



**VIA ELECTRONIC MAIL**

August 11, 2023

Mr. Oscar Otieno (for Data Protection Commissioner)  
Office of the Data Protection Commissioner  
Britam Towers  
P.O. Box 30920-00100  
Nairobi, Kenya  
[info@odpc.go.ke](mailto:info@odpc.go.ke)

**Your Ref: ODPC/11/11/8**  
**ODPC/CONF/1/5/(333)**

**Our Ref: AI/6217798**

Dear Mr. Otieno,

We refer to the Summons to Enter Appearance served on our counsel Coulson Harney Advocates LLP at around 4:45 pm on Friday, 4 August 2023 (the “Summons”), compelling the further attendance of the representatives of Tools for Humanity Corporation and Tools for Humanity GmbH (together, the “Company” or “TFH”) at the Office of the Data Protection Commissioner (the “Office”).

We first acknowledge that, globally, public interest in our activities exceeded our expectations over the past three weeks. In Kenya, for example, this interest at times led to technical challenges in our mobile application World App and resulted in thousands of people waiting in long lines to sign up for the World ID product. Though the launch of Worldcoin on 24 July 2023 was in many ways successful, it was admittedly not perfect. We recognize that and have earnestly tried to address these shortcomings by revisiting our signup program to encompass more robust crowd control in the countries where Orbs are available. Individuals potentially impacted by short-term technical issues have also been offered an invitation to reserve their initial grant of the Worldcoin token (WLD) at any point for the next twelve (12) months.

We further appreciate that—perhaps because of those challenges, or perhaps because of the complex nature of crypto projects like Worldcoin—the Office and other agencies in the Government of Kenya have concerns, and have felt compelled to take action, in relation to TFH’s activities in the country. This is understandable and healthy. From the start, though, we wish to put to rest three possible misconceptions.



First, Worldcoin itself is not giving people approximately kshs 7,000 when they sign up, as erroneously reported or stated in some media. Rather, it is giving them an amount of WLD tokens, which are digital units created ("minted") and issued by the project. People can choose to sell these WLD tokens on the open market, where the current trading price for one WLD is approximately kshs 285. Any fiat money a Worldcoin user receives after signing up is realized through such an open market sale, paid for by the buyer of those tokens, not by Worldcoin. There is no undue inducement or any other form of constraint or coercion to participate in Worldcoin. People freely chose to come to us, and did so in large numbers.

Second, Operator Partners do not access or process people's personal or biometric data when conducting Orb signups. They are akin to marketing agents. They inform individuals about Worldcoin and facilitate the Orb sign-up process. In this way, Operator Partners are analogous to letter carriers, who themselves are not data processors though they support others' conveyance of personal data. We are not, therefore, relying on Operator Partners to inform people and secure their free consent. Rather, just as many other companies do, we rely on our Privacy Statement and Biometric Data Consent Form, as well as the explanations provided in World App, to do that. These resources explain very clearly the collection, processing and transfer that a person is agreeing to. In keeping with their role, Operator Partners are trained to refer people with questions to a QR code available at every Worldcoin location, which directs people to [www.worldcoin.org/data-choice](http://www.worldcoin.org/data-choice). In our view, this process exceeds the standard for clear, unequivocal, informed, and specific consent required by Kenya's Data Protection Act (the "Act").

Third, and most importantly, **Worldcoin will never sell users' personal or biometric data.** Despite unfounded speculation, there is no nefarious intent or plan here. The mission is to create a new, privacy-preserving, decentralized and open, identity and financial network owned by everyone. It is not to harvest and monetize data.

More than anything, we want to reaffirm our genuine commitment to engaging with the Office and other agencies within the Government of Kenya. We want to get this right, for Kenyans and all Worldcoin users around the world.

## **I. Overview of Worldcoin.**

1. Worldcoin consists of a privacy-preserving digital identity network (World ID) built on proof of personhood and, where laws allow, a cryptoasset token (WLD). World ID and WLD are currently available in World App, the first frontend client compatible with Worldcoin.
2. "Proof of personhood" (or, "PoP") refers to establishing that an individual is both human and unique (that is, has not yet registered for the service). Once established,

a privacy-preserving PoP gives the individual the ability to assert they are a real natural person and unique to the network of World ID holders, without having to provide separate proof of their identity. This is potentially useful for a range of services online. More information about PoP can be found at: <https://whitepaper.worldcoin.org/proof-of-personhood>.

