



## **PRIVACY POLICY**

Version 1

Effective Date : 01 August 2022

This document contains 14 Pages

Approved by the Board of Trustees on 28 July 2022

SIGNED BY THE CEO:

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Date: \_\_\_\_\_

POLICY REVISION LOG

<b>File Name</b>	Privacy Policy
<b>Author (s)</b>	Thandi Kuzwayo
<b>Business Unit/ Policy Owner</b>	Legal and Compliance
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## 1. DEFINITIONS AND ACRONYMS

In this Policy, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings-

- 1.1. **“Act”** means the Protection of Personal Information Act, 2013 and its Regulations, as amended from time to time, **“POPIA”** shall have a corresponding meaning;
- 1.2. **“ARC”** means the Audit and Risk Committee, a sub-committee of the Board;
- 1.3. **“Authorised Third Parties”** means all third parties who Process the Personal Information of GPF’s Data Subjects on behalf of GPF or as part of any functions or duties which they carry out (whether contractual or otherwise);
- 1.4. **“Board”** means the Board of trustees of the GPF;
- 1.5. **“CEO”** means the Chief Executive Officer of the GPF;
- 1.6. **“Committee”** means a sub-Committee of the GPF Board, or any other Committee constituted by Exco;
- 1.7. **“Client”** means any person to whom goods and services of the GPF are provided and who has entered into an agreement with the GPF for the provision thereof;
- 1.8. **“Child”** means –
  - 1.8.1. under POPIA, any natural living person under the age of 18 (eighteen) years; or
  - 1.8.2. under GDPR, any natural person under the age of 16 (sixteen) years;
- 1.9. **“Consent”** means any voluntary, specific and informed expression of will in terms of which permission is given for the Processing of Personal Information;
- 1.10. **“Data Subject”** means a person to whom Personal Information relates;
- 1.11. **“De-Identify”** means to delete any Personal Information that identifies a Data Subject, or which can be used by a reasonably foreseeable method to identify, or when linked to other information, that identifies the Data Subject and the term **“De-Identified”** shall have a corresponding meaning;

- 1.12. “**Direct Marketing**” means to approach a Data Subject, either in person or by mail or electronic communication, for the direct or indirect purpose of: (i) promoting or offering to supply, in the ordinary course of business, any goods or services to the Data Subject; or (ii) requesting the Data Subject to make a donation of any kind for any reason;
- 1.13. “**Employee** ” means any permanent or temporary Employee , officer, agent, or independent contractor , who works for the GPF or on a temporary or permanent basis and who receives, or is entitled to receive, any remuneration; and any other person who in any manner assists in carrying on or conducting the business of the GPF and the term 'employed', and 'employment' will have a corresponding meaning;
- 1.14. “**Exco**” means the Executive Committee of the GPF;
- 1.15. “**GDPR**” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);
- 1.16. “**Information Officer / Data Protection Officer**” means the person appointed by GPF as such, whose responsibility is to ensure the organisation’s compliance with POPIA and the GDPR. Where no Information Officer has been appointed, the Chief Executive Officer of GPF will be responsible for performing the Information Officer’s duties
- 1.17. “**Legitimate Basis**” means any of the following legitimate bases recognized by POPIA and, where relevant, the GDPR, for the Processing of Personal Information –
- 1.17.1. the Data Subject, or a competent person where the Data Subject is a Child, consents to the Processing; or
  - 1.17.2. the Processing is necessary to carry out actions for the conclusion or performance of a contract to which the Data Subject is a party; or
  - 1.17.3. the Processing complies with an obligation imposed by law on the Responsible Party; or
  - 1.17.4. the Processing protects a legitimate interest of the Data Subject; or

- 1.17.5. the Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in GPF; or
- 1.17.6. the Processing is necessary for pursuing the legitimate interests of GPF or of a third party to whom the information is supplied;
- 1.18. **“Operator”** means a person who Processes Personal Information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of the Responsible Party
- 1.19. **“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 –
  - 1.19.1. 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;
  - 1.19.2. information relating to the education or the medical, financial, criminal or employment history of the person;
  - 1.19.3. any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
  - 1.19.4. the biometric information of the person;
  - 1.19.5. the personal opinions, views or preferences of the person;
  - 1.19.6. 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;
  - 1.19.7. the views or opinions of another individual about the person; and
  - 1.19.8. 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;

