


Document Name	EmpowerLogic POPIA Policy	
Document Number	M80	
Revision	1	
Revision Date	24 March 2021	
SANAS R47-03 Reference	10, 11	

EmpowerLogic Protection of Personal Information Act (POPIA) Policy

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SANAS R47-03 Reference	10, 11	

Table of Contents

1	Contact and Other Details	3
2	Terms and Definitions	3
3	Responsible Party	4
4	Procession of Personal Information	4
5	Minimality of processing personal information	4
6	Consent, Justification and Objection	4
7	Collection directly from the data subject	5
8	Collection for specific purpose	5
9	Retention and restriction of records	6
10	Further processing to be compatible with purpose of collection	7
11	Quality of information	7
12	Documentation	7
13	Notification when collecting personal information	8
14	Security measures on integrity and confidentiality of personal information	9
15	Information processed by operator or person acting under authority of responsible party ..	9
16	Security measures regarding information processed by an operator	10
17	Notification of security compromises	10
18	Access to personal information	11
19	Correction of personal information	12
20	Manner of Access	12
21	Prohibition of procession of special information	12
22	General authorisation concerning special personal information	13
23	Authorisation concerning a data subject's race or ethnic origin	13
24	Prohibition on procession personal information of children	13
25	General authorisation concerning personal information of children	13
26	References:	14

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SANAS R47-03 Reference	10, 11	


1 Contact and Company Details

- 1.1 **Company Details:** EmpowerLogic, Reg. No. 1995/000523/07
- 1.2 **Responsible Party:** Wim Steyn
- 1.3 **Physical Address:** 9 Autumn Road, Devcon Place, Rivonia, 2128
- 1.4 **Postal Address:** P.O. Box 3868, Rivonia, 2128
- 1.5 **Tel no.:** 011 612 3560
- 1.6 **Email:** wim.steyn@empowerlogic.co.za

2 Terms and Definitions

- 2.1 **'child'** means a natural person under the age of 18 years who is not legally competent, without the assistance of a competent person, to take any action or decision in respect of any matter concerning him- or herself;
- 2.2 **'competent person'** means any person who is legally competent to consent to any action or decision being taken in respect of any matter concerning a child;
- 2.3 **'consent'** means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information;
- 2.4 **'data subject'** means the person to whom personal information relates;
- 2.5 **'de-identify'**, in relation to personal information of a data subject, means to delete any information that-
 - 2.5.1 identifies the data subject;
 - 2.5.2 can be used or manipulated by a reasonably foreseeable method to identify the data subject; or
 - 2.5.3 can be linked by a reasonably foreseeable method to other information that identifies the data subject,
and 'de-identified' has a corresponding meaning;
- 2.6 **'operator'** means a person who processes personal information for the responsible party in terms of a contract or mandate, without coming under the direct authority of that party;
- 2.7 **'personal information'** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to-
 - 2.7.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
 - 2.7.2 information relating to the education or the medical, financial, criminal or employment history of the person;
 - 2.7.3 the biometric information of the person;

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- 2.7.4 the personal opinions, views or preferences of the person;
- 2.7.5 correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- 2.7.6 the views or opinions of another individual about the person; and
- 2.7.7 the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;

2.8 **'POPIA'** means the Protection of Personal Information Act (4 of 2013);

2.9 **'responsible party'** means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing personal information;

3 **Responsible Party**

The responsible party is tasked to and shall be responsible to ensure that the conditions set out in this document and all measures that give effect to such conditions, are compliedⁱ.

4 **Procession of Personal Information**ⁱⁱ

4.1 Personal information shall be processed by the Company:

- 4.1.1 lawfully; and
- 4.1.2 in a reasonable manner that is in accordance with the provisions of the POPIA.

5 **Minimality of processing personal information**ⁱⁱⁱ


Personal information shall be processed if, given the purpose of which it is processed, it is adequate, relevant and not excessive.

6 **Consent, Justification and Objection**^{iv}

6.1 Personal information will only be processed if-

- 6.1.1 the data subject or a competent person (where the data subject is a child) consents to the processing;
- 6.1.2 processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is a party;
- 6.1.3 processing complies with an obligation imposed by law on the responsible party;
- 6.1.4 processing protects the legitimate interests of the data subject;

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SANAS R47-03 Reference	10, 11	

6.1.5 processing is necessary for pursuing the legitimate interests of the responsible party or of a third party to whom the information is supplied.

