

# NYGÅRD INTERNATIONAL PARTNERSHIP ("NYGÅRD")

## NYGÅRD Privacy Code

### ***Scope and Application Of The NYGÅRD Privacy Code:***

The scope and application of the NYGÅRD Privacy Code are as follows: The NYGÅRD Privacy Code applies to Personal Information about NYGÅRD Employees and non-employee Persons who interact with NYGÅRD that is collected, used or disclosed by NYGÅRD.

- Employees in this context includes past and present employees and independent contractors of NYGÅRD.
- Non-employee Persons in this context includes Individuals who are viewers, readers, subscribers, advertisers, contest participants, job applicants, Internet users who are exposed to the media content of NYGÅRD or a NYGÅRD Company and about whom NYGÅRD collects Personal Information.

The NYGÅRD Privacy Code applies to the management of Personal Information in any form whether oral, electronic or written. NYGÅRD reserves the right to amend this NYGÅRD Privacy Code from time to time.

The application of the NYGÅRD Privacy Code is subject to the requirements or provisions of any applicable legislation, regulations or agreements, or the order of any court or other lawful authority.

**Exclusions from privacy protection:** The NYGÅRD Privacy Code does not impose any limits on the collection, use or disclosure of the following information by a NYGÅRD Company: a) information that is publicly available, such as a Person's name, address, telephone number and electronic address, when listed in a directory or made available through directory assistance; b) business-contact information, such as the name, title or business address or telephone number of an employee of an organization; c) information collected, used or disclosed in the course of journalistic, literary or artistic activities; or d) aggregate information that cannot be associated with a specific person, such as demographic statistics about NYGÅRD customers, or number of visitors and average time spent on a website.

### ***Purposes for Collection of Personal Information:***

NYGÅRD has collected and collects Personal Information for the following purposes: a) to establish and maintain responsible commercial relations with Individuals and to provide ongoing service; b) to understand Individual needs; c) to develop, enhance, market or provide products and services; d) to manage and develop its business and operations, including personnel and employment matters; and e) to meet legal or regulatory requirements, including to protect or defend a legal interest, and in connection with an actual or possible NYGÅRD corporate re-organization, merger or amalgamation with another entity, or an actual or possible sale of all or a substantial portion of the assets of NYGÅRD, provided that the Personal Information disclosed continues to be used by the entity acquiring the information either for evaluation of the possible transaction, or, on completion of any such transaction, for the purposes permitted by this Privacy Policy.

As examples of the above:

- i) NYGÅRD may from time to time use a Person's Personal Information to contact the Person about changes, enhancements or similar notices related to NYGÅRD products and services;
- ii) if a Person indicated that he/she was interested in receiving offers or information from NYGÅRD, NYGÅRD may send the Person materials about products and services that NYGÅRD feels may be of interest to the Person; and

### ***Obtaining Consent:***

NYGÅRD will make a reasonable effort to make sure Persons understand how their Personal Information will be used by NYGÅRD. NYGÅRD will obtain consent from Persons before or when it collects or uses the Personal Information. NYGÅRD will not attempt to deceive Persons into giving consent.

A Person's consent can be express, implied, or given through an authorized representative. A Person can withdraw consent at any time, with certain exceptions noted herein. NYGÅRD, however, may collect, use or disclose Personal Information without the Person's knowledge or consent in exceptional circumstances where such collection, use or disclosure is permitted or as required by law.

Note: If any Person at any time has any questions or concerns about NYGÅRD's privacy practices, the Person can write to: VP Legal Services & General Counsel [Abe.Rubinfeld@Nygard.com](mailto:Abe.Rubinfeld@Nygard.com) or contact by telephone at 416-598-6966.

### ***Refusing or withdrawing Consent:***

Subject to legal and contractual requirements, a Person can refuse to consent to NYGÅRD's collection, use or disclosure of Personal Information about the Person, or a Person may withdraw the Person's consent to NYGÅRD's further collection, use or disclosure of Personal Information at any time in the future by giving NYGÅRD reasonable notice, unless: i) the consent relates to certain information required for credit approval which a Person applies for or accepts, ii) the consent is otherwise required by law, or iii) the use or disclosure is permitted by law or is related to the legal or regulatory requirements described herein. If a Person refuses or withdraws the Person's consent, NYGÅRD may not be able to provide the Person or continue to provide the Person with some products, services or information which may be of value to the Person.

### ***Internet Aspects:***

Personal Information may be collected when a user conducts activities on or related to all websites of NYGÅRD Companies ("NYGÅRD Companies Sites") or related to services made available on the NYGÅRD Companies Sites ("NYGÅRD Companies Services"). Although information collected, used or disclosed on the Internet as described below often does not constitute Personal Information (and to the extent that such is the case, then the obligations under the NYGÅRD Privacy Code do not extend to such information), NYGÅRD's Website Privacy Statement governs. To the extent of any conflict between the provisions of that Statement and the following provisions, the following provisions shall exclusively apply.

#### Internet Protocol Address (IP Address)

When the user's web browser requests a web page from another computer on the Internet, it automatically gives that computer the address where it should send the information. This address is called the computer's "IP address." For most users accessing the Internet from a dial-up Internet service provider (ISP), the IP address will be different every time the user logs on.

NYGÅRD Companies may use the user's IP Address to:

- facilitate the diagnosis and remedy of a technical problem reported by the user's or NYGÅRD Company's technical team
- display (or allow the display by Third Party advertising providers of) more appropriate and relevant content and advertising, such as content and advertising based on the user's geographic area
- estimate user traffic from specific countries or organizations. Many IP addresses are commonly associated with Internet service providers, universities, or major corporations in specific regions or localities. Aggregate information derived from IP addresses may also be reported to advertisers

#### Cookies

A cookie is a small text file, which often includes an anonymous unique identifier, that is sent to the user's web browser from a web site's computers and is stored on the user's computer's hard drive. Cookies cannot be used to run programs or deliver viruses to a user's computer.

NYGÅRD Companies may use cookies to:

- Improve the operation and performance of the NYGÅRD Companies Services and to make NYGÅRD Companies Services easier and more convenient to use. For example, cookies help NYGÅRD Companies provide more personalized services by recalling user preferences on subsequent visits (e.g. language preference). Cookies also allow NYGÅRD Companies to save passwords and preferences for a user so that the user will not have to re-enter them on the next visit to a NYGÅRD Companies Site;
- Measure aggregate user traffic and demographic statistics related to NYGÅRD Companies Services and advertisements (e.g. number of users, average time spent, average age and similar statistics). This information helps NYGÅRD Companies to better understand when to update, change or offer new services and provides NYGÅRD Companies with details as to the performance of Third Party advertisements and content.

Most browsers are initially set up to accept cookies. If a user prefers, the user can reset his/her browser either to notify the user when the user has received a cookie, or to refuse to accept cookies. The user should understand that while NYGÅRD Companies do not require a user to use cookies, certain NYGÅRD Companies Services will not function properly if a user sets his/her browser to not accept cookies.

#### Web Beacons

Certain NYGÅRD Companies Services may contain electronic images known as Web beacons - sometimes called single-pixel gifs - that allow NYGÅRD Companies to count users who have visited those pages and to deliver co-branded services. Web beacons are not used to access Personal Information; they are a technique used to compile aggregated statistics about NYGÅRD Companies service usage. Web beacons collect only a limited set of information including a cookie number, time and date of a page view, and a description of the page on which the Web beacon resides.

#### Links To Other Sites And Advertisements

A NYGÅRD Companies Service may contain links to other websites and services. While NYGÅRD Companies try to link only to sites and services that share NYGÅRD Companies' high standards and respect for privacy, a user should understand that NYGÅRD Companies are not responsible for the content of, or the privacy practices employed by, other companies or websites. This NYGÅRD Privacy Code applies only to the NYGÅRD Companies Services related to this NYGÅRD Privacy Code.