- 1.20. **“Personnel”** means all Employees, Trustees, officers and other staff of the GPF;
- 1.21. **“Policy Owner”** means the Legal and Compliance Manager of the GPF, who for the purposes of this Policy is also the Ethics Officer;
- 1.22. **“Processing/Process”** means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –
- 1.22.1. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
  - 1.22.2. dissemination by means of transmission, distribution or making available in any other form; or
  - 1.22.3. merging, linking, as well as restriction, degradation, erasure or destruction of information;
- 1.23. **“Regulator”** means either –
- 1.23.1. the Information Regulator established in terms of POPIA, or
  - 1.23.2. the relevant supervisory authority under the GDPR or other data protection legislation
- 1.24. **“Re-Identify”** means in relation to Personal Information of a Data Subject, to resurrect any information that has been De-Identified that identifies the Data Subject, or can be used or manipulated by a reasonably foreseeable method to identify the Data Subject;
- 1.25. **“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 of Personal Information;
- 1.26. **“Schedules”** means Schedules A, B, C and D of the Policy as amended from time to time, which Schedules form an integral part of the Policy; and
- 1.27. **“Special Personal Information”** means Personal Information relating to:
- 1.27.1. 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;
  - 1.27.2. the criminal behaviour of a Data Subject to the extent that such intimation relates to-

(a) the alleged commission by a Data Subject of any offence; or

(b) any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings;

1.28. **“Supplier ”** means a third party or outsourced supplier operating as an individual, organization or business that provides the GPF with specialised service in exchange for payment, which service includes but is not limited to consulting, legal, communications, storage, processing and other services; and

1.29. **“Trustee”** means a person duly appointed as a trustee of the GPF and a member of the Board.

## **2. PROBLEM STATEMENT**

2.1. In conducting its business, the GPF processes the Personal Information of Clients, Suppliers, Employees and/or other stakeholders.

2.2. Such processing must be done in compliance with applicable legislation and therefore requires regulation.

## **3. OBJECTIVE**

The objective of this policy is to regulate GPF’s Processing of the Personal Information of such Clients, Suppliers, Employees and/or other stakeholders to ensure that it is done in a manner that complies with POPIA and where relevant, GDPR.

## **4. SCOPE OF APPLICATION**

4.1. This Policy is applicable to the GPF, all its Personnel and Authorised Third Parties.

4.2. The Policy is applicable to the Processing of all Personal Information throughout the information life cycle, from the point of first collection of Personal Information until the time that such information is destroyed.

4.3. This Policy should be read in conjunction with the Schedules and all other relevant policies of the GPF regulating privacy and protection of information.

## **5. LEGISLATIVE FRAMEWORK**

5.1. Constitution of the Republic of South Africa, 1996;

5.2. Protection of Personal Information Act, 2013;

- 5.3. Promotion of Access to Information Act, 2000;
- 5.4. Public Finance Management Act no 1 of 1999 (PFMA)
- 5.5. General Data Protection Regulation;
- 5.6. Other Policy Links
  - 5.6.1. Records Management Policy;
  - 5.6.2. Schedule A: Principles Relating to Records Retention and Disposal;
  - 5.6.3. Schedule B: Principles Relating to Direct Marketing;
  - 5.6.4. Schedule C: Principles Relating to Data Breach Response; and
  - 5.6.5. Schedule D: Data Protection and Privacy Policy.

## **6. POLICY PRINCIPLES**

### **6.1. GENERAL PRINCIPLES**

The legal duty to comply with POPIA's provisions and, where relevant, the provisions of the GDPR, and the provision of this Policy is activated in any situation where there is Processing of Personal Information by or for a Responsible Party domiciled within the Republic of South Africa or a Responsible Party not domiciled in the Republic of South Africa but making use of equipment in the Republic of South Africa to Process Personal Information. The following general guiding principles will apply to the Processing of Personal Information by or on behalf of GPF :

#### **6.1.1. Accountability**

- a) The provisions of POPIA, the GDPR (where relevant) and the guiding principles outlined in this Policy must be complied with at all times.
- b) All Personnel and Authorised Third Parties are responsible for ensuring that all conditions of the Act are complied with from the time the Personal Information is collected up to and including the time of destruction.

#### **6.1.2. Processing Limitation**

- a) All Personal Information under GPF 's control must be Processed
  - (i) in a fair, lawful and non-excessive manner;
  - (ii) in a transparent manner;
  - (iii) only where a Legitimate Basis exists; and



- (iv) only for a specifically defined purpose.
- b) Data Subjects must be informed of the reasons for collecting their Personal Information.
- c) The Consent of the Data Subject will, where applicable, be obtained prior to Processing Personal Information.
- d) Where applicable, the Data Subject must be informed of the possibility that their Personal Information will be shared with Third Parties and/or affiliates of GPF and be provided with the reasons for doing so.

#### **6.1.3. Purpose Specification**

- a) Processing of Personal Information must be done transparently.
- b) Personal Information must be Processed only for specific, explicitly defined and legitimate reasons. Where it is practical to do so, Data Subjects must be informed of these reasons prior to collection or recordal of the Data Subject's Personal Information.