6.2 Where information is processed based on consent by a data subject or competent person (where the data subject is a child), such consent may be withdrawn at any time. Provided that the lawfulness of the processing of the personal information before such withdrawal or the processing of personal information conducted in terms of par. 6.1.2 to 6.1.5 above will not be affected.

6.3 A data subject or competent person (where the data subject is a child) may object, at any time, to the processing of personal information:

6.3.1 in terms of par. 6.1.4 and 6.1.5 above, in the prescribed manner, on reasonable grounds relating to his/her/its particular situation, unless legislation provides for such processing; or

6.3.2 for the purpose of direct marketing.

And if such objection (6.3) is raised the responsible party may no longer process the personal information.

7 Collection directly from the data subject

7.1 Personal information will be collected directly from the data subject, unless:

7.1.1 the information is contained/derived from a public record, or has deliberately been made public by the data subject;

7.1.2 the data subject or competent person (where the data subject is a child) consented to the collection of the information from another source;

7.1.3 collection from another source would not prejudice a legitimate interest of a data subject;

7.1.4 collection from another source is necessary to maintain the legitimate interest of the responsible party or of a third party to whom the information is supplied.

7.1.5 direct collection would prejudice a lawful purpose of the collection; or


7.1.6 direct collection is not reasonably practicable in the circumstances of the particular case.

8 Collection for specific purpose

8.1 Personal information will be collected for a specific purpose.

8.2 Personal information is collected, processed and retained in order for the responsible party to conduct its verification activities, duties and functions when required by law and any further statutory and regulatory requirements.


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SANAS R47-03 Reference	10, 11	

9 Retention and restriction of records^{vii}

- 9.1 Personal information will not be retained for longer than necessary for achieving the purpose stated in par. 8 above, unless:
- 9.1.1 retention of records is required or authorised by law;
 - 9.1.2 the responsible party reasonably requires the record for lawful purposes related to its functions or activities^{viii};
 - 9.1.3 retention of records is required by a contract between the responsible party and the data subject;
 - 9.1.4 the data subject or competent person (where the data subject is a child) has consented to the retention of the record(s).
- 9.2 Records of personal information may be retained for periods in excess of those stated in par. 9.1 above for historical, statistical or research purposes if the responsible party has appropriate safeguards against the records being used for any other purposes.
- 9.3 Personal information of a data subject or competent person (where the data subject is a child) used to make a decision about the data subject, will:
- 9.3.1 be retained for such period as may be required or prescribed by law or a code of conduct; or
 - 9.3.2 if there is no such law or code of conduct prescribing a retention period, be retained for a period which will afford the data subject or competent person (where the data subject is a child) a reasonable opportunity (taking all considerations relating to the use of the personal information into account) to request access to the record.
- 9.4 A record of personal information will be destroyed, deleted or de-identified as soon as reasonably practicable after the responsible party is no longer authorised to retain the records in terms of par. 9.1 to 9.3 above.
- 9.5 The destruction, deletion or de-identification of records of personal information as referred to in par. 9.4 will be conducted in a manner that prevents the reconstruction thereof in an intelligible form.
- 9.6 The responsible party will restrict processing of personal information if:
- 9.6.1 the data subject or competent person (where the data subject is a child) contests the accuracy, for a period enabling the responsible party to verify the accuracy of the information;
 - 9.6.2 the responsible party no longer needs the personal information for achieving the purpose for which it was collected or subsequently processed, but it has to be maintained for purposes of proof;
 - 9.6.3 the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead;
 - 9.6.4 the data subject requests to transmit the personal data into another automated processing system.

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Revision	1	
Revision Date	24 March 2021	
SANAS R47-03 Reference	10, 11	

9.7 Personal information referred to in par. 9.6 above will, with the exception of storage, only be processed for purposes of proof, or with the data subject's (or competent person where the data subject is a child) consent or for the protection of the rights of another person/entity or if processing is in the interest of the public. A data subject will be informed before a processing restriction referred to in par. 9.6 above is lifted.

10 Further processing to be compatible with purpose of collection^{ix}

10.1 Further processing of personal information will be in accordance or compatible with the purpose for which the information was collected as referred to in par. 8 above.