3. World ID is designed to enable people to secure and use PoP, while maintaining their privacy, on the Worldcoin protocol. To ensure uniqueness, the sign-up process for World ID relies on an individually-calculated numeric code representing the texture of a person's iris ("iris code").<sup>1</sup> In the case of World ID, the numeric code cannot be manipulated to reconstitute the original biometric image.
4. A custom-designed physical device (the "Orb") is used to capture high-resolution and multispectral images of a person's irises, and generally their eyes and face. The images are processed to detect fraud (e.g., presentation of a mask) and calculate the iris code. The images are processed exclusively on the Orb and promptly deleted after an iris code is created, unless a person explicitly opts into data custody. Data custody entails images being sent off-device, to be processed for the purpose of ongoing improvement of the Worldcoin system. A user can revoke this consent to image data custody at any time, either in the World App or at the Request Portal found at [worldcoin.org/requestportal](https://worldcoin.org/requestportal).
5. A summary of the system's technical implementation, including details around its use of biometrics and zero-knowledge proof cryptographic technology, can be found at: <https://whitepaper.worldcoin.org/technical-implementation>.
6. Most Orbs are operated by independent local partners, which we call Operator Partners.

## II. Overview of Engagement with the Office to Date.

1. It may be helpful to recount events to date, to demonstrate TFH's long standing commitment to responsible engagement with your Office.
2. On 13 April 2022, counsel at Coulson Harney Advocates LLP (our external counsel) first contacted the Office to request a meeting on behalf of TFH.

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<sup>1</sup> Per the World Bank Group's Identity for Development (ID4D) initiative, iris recognition "is highly suitable as a technique for large-scale de-duplication systems due to its high accuracy, non-contact acquisition, and low number of exception cases" and has several advantages over other modalities, including: security, system durability, individual stability, and inclusivity. See World Bank. A Primer on Biometrics for ID Systems. 2022, available at: <https://id4d.worldbank.org/id-biometrics-primer>.

3. A week later on 19 April 2022, with the Office not having responded to that request for a meeting, the Office sent TFH a letter requesting information around the Company's collection and processing of personal data from persons resident in Kenya. The letter noted that the Act applies to entities like TFH, "regardless of whether the entity itself is established or resident in Kenya."
4. The Company responded on 6 May 2022, with a package of information including *inter alia*:
  - a. a detailed explanation of the Company's business goals, technical and operational approach;
  - b. legal bases for processing and for data transfer outside of Kenya;
  - c. technical and organizational measures and safeguards pertaining to the processing and transfer of personal data;
  - d. the Company's Data Protection Impact Assessment ("DPIA"); and
  - e. a schedule of User Terms, Privacy Notices, and Data Consent Forms provided to residents of Kenya, as well as other pertinent policies and contracts.
5. On 17 May 2022, not having received a response to our request for a meeting, our counsel followed up with the Office. Later that day, the Office confirmed availability for a meeting 25 May 2022.
6. The meeting took place at the Office as scheduled on 25 May 2022. Attendees included: [REDACTED], [REDACTED], counsel from Coulson Harney o.b.o. TFH; Commissioner Immaculate Kassait (ODPC); and Rose Mosero (ODPC).
7. On 17 June 2022, TFH submitted a revised DPIA explicitly referencing provisions of the Act.
8. On 23 June 2022, the Office sent TFH a letter seeking "preliminary clarification" as to certain aspects of the DPIA, relating to the Company's lawful bases for processing the personal data of residents of Kenya. Further, the Office asked TFH to restrict such processing "until the lapse of 60 days or following the provision of a clear lawful basis for processing personal data; whichever is later."
9. On 15 July 2022, seventeen (17) days after the Office requested a restriction on process, TFH responded to the Office's request for clarification by providing what it believes is a clear lawful basis for processing the personal data of people resident in

Kenya. With its letter, the Company asked that the Office lift its restriction request, in light of the clear and comprehensive responses provided. TFH received no response, the sixty (60) days lapsed, and TFH resumed processing.

