fact that it is Processing their Personal Information and inform them of the purpose for which WB Processes such Personal Information.
- 7.2. WB will only Process a Data Subject's Personal Information for a specific, lawful, and clear purpose and will ensure that it makes the Data Subject aware of such purpose(s) as far as possible.
- 7.3. It will ensure that there is a legal basis for the Processing of any Personal Information. Further, WB will ensure that Processing will relate only to the purpose for and of which the Data Subject has been made aware (and where relevant, consented to) and will not Process any Personal Information for any other purpose(s).
- 7.4. WB will generally use Personal Information for purposes required to operate and manage its normal business operations and these purposes include one or more of the following non-exhaustive purposes –
  - 7.4.1. For the purposes of providing its services to the Data Subject from time to time;
  - 7.4.2. Personal Information is processed as part of the "Know Your Customer"/"KYC" process as per the requirements of the Financial Intelligence Centre Act 38 of 2001;
  - 7.4.3. Personal Information is processed for the purposes of performing general information technology-related functions for all business functions within WB;
  - 7.4.4. For purposes of interacting with you on our Website and generally monitoring your use our Website, including for purposes of improving same;
  - 7.4.5. Personal Information is processed in connection with internal audit purposes;
  - 7.4.6. Personal Information is processed for employment-related purposes such as administering payroll, assessing credit and criminal history, and determining Employment Equity Act 55 of 1998 statistics;
  - 7.4.7. To respond to any correspondence that the Data Subject may send to WB, including via email, WB's site(s) or by telephone;
  - 7.4.8. In connection with the execution of payment processing functions, including payment of WB's suppliers' invoices;
  - 7.4.9. To contact the Data Subject for direct marketing purposes subject to the provisions of clause 10 below;
  - 7.4.10. For such other purposes to which the Data Subject may consent from time to time; and
  - 7.4.11. For such other purposes as authorised in terms of applicable law.

## **8. KEEPING PERSONAL INFORMATION ACCURATE**

- 8.1. WB will take reasonable steps to ensure that all Personal Information is kept as accurate, complete, and up to date as reasonably possible depending on the purpose for which Personal Information is collected or further processed.
- 8.2. WB, however, expects that the Data Subject will notify WB from time to time in writing of any updates required in respect of his/her/its Personal Information.

## **9. STORAGE AND PROCESSING OF PERSONAL INFORMATION BY WB AND THIRD-PARTY SERVICE PROVIDERS**

- 9.1. WB may store your Personal Information in hardcopy format and/or in electronic format using WB's own secure on-site servers or other internally hosted technology. Your Personal Information may also be stored by Third Parties, via cloud services or other technology, with whom WB has contracted with, to support WB's business operations.
- 9.2. WB's Third-Party service providers, including data storage and processing providers, may from time to time also have access to a Data Subject's Personal Information in connection with purposes for which the Personal Information was initially collected to be Processed.
- 9.3. WB will ensure that such Third-Party service providers will process the Personal Information in accordance with the provisions of this Policy, all other relevant internal policies, and procedures and POPIA.
- 9.4. These Third Parties do not use or have access to your Personal Information other than for purposes specified by us, and WB requires such parties to employ at least the same level of security that WB uses to protect your personal data.

## **10. RETENTION OF PERSONAL INFORMATION**

- 10.1. WB may keep records of the Personal Information it has collected, correspondence, or comments in an electronic or hardcopy file format.
- 10.2. WB will not retain personal information for a period longer than is necessary to achieve the purpose for which it was collected or processed and is required to delete, or de-identify the information as soon as is reasonably practicable once the purpose has been achieved. This prohibition will not apply in the following circumstances –
  - 10.2.1. where the retention of the record is required or authorised by law;
  - 10.2.2. WB requires the record to fulfil its lawful functions or activities;
  - 10.2.3. retention of the record is required by a contract between the parties thereto;
  - 10.2.4. the data subject (or competent person, where the data subject is a child) has consented to such longer retention; or

10.2.5. the record is retained for historical, research or statistical purposes provided safeguards are put in place to prevent use for any other purpose.

10.3. Accordingly, WB will, subject to the exceptions noted herein, retain Personal Information for as long as necessary to fulfil the purposes for which that Personal Information was collected and/or as permitted or required by applicable law.