10.2 The responsible party will take the following into account when assessing whether further processing is compatible with the aforementioned purpose of collection:

- 10.1.1 the relationship between the purpose of the intended further processing and the purpose for which the information has been collected;
- 10.1.2 the nature of the information concerned;
- 10.1.3 the consequences of the intended further processing for the data subject;
- 10.1.4 the manner in which the information has been collected; and
- 10.1.5 any contractual rights and obligations between the parties.

10.3 Further processing is not incompatible with the purpose (and assessment in terms of par. 10.2 above therefore not required) if:


- 10.3.1 the data subject (or a competent person where the data subject is a child) has consented to the further processing of the information;
- 10.3.2 the information is available in or derived from a public record or has deliberately been made public by the data subject;
- 10.3.3 the information is used for historical, statistical or research purposes and the responsible party ensures that the further processing is carried out solely for such purposes and will not be published in an identifiable form; or
- 10.3.4 the further processing of the information is in accordance with an exemption granted by the regulator established in terms of the POPIA.

11 Quality of information^x

11.1 The responsible party will take reasonably practicable steps to ensure that personal information collected by it is complete, accurate, not misleading and updated where necessary. In taking the aforesaid steps the responsible party will have regard to the purpose for which personal information is collected or further processed (par. 8 above)

12 Documentation^{xi}

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SANAS R47-03 Reference	10, 11	

- 12.1 The responsible party will maintain the documentation of all processing operations under its responsibility as referred to in section 51 of the Promotion of Access to Information Act

13 Notification when collecting personal information

- 13.1 When collecting personal information, the responsible party will take reasonably practicable steps to ensure that the data subject is aware of:
- 13.1.1 the information collected and where information is not collected from the data subject, the source from which it is collected;
 - 13.1.2 the responsible party's name and address;
 - 13.1.3 the purpose for collecting the information;
 - 13.1.4 if the supply of the information is voluntary or mandatory;
 - 13.1.5 consequences of failure to provide the information;
 - 13.1.6 the particular law authorising or requiring the collection of the information;
 - 13.1.7 the fact that the responsible party intends to transfer the information to a third party pursuant to the purpose of collecting the information;
 - 13.1.8 Having regard to the specific circumstances in which information is processed or is not to be processed, to enable processing in respect of the data subject to be reasonable:
 - 13.1.8.1 recipients or category of recipients of the information;
 - 13.1.8.2 nature or category of information;
 - 13.1.8.3 existence of the right of access to and the right to rectify the information;
 - 13.1.8.4 the right to object to the processing of information as referred to in par. 6.3 above;
 - 13.1.8.5 the right to lodge complaints with the Information Regulator;
- 13.2 The steps referred to in 13.1 above will be taken:
- 13.2.1 before collection, if collected directly from the data subject, unless the data subject is already aware of the information referred to in 13.1 above;
 - 13.2.2 where not collected directly from data subject, before collecting the information or as soon as reasonably practicable after collection.
- 13.3 The responsible party does not need to provide the information referred to in 13.1 above to the data subject if it has previously taken the steps in respect of the same data subject of the same information (or information of the same kind) if the purpose of collection remains the same. [i.e. if a data subject has been informed it does not need to be informed if the information and purpose remains the same].
- 13.4 The responsible party shall not be required to take the steps referred to in 13.1 above, if:

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SANAS R47-03 Reference	10, 11	

- 13.4.1 the data subject (or a competent person where the data subject is a child) consented to non-compliance;
- 13.4.2 non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
- 13.4.3 compliance would prejudice a lawful purpose of the collection;
- 13.4.4 compliance is not reasonably practicable in the circumstances of the particular case;
- 13.4.5 the information will:
 - 13.4.5.1 not be used in a form in which the data subject may be identified; or
 - 13.4.5.2 be used for historical, statistical or research purposes.

14 Security measures on integrity and confidentiality of personal information^{xii}


- 14.1 The responsible party will secure the integrity and confidentiality of personal information in its possession (or under its control) by taking appropriate, reasonable technical and organisational measures to prevent:
 - 14.1.1 loss of, damage to or unauthorised destruction of personal information; and
 - 14.1.2 unlawful access to or processing of personal information.
- 14.2 The responsible party will therefore take reasonable measures to:
 - 14.2.1 identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
 - 14.2.2 establish and maintain appropriate safeguards against the risks identified;
 - 14.2.3 regularly verify that the safeguards are effectively implemented; and
 - 14.2.4 ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.
- 14.3 The responsible party will have due regard to generally accepted information security practices and procedures which may apply to it generally or be required in terms of specific industry or professional rules and regulations.