#### Additional Information

NYGÅRD Companies automatically collect certain information about the user's computer hardware and software. This information may include: browser type, operating system type, domain names, access times and referring Web site addresses. This information is used by NYGÅRD Companies to operate the service, to maintain the quality of the service, and to provide general statistics regarding use of the NYGÅRD Companies Sites.

Certain NYGÅRD Companies Services may be co-branded and offered in conjunction with another company. If a user registers for or uses such services, both NYGÅRD Companies and the other company may receive information collected in conjunction with the co-branded services.

### **The NYGÅRD Privacy Code in Detail**

#### *Definitions*

**NYGÅRD Companies** – NYGÅRD and all subsidiaries of NYGÅRD and any successor company or companies thereof, as a result of corporate reorganization or restructuring

**Collection** – the act of gathering, acquiring, recording or obtaining Personal Information from any source, including third parties, by any means

**Consent** – voluntary agreement with the collection, use and disclosure of Personal Information for defined purposes. Consent can be either express or implied and can be provided directly by the Person or by an authorized representative. Express consent can be given orally, electronically or in writing but is always unequivocal and does not require any inference on the part of NYGÅRD. Implied consent is consent that can reasonably be inferred from a Person's action or inaction

**Disclosure** – making Personal Information available to a Third Party

**Employee** – an employee or independent contractor of NYGÅRD.

The inclusion of independent contractors within the definition of "Employee" is for convenience of reference only, and does in no manner imply that such individuals are employees of the company within the meaning of employment legislation or are in an employee-employer relationship with the company

**Individual** – an individual other than an Employee who (a) corresponds with NYGÅRD, including complaints and including applications for employment; or (b) uses, or applies to use, the products or services of NYGÅRD

**Person** – an Employee or an Individual

**Personal Information** – information about an identifiable Person, but not: a) information that is publicly available, such as a Person's name, address, telephone number and electronic address, when listed in a directory or made available through directory assistance; b) business-contact information, such as the name, title or business address or telephone number of an employee of an organization; c) information collected, used or disclosed in the course of journalistic, literary or artistic activities; or d) aggregate information that cannot be associated with a specific person, such as demographic statistics about NYGÅRD customers, or number of visitors and average time spent on a website

**Third Party** – a person other than the Person or his agent, or an organization other than a NYGÅRD Company

**Use** – the treatment, handling, and management of Personal Information by the NYGÅRD Companies

### ***Principle 1 - Accountability***

*NYGÅRD is responsible for Personal Information under its control and shall designate one or more persons who are accountable for NYGÅRD's compliance with the following principles.*

1.1 Responsibility for ensuring compliance with the provisions of the NYGÅRD Privacy Code rests with the senior management of NYGÅRD, which shall designate one or more persons to be accountable for compliance with the NYGÅRD Privacy Code. Other people within NYGÅRD Companies may be delegated to act on behalf of the designated person(s) or to take responsibility for the day-to-day collection and processing of Personal Information.

1.2 NYGÅRD has designated its General Counsel as Chief Privacy Officer to oversee compliance with the NYGÅRD Privacy Code. The Chief Privacy Officer can be contacted at [Abe.Rubinfeld@Nygard.com](mailto:Abe.Rubinfeld@Nygard.com) or by telephone at 416-598-6966.

1.3 NYGÅRD is responsible for Personal Information in its possession or control, including information that has been transferred to a Third Party for processing. NYGÅRD shall use appropriate means to provide a comparable level of protection while information is being processed by a Third Party (see Principle 7).

1.4 NYGÅRD has implemented policies and procedures to give effect to the NYGÅRD Privacy Code, including: a) implementing procedures to protect Personal Information and to oversee NYGÅRD's compliance with the NYGÅRD Privacy Code; b) establishing procedures to receive and respond to inquiries or complaints; c) training and communicating to staff about NYGÅRD's policies and practices; and d) developing public information to explain NYGÅRD's policies and practices.