10. The Office will kindly recall that the requirement for entities to register as a Data Controller was only operationalized in July 2022, pursuant to the *Data Protection Registration of Data Controllers and Data Processors Regulations, 2021*. Moreover, the online registration portal only became active in late August 2022.
11. On 22 August 2022, TFH GmbH submitted its application for registration as a Data Controller to the Office. The application form required TFH to provide descriptions of the personal and sensitive data being processed as well as of the risk and safeguard measures around that processing. On 29 August 2022, TFH Corporation followed suit. TFH GmbH was awarded its Certificate of Registration on 15 September 2022.
12. On 5 September 2022, the Office sent TFH a letter directing the Company to “take note” of certain legal determinations made by the Office, pertaining to its assessed divergence between the Act and the European Union’s General Data Protection Regulation (“GDPR”). Further, the Office directed TFH to prepare a “data processing schedule” and record of processing activities and “provide details on how it intends to comply with the provisions of the Act and address the matters” raised in the letter.
13. On 10 November 2022, TFH responded to the Office’s letter. In addition to providing the Company’s record of processing activities and “data processing schedule,” and responding to the specific legal issues flagged by the Office in its previous correspondence, the Company wrote:

We look forward to your swift and favourable response, as we still intend to prioritize Kenya as our first significant launch country in Africa. We applaud the Office’s efforts to consider innovative technology and its mission to protect Kenyans’ privacy rights. However, we very much hope that the Office will not hinder adoption of new technologies like ours that seek to utilize methods designed with the intention of *enhancing* user privacy rights. In the interest of concluding this matter, we respectfully suggest a follow-up meeting with your Office so that we can provide any remaining clarifications your Office requires. We would be grateful for the opportunity.

This letter went without response for half a year.

14. Meanwhile, after several months and multiple inquiries from our external counsel regarding the status of the Registration application of TFH Corporation, on 3 March 2023 the Office requested a notarized copy of TFH's Profit and Liabilities accounting information. This was provided on 7 March 2023, and TFH Corporation was awarded its Certificate of Registration on 18 April 2023.
15. On 30 May 2023, the Office sent a letter instructing TFH to cease the collection of all facial recognition data and iris scans from people located in Kenya. The Office specifically expressed doubts about the validity of users' consent following interactions with TFH agents "in various shopping malls." Further, *inter alia*, the Office stated its view that "the performance of a contract cannot be considered a lawful basis" for processing in this case because that the Worldcoin token (WLD "does not exist in the market."
16. The following day, on 31 May 2023, counsel for TFH sent a letter to the Office, offering four days of availability with TFH's DPO and senior management, reiterating:

It is our sincere wish to conclude this matter in a most expeditious manner and to fully address all your concerns. To this end, we are requesting a meeting with your esteemed Office so that we can provide further clarity on our client's business model and its well-documented and compliant data processing activities in Kenya.
17. An online meeting was held with the Office on 13 June 2023 to discuss the notice of cessation of TFH's activities. Attendees included: [REDACTED], [REDACTED], [REDACTED], counsel from Coulson Harney o.b.o. TFH; and Deputy Commissioner Rose Mosero (ODPC). TFH walked through a PowerPoint presentation detailing its operations, and again offered the grounds it relies on for the lawful processing of personal data under the Act. The Office, for its part, expressed doubt that there could be a lawful basis given that the Worldcoin token (WLD) was not yet available. Further, it suggested that TFH take additional measures to improve the quality of the consent people give, namely, to enhance Operator Partner training and provide simple illustrations of the data processing. Last, the Office directed TFH to prepare a written response by 16 June 2023, after which the Office would substantively respond with its findings by July 2023.
18. As a result of the Office's recommendations, TFH conducted additional Operator training and implemented the QR code-based system pointing to <https://worldcoin.org/data-choice>.