15 Information processed by operator or person acting under authority of responsible party

An operator or anyone processing personal information on behalf of the responsible party or an operator, will:

- 15.1 process such information only with the knowledge or authorisation of the responsible party; and
- 15.2 treat personal information which comes to their knowledge as confidential and will not disclose it, unless required by law or in the course of the proper performance of their duties.

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Revision Date	24 March 2021	
SANAS R47-03 Reference	10, 11	


16 Security measures regarding information processed by an operator^{xiii}

- 16.1 The responsible party will conclude written contracts between it and operators, to ensure that the operator which processes personal information for the responsible party establishes and maintains the security measures referred to in par. 14 above.
- 16.2 The operator will be required to notify the responsible party immediately where there are reasonable grounds to believe that personal information of a data subject has been accessed or acquired by any unauthorised person.

17 Notification of security compromises^{xiv}

- 17.1 Where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person, the responsible party will notify-
- 17.1.1 Regulator established in terms of the POPIA; and
- 17.1.2 subject to par. 17.3 below, the data subject, unless the identity of such data subject cannot be established.
- 17.2 The notification referred to in par. 17.1 above will be made as soon as reasonably possible after the discovery of the compromise, taking into account the legitimate needs of law enforcement or any measures reasonably necessary to determine the scope of the compromise and to restore the integrity of the responsible party's information system.
- 17.3 The responsible party may only delay notification of the data subject if a public body responsible for the prevention, detection or investigation of offences or the Regulator determines that notification will impede a criminal investigation by the public body concerned.
- 17.4 The notification to a data subject referred to in par. 17.1 above will be in writing and communicated to the data subject in at least one of the following ways:
- 17.4.1 Mailed to the data subject's last known physical or postal address;
- 17.4.2 sent by e-mail to the data subject's last known e-mail address;
- 17.4.3 placed in a prominent position on the website of the responsible party;
- 17.4.4 published in the news media; or
- 17.4.5 as may be directed by the Regulator established in terms of the POPIA.
- 17.5 The notification referred to in par. 17.1 above will provide sufficient information to allow the data subject to take protective measures against the potential consequences of the compromise, including-
- 17.5.1 a description of the possible consequences of the security compromise;
- 17.5.2 a description of the measures that the responsible party intends to take or has taken to address the security compromise;

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Revision	1	
Revision Date	24 March 2021	
SANAS R47-03 Reference	10, 11	

- 17.5.3 a recommendation with regard to the measures to be taken by the data subject to mitigate the possible adverse effects of the security compromise; and
- 17.5.4 if known to the responsible party, the identity of the unauthorised person who may have accessed or acquired the personal information.

18 Access to personal information^{xv}

- 18.1 A data subject, having provided adequate proof of identity, has the right to-
 - 18.1.1 request the responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
 - 18.1.2 request from the responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information-
 - 18.1.2.1 within a reasonable time;
 - 18.1.2.2 at a prescribed fee, if any;
 - 18.1.2.3 in a reasonable manner and format; and
 - 18.1.2.4 in a form that is generally understandable.
- 18.2 If personal information is communicated to a data subject in terms of par. 18.1 above, the data subject will be advised of the right in terms of par. 19 below to request the correction of information.
- 18.3 If a data subject is required by the responsible party to pay a fee for services provided to the data subject in terms of par. 18.1.2 above to enable the responsible party to respond to a request, the responsible party-
 - 18.3.1 will give the applicant a written estimate of the fee before providing the services; and
 - 18.3.2 may require the applicant to pay a deposit for all or part of the fee.
- 18.4 The responsible party may or must refuse, as the case may be, to disclose any information requested in terms of par. 18.1 above to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
- 18.5 The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
- 18.6 If a request for access to personal information is made to the responsible party and part of that information may or must be refused in terms of par. 18.4.1 above, every other part must be disclosed.

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Revision Date	24 March 2021	
SANAS R47-03 Reference	10, 11	

19 Correction of personal information^{xvi}

- 19.1 A data subject may, in the prescribed manner, request the responsible party to-
- 19.1.1 correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
 - 19.1.2 destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of par. 9 above.
- 19.2 On receipt of a request in terms of par. 19.1 above the responsible party will, as soon as reasonably practicable-
- 19.2.1 correct the information;
 - 19.2.2 destroy or delete the information;
 - 19.2.3 provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
 - 19.2.4 where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
- 19.3 If the responsible party has taken steps under par. 19.2 above that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party will, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
- 19.4 The responsible party must notify a data subject, who has made a request in terms of par. 19.1 above, of the action taken as a result of the request.