10.4. Where WB retains Personal Information for longer periods for statistical, historical or research purposes, WB will ensure that appropriate safeguards have been put in place to ensure that all recorded Personal Information will continue to be Processed in accordance with this Policy and the applicable laws.

10.5. Once the purpose for which the Personal Information was initially collected and processed no longer applies or becomes obsolete, WB will ensure that the Personal Information is deleted, destroyed or de-identified sufficiently so that a person cannot re-identify such Personal Information.

#### **11. FAILURE TO PROVIDE PERSONAL INFORMATION**

11.1. Should WB need to collect Personal Information by law or under the terms of a contract that WB may have with you, and you fail to provide the Personal Information when requested, we may be unable to perform the contract we have or are attempting to enter into with you.

11.2. In such a case, WB may have to decline to provide or receive the relevant services, and you will be notified where this is the case.

#### **12. SAFE-KEEPING OF PERSONAL INFORMATION**

12.1. WB shall preserve the security of Personal Information and prevent its alteration, loss and damage, or access by non-authorised third parties.

12.2. WB will ensure the security and integrity of Personal Information in its possession or under its control with appropriate, reasonable technical and organisational measures to prevent loss, unlawful access, and unauthorised destruction of Personal Information.

12.3. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of Data Subjects, WB implements appropriate technical and organisational measures to ensure a level of security appropriate to the risk of Processing, including measures protecting any Personal Information from loss or theft, and unauthorised access, disclosure, copying, use or modification, including –

12.3.1. the pseudonymization and encryption of Personal Information;

12.3.2. the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services;

12.3.3. the ability to restore the availability and access to Personal Information in a timely manner in the event of a physical or technical incident; and

12.3.4. a process for regularly testing, assessing, and evaluating the effectiveness of technical and organisational measures for ensuring the security of Processing.

12.4. Further, WB maintains and regularly verifies that the security measures are effective and regularly updates same in response to new risks.

#### **13. BREACHES OF PERSONAL INFORMATION**

13.1. A Data Breach refers to any incident in terms of which reasonable grounds exist to believe that the Personal Information of a Data Subject has been accessed or acquired by any unauthorised person.

13.2. A Data Breach can happen for many reasons, which include:

13.2.1. loss or theft of data or equipment on which Personal Information is stored;

13.2.2. inappropriate access controls allowing unauthorised use;

13.2.3. equipment failure;

13.2.4. human error;

13.2.5. unforeseen circumstances, such as a fire or flood;

13.2.6. deliberate attacks on systems, such as hacking, viruses or phishing scams; and/or

13.2.7. alteration of Personal Information without permission and loss of availability of Personal Information.

13.3. WB will address any Data Breach in accordance with the terms of POPIA.

13.4. WB will notify the Regulator and the affected Data Subject in writing in the event of a Data Breach in respect of that Data Subject's Personal Information.

13.5. WB will provide such notification as soon as reasonably possible.

#### **14. PROVISION OF PERSONAL INFORMATION TO THIRD PARTY SERVICE PROVIDERS**

14.1. WB may disclose Personal Information to Third Parties and will enter into written agreements with such Third Parties to ensure that they Process any Personal Information in accordance with the provisions of this Policy, and POPIA.

14.2. WB notes that such Third Parties may assist WB with the purposes listed above – for example, service providers may be used, inter alia:

- 14.2.1. to notify the Data Subjects of any pertinent information concerning WB,
  - 14.2.2. for data storage and/or
  - 14.2.3. to assist WB with auditing processes (external auditors).
- 14.3. WB will disclose Personal Information with the consent of the Data Subject or if WB is permitted to do so without such consent in accordance with the applicable laws.