**Principle 2 - Identifying Purposes for Collection of Personal Information**

*NYGÅRD has collected and collects Personal Information for the purposes set out below, and shall identify the purposes for which Personal Information is collected at or before the time the information is collected.*

2.1 NYGÅRD has collected and collects Personal Information for the following purposes: a) to establish and maintain responsible commercial relations with Individuals and to provide ongoing service; b) to understand Individual needs; c) to develop, enhance, market or provide products and services; d) to manage and develop its business and operations, including personnel and employment matters; and e) to meet legal or regulatory requirements, including to protect or defend a legal interest, and in connection with an actual or possible NYGÅRD corporate re-organization, merger or amalgamation with another entity, or an actual or possible sale of all or a substantial portion of the assets of NYGÅRD, provided that the Personal Information disclosed continues to be used by the entity acquiring the information either for evaluation of the possible transaction, or, on completion of any such transaction, for the purposes permitted by this Privacy Policy.

As examples of the above:

- i) NYGÅRD may from time to time use a Person's Personal Information to contact the Person about changes, enhancements or similar notices related to NYGÅRD products and services;
- ii) if a Person indicated that he/she was interested in receiving offers or information from NYGÅRD or certain of our selected partners, NYGÅRD may send the Person materials about products and services that NYGÅRD feels may be of interest to the Person

Further references to "identified purposes" mean the purposes identified in this Principle 2.

2.2 NYGÅRD shall specify orally, electronically or in writing the identified purposes to the Person at or before the time Personal Information is collected. Upon request, persons collecting Personal Information shall explain these identified purposes or refer the Person to a designated person within NYGÅRD who shall explain the purposes.

2.3 Unless required by law, NYGÅRD shall not use or disclose, for any new purpose, Personal Information that has been collected without first identifying the new purpose and obtaining the consent of the Person.

**Principle 3 - Obtaining Consent for Collection, Use or Disclosure of Personal Information**

*The knowledge and consent of a Person are required for the collection, use or disclosure of Personal Information, except where inappropriate.*

3.1 Generally, NYGÅRD shall seek consent to use and disclose Personal Information at the same time it collects the information. However, NYGÅRD may seek consent to use and disclose Personal Information after it has been collected but before it is used or disclosed for a new purpose.

3.2 In obtaining consent, NYGÅRD shall use reasonable efforts to ensure that a Person is advised of the identified purposes for which Personal Information will be used or disclosed. Purposes shall be stated in a manner that can be reasonably understood by the Person.

3.3 NYGÅRD will require Individuals to consent to the collection, use or disclosure of Personal Information as a condition of the supply of a product or service only if such collection, use or disclosure is required to fulfill the identified purposes.

3.4 In determining the appropriate form of consent, NYGÅRD shall take into account the sensitivity of the Personal Information and the reasonable expectations of the Persons.

3.5 In general, the use of products and services by an Individual, or the acceptance of employment or benefits by an Employee, constitutes implied consent for NYGÅRD to collect, use and disclose Personal Information for all identified purposes.

3.6 An Individual may withdraw consent at any time, subject to legal or contractual restrictions and reasonable notice. Individuals may contact NYGÅRD for more information regarding the implications of withdrawing consent.

3.7 In certain circumstances Personal Information can be collected, used or disclosed without the knowledge and consent of the Person. For example, NYGÅRD may collect or use Personal Information without knowledge or consent if it is clearly in the interests of the Person and consent cannot be obtained in a timely way, such as when the Person is a minor, seriously ill or mentally incapacitated. NYGÅRD may also collect, use or disclose Personal Information without knowledge or consent if seeking the consent of the Person might defeat the purpose of collecting the information such as in the investigation of a breach of an agreement or a contravention of a federal or provincial law.