#### **6.1.4. Further Processing Limitation**

- a) Personal Information may not be processed for a secondary purpose, unless that secondary purpose is compatible with the original purpose in the manner contemplated in POPIA and / or GDPR or the Consent of the Data Subject has been obtained in that regard.
- b) The Consent of the Data Subject must be obtained where secondary Processing of Personal Information by GPF is not compatible with the original purpose of collection.

#### **6.1.5. Information Quality**

- a) All Personal Information collected by GPF must be complete, accurate, not misleading and kept up to date. Any inaccurate Personal Information collected by GPF must be erased and rectified.

- b) The accuracy of all Personal Information received or collected from Third Parties must be verified directly with the Data Subject or through independent sources.

#### **6.1.6. Openness**

Data Subjects must reasonably be made aware of the Processing of their Personal Information, including the following:

- a) what information is being processed;
- b) who has access to such information (e.g. whether the information will be transferred to any third parties, including third parties outside of the Republic of South Africa);
- c) the purposes of the Processing;
- d) the legitimate interests pursued by GPF or by a third party where the Processing is based on the legitimate interests ground; and
- e) what the consequences would be should the Data Subject refuse to provide such information.

#### **6.1.7. Security Safeguards**

- a) All reasonable precautions must be taken, and appropriate, reasonable technical and organisational measures must be put in place, with regard to the nature of the Personal Information and the risks of the Processing, to preserve the security of the Personal Information and, in particular, prevent its alteration, loss and damage, or access by non-authorized persons.
- b) Measures must be put in place, having regard to generally accepted information security practices or industry specific requirements or professional rules, to identify internal and external security risks; maintain safeguards against such risks; regularly verify that the safeguards are effective and continually update safeguards in response to new risks.
- c) Adequate levels of security of Personal Information under GPF 's control must be provided by considering the state of the art, the costs of implementation and

the nature, scope, context and purposes of Processing the Personal Information.

- d) All paper and electronic records comprising Personal Information must be securely stored and made accessible only to authorised individuals.
- e) All new Personnel must sign contracts containing contractual terms for the use and storage of information.
- f) All contracts with Operators must include confidentiality clauses to reduce the risk of unauthorised disclosures of Personal Information for which GPF is responsible.

## **6.2. PROCESSING OF SPECIAL PERSONAL INFORMATION**

- 6.2.1. Generally, the Processing of Special Personal Information is prohibited.
- 6.2.2. However, in the exceptional circumstances stipulated in the applicable provisions of POPIA and / or GDPR, Processing of Special Information is allowed.
- 6.2.3. The Processing of Special Personal Information on the basis of existence of exceptional circumstances provided in POPIA and / or GDPR must still adhere to the provisions thereof.
- 6.2.4. Special Personal Information may only be disclosed to another person with the prior Consent of the Data Subject or as required by a court order or applicable law.
- 6.2.5. Any Personal Information concerning a Child may not be Processed without the Consent of the legitimate parent or guardian of the Child or an empowering legal provision.

### **6.3. PROCESSING OF PERSONAL INFORMATION OF PERSONNEL**

- 6.3.1. All the Personal Information of Personnel shall be collected and Processed in accordance with the applicable provisions of POPIA, GDPR and this Policy.
- 6.3.2. Appropriate Consent forms should, where possible and necessary, be included as part of the terms of employment / employment contracts of Personnel.

### **6.4. CROSS-BORDER TRANSFER OF PERSONAL INFORMATION**

- 6.4.1. Any transfer of Personal Information relating to a Data Subject to a Third Party in a foreign jurisdiction is prohibited, unless:
- a) the person receiving the information is subject to similar laws that provide adequate levels of such information;
  - b) the Data Subject has agreed to the transfer of information;
  - c) such transfer is part of the performance of a contract which the Data Subject is a party;
  - d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of a Data Subject; or
  - e) the transfer is for the benefit of the subject, and it is not reasonably practicable to obtain their consent and that such consent would be likely to be given.
- 6.4.2. Any transfer of Personal Information contemplated above must be done with the authorisation of the Information Officer and subject to the provisions of POPIA and / or GDPR.

### **6.5. DATA STORAGE AND RETENSION**

- 6.5.1. Any Personal Information Processed by GPF must be captured, used, disclosed, stored and destroyed in a secure and confidential manner appropriate to the classification of the information, in accordance with the Principles Relating to Records Retention and

Disposal detailed in Schedule A and / or the relevant provisions of POPIA, the GDPR, and other applicable laws.

## 6.6. RIGHTS OF DATA SUBJECTS

6.6.1. Data Subjects must reasonably be made aware of their privacy rights provided in POPIA and / or GDPR, including the following rights:

- (a) the right to be notified that their Personal Information is being collected by GPF;
- (b) the right to establish whether GPF holds Personal Information related to them, including the right to request access to that Personal Information, where such Personal Information is held by GPF;
- (c) the right to have access (including a right to obtain a copy) to all of their Personal Information that is collected or Processed by GPF;
- (d) the right to request, where necessary, that their Personal Information be corrected or deleted where GPF is no longer authorised to retain the Personal Information in terms of applicable data protection legislation;
- (e) the right to have incomplete Personal Information completed, including by means of providing a supplementary statement;
- (f) the right, on reasonable grounds, to object to the Processing of their Personal Information, in which event GPF will duly consider the objection and the requirements of POPIA and GDPR;
- (g) the right to receive the Personal Information concerning them, which they provided to GPF, in a structured, commonly used, and machine-readable format and the right to transmit such Personal Information to another Responsible Party without hindrance from the Responsible Party to which the Personal Information has been provided, where: (i) the Processing is based on consent; and (ii) the Processing is carried out by automated means;
- (h) the right to request restriction of Processing of their Personal Information on the following grounds:
  - i. the accuracy of the Personal Information is contested by the Data Subject, for a period enabling the controller to verify the accuracy of the Personal Information;
  - ii. the Processing is unlawful, and the Data Subject opposes the

erasure of the Personal Information and requests the restriction of its use instead;

- iii. GPF no longer needs the Personal Information for the purposes of the Processing, but it is required by the Data Subject for the establishment, exercise, or defense of legal claims; and
  - iv. the Data Subject has objected to Processing pending the verification whether the legitimate grounds of GPF override those of the Data Subject;
- i) the right not to be subject to a decision based solely on automated Processing, including profiling, which produces legal effects concerning them or similarly significantly affects them;
  - j) the right to have all Direct Marketing activities by GPF towards them conducted in strict compliance with the Principles Relating to Direct Marketing as detailed in Schedule B and the right to object to the Processing of their Personal Information for purposes of Direct Marketing;
  - k) the right to submit a complaint to the Regulator regarding an alleged infringement of any of the rights protected under POPIA and the GDPR and to institute civil proceedings regarding the alleged non-compliance with the protection of their Personal Information; and
  - l) the right to be notified in any situation where GPF has reasonable grounds to believe that the Personal Information of the Data Subject has been accessed or acquired by an unauthorized person.

## 6.7. AUTHORISED THIRD PARTIES

- 6.7.1. The relevant provisions of POPIA and GDPR as well as all the provisions of this Policy are equally applicable to Authorised Third Parties to the extent that they engage in the collection or Processing of Personal Information on behalf of GPF .
- 6.7.2. GPF has a right to carry out a due diligence of all Authorised Third Parties Processing Personal Information on its behalf and this may include auditing the facilities, security procedures and policies of such Authorised Third Parties.

6.7.3. Authorised Third Parties must immediately inform GPF (via the office of the Information Officer) of any actual or suspected security breach or compromise to Personal Information in its possession.

6.7.4. The Authorised Third Parties may be required to notify the affected Data Subject(s) and the Regulator, but this should only be carried out on GPF 's instructions, via the office of the Information Officer, and in accordance with GPF 's Principles Relating to Data Breach Response as detailed in Schedule C of this Policy.

## 6.8. **QUERIES AND COMPLIANTS**

6.8.1. All queries and complaints in connection with POPIA, GDPR or this Policy may be referred to the Information Officer of GPF , whose contact details are:

6.8.2. The Information Officer

Gauteng Partnership Fund

82 Grayston Drive

Sandton

2196

E-mail: [complaints@gpf.org.za](mailto:complaints@gpf.org.za)

## 7. **DEVIATIONS**

Any deviations from this policy must receive prior approval in writing from the Board.

## 8. **BREACH OF POLICY**

Breach of any clause contained in the policy shall be subjected to GPF disciplinary procedures without prejudice to any other rights that GPF may have in law to recover any damages suffered as a result of such non-compliance.

If any Employee do not understand sections, descriptions or concepts contained within this document, it is the responsibility of the individual to obtain clarity.

## **9. MONITORING, REVIEW AND COMPLIANCE**

### 9.1. Policy Audit

The Information Officer and/or the Deputy Information Officer shall report on the progress and specific problems experienced in the implementation thereof.

### 9.2. Policy Review

This Policy is subject to review on an annual basis or as and when the need may arise.

### 9.3. Policy amendments

No amendment (s) may be made to any section(s) of this policy without such amendment (s) first being discussed and validated against prevailing acts, standards, best practices, and regulations by the Policy Owner supported by Exco and ARC.

### 9.4. Policy Compliance

The Legal and Compliance Unit will play a monitoring and evaluation role to determine whether the approved policy provisions will provide compliance assurance and determine whether the approved policy provisions are put in place in each Business Unit within GPF as well as ensure legislative compliance.

## **10. APPROVAL**

This policy is approved by the Board after consideration and recommendation from Exco and ARC.