19. On 16 June 2023, the Company substantively responded to the Office’s previous correspondence of 30 May 2023. In the letter, TFH reaffirmed its commitment to Kenya, described Worldcoin products again, and outlined operational improvements made in light of the Office’s feedback. Further, the Company noted that the Office’s “cessation requests have severely impacted the earnings and livelihood of a large number of our third party agents” and risk delaying the launch of the Worldcoin token (WLD). Given past experience with the Office, the letter noted that, if TFH did “not receive a further communication from the Office by close of business Friday 23rd June we will assume that we have clarified and addressed your ongoing concerns with our processing activities.” TFH received no response, 23 June 2023 came and went, and TFH resumed processing.
20. On 30 June 2023, TFH sent an email to the Office’s Compliance section to request a meeting with the stated purpose of discussing the measures taken in response to the Office’s recommendations made on 13 June 2023. TFH received no response.
21. Worldcoin launched on 24 July 2023.
22. On 25 July 2023, TFH emailed the Office to request a meeting with the stated purpose of addressing any questions related to this development. It received no acknowledgement or response.
23. On 28 July 2023, the Office issued a press release calling for vigilance from the public while it engaged with respect to Worldcoin’s compliance with the Act.
24. On 1 August 2023, our counsel again wrote to the Office, noting the Company’s good faith cooperation to date and expressing surprise in learning of the press release *via* the media and without any direct communication to either TFH or our external counsel. Further, our counsel pointed out that the Directorate of Criminal Investigations (DCI) was arresting Operator Partners and, at least at the time, claiming to be conducting an investigation into TFH’s purported failure to register under the Act, which—as the Office well knows—is not a criminal offence. And even if it were, both TFH entities had in fact registered with the Office, of course. “For this additional reason,” counsel wrote, “our Client would be grateful for an opportunity to meet with the Office in order to prevent further potential harassment.”
25. The following day, on 2 August 2023, the Office sent TFH’s counsel another letter, making reference to the Office’s letter of 30 May 2023 (not the more recent developments). The Office again directed TFH to cease collecting personal data of people living in Kenya and, this time, added that the cessation will “remain in force until this Office explicitly communicates a reversal of this directive.” The Office



added that TFH’s full cooperation with all inquiries, inspections, and requests for information is expected and mandated under the Act.”

26. On 3 August 2023, *via* email to the Office, TFH’s counsel confirmed receipt of the letter, adding that:

we would once again request an urgent meeting with the Office in order to clarify and respond to the Office’s concerns. As you are aware, Tools for Humanity has at all times been transparent and fully cooperative with the Office in the interests of good relationship building and remains available to attend to a physical meeting at the Office’s earliest convenience.

27. On 4 August 2023, the Office issued this Summons to TFH. TFH expresses its unreserved gratitude for the Office’s willingness to meet on these matters.

### **III. Changes to the Project Structure Over Time.**

1. We hope the Office will understand that, over the course of our engagement during the past sixteen (16) months, the Company and wider project have not stood still.
2. Recall that Worldcoin was founded with the mission of creating a globally-inclusive identity and financial network.
3. TFH took the initial steps toward developing the Worldcoin protocol and supported its multi-year beta testing phase. Today TFH provides the Orbs (the silver sphere-shaped camera signing up people) and helps manage on-ground logistics around Worldcoin. It also operates the mobile application, World App. Its website is found at: <https://www.toolsforhumanity.com/>.
4. Worldcoin’s mission does, however, go far beyond TFH. Accordingly, on 31 October 2022 the Worldcoin Foundation (“Foundation”) was established. The Foundation is an exempted limited guarantee foundation company, a type of non-profit incorporated in the Cayman Islands. It is “memberless,” meaning it has no owners or shareholders, and it is governed by a Board with three Directors, entirely independently from TFH.
5. The Foundation’s Memorandum of Association describes its aim as both philosophical and political:

to realise more inclusive, fair, and just institutions of governance and of the global digital economy, including by





helping achieve certain targets of U.N. Sustainable Development Goal 16 (namely, 16.4, 16.5, 16.6, 16.7, and 16.9). This aim is shared by those who contribute to or have regular contact with the Worldcoin projects.