NYGÅRD may also use or disclose Personal Information without knowledge or consent in the case of an emergency where the life, health or security of an individual or property is threatened.

NYGÅRD may disclose Personal Information without knowledge or consent to collect a debt, to comply with a subpoena, warrant or other court order, or as may be otherwise related to the legal or regulatory requirements described herein.

#### **Principle 4 - Limiting Collection of Personal Information**

*NYGÅRD shall limit the collection of Personal Information to that which is necessary for the purposes identified by NYGÅRD.*

*NYGÅRD shall collect Personal Information by fair and lawful means.*

4.1 NYGÅRD collects Personal Information primarily from Individuals or its Employees.

4.2 NYGÅRD may also collect Personal Information from other sources including credit bureaus, employers or personal references, or other third parties that represent that they have the right to disclose the information.

#### **Principle 5 - Limiting Use, Disclosure and Retention of Personal Information**

*NYGÅRD shall not use or disclose Personal Information for purposes other than those for which it was collected, except with the consent of the Person or as required by law. NYGÅRD shall retain Personal Information only as long as necessary for the fulfillment of the purposes for which it was collected.*

5.1 In certain circumstances Personal Information can be collected, used or disclosed without the knowledge and consent of the Person. (see Principle 3.7)

5.2 In addition, NYGÅRD may disclose a Person's Personal Information to: a) another person for the development, enhancement, marketing or provision of any of the products or services of NYGÅRD; b) a person who, in the reasonable judgment of the NYGÅRD Companies, is seeking the information as an agent of the Person; c) any NYGÅRD Companies to permit the provision of services requested by the Person, and d) a Third Party or Third Parties, where the Person consents to such disclosure or disclosure is required by law.

5.3 NYGÅRD may disclose Personal Information about its employees: a) for normal personnel and benefits administration; b) in the context of providing references regarding current or former employees in response to requests from prospective employers; or c) where disclosure is required by law.

5.4 Only those Employees of NYGÅRD who require access for business reasons, or whose duties reasonably so require, or properly designated representatives of NYGÅRD, are granted access to Personal Information about Individuals and Employees.

5.5 NYGÅRD shall keep Personal Information only as long as it remains necessary or relevant for the identified purposes or as required by law. Depending on the circumstances, where Personal Information has been used to make a decision about a Person, NYGÅRD shall retain, for a period of time that is reasonably sufficient to allow for access by the Person, either the actual information or the rationale for making the decision.

5.6 NYGÅRD shall maintain reasonable and systematic controls, schedules and practices for information and records retention and destruction which apply to Personal Information that is no longer necessary or relevant for the identified purposes or required by law to be retained. Such information shall be destroyed, erased or made anonymous.

#### **Principle 6 - Accuracy of Personal Information**

*Personal Information shall be as accurate, complete and up-to-date as is necessary for the purposes for which it is to be used.*

6.1 Personal Information used by NYGÅRD shall be sufficiently accurate, complete and up-to-date to minimize the possibility that inappropriate information may be used to make a decision about a Person.

6.2 NYGÅRD shall update Personal Information about Persons as and when necessary to fulfill the identified purposes or upon notification by the Person.

#### **Principle 7 - Security Safeguards**

*NYGÅRD shall protect Personal Information by security safeguards appropriate to the sensitivity of the information.*

7.1 NYGÅRD shall protect Personal Information against such risks as loss or theft, unauthorized access, disclosure, copying, use, modification or destruction, through appropriate security measures. NYGÅRD shall protect the information regardless of the format in which it is held.

7.2 NYGÅRD shall protect Personal Information disclosed to third parties by contractual agreements stipulating the confidentiality of the information and the purposes for which it is to be used.

7.3 All employees of NYGÅRD with access to Personal Information shall be required as a condition of employment to respect the confidentiality of Personal Information.