## **15. ACCESS TO PERSONAL INFORMATION**

- 15.1. A Data Subject has certain rights under POPIA including the following:
- 15.1.1. a right of access: a Data Subject having provided adequate proof of identity has the right to:
    - 15.1.1.1. request a Responsible Party to confirm whether any Personal Information is held about the Data Subject; and/or
    - 15.1.1.2. request from a Responsible Party a description of the Personal Information held by the Responsible Party including information about Third Parties who have or have had access to the Personal Information. A Data Subject may request:
  - 15.1.2. WB to confirm, free of charge, whether it holds any Personal Information about him/ her/it; and
  - 15.1.3. to obtain from WB the record or description of Personal Information concerning him/her/it and any information regarding the recipients or categories of recipients who have or had access to the Personal Information. Such record or description is to be provided:
    - 15.1.3.1. within a reasonable time; and
    - 15.1.3.2. in a reasonable manner and format and in a form that is generally understandable.
    - 15.1.3.3. a right to request correction or deletion: a Data Subject may also request WB to –
      - 15.1.3.3.1. correct or delete Personal Information about the Data Subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading, or obtained unlawfully; or
      - 15.1.3.3.2. destroy or delete a record of Personal Information about the Data Subject that WB is no longer authorised to retain records in terms of POPIA's and, where applicable, the GDPR's retention and restriction of records provisions. On receipt of such a request, WB is required to, as soon as is reasonably practicable –
      - 15.1.3.3.3. correct the information;
      - 15.1.3.3.4. delete or destroy the information;
      - 15.1.3.3.5. provide the Data Subject with evidence in support of the information; or
      - 15.1.3.3.6. a right to withdraw consent and to object to processing: a Data Subject that has previously consented to the Processing of his/her/its Personal Information has the right to withdraw such consent and may do so by providing WB with notice to such effect. Further, a Data Subject may object, on reasonable grounds, to the Processing of Personal Information relating to him/her/it.
- 15.2. Accordingly, WB may request the Data Subject to provide sufficient identification to permit access to, or provide information regarding the existence, use or disclosure of the Data Subject's Personal Information.
- 15.3. Any such identifying information shall only be used for the purpose of facilitating access to or information regarding the Personal Information.
- 15.4. The Data Subject can request in writing to review any Personal Information about the Data Subject that WB holds including Personal Information that WB has collected, utilised, or disclosed, as well as the following information:
  - 15.4.1. the purposes of Processing;
  - 15.4.2. the categories of Personal Information concerned;
  - 15.4.3. where possible, the envisaged period for which the Personal Information will be stored or, if not possible, the criteria used to determine that period;
  - 15.4.4. the existence of the right to request from WB rectification or erasure of Personal Information or restriction of Processing of Personal Information concerning the Data Subject or to object to such processing;
  - 15.4.5. the right to lodge a complaint with the Regulator;
  - 15.4.6. where the Personal Information is not collected from the Data Subject, any available information as to their source; and
  - 15.4.7. WB shall respond to these requests in accordance with POPIA and will provide the Data Subject with any such Personal Information to the extent required by law and any of WB's policies and procedures which apply in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA).
- 15.5. The Data Subject can challenge the accuracy or completeness of his/her/its Personal Information in WB's records at any time in accordance with the process set out in WB's manual developed in terms of PAIA for accessing information.
- 15.6. If a Data Subject successfully demonstrates that their Personal Information in WB's records is inaccurate or incomplete, WB will ensure that such Personal Information is amended or deleted as required.

## **16. USE OF WEBSITE COOKIES**

- 16.1. Our Website uses cookies, which are small text files sent by a web server to store on a web browser. They are used to ensure websites function properly, store user preferences when needed and collect anonymous statistics on website usage.
- 16.2. You may refuse to accept cookies by activating the setting on your browser which allows you to refuse the setting of cookies. However, if you select this setting, you may be unable to access certain parts of our website. Unless you have adjusted your browser setting so that it will refuse cookies, our system will issue cookies when you log on to the website. If you accept a “cookie” or fail to deny the use of “cookies”, you agree that we may use your personal information collected using “cookies” (subject to the provisions of this Policy). Where you either reject or decline cookies, you are informed that you may not be able to fully experience the interactive features of our Website.

## **17. CHANGES TO THIS POLICY**

- 17.1. WB reserves the right to make amendments to this Policy from time to time and will use reasonable efforts to notify Data Subjects of such amendments.
- 17.2. The current version of this Policy will govern the respective rights and obligations between you and WB each time that you access and use our Website.

## **21. WB'S CONTACT DETAILS**

### NAME OF BODY

Ward Brink

### PHYSICAL & POSTAL ADDRESSES

12<sup>th</sup> Floor, Touchstone House

7 Bree Street

Cape Town

### HEAD OF BODY

Name: Ronald Ward

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### INFORMATION OFFICER

Name: Julia Ward

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