

NightPulse Pty Limited – Privacy Policy

1. Introduction

- 1.1 This Privacy Policy outlines how NightPulse Pty Limited ACN 669 916 474 (**'NightPulse', 'we', 'us' or 'our'**) collects, manages and uses personal information. NightPulse is committed to complying with the *Privacy Act 1988* (Cth) (**'Privacy Act'**) and the Australian Privacy Principles (**'APP'**).
- 1.2 This Privacy Policy applies to personal information collected, used or retained by us (and our authorised agents). It applies to all information we hold about you including information obtained via the NightPulse mobile application (**'the App'**).
- 1.3 You must not use the App or provide us with any personal information if you have not attained the age of 18 years old.
- 1.4 By providing personal information to us, you consent to our collection, use and disclosure of that information on the terms of this Privacy Policy and any other contractual or other arrangements (if any) that may apply between us.
- 1.5 This Privacy Policy may be overridden in certain circumstances. For example, when we collect personal information from you, we may notify you of a specific purpose for collecting that personal information, in which case we will handle your personal information in accordance with that stated purpose.
- 1.6 If you have any queries about our collection, use or retention of your personal information, you should contact our Privacy Officer for further information (contact details for our Privacy Officer are set out in **paragraph 11** of this Privacy Policy).

2. What personal information we collect

- 2.1 The types of personal information that we collect and hold when you register for and/or use the App includes (but is not limited to) your full name, email address, date of birth, gender, social media login details, telephone number, Internet Protocol (IP) address, unique device identifiers, usage patterns and trends, financial and credit card information and any photographs or images you upload to your user profile.
- 2.2 With your consent and when you grant us permission, we may collect audio, images and video footage of you via any cameras and microphones fitted to the electronic device you use to access the App. You may turn camera and/or microphone permissions for the App on and off from time to time using the settings of your operating system on your electronic device. We will collect audio, images and video footage of you for the purposes outlined in **paragraph 3.3** of this Privacy Policy.
- 2.3 With your consent and when you grant us permission, we will collect geolocation data from your electronic device including GPS signals and your location. We may also derive your approximate location from the IP address of your electronic device.
- 2.4 Additionally, we may collect any other personal information you choose to add to your user profile, including account and billing details.
- 2.5 We may also hold any other personal information that you may volunteer to us.

3. How we collect, hold, use and disclose personal information

3.1 Collecting personal information

- 3.1.1 We may collect or ask you to provide personal information when you use the App.
- 3.1.2 We may also collect your personal information from third parties (including, for example, our affiliates and venue owners and/or operators, sub-contractors in technical, payment and delivery services, advertising networks, analytics providers, search information providers and credit reference agencies ('**Business Partners**')) who may provide to us information about you. This may include your purchase history from Business Partners.
- 3.1.3 When collecting personal information, we will take reasonable steps to make you aware of certain details including the purposes for which personal information is being collected by us, the main consequences for you if you fail to provide any information that is requested by us, and whether we are likely to disclose your information to overseas recipients as well as the countries any such recipients are located in. This Privacy Policy provides these details as they typically apply in most cases, however different details may apply depending on our specific interaction with you. If we do not notify you of such other details, the information in this Privacy Policy applies.
- 3.1.4 There may be a range of consequences if you fail to provide information requested by us (for example, the App may not function properly, you may not be able to enjoy all of the services offered on the App, or you may not be able to use the App at all). However, the provision of personal information by you is purely voluntary.
- 3.1.5 By providing us with personal information, you consent to the supply of that information subject to the terms of this Privacy Policy.

3.2 Holding personal information

- 3.2.1 We take reasonable industry-standard steps to ensure that your personal information is protected from loss, unauthorised access, modification or disclosure, and other misuse.
- 3.2.2 Specific security measures we employ include:
 - (a) maintenance of computer technology, people and process-based security measures, including firewalls, network security configurations and the use of passwords;
 - (b) restriction of access to data to only those staff that need access to carry out their duties;
 - (c) internal procedures to protect physical documents; and
 - (d) monitoring of our practices and systems to ensure the effectiveness of our security policies.
- 3.2.3 We will endeavour to destroy or de-identify your personal information as soon as it is no longer required by us (and as permitted or required by law).

3.3 Using and disclosing personal information

- 3.3.1 From time to time, we will collect, use and disclose your personal information for a particular purpose ('**the primary purpose**'). We generally collect, hold and use your personal information:
 - (a) for product and service improvement;

- (b) to personalise your user experience;
- (c) for targeted marketing and promotional activities;
- (d) to provide user support;
- (e) to detect and prevent fraudulent or illegal activity;
- (f) to conduct market research and analysis;
- (g) to comply with applicable laws, regulations and requests for information from government or law enforcement agencies;
- (h) to share with our Business Partners and other third parties for marketing, analytics and product and service improvement;
- (i) for aggregate data reporting;
- (j) to assess user feedback;
- (k) to manage subscriptions and other payments;
- (l) to offer and provide location-based services or content; and
- (m) to send push notifications to your device;
- (n) to communicate with you, including to inform you of updates to the App, the App terms and conditions of use, and/or this Privacy Policy;
- (o) to communicate with you about other matters relating to the App;
- (p) to perform market and user research;
- (q) to correct errors and problems with the App;
- (r) to engage in other activities where required or permitted by law; or
- (s) for any other purpose related to the above.