6. To that end, the Foundation serves as the steward of the Worldcoin protocol, supporting and growing the ecosystem until it becomes self-sufficient. More information about the Foundation, including its founding documents, can be viewed at: <https://www.worldcoin.foundation/about>.<sup>2</sup>

#### **IV. Data Controllership Before and After Worldcoin’s Launch.**

1. The emergence of the Foundation and a vibrant global Worldcoin community of contributors had implications for data controllership.
2. Prior to 24 July 2023, the Worldcoin project was in a *beta* testing phase. During the *beta* test, TFH carried out the corresponding data processing as the data controller within the meaning of the Act. The Foundation was not involved in these processing operations. Further, as the Office is aware, TFH believes that during this *beta* period it instituted a data protection program consistent with the Act.
3. When Worldcoin launched on 24 July 2023, an important transition occurred: the Foundation assumed controller responsibility for the Worldcoin project and related data processing activities.
4. The Foundation now independently determines the purposes and means of the processing activities carried out in relation to World ID. TFH, for its part, continues to be the data controller for World App, but now only carries out the relevant World ID data processing activities at the direction of, and in its capacity as a processor for, the Foundation.
5. For this purpose, the Worldcoin Foundation and TFH have entered into a data processing contract. Existing terms, privacy statements, consent forms, user flow in World App, and data subject request documentation have been converted to adequately reflect these changed data protection responsibilities.

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<sup>2</sup> This is “the most common structure currently in use by network and protocol” decentralized autonomous organizations (DAOs), according to the DAO Research Collective. See <https://daocollective.xyz/legal-entity/>. To learn more about this type of entity, see generally Ogier, *Guide to the Cayman Islands Foundation Company*, available at: <https://www.ogierproperty.ky/publications/a-guide-to-the-cayman-islands-foundation-company.html>.



6. Accordingly, the week of launch, the Foundation submitted its application for registration as a Data Controller to the Office. The Foundation is awaiting the Office's response to this application.

#### **V. The Information and Documents Requested by the Office in its Summons.**

1. In the Summons, the Office requested certain information/documents to aid its investigations.
2. TFH will gladly fully cooperate with all lawful requests for information mandated under the Act. Though some of the requested information has previously been provided to the Office over the course of the past sixteen (16) months, where that information is requested again TFH will provide it in updated form. TFH would, however, take this opportunity to register its view that some of the requests may not be sufficiently clear and specific in order to allow for a meaningful and appropriate response. Further, some of the requests are overly broad, too general and may exceed the limits of the Office's discretion and authority under the Act.
3. Each request in the Summons is addressed here in turn:
  - a. **Physical consent forms signed by applicants.** These documents were first provided to the Office on 6 May 2022. Current and past versions of these forms can still be found online, in English and Swahili, at the [Worldcoin Foundation's Privacy Notice and Biometric Data Consent Form](#) and [Tools for Humanity's Privacy Notice and Data Consent Form](#). For ease of reference, current versions of these files are also being provided in [Appendix 1-a](#).

Further, screenshots included in the Appendix reflect the current signup flow in World App. Additional information is made available to people at the time of Orb signup, *via* QR code, and can be found at <https://worldcoin.org/data-choice>.

- b. **All forms of information collected by Worldcoin application including personal and sensitive data.** It is unclear whether, by "Worldcoin application," the Office is referring to World App (the mobile application), to the broader Worldcoin protocol, or to both. Further, we assume that the Office is specifically making this request in relation to personal information, not "all" information. Notably, this information was provided to the Office as part of the Data Controller Registration applications submitted by TFH Corporation, TFH GmbH and the Worldcoin Foundation.

For the avoidance of confusion, please be aware that the [Worldcoin Foundation's Privacy Notice and Biometric Data Consent Form](#) (found online, in English and Swahili) pertain to the Worldcoin protocol, including World ID and the verification *via* Orb signup. [Tools for Humanity's Privacy Notice and Data Consent Form](#) (found online, in English and Swahili) pertain to World App, the mobile application. Nevertheless, for ease, this information is also being provided in [Appendix 1-b](#).