#### **Principle 8 - Openness Concerning Policies and Practices**

*NYGÅRD shall make readily available to Persons specific information about its policies and practices relating to the management of Personal Information.*

8.1 NYGÅRD shall make information about its policies and practices easy to understand, including: a) The title and address of the person or persons accountable for the compliance with the NYGÅRD Privacy Code and to whom inquiries or complaints can be forwarded; b) The means of gaining access to Personal Information held by NYGÅRD; and c) A description of the type of Personal Information held by NYGÅRD, including a general account of its use.

8.2 NYGÅRD shall make available information to help Persons exercise choices regarding the use of their Personal Information.

#### **Principle 9 - Access to Personal Information**

*NYGÅRD shall inform a Person of the existence, use and disclosure of his or her Personal Information upon request and shall give the Person access to that information.*

*A Person shall be able to challenge the accuracy and completeness of the Personal Information and have it amended as appropriate.*

9.1 Upon request, NYGÅRD shall afford to a Person a reasonable opportunity to review the Personal Information in the Person's file. Personal Information shall be provided in understandable form within a reasonable time and at minimal or no cost to the Person.

9.2 In certain situations, NYGÅRD may not be able to provide access to all of the Personal Information that they hold about a Person. For example, NYGÅRD may not provide access to information if doing so would likely reveal Personal Information about a Third Party or could reasonably be expected to threaten the life or security of another person. Also, NYGÅRD may not provide access to information if disclosure would reveal confidential commercial information, if the information is protected by solicitor-client privilege, if the information was generated in the course of a formal dispute resolution process, or if the information was collected in relation to the investigation of a breach of an agreement or a contravention of a federal or provincial law, or if the information was collected as part of journalistic, literary or artistic activities. If access to Personal Information cannot be provided, NYGÅRD shall provide the reasons for denying access upon request.

9.3 Upon request, NYGÅRD shall provide an account of the use and disclosure of Personal Information and, where reasonably possible, shall state the source of the information. In providing an account of disclosure, NYGÅRD shall provide a list of organizations to which it may have disclosed Personal Information about the individual when it is not possible to provide an actual list.

9.4 In order to safeguard Personal Information, an individual or employee may be required to provide sufficient identification information to permit NYGÅRD to account for the existence, use and disclosure of Personal Information and to authorize access to the individual's file. Any such information shall be used only for this purpose.

9.5 NYGÅRD shall promptly correct or complete any Personal Information found to be inaccurate or incomplete. Any unresolved differences as to accuracy or completeness shall be noted in the Person's file. Where appropriate, NYGÅRD shall transmit to third parties having access to the Personal Information in question any amended information or the existence of any unresolved differences.

9.6 A Person can obtain information or seek access to his or her Personal Information by contacting a designated representative at NYGÅRD principal office.

9.7 An employee can obtain information or seek access to his or her Personal Information by contacting his or her immediate supervisor within NYGÅRD.

### **Principle 10 - Challenging Compliance**

*A Person shall be able to address a challenge concerning compliance with the above principles to the designated person or persons accountable for the compliance of NYGÅRD with the NYGÅRD Privacy Code.*

10.1 NYGÅRD shall maintain procedures for addressing and responding to all inquiries or complaints from Persons about NYGÅRD's handling of their Personal Information. If any Person at any time has any questions or concerns about NYGÅRD's privacy practices, the Person can contact the VP Legal Services & General Counsel [Abe.Rubinfeld@Nygard.com](mailto:Abe.Rubinfeld@Nygard.com) or by telephone at 416-598-6966.

10.2 NYGÅRD shall inform Persons about the existence of these procedures as well as the availability of complaint procedures.

10.3 The person or persons accountable for compliance with the NYGÅRD Privacy Code may seek external advice where appropriate before providing a final response to individual complaints.

10.4 NYGÅRD shall investigate all complaints concerning compliance with the NYGÅRD Privacy Code. If a complaint is found to be justified, NYGÅRD shall take appropriate measures to resolve the complaint including, if necessary, amending its policies and procedures. A Person shall be informed of the outcome of the investigation regarding his or her complaint.