

## PRIVACY POLICY

### 1 Definitions

- 1.1 Unless otherwise specified, the definitions used in this Privacy Policy are the same as the definitions used in the Terms of Use Agreement.
- 1.2 This Privacy Policy forms part of the Terms of Use Agreement.

### 2 Application of Privacy Policy

- 2.1 This Privacy Policy ("**Policy**") applies to our collection and disclosure of certain information which may identify you personally or which may otherwise be personal to you (your "**Personal Information**") when you use the App, or when you register a Profile, or when you agree to register to use this App through your Facebook profile.
- 2.2 This Policy is intended to describe what information we collect; how we use it; and under what circumstances, if any, we disclose it. Please read this policy before using the App or submitting any Personal Information. By using this App, you are accepting the practices described in this policy.
- 2.3 We will take all reasonable steps to safeguard your Personal Information that we may collect or hold from time to time in accordance with this Privacy Policy.
- 2.4 For the purpose of this Policy, the term Personal Information, in addition to that which is defined in the Terms of Use Agreement, includes personal information obtained from a third party which, under and in accordance with the *Privacy Act 1988* (Cth) (the "**Privacy Act**") may lawfully be exchanged.
- 2.5 We will not disclose your Personal Information collected about you otherwise than:
  - (a) for a purpose set out in this Policy or the Terms of Use Agreement; or
  - (b) for a purpose you would reasonably expect; or
  - (c) for a purpose required or permitted by law; or
  - (d) for a purpose otherwise disclosed to or permitted by you.
- 2.6 In the event of any inconsistency between the provisions of this Policy and those other disclosures referred to in 2.5(d) above, the other disclosures will prevail.
- 2.7 This Policy applies to the use of the App only. The App may contain links or advertisements to other third party services, including, without limitation, third party payment gateways and Sellers, which are not owned or controlled by us. We disclaim any liability in relation to the use of your Personal Information by third parties, and you agree to indemnify and us harmless, and defend us against any loss, cost, expense, damage or liability which may be incurred as a result of, or in relation to, or in connection with any third party's use of your Personal Information contrary to this Policy, whether such loss, cost, expense, damage or liability is actual or contingent, present or future, quantified or unquantified.

### 3 Collection of Personal Information

- 3.1 We will not ordinarily collect any Personal Information about you except where you provide it to us or it is provided to us with your authority.

- 3.2 In order to use the App, we may request certain Personal Information from you on the registration form when you create your Account.
- 3.3 We collect certain Personal Information from you upon registration, which includes, but is not limited to:
- (a) name;
  - (b) address;
  - (c) email address; and
  - (d) date of birth.
- 3.4 You may remain anonymous by using a pseudonym in your dealings and interaction with this App. However, your pseudonym will be treated as User Content in accordance with the Terms of Use Agreement, and must not be in breach of the Terms of Use Agreement.
- 3.5 If you choose to register a Profile on this App through Facebook, the Personal Information which we collect includes, but is not limited to all information contained within your Facebook profile.
- 3.6 Personal Information which you provide will be used and disclosed in accordance with this Policy or otherwise in accordance with your express consent.
- 3.7 We will make every effort to advise you of the purposes for which we are required to collect your Personal Information before that Personal Information is to be collected.
- 3.8 We also use cookies, internet protocol addresses, browser information, operating system information and other information which does not identify you personally, but which tracks your usage of the App ("**Statistical Information**").
- 3.9 We may collect Personal Information directly from you when you complete an online form upon registering an Account, or otherwise use this website.
- 3.10 We generally collect Personal Information when it is voluntarily submitted you. This Personal Information is generally used and/or disclosed to fulfil your specific request to:
- (a) register to use the App; or
  - (b) connect and interact with other users; or
  - (c) contact you.
- 3.11 In the event that we receive unsolicited information about you, it will only be collected where:
- (a) it is reasonably necessary for one or more of our functions or activities; and
  - (b) we obtain your consent; or
  - (c) it is authorised or required under an Australian law or a court/tribunal order; or
  - (d) it is otherwise permitted by the *Privacy Act*.
- 3.12 Where Clause 3.9 does not apply, we will destroy any unsolicited Personal Information that we receive.

- 3.13 Where it is necessary to collect Personal Information about you from third party sources for the normal function of the App, we will notify you and, if required by law, we will also obtain your consent.
- 3.14 We only collect Personal Information about you that are necessary for our functions and activities.
- 3.15 Additionally, the purposes for which we will generally collect and use your Personal Information will include:
- (a) complying with legislative and regulatory requirements;
  - (b) co-operation with authorities in relation to any investigation into any user of this App;
  - (c) performing our administrative operations, including accounting, risk management, record keeping, archiving, and development and testing;
  - (d) managing our rights and obligations under the Terms of Use Agreement;
- 3.16 We advise that tracking technologies (such as cookies) are used on the App in order to collect and collate Statistical Information. Each time you use the App or login to your Profile, we record the date and time of access to your Profile and other information such as your internet protocol address and operating system.
- 3.17 If you register a Profile or continue to use this App, you agree to our use of tracking technologies to track your usage.

