

**MALANSCHOLES**  
ATTORNEYS

## **PRIVACY POLICY**

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## 1 INTRODUCTION

- 1.1 This is the Malan Scholes Inc, registration number 2006/028137/21 (“**Malan Scholes**”, “**we**”, “**us**” or “**our**”) Privacy Policy (“**Policy**”). The purpose of this Policy is to explain how we obtain, use and disclose Personal Information (defined below).
- 1.2 We are committed to protecting your privacy and ensuring that your personal information is collected and used properly, lawfully and transparently in accordance with the requirements of the Protection of Personal Information Act, 4 of 2013 (“**POPIA**”). Any references to “you” or “your” in this Policy will be a reference to Data Subjects as defined below.

## 2 ABOUT US

Malan Scholes is a professional services firm providing legal services, including legal advice and representation to individuals and businesses.

## 3 DEFINITIONS

In this policy, the following definitions apply –

- 3.1 “**Child**” – any natural person under the age of 18 years;
- 3.2 “**Data Subject**” – our clients or suppliers (whether natural persons or legal entities persons) or any other person(s) to which Personal Information relates;
- 3.3 “**Personal Information**” – information relating to any Data Subject, including but not limited to information relating to such Data Subjects –
- 3.3.1 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;
- 3.3.2 education, medical, financial, criminal or employment history;
- 3.3.3 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, e-mail address, domain name or IP address, physical address, cellular phone number, telephone number or other particular assignment;

3.3.4 blood type, fingerprint or any other biometric information;

3.3.5 personal opinions, views or preferences (including views or opinions of another individual about the Data Subject);

3.3.6 correspondence that is implicitly or expressly of a personal, private or confidential nature; and

3.3.7 in the case of juristic persons; corporate structure.

3.4 **“POPIA”** – the Protection of Personal Information Act, No 4 of 2013;

3.5 **“Processing”** – any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –

3.5.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;

3.5.2 dissemination by means of transmission, distribution or making available in any other form by electronic communications or other means; or

3.5.3 merging, linking, blocking, degradation, erasure or destruction. For the purposes of this definition, “Process” has a corresponding meaning.

3.6 **“Regulator”** – the appropriate information regulator as defined under POPIA; and

3.7 **“Special Personal Information”** – information concerning a Data Subject’s religious or philosophical beliefs, race or ethnic origin, trade union membership, political opinions, health, sexual life, biometric information or criminal behaviour.

#### 4 **WHAT PERSONAL INFORMATION DO WE COLLECT?**

4.1 We collect and process your Personal Information to contact you where you make enquiries on our website and/or to deliver services to you. Typically, we collect Personal Information –

- 4.1.1 received from our clients, experts and consultants in relation to the services we provide, as well as the Personal Information relating to third parties in respect of client matters;
  - 4.1.2 submitted via our website;
  - 4.1.3 in relation to recruitment; and
  - 4.1.4 relating to third party suppliers and other third parties for our administrative and operational purposes.
- 4.2 Your relationship with us will determine the types of Personal Information we require and the purposes for which such information is required. The Personal Information we may process includes –
- 4.2.1 information about you;
  - 4.2.2 contact information – in some cases, for example, we may receive your e-mail address, phone number and postal address;
  - 4.2.3 online information – for example cookies and IP address (your computer's internet address) if you use our website.
- 4.3 In certain cases, we may need your consent to Process your Personal Information. If you give us your consent, you are free to withdraw this consent at any time. Please note that where you have withdrawn your consent, this will not affect the Processing that took place prior to such withdrawal and it will not affect the Processing of your Personal Information in respect of which consent is not required.
- 4.4 You may refuse to provide us with your Personal Information in which case we may not be able to provide you with a relevant service or otherwise meet our obligations to you. The supply of certain types of Personal Information, particularly where required by applicable laws, is mandatory.