3.3.2 We may use or disclose the personal information we hold about you for other purposes (**'secondary purpose'**). We may use or disclose your personal information for a secondary purpose when you consent, or we may do so without your consent, when:

- (a) the secondary purpose is related to the primary purpose, and you would reasonably expect us to use or disclose the information for that secondary purpose;
- (b) without limiting **paragraph 3.3.2(a)**, the secondary purpose involves direct marketing and:
 - (i) we collected the information from you, and you would reasonably expect us to use that information for direct marketing; or
 - (ii) we did not collect the information from you, or you would not otherwise reasonably expect us to use the information for direct marketing, but you have nevertheless consented to receive direct marketing

communications or it is impracticable for us to obtain your consent in the circumstances, but in each case only if we provide you with a simple means to opt out; or

- (c) the use or disclosure is otherwise permitted under the Privacy Act.

- 3.4 If you consent to receive marketing material, your consent will remain current until you advise us otherwise. You may request not to receive these communications by contacting our Privacy Officer (contact details for our Privacy Officer are set out in **paragraph 11** of this Privacy Policy), or by using the opt out function as provided in those communications.
- 3.5 There are no consequences for opting out of receiving our marketing and promotional communications except that you will no longer receive them, and you may elect to re-join our marketing list at a later stage if you wish.
- 3.6 We may disclose your personal information to any of our related entities, employees, officers, insurers, professional advisers, agents, suppliers or subcontractors insofar as reasonably necessary for the purposes set out in this Privacy Policy.

4. **Access and correction of personal information**

- 4.1 You have the right to obtain access to any personal information we hold about you. You have the right to contact our Privacy Officer to request access to or correction of your personal information held by us (contact details for our Privacy Officer are set out in **paragraph 11** of this Privacy Policy). We will respond to your request for access or correction within a reasonable period of time from receiving your request.
- 4.2 We may require you to verify your identity before we allow you to access your personal information, for the protection of your privacy and the privacy of other individuals whose personal information we hold.
- 4.3 We may refuse to allow you to access or to correct your personal information if we are legally required or entitled to do so. If we do so, we will provide you with written reasons for the refusal (unless it is unreasonable to do so) and the options available to you to complain about our refusal.
- 4.4 If you lodge a request for access, we may provide you with access to your personal information in any of a number of ways (including, for example, supplying you with a copy or providing you with the opportunity to inspect our records).
- 4.5 We take reasonable steps to ensure that the personal information that we collect, use and disclose is accurate, up to date and complete. If we are satisfied that any personal information that we hold about you is inaccurate, out of date or incomplete, we will amend our records accordingly.
- 4.6 We do not impose any fee on you to make a request to access personal information we hold. However, we may require you to pay a reasonable fee to cover the cost of verifying an application for access and locating, retrieving, reviewing and copying any material requested. If the information sought is extensive, we will advise you of the likely cost in advance.

5. **Dealing with us anonymously**

You may deal with us anonymously, or by using a pseudonym, when making general enquiries with us.

6. Online privacy

6.1 Automatic server logs

- 6.1.1 The App may automatically collect various items of information when you access the App. For example, we may collect information about your electronic device's operating system, IP address, access times, browser type and language, and, if applicable, the website or social media platform that referred you to us. We may also collect information about your usage and activity on the App.
- 6.1.2 When you use the App, 'cookies' may be stored on your electronic device. Cookies are small data files that are placed on your device to identify your device in the future and help us better understand user behaviour, personalise preferences, perform research and analytics, deliver tailored advertising, and improve the delivery of the services of content on the App. The settings on your electronic device's browser software can be adjusted to prevent cookies being stored on your electronic device, if you wish. Please note that if you delete or choose not to accept cookies from us, you may not be able to use certain features of the App.
- 6.1.3 Although, in some circumstances, it may be possible to identify you from the information we collect as described in **paragraph 6.1.1**, we do not attempt to do so, and only use this information for statistical analysis, system administration, and similar purposes.

6.2 Email and enquiry forms

We may collect personal information from you if you send us an email, subscribe to our email newsletter or if you submit information to us using an enquiry form via our App. We will use this personal information to contact you, respond to your message, to send you information that you request, and for other related purposes we consider you would reasonably expect. We will not use or disclose any personal information for any other purpose without your express consent.

6.3 Storage and transmission of personal information online

- 6.3.1 There are inherent risks in transferring information across the Internet. If you provide any personal information to us via the App or if we provide such information to you by such means, the privacy, security and integrity of this information cannot be guaranteed during its transmission unless we have indicated beforehand that a particular transaction or transmission of information will be protected (for example, by encryption).
- 6.3.2 If we receive your personal information, we will take reasonable steps to store it such that unauthorised access, modification, disclosure, misuse and loss are prevented.

6.4 Other online services

If the App contains links to other online services that are not maintained by us, or if other services link to the App, we are not responsible for the privacy practices of the organisations that operate those other services, and by providing such links we do not endorse or approve the other services. This Privacy Policy applies only in respect of the App and your dealings with us.

6.5 Third party advertising

We may allow third parties to use cookies or other tracking technologies to collect non-personal information about your use of the App, including your IP address,

pages viewed and conversion information. This information may be used, among other purposes, to deliver advertising targeted to your interests and to better understand the usage of our App and other apps and websites tracked by these third parties. Third party vendors, including Google, may show our advertisements on sites across the internet. This Privacy Policy does not apply to, and we are not responsible for, third party cookies or other tracking technologies. We encourage you to check the privacy policies of advertisers and/or advertising services to learn more about their privacy practices.

7. Cross-border data transfer

- 7.1 Information that we collect from you may from time to time be stored, processed in, or transferred between overseas recipients or websites hosted in overseas countries.
- 7.2 From time to time we may use web-based programs in relation to the App for particular activities, including data processing. Such web-based programs may be hosted overseas.
- 7.3 Before we disclose your personal information to an overseas recipient, we will take reasonable steps to ensure that the overseas recipient does not breach the APPs or similar in relation to your personal information. In all such cases, we transmit such information only to entities that comply with a standard similar to this Privacy Policy.
- 7.4 While we take steps to protect your personal data in accordance with this Privacy Policy, you acknowledge that data that you submit to, or via, the App may be available or accessible via the internet, around the world. We cannot prevent the use (or misuse) of such personal data by others.

8. Notifiable data breaches

- 8.1 A data breach occurs when personal information is lost or subject to unauthorised access, modification, disclosure, or other misuse or interference. A data breach may be intentional or unintentional.
- 8.2 Examples of a data breach which may meet the definition of an eligible data breach under the Privacy Act include when:
 - 8.2.1 a device (such as a laptop) containing personal information is lost or stolen;
 - 8.2.2 a database containing personal information is accessed without authorisation; or
 - 8.2.3 personal information is mistakenly provided to the wrong person.
- 8.3 The Privacy Act only requires notification when an 'eligible data breach' occurs. An eligible data breach occurs when:
 - 8.3.1 there is unauthorised access to or disclosure of personal information that we hold (or information is lost in circumstances where unauthorised access or disclosure is likely to occur); and
 - 8.3.2 this is likely to result in serious harm to any of the individuals to whom the information relates; and
 - 8.3.3 we have been unable to prevent the likely risk of serious harm with remedial action.
- 8.4 Where we suspect that an eligible data breach may have occurred, we will carry

out a reasonable and prompt assessment of whether there are reasonable grounds to believe that an eligible data breach has occurred. If, based on that assessment, there are reasonable grounds to believe that an eligible data breach has occurred, we will:

- 8.4.1 immediately take appropriate steps, decided on a case-by-case basis, to contain the breach and prevent further breaches;
- 8.4.2 prepare an eligible data breach statement ('**Statement**') as prescribed under the Privacy Act, and submit the Statement to the Office of the Australian Information Commissioner ('**OAIC**');
- 8.4.3 notify individuals to whom the relevant information relates or who are at risk from the breach either:
 - (a) directly, by taking reasonable steps to notify the contents of the Statement to each of the affected individuals; or
 - (b) review the incident and consider action to prevent future breaches.

9. **Changes**

- 9.1 We reserve the right, as it may be necessary, to review, revise or make changes to this Privacy Policy at any time. We will notify you of material changes to this Privacy Policy by posting a notice through the App. Please check the Privacy Policy from time to time. In the event of any such change, by continuing to use the App, you agree to the relevant change. If you do not agree to any change you should stop using and delete the App immediately.
- 9.2 You may request a hard copy of the current version of our Privacy Policy by contacting our Privacy Officer (contact details for our Privacy Officer are set out in **paragraph 11** of this Privacy Policy).

10. **Complaints**

- 10.1 If you would like further information about the way we manage personal information we hold, or wish to complain that you believe we may have breached the APPs, please contact our Privacy Officer in writing (contact details for our Privacy Officer are set out in **paragraph 11** of this Privacy Policy). We will investigate any complaint and will notify you of a decision in relation to your complaint as soon as is practicable.
- 10.2 If you are not satisfied with our decision, you may contact the OAIC to lodge a complaint. The contact details of the OAIC are:

Post: GPO Box 5218, Sydney NSW 2001

Telephone: 1300 363 992

Email: enquiries@oaic.gov.au

Fax: (02) 9284 9666

11. **Privacy Officer – contact information**

You may contact our Privacy Officer by:

Telephone: 0403 361 192
Post: C/- CCK Lawyers Level 9/182 Victoria Square, Adelaide SA 5000
Email: management@nightpulse.com.au