#### **4 Personal Information about third parties**

- 4.1 If at any time you supply us with Personal Information about another person, you should ensure that you have written consent from that person to do so, and you must agree to inform that person about us and that we may use and disclose their Personal Information in accordance with and for the purposes outlined in this Privacy Policy.

#### **5 Usage, Storage and Disclosure of Personal Information**

- 5.1 You authorise us to use your Personal Information to contact you in relation to your use of the App, including (without limitation) any modifications to our Terms of Use or this Privacy Policy.
- 5.2 Unless otherwise specified or required by law, you authorise us to disclose your Personal Information to third parties where we assign, transfer, sell or otherwise license our rights under the Terms of Use Agreement to a third party.
- 5.3 We may also disclose your Personal Information to other third parties from time to time. Subject to what is permitted by law, the types of third parties to whom we may disclose your Personal Information may include:
- (a) our agents, contractors and external advisors whom we engage from time to time to carry out, or advise on, our functions and activities;
  - (b) regulatory bodies, government agencies, law enforcement agencies and courts; or
  - (c) our legal or financial advisors;

- 5.4 We take the protection of your Personal Information very seriously. Only authorised personnel will have access to your Personal Information, and such Personal Information will not be disclosed or used other than as specified in this Privacy Policy without your express consent, which will be stored in our records.
- 5.5 We reserve the right to disclose Statistical Information to third parties including, without limitation, to analytics companies and business partners, to help us understand usage patterns, to assist in product development and for advertising purposes.
- 5.6 We reserve the right to disclose Personal Information and Statistical Information with third parties where such disclosure is required by law, or when we reasonably believe in good faith that such disclosure is necessary to protect our rights or to comply with a judicial proceeding or legal process served upon us.
- 5.7 We may share your Personal Information and Statistical Information with third parties where we reasonably believe in good faith that such disclosure is necessary in order to investigate, prevent or take action regarding illegal activities such as suspected fraud; situations involving potential threats to the physical safety of any person; violations of our terms of use agreement or as otherwise required by law.
- 5.8 We may from time to time disclose your Personal Information to overseas entities who may not be bound by Australian legislation. Where we disclose Your Personal Information to overseas recipients, we will make every reasonable effort in the circumstances to ensure that the overseas recipients comply with this Privacy Policy and any applicable Australian law or regulation with respect to the protection of Personal Information, unless:
- (a) we believe on reasonable grounds that the overseas recipient is bound by legislation or regulation that is substantially similar to the Act which can be enforced against the overseas recipient; or
  - (b) you give us an informed consent to the disclosure of your Personal Information to an overseas recipient who may not be bound by Australian law; or
  - (c) the disclosure to an overseas recipient is authorised or required by Australian law or a court or tribunal order; or
  - (d) it is permitted by the Privacy Act.
- 5.9 By continuing to use this App, you agree to consent to the disclosure of your Personal Information in accordance with this Privacy Policy.
- 5.10 We may disclose both Personal Information and Statistical Information to a third party in a business transaction such as a merger with or acquisition by another company, or the sale of all or a substantial portion of our assets, of which your Personal Information and Statistical Information may be among the assets transferred. Where this occurs, we will notify you via an email sent to the email address which you provide to us in your Profile.
- 5.11 All information that you provide to us is stored on the Amazon Web Server, which may be located overseas in countries which are not bound by the *Privacy Act*, including, without limitation, the United States of America, and you hereby expressly consent to the disclosure of your Personal Information to overseas recipients in accordance with this clause 5.11. In doing so, you agree that we are not obliged to ensure that the overseas recipient does not breach the Australian Privacy Principles in relation to that information.
- 5.12 We will not use or disclose your Personal Information for any purpose other than as

disclosed in this Privacy Policy unless:

- (a) we have obtained your consent to its use or disclosure; or
- (b) the purpose is related to the purposes disclosed in this Privacy Policy and an individual would reasonably expect us to use or disclose that Personal Information.

## **6 Your access to your Personal Information**

- 6.1 You may access, correct or update any of your Personal Information which we have on you by logging in to your Profile.
- 6.2 Where you are unable to access, correct or update your Personal Information, please notify us in writing in order that we may enable you to access, correct or update your Personal Information.

