

Poloko Trading 718 cc T/A AVAILABED PRETORIA

REGISTