



SCHEDULE D: DATA PROTECTION AND PRIVACY

Version 1

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Approved by the Board of Trustees on 28 July 2022

SIGNED BY THE CEO:

Date: _____

POLICY REVISION LOG

File Name	Data and Privacy Policy
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Business Unit/ Policy Owner	Legal, Compliance and Risk
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1	July 2022	T Kuzwayo	Policy development

1. DEFINITIONS AND ACRONYMS

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. **“ARC”** means the Audit and Risk Committee of the Board;
- 1.2. **“Board”** means the Board of trustees of the GPF;
- 1.3. **“Child”** means
 - 1.3.1. under POPIA, any natural living person under the age of 18 (eighteen) years; or
 - 1.3.2. under GDPR, any natural person under the age of 16 (sixteen) years ;
- 1.4. **“Data Subject”** means a person (natural or juristic) to whom personal information relates;
- 1.5. **“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;
- 1.6. **“Exco”** means the Executive Committee of the GPF;
- 1.7. **“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);
- 1.8. **“GPF”** means the Gauteng Partnership Fund;
- 1.9. **“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;
- 1.10. **“Information Officer”** means the person appointed by the 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 the GPF will be responsible for performing the information officer's duties;

- 1.11. **“PAIA”** means the Promotion of Access to Information Act No. 2 of 2000 as amended from time to time;
- 1.12. **“Personal information”** means the information relating to any Data Subject, including but not limited to (i) views or opinions of another individual about the Data Subject; and (ii) information relating to such Data Subject's –
 - 1.12.1. race, sex, gender, sexual orientation, pregnancy, marital status, nationality, ethnic or social origin, color, age, physical or mental health, well-being, disability, religion, conscience, belief, cultural affiliation, language, and birth;
 - 1.12.2. education, medical, financial, criminal or employment history;
 - 1.12.3. names, identity number and/or any other personal identifier, including any number(s), which may uniquely identify a Data Subject, account or client number, password, pin code, customer or Data Subject code or number, numeric, alpha, or alpha-numeric design or configuration of any nature, symbol, email address, domain name or IP address, physical address, cellular phone number, telephone number or other particular assignment;
 - 1.12.4. blood type, fingerprint, or any other biometric information;
 - 1.12.5. personal opinions, views, or preferences;
 - 1.12.6. correspondence that is implicitly or expressly of a personal, private, or confidential nature (or further correspondence that would reveal the contents of the original correspondence); and
 - 1.12.7. corporate structure, composition, and business operations (in circumstances where the Data Subject is a juristic person) irrespective of whether such information is in the public domain or not
- 1.13. **“Policy”** means the Data Protection and Privacy Policy as contained in this document and amended from time to time;
- 1.14. **“POPIA”** means the Protection of Personal Information Act No. 4 of 2013 and its Regulations, as amended from time to time;
- 1.15. **“Processing” or “Process” means** any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including –

- 1.15.1. the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation, or use;
- 1.15.2. dissemination by means of transmission, distribution or making available in any other form; or
- 1.15.3. merging, linking, as well as restriction, degradation, erasure, or destruction of information;
- 1.16. **“Regulator”** means either
 - 1.16.1. the Information Regulator established in terms of POPIA, or
 - 1.16.2. the relevant supervisory authority under the GDPR or other data protection legislation;
- 1.17. **“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;
- 1.18. **“Special Personal Information”** means personal information relating to:
 - 1.18.1. 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
 - 1.18.2. the criminal behavior 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; and
- 1.19. **“Third Party”** means any independent contractor, agent, consultant, sub-contractor, or other representative of the GPF.

2. OBJECTIVE

The purpose of this Policy is to ensure that any Data Subjects is informed about how the GPF Processes its Personal Information by amongst other things, collecting or collating, receiving, recording, storing, updating, distributing, erasing, or destroying, disclosing and/or using the Data Subject's Personal Information.

3. SCOPE OF APPLICATION

- 3.1. This Policy is applicable to all Personnel, contractors, consultants, advisors, and

service providers of the GPF that may deal with its Personal Information and records and covers all Personal Information in whatever medium such information is contained.