## **7 Security of Your Personal Information**

- 7.1 We will use all reasonable efforts to keep secure your Personal Information and Statistical Information that we collect and maintain. Only our authorised employees, agents and contractors will have access to this information. We will maintain strict procedures and generally accepted industry standards and take all reasonable care to protect and prevent unauthorised access to, or modification and disclosure of, your Personal Information. We will take all reasonable steps to protect your Personal Information from misuse and loss.
- 7.2 Notwithstanding clause 7.1 above, no data transmission online can be guaranteed as fully secure and accordingly, we cannot guarantee or warrant the security of any information you provide through the use of this App. You understand that any information you send online is at your own risk.
- 7.3 If we become aware of a breach of security in relation to your Personal Information, we will immediately use our best endeavours to take action to remedy the security breach, in order to limit the risk caused by unauthorised access to, or unauthorised disclosure of, your Personal Information before any serious harm is suffered as a result of the breach.
- 7.4 If we become aware of a breach of security, and a third party has, without authorisation:
  - (a) accessed your Personal Information; or
  - (b) disclosed your Personal Information to another third party ("**Data Breach**");and a reasonable person would conclude that such unauthorised access or disclosure is likely to result in serious harm to the individuals to whom the information relates; we will notify you and the Office of the Australian Information Commissioner ("**OAIC**") with details of the Data Breach, including details of how we believe the Data Breach has occurred and to what Personal Information such Data Breach relates, and the steps that you can take in response to the Data Breach.
- 7.5 If we become aware of a Data Breach in which your Personal Information is lost, and we have reasonable grounds to believe that:
  - (a) unauthorised access to, or unauthorised disclosure of, your Personal Information is likely to occur; and
  - (b) if unauthorised access to, or unauthorised disclosure of, your Personal Information occurs, a reasonable person would conclude that such unauthorised access or

disclosure is likely to result in serious harm to the individuals to whom the information relates,

we will notify you and the OAIC with the details of the Data Breach, including details of how we believe the Data Breach has occurred and to what Personal Information such Data Breach relates, and the steps that you can take in response to the Data Breach.

- 7.6 Notwithstanding the termination of your Profile with us, you consent to our holding your Personal Information for the continuation of your Profile with us and for the duration of seven (7) years subsequent to the termination or deletion of your Profile.
- 7.7 Your Personal Information will be destroyed or de-identified after the seven (7) year period referred to in Clause 7.6 has passed, provided that:
- (a) you do not owe us any money; and
  - (b) there are no legal proceedings instituted against you for which we may be required to give evidence; or
  - (c) there are no legal proceedings instituted against us in which you are obliged to indemnify us according to the Terms of Use and this Privacy Policy.
- 7.8 Subject to our reserved rights to disclose and use your Personal Information and Statistical Information described in clause 5 above, we will limit access to your Personal Information to employees to whom we believe there is a reasonable need for us to disclose your Personal Information and Statistical Information in order for them to perform their duties.
- 7.9 You understand that if you access the App from outside Australia, other entities, such as governments, may collect, use and disclose your Personal Information in ways which differ from this Privacy Policy and the laws of Australia.

## **8 Complaints about breaches of privacy**

- 8.1 If you believe that the privacy of your Personal Information has been compromised or has not been used in accordance with this Privacy Policy, you should contact us as soon as possible using the means provided on the App or by email to [info@whatjelly.com](mailto:info@whatjelly.com).
- 8.2 Your complaint will be taken seriously and addressed in accordance with clause 11 of the Terms of Use in relation to Dispute Resolution.
- 8.3 If you do not receive a satisfactory response from us, or you believe that we have not handled your complaint satisfactorily, you may wish to refer your complaint to the Office of the Australian Information Commissioner on 1300 363 992 or by email to [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au).

## **9 Variation of Privacy Policy**

- 9.1 We may change this Privacy Policy at any time and at our sole discretion by posting a notice on the App, and may notify you in other ways that we deem appropriate, such as sending a notice to the email address specified in your Profile. You agree that you will be deemed to have notice of any modifications once we post them on the App and/or notified you via email, and that your continued use of the App after such notice will be construed as your acceptance of the modified Privacy Policy.
- 9.2 Notwithstanding our right to change this Privacy Policy at any time, these changes will only

apply to activities and information going forward, and not on a retroactive basis.

- 9.3 You are encouraged to review the policy whenever you login to your Profile to keep track of the policy changes and make sure that you understand how any Personal Information you provide will be used. If you do not agree with the modified Privacy Policy, you must close your Profile immediately and cease to use the App.

## **10 Third parties**

- 10.1 Where we provide your Personal Information to third parties in accordance with this Privacy Policy, you acknowledge and agree that the usage of your Personal Information by third parties is not in our reasonable control. You further acknowledge that third party websites may place their own cookies or other files on your computer or telephone, solicit Personal Information from you and may or may not use your Personal Information in accordance with their own privacy policies which may differ from this Policy. You agree that we are not liable for the use of your Personal Information in circumstances which are not in accordance with this Privacy Policy.
- 10.2 You agree to indemnify, keep us harmless from, and defend us against any damage, loss, cost (including, without limitation, settlement costs), expense (including reasonable legal costs and expenses), damage or liability incurred by us arising from any claim, demand, suit, action or proceeding by any person against us or any of our directors, officers, employees, contractors or agents as a result of, in connection with or in relation to the use of your Personal Information by third parties, whether such damage, loss, cost, expense, damage or liability is actual contingent, present or future, quantified or unquantified.