20 Manner of Access^{xvii}


The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of par. 18 above.

21 Prohibition of procession of special information^{xviii}

The responsible party may, subject to par. 22.1 below, not process personal information concerning-

- 21.1 the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a data subject; or
- 21.2 the criminal behaviour of a data subject to the extent that such information relates to-
 - 21.2.1 the alleged commission by a data subject of any offence; or

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21.2.2 any proceedings in respect of any offence allegedly committed by a data subject or the disposal of such proceedings.

22 General authorisation concerning special personal information^{xix}

22.1 The prohibition on processing personal information, as referred to in par. 21 above, does not apply if the-

22.1.1 processing is carried out with the consent of the data subject;

22.1.2 processing is necessary for the establishment, exercise or defence of a right or obligation in law;

22.1.3 processing is for historical, statistical or research purposes to the extent that-

22.1.3.1 the purpose serves a public interest and the processing is necessary for the purpose concerned; or

22.1.3.2 it appears to be impossible or would involve a disproportionate effort to ask for consent, and sufficient guarantees are provided for to ensure that the processing does not adversely affect the individual privacy of the data subject to a disproportionate extent;

22.1.4 information has deliberately been made public by the data subject; or

22.1.5 provisions of par. 23 below are complied with.

23 Authorisation concerning a data subject's race or ethnic origin^{xx}

The prohibition on processing personal information concerning a data subject's race or ethnic origin, as referred to in par. 21 above, does not apply if the processing is carried out to-

23.1 identify data subjects and only when this is essential for that purpose; and

23.2 comply with laws and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination.

24 Prohibition on procession personal information of children^{xxi}


24.1 The responsible party may, subject to par. 25.1 below, not process personal information concerning a child.

25 General authorisation concerning personal information of children^{xxii}

25.1 The prohibition on processing personal information of children, as referred to in par. 24 above, does not apply if the processing is-

25.1.1 carried out with the prior consent of a competent person;

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Revision	1	
Revision Date	24 March 2021	
SANAS R47-03 Reference	10, 11	

- 25.1.2 necessary for the establishment, exercise or defence of a right or obligation in law;
- 25.1.3 for historical, statistical or research purposes to the extent that-
 - 25.1.3.1 the purpose serves a public interest and the processing is necessary for the purpose concerned; or
 - 25.1.3.2 it appears to be impossible or would involve a disproportionate effort to ask for consent, and sufficient guarantees are provided for to ensure that the processing does not adversely affect the individual privacy of the child to a disproportionate extent; or
- 25.1.4 of personal information which has deliberately been made public by the child with the consent of a competent person.

26 **References:**

Bodies and legislation that may have an influence on the nature, extent and period of collection and retention of personal information.

The following is a non-exhaustive list of regulatory and other bodies and legislation that may have an impact on the nature, extent and period of the collection of personal information and the period it will be retained by the responsible party:

- Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act (Act 19 of 2006)
- Broad-Based Black Economic Empowerment Act, (Act 53/2003) (“B-BBEE Act”), including Codes of Good Practice issued in terms or pursuant to said Act (“B-BBEE Codes”)
- Promotion of Access to Information Act (2 of 2000)
- South African National Accreditation System (SANAS) established pursuant to the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act
- B-BBEE Commission established pursuant to the B-BBEE Act
- South African Department of Trade and Industry

Endnotes

ⁱ §8

ⁱⁱ §9

ⁱⁱⁱ §10

^{iv} §11

^v §12

^{vi} §13


^{vii} §14

^{viii} i.e. in order to provide regulatory-, statutory-, licencing-, accreditation bodies or authorities the ability to confirm and/or audit the responsible party’s compliance with regulations, statutes, guidelines and/or policies of such bodies or authorities.

^{ix} §15

^x §16

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Approved by:	W Steyn
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^{xi}	§17
^{xii}	§19
^{xiii}	§21
^{xiv}	§22
^{xv}	§23
^{xvi}	§24
^{xvii}	§25
^{xviii}	§26
^{xix}	§27
^{xx}	§29
^{xxi}	§34
^{xxii}	§35

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