- 3.2. This Policy applies to Personal Information collected by the GPF in connection with the services offered by it. This includes information collected offline through, direct marketing campaigns, and online through the GPF's website, branded pages on Third-Party platforms and applications accessed or used through such websites or Third-Party platforms which are operated by or on behalf of the GPF.
- 3.3. The Policy is hereby incorporated into and forms part of the GPF's terms and conditions of use.
- 3.4. This Policy does not apply to the information practices of Third-Party companies (including, without limitation, their websites, platforms and/or applications) which the GPF does not own or control; or individuals that the GPF does not manage or employ. These Third-Party sites may have their own privacy policies and terms and conditions and Data Subjects are encouraged to read them before using those Third-Party sites.
- 3.5. This Policy should be read in conjunction with all other relevant policies of the GPF regulating privacy and protection of information.

4. LEGISLATIVE FRAMEWORK

- 4.1. Constitution of the Republic of South Africa, 1996;
- 4.2. General Data Protection Regulations;
- 4.3. Protection of Personal Information Act, 2013;
- 4.4. Public Finance Management Act no 1 of 1999 (PFMA)
- 4.5. Other Policy Links
 - 4.5.1. Privacy Policy;
 - 4.5.2. Records Management Policy;
 - 4.5.3. Schedule A: Principles Relating to Records Retention and Disposal;
 - 4.5.4. Schedule B: Principles Relating to Direct Marketing; and
 - 4.5.5. Schedule C: Principles Relating to Data Breach Response.

5. PRIVACY POLICY

5.1 General Principles

- 5.1.1 The GPF acknowledges the need to ensure that Personal Information is handled with care and is committed to ensuring that it complies with the

requirements of POPIA and, where relevant, the GDPR for the Processing of Personal Information.

- 5.1.2 In its capacity as Responsible Party and/or Operator, the GPF shall strive to observe, and comply with, its obligations under the POPIA as well as internationally accepted information protection principles, practices, and guidelines when it Processes Personal Information from or in respect of a Data Subject

5.2 Collecting Personal Information

- 5.2.1 The GPF will always collect Personal Information in a fair, lawful and reasonable manner to ensure that it protects the Data Subject's privacy and will Process the Personal Information based on legitimate grounds in a manner that does not adversely affect the Data Subject in question.
- 5.2.2 The GPF often collects Personal Information directly from the Data Subject and/or from Third Parties. Where the GPF obtains Personal Information from Third Parties, it will ensure that it obtains the consent of the Data Subject to do so or will only Process the Personal Information without the Data Subject's consent where it is permitted to do so in terms of the applicable laws.
- 5.2.3 Examples of such Third Parties include the GPF's clients when the GPF handles Personal Information on their behalf; regulatory bodies; credit reference agencies; other companies providing services to the GPF and where the GPF makes use of publicly available sources of information.
- 5.2.4 Should the GPF need to collect Personal Information by law, such as in-relation to anti-money laundering or under the terms of a contract that the GPF may have with a Data Subject and the Data Subject fails to provide such information when requested, the GPF may be unable to perform in terms of the contract. In such a case, the GPF may have to decline to provide or receive the relevant services, in which event it will notify the Data Subject.

5.3 Lawful processing of personal information

- 5.3.1 Where the GPF is the Responsible Party, it will only Process a Data Subject's Personal Information where –

- (a) consent of the Data Subject (or a competent person where the Data Subject is a Child) is obtained; or
- (b) Processing is necessary to conduct the actions for conclusion of a contract to which a Data Subject is party; or
- (c) Processing complies with an obligation imposed by law on the GPF; or
- (d) Processing protects a legitimate interest of the Data Subject; or
- (e) Processing is necessary for the performance of a task conducted in the public interest or in the exercise of official authority vested in the GPF or
- (f) Processing is necessary for pursuing the legitimate interests of the GPF or of a third party to whom the information is supplied.

5.3.2 The GPF will make Data Subjects aware of the fact that it is Processing their Personal Information and inform them of the specific purpose for which it will be Processing such Personal Information, including making the Data Subject aware of any Third-Party recipients of the Personal Information (which may also include cross-border transfers of Personal Information).