## 5 HOW DO WE COLLECT PERSONAL INFORMATION?

- 5.1 Where possible, we will collect Personal Information directly from you and will inform you what information you are required to provide to us and what information

is optional. Where it is not possible for us to collect Personal Information directly from you or in circumstances where it is necessary for us to collect Personal Information from third parties, we will obtain your consent to do so unless otherwise permitted under POPIA.

5.2 We will always collect Personal Information in a fair, lawful and reasonable manner in compliance with POPIA.

## **6 HOW WE USE YOUR PERSONAL INFORMATION**

6.1 We will use your Personal Information only for the purposes for which it was collected. Wherever possible, we will inform you of such purposes. In addition, where necessary your information may be retained for audit, record keeping or other legal purposes (including in relation to any legal proceedings which may be applicable).

6.2 In particular, we will only Process your Personal Information for a specific, lawful and clear purpose and will not Process any Personal Information for any other purpose(s) which you have not consented to unless permitted to do so in terms of POPIA.

6.3 Some of the purposes for which we will use your Personal Information include –

6.3.1 to deliver our service;

6.3.2 to promote our services and to contact you with communications about news and events, provided however that, where we contact you through electronic means for purposes of marketing our services or events to you, we will only do so in compliance with POPIA, which means that we will only market to you if you are one of our existing clients and where we have obtained your Personal Information through the provision of a service to you and only in relation to similar services. We will ensure that you are given a reasonable opportunity to object to the use of their Personal Information for marketing purposes. In providing your Personal Information to us in the context of our services, you agree to us sending you information on news, services, events and promotions for our own similar services, always subject to your right to opt out of receiving such marketing at the time your information is collected

and on each subsequent marketing communication thereafter. You may object to receiving direct marketing from us at any time by contacting us as is set out in the content section of this Policy below;

- 6.3.3 to improve your experience of our website, newsletters and other services, for example by monitoring and recording information relating to your browsing behaviour to make personalised content available to you more efficient and relevant;
- 6.3.4 to facilitate our internal business operations, such as for internal record keeping, procurement and accounting purposes;
- 6.3.5 for information security and the prevention and detection of criminal and dishonest activity, including to ensure the security of our website and premises, and protect our information systems against data breaches, viruses and similar threats;
- 6.3.6 to manage and administer our relationship with you, including communicating with you, which may be as part of instructions, conflict checks, opening of files, billing procedures and credit checks;
- 6.3.7 to establish, exercise or defend legal claims;
- 6.3.8 to comply with our statutory and regulatory obligations;
- 6.3.9 to complete any request you may make in relation to your marketing preferences; and
- 6.3.10 for recruitment processes, including vetting and background checks where appropriate, and to assess suitability and eligibility.

## **7 DISCLOSURE AND SHARING OF PERSONAL INFORMATION**

- 7.1 We may disclose your Personal Information to third parties for our legitimate business purposes or as may otherwise be necessary under applicable laws or to protect our or your rights. We will ensure that these third parties comply with the requirements under POPIA.

7.2 When Personal Information is transferred to a jurisdiction outside of the Republic of South Africa, we will obtain the necessary consent to transfer the Personal Information to such foreign jurisdiction, unless it is permissible to do so in terms of POPIA without your consent. The Processing of Personal Information in a foreign jurisdiction may be subject to the laws in that foreign jurisdiction, and may be subject to disclosure to the governments, courts of law, enforcement or regulatory agencies of such other country, pursuant to the laws of such country.

## **8 PROCESSING OF SPECIAL PERSONAL INFORMATION AND PERSONAL INFORMATION OF CHILDREN**

8.1 We will not Process –

8.1.1 Special Personal Information unless with your express consent or as is otherwise permissible under POPIA; and/or

8.1.2 any Personal Information concerning a Child. We will only do so where we have obtained the consent of the parent or guardian of that Child or where we are otherwise permitted to do so in accordance with applicable laws, including POPIA.

## **9 INFORMATION SECURITY**

9.1 We employ, assess, maintain and update appropriate, reasonable technical and organisational measures in compliance with POPIA to protect Personal Information and prevent unauthorised loss, damage, destruction, access to use of Personal Information.