- c. All system documentation for [TFH and/or Foundation] technology infrastructure i.e. orbs and World App (phone application).** The scope of this request is unclear. Taken literally, the request would seem overly broad. Nonetheless, TFH directs the Office to [publicly available technical documentation pertaining to the Orb device](#), as well as the system-level description found at [whitepaper.worldcoin.org](http://whitepaper.worldcoin.org). Additional information is also being provided in [Appendix 1-c](#).
- d. Functional documentation illustrating the process flow of the ORB.** Beyond the aforementioned public sources, an illustrated overview of how signup works and the associated data processing is available to all Kenyan users *via* QR code at each Orb location, directing to <https://worldcoin.org/data-choice>. (Recall this was commended by the Office.) TFH further notes that it provided the Office with a “Data Processing Schedule” and Record of Processing Activities in November 2022 and again in June 2023. Additional information is also being provided in [Appendix 1-d](#).
- e. Terms of reference for Worldcoin.** TFH understands this request to refer to the User Terms and Conditions. Current and past versions of these forms can still be found online, in English and Swahili, at the [Worldcoin Foundation's User Terms and Conditions](#) and [Tools for Humanity's User Terms and Conditions](#).
- f. List of all registered users in Kenya.** It is, as an initial matter, unclear which specific fields of user data the Office is requesting.

More fundamentally, TFH would like to draw attention to its commitments to its users. TFH's Privacy Notice states the following:

We may disclose your (users) data in order to comply with applicable laws and respond to mandatory legal demands. We will carefully consider each request to determine whether the request complies with the law and, where appropriate, we may challenge invalid, overbroad, or unlawful requests. We may share personal data with police and other government authorities where we reasonably believe it to be



necessary to comply with law, regulation or other legal process or obligation.

TFH is of the belief that, in these circumstances, the instant request is overbroad and risks exceeding the bounds of the Office's authority. Further, absent a clearer articulation of the investigative purpose for such a request, TFH is concerned that fulfilling such a request could operate to the detriment of the data privacy rights of residents of Kenya.

In any event, the Office will recall that it is possible to use World App, World ID and Worldcoin without providing a name, phone number or email address. As a result, for many users TFH does not possess such information, and so is unable to respond to this request.

**g. Sample data stored in the cloud database in original format (data structure).**

The nature of this request is unclear. However, the Office may find the requested information at: <https://whitepaper.worldcoin.org/technical-implementation>. Further potentially responsive information is being provided in [Appendix 1-g](#).

**h. Server information and location storing the personal identifiable information.** The scope of this request is unclear. TFH notes that information around data transfers is available online (in English and Swahili) in [Worldcoin Foundation's Biometric Data Consent Form](#) and [Tools for Humanity's Biometric Data Consent Form](#).

In the event that a person chooses to opt-into Data Custody, the person's image files are encrypted while stored at rest on servers—specifically, Amazon Web Services "S3" buckets that [fulfill required security standards](#). ("S3" refers to object storage for *inter alia* image files.) The Company maintains 6 such buckets (in Italy, Brazil, India, South Africa, Singapore, and the US (US-EAST-1 in Virginia)). Image data is stored in a bucket based on latency and availability of the bucket; as a result, in the case of image files collected from residents of Kenya, the images may be transferred to either South Africa or the EU.

Iris codes are stored in a MongoDB data cluster that leverages the AWS infrastructure, which uses the same cybersecurity standards as for the rest of the data. In our case the MongoDB server with the database is located in the EU (Germany) and backups/local replicas are located in the United States.

Users' account data is stored separately. It is structural data and is stored in a SQL database. This data is also stored with AWS in US-EAST-1.



- i. Data security measures put in place to secure data in transit including security / compliance assessment reports.** This information was first provided to the Office on 6 May 2022. Further, this information was provided to the Office as part of the Data Controller Registration applications submitted by TFH Corporation, TFH GmbH and the Worldcoin Foundation. However, additional information is being provided in Appendix 1-i.

\* \* \*

Privacy is the bedrock of Worldcoin. It is why so many people have put so much of themselves into contributing to the project. And, from day one, the project has prioritized the privacy of the people who entrust us with their personal data.

We hope that you have found this information helpful, and demonstrative of our genuine commitment to cooperate with the Office to ensure that the Worldcoin project provides a safe, secure, privacy-protective and transparent service for verified humans.

We welcome the opportunity to discuss this matter further.

Kind regards,

[Redacted signature]

[Redacted name]  
[Redacted title]

Tools for Humanity Corp.

cc:

[Redacted recipient list]