5.3.3 Where the GPF relies on a Data Subject's consent as the legal basis for Processing Personal Information, the Data Subject may withdraw his/her/its consent or may object to the GPF's Processing of the Personal Information at any time. This will not affect the lawfulness of any Processing done prior to the withdrawal of consent or any Processing justified by a legal ground.

5.3.4 If the consent is withdrawn or if there is otherwise a justified objection against the use or the Processing of such Personal Information, the GPF will ensure that the Personal Information is no longer Processed.

5.4 Use of Personal Information

5.4.1 The GPF will only Process a Data Subject's Personal Information for a specific, lawful and clear purpose and will ensure that it makes that Data Subject aware of such purpose(s) as far as possible.

5.4.2 The GPF will not use the Personal Information of a Data Subject for any purpose other than the disclosed purpose without the consent of the Data Subject unless it is permitted or required to do so by law.

5.4.3 The GPF will use Personal Information for the following purposes –

- (a) providing any services to the Data Subject from time to time;
- (b) receiving services or products provided by the Data Subject to the GPF from time to time;
- (c) responding to any correspondence that the Data Subject may send to the GPF, including via email or by telephone;
- (d) to contact the Data Subject from time to time, where specific consent has been given;
- (e) for such other purposes to which the Data Subject may consent from time to time; and
- (f) for such other purposes authorised in terms of applicable law.

5.5 Use of Personal Information for Direct Marketing

5.5.1 The GPF may only use Personal Information to contact the Data Subject for purposes of direct marketing from time to time where it is permissible to do so.

5.5.2 The GPF may use Personal Information to contact any Data Subject and/or market The GPF's services directly to the Data Subject(s) if the Data Subject is one of its existing clients, the Data Subject has requested to receive marketing material from the GPF or the GPF has the Data Subject's consent to market its services directly to the Data Subject.

5.5.3 If the Data Subject is an existing client, the GPF will only use their Personal Information if it had obtained the Personal Information through the provision of a service to the Data Subject and only in relation to similar services to the ones the GPF previously provided to the Data Subject.

5.5.4 The GPF will ensure that a reasonable opportunity is given to the Data Subject to object to the use of their Personal Information for marketing purposes when collecting the Personal Information and on the occasion of each communication to the Data Subject for purposes of direct marketing.

5.5.5 The GPF will not use a Data Subject's Personal Information to send marketing materials if they have requested not to receive them. If a Data Subject requests that the GPF stop Processing their Personal Information for marketing purposes, the GPF shall do so. Requests to opt-out of marketing should be made via forms and links provided for that purpose in the marketing materials sent to the Data Subject.

5.6 Processing of Special Personal Information and Personal Information of Children

5.6.1 Special Personal Information is sensitive Personal Information of a Data Subject.

5.6.2 Special Personal Information may not be Processed unless allowed by law.

5.6.3 Where POPIA applies, Special Personal Information may be processed in the following circumstances:

- (a) Processing is conducted in accordance with the Data Subject's express consent; or
- (b) Processing is necessary for the establishment, exercise, or defense of a right or obligation in law; or
- (c) Processing is necessary to comply with an obligation of international public law; or
- (d) Processing is for historical, statistical or research purposes, subject to stipulated safeguards; or
- (e) information has deliberately been made public by the Data Subject; or
- (f) specific authorization has been obtained in terms of POPIA.

5.6.4 Where GDPR applies, Processing Special Personal Information is allowed in the following circumstances:

- (a) Processing is necessary for the purposes of carrying out the obligations and exercising specific rights of the GPF or of the Data Subject in the field of employment and social security and social protection law;
- (b) Processing is necessary to protect the vital interests of the data subject or of another natural person where the Data Subject is physically or legally incapable of giving consent;
- (c) Processing is necessary for reasons of substantial public interest;
- (d) Processing is necessary for the purposes of preventative or occupational medicine; or
- (e) Processing is necessary for reasons of public interest in the area of public health.

5.6.5 The GPF may not Process any Personal Information concerning a Child and will only do so where it has obtained the consent of the parent or guardian of that Child or where it is permitted to do so in accordance with applicable laws.

5.7 Provision of Personal Information to Third Parties

5.7.1 The GPF may disclose Personal Information to Third-Party service providers and will enter into written agreements with such Third-Party service providers to ensure that they Process any Personal Information in accordance with the provisions of this Policy, POPIA and, where relevant, the GDPR.

5.7.2 Third Parties may render various services to the GPF, including data storage and other services to assist THE GPF with the any of the purposes of processing stipulated in this Policy.

5.7.3 The GPF will disclose Personal Information with the consent of the Data Subject or if it is permitted to do so without such consent in accordance with the applicable laws.

- 5.7.4 The GPF may also send Personal Information to a foreign jurisdiction outside of the Republic of South Africa in order to achieve the purpose(s) for which the Personal Information was collected and Processed, including for Processing and storage by Third-Party service providers.
- 5.7.5 When Personal Information is transferred to a jurisdiction outside of the Republic of South Africa, the GPF will obtain the necessary consent to transfer the Personal Information to such foreign jurisdiction or may transfer the Personal Information without the necessary consent where it is permitted to do so in accordance with the laws applicable to the trans-border flows of Personal Information under POPIA and, where relevant, the GDPR.
- 5.7.6 The Processing of Personal Information in a foreign jurisdiction may be subject to the laws of the country in which the Personal Information is held, and may be subject to disclosure to the governments, courts of law, enforcement, or regulatory agencies of such other country, pursuant to the laws of such country.

5.8 Storage of Personal Information

- 5.8.1 The GPF will keep the Personal Information that it Processes on behalf of Data Subjects at its offices in Johannesburg.
- 5.8.2 The GPF's Third-Party service providers, including data storage and processing providers, may from time to time also have access to a Data Subject's Personal Information in connection with purposes for which the Personal Information was initially collected to be Processed.
- 5.8.3 The GPF will ensure that such Third-Party service providers will process the Personal Information in accordance with the provisions of this Policy, all other relevant internal policies and procedures, POPIA and, where relevant, the GDPR.
- 5.8.4 The GPF may store Personal Information using its own secure on-site servers or other internally hosted technology. Personal Information may also be stored by Third Parties, via cloud services or other technology, to whom the GPF has contracted with, to support its business operations.

5.8.5 These Third Parties do not use or have access to Personal Information other than for cloud storage and retrieval, and the GPF requires such parties to employ at least the same level of security that the GPF uses to protect the Personal Information under its direct control.

5.8.6 Personal Information may be stored and processed in the Republic of South Africa or another country where the GPF, its affiliates and their service providers maintain servers and facilities. The GPF will take steps, including by way of contracts, to ensure that it continues to be protected regardless of its location, in a manner consistent with the standards of protection required under the applicable law.

5.9 Safe-Keeping of Personal Information

5.9.1 The GPF has implemented physical, organisational, contractual and technological security measures to keep all Personal Information secure, including measures protecting any Personal Information from loss or theft, and unauthorised access, disclosure, copying, use or modification.

5.9.2 The GPF will notify the Regulator and the affected Data Subject (unless the law requires that we delay notification to the Data Subject) in writing in the event of a security breach (or a reasonable belief of a security breach) in respect of that Data Subject's Personal Information.

5.9.3 The GPF will provide such notification as soon as reasonably possible and, where feasible, not later than 72 hours after having become aware of any security breach of such Data Subject's Personal Information.

5.9.4 Furthermore, considering the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, the GPF implements appropriate technical and organizational measures to ensure a level of security appropriate to the risk of processing, including –

- (a) the pseudonymization and encryption of Personal Information;

- (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services;
- (c) the ability to restore the availability and access to Personal Information in a timely manner in the event of a physical or technical incident; and
- (d) a process for regularly testing, assessing, and evaluating the effectiveness of technical and organizational measures for ensuring the security of Processing.

5.10 Retention of Personal Information

- 5.10.1 The GPF may keep records of the Personal Information it has collected, corresponded on, or commented on in an electronic or hardcopy file format.
- 5.10.2 The GPF will retain Personal Information for as long as necessary to fulfil the purposes for which that Personal Information was collected and/or as permitted or required by applicable law.
- 5.10.3 The GPF may retain Personal Information for longer periods for statistical, historical or research purposes, and should this occur, the GPF will ensure that appropriate safeguards have been put in place to ensure that all recorded Personal Information will continue to be Processed in accordance with this Policy and the applicable laws.
- 5.10.4 Once the purpose for which the Personal Information was initially collected and Processed no longer applies or becomes obsolete, the GPF will ensure that the Personal Information is deleted, destroyed or de-identified sufficiently so that a person cannot re-identify such Personal Information.
- 5.10.5 In instances where a Data Subject's Personal Information is anonymised for research or statistical purposes, the GPF may use such anonymised information indefinitely without further notice to the Data Subject.

5.11 Keeping Personal Information Accurate

- 5.11.1 The GPF will take reasonable steps to ensure that all Personal Information is kept as accurate, complete and up to date as reasonably possible.
- 5.11.2 The GPF may not always expressly request the Data Subject to verify and update their Personal Information unless this process is specifically necessary.
- 5.11.3 The GPF, however, expects that the Data Subject will notify it from time to time in writing of any updates required in respect of their Personal Information.

5.12 Access to Personal Information

- 5.12.1 The GPF may request the Data Subject to provide sufficient identification to permit access to, or provide information regarding the existence, use or disclosure of the Data Subject's Personal Information.
- 5.12.2 Any such identifying information shall only be used for the purpose of facilitating access to or information regarding the Personal Information.
- 5.12.3 The Data Subject can request in writing, to review any Personal Information about the Data Subject that is held by the GPF , including Personal Information that it has collected, utilised or disclosed, as well as the following information:
 - (i) the purposes of Processing; (ii) the categories of Personal Information concerned; (iii) where possible, the envisaged period for which the Personal Information will be stored or, if not possible, the criteria used to determine that period; (iv) the existence of the right to request from THE GPF rectification or erasure of Personal Information or restriction of Processing of Personal Information concerning the Data Subject or to object to such processing; (v) the right to lodge a complaint with the Regulator; (vi) where the Personal Information is not collected from the Data Subject, any available information as to their source; and (vii) the existence of automated Processing, including profiling and, at least in those cases, meaningful information about the logic involved as well as the significance and the envisaged consequences of such processing for the Data Subject.

5.12.4 The GPF will provide the Data Subject with any such Personal Information to the extent required by law and any of The GPF's policies and procedures which apply in terms of PAIA.

5.12.5 The Data Subject can challenge the accuracy or completeness of their Personal Information in The GPF's records at any time in accordance with the process set out in the GPF's PAIA Manual for accessing information.

5.12.6 If a Data Subject successfully demonstrates that their Personal Information in The GPF's records is inaccurate or incomplete, the GPF will ensure that such Personal Information is amended or deleted as required (including by any Third Parties).

5.13 Cost of Access to Personal Information

The prescribed fees to be paid for copies of the Data Subject's Personal Information are listed in the GPF's PAIA Manual.

5.14 Changes to this Policy

The GPF may regularly amend or add new terms to this Policy. Data Subjects must review the Policy regularly to stay up to date with the content. Any changes shall come into effect immediately and automatically.

5.15 Queries and Complaints

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

The Information Officer
 Gauteng Partnership Fund
 1st Floor
 82 Grayston Drive
 Sandton
 2196

E-mail: complaints@gpf.org.za

5.15.2 If a Data Subject in South Africa is unsatisfied with the manner in which South African Tourism addresses any complaint with regard to South African Tourism's Processing of Personal Information, the Data Subject can contact the office of the South African Regulator, the details of which are set out below –

Website: <http://justice.gov.za/infoereg/>

Tel: +2712 406 4818

Fax: +2786 500 3351

Email: infoereg@justice.gov.za

5.15.3 If a Data Subject in any of the other jurisdictions mentioned above is unsatisfied with the manner in which the GPF addresses any complaint with regard to the Processing of Personal Information, the Data Subject can contact the office of the Regulator or other relevant supervisory authority in the relevant jurisdiction.

6. BREACH OF POLICY

- 6.1. 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.
- 6.2. If any Employee does not understand sections, descriptions or concepts contained within this document, it is the responsibility of the individual to obtain clarity.

7. MONITORING, REVIEW AND COMPLIANCE

7.1. Policy Audit

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

7.2. Policy Review

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

7.3. 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.

7.4. 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.

8. APPROVAL

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