9.2 In our third-party engagements with third parties that have access to Personal Information, we ensure that such third parties undertake to comply with appropriate security, privacy and confidentiality obligations to ensure that they take steps to protect the Personal Information.

9.3 We will as soon as reasonably possible after becoming aware thereof (or otherwise in compliance with applicable laws) notify you and the Regulator in the event of a security breach (or a reasonable belief of a security breach) of your Personal Information.



## 10 STORAGE AND RETENTION

- 10.1 We may keep records of Personal Information (in electronic or hardcopy format) for as long as is necessary to fulfil the purposes for which that Personal Information was collected and/or as permitted or required by applicable law, including POPIA.
- 10.2 We will either keep the Personal Information at our offices or will transfer it to third party service providers to store on our behalf. We will ensure that such third-party service providers Process Personal Information in accordance with the provisions of this Policy POPIA.
- 10.3 On the purpose for which the Personal Information was initially collected and Processed no longer applies or becomes obsolete, we will, unless otherwise required or mandated by applicable laws, ensure that the Personal Information is deleted, destroyed or de-identified sufficiently so that a third party cannot re-identify such Personal Information.

## 11 YOUR RIGHTS

- 11.1 POPIA affords you various rights in respect of your personal information, including that you may, at any time (subject to the exclusions under POPIA) –
- 11.1.1 object to the Processing of your Personal Information;
- 11.1.2 request that your Personal Information be corrected or deleted. Please let us have details of any updates to your Personal Information to ensure that the Personal Information we hold is accurate and complete. We will use reasonable efforts in compliance with POPIA to ensure that your Personal Information is kept up to date, however we also rely on you to notify us of any changes;
- 11.1.3 request a copy of or access to the personal information we hold about you.
- 11.2 Please note that any such access request may be subject to a payment of a legal prescribed fee. Any request for access will be subject to terms of our PAIA Manual which accessible on our website at [www.malanscholes.co.za](http://www.malanscholes.co.za).

- 11.3 We may request you to provide sufficient identification to permit access to, or provide information regarding the existence, use or disclosure of your Personal Information. Any such identifying information shall only be used for the purpose of facilitating access to or information regarding the Personal Information.

## 12 CHANGES TO THE POLICY

We may make amendments to this Policy from time to time and will use reasonable efforts to notify you of such amendments.

## 13 THIRD PARTY WEBSITES

We sometimes provide you with links to other websites. We do not control the collection or use of Personal Information by third parties and this Policy does not apply to third parties. We do not accept any responsibility or liability for third-party policies or your use of a third-party app, platform or service. We are not liable to you for any issues arising in connection with their use of your information, the website content or the services offered to you by those websites.

## 14 CONTACTING US

- 14.1 To exercise your rights under this Policy, please contact us at **admin@malanscholes.co.za**.
- 14.2 You may change your marketing preferences or let us know that you no longer wish to receive any marketing communications from us by sending an e-mail to **admin@malanscholes.co.za**.
- 14.3 If you have any queries about this Policy or require further information about our privacy practices, please contact us at **admin@malanscholes.co.za**.
- 14.4 Our Information Officer is Serika Singh. Her contact details are **ssingh@malanscholes.co.za**; +27 11 718 4600.
- 14.5 Our Deputy Information Officer is Ana Smith. Her contact details are **admin@malanscholes.co.za**; +27 11 718 4600.

14.6 You also have the right to contact or address any complaints to the Regulator although we would appreciate the opportunity to first address any complaints directly with you.

14.7 The Regulator's contact details are –

The Information Regulator (South Africa)

JD House

27 Stiemens Street

Braamfontein

Johannesburg

2001

P O Box 31533

Braamfontein

Johannesburg

2017

Complaints e-mail: **complaints.IR@justice.gov.za**

General enquiries: **infoereg@justice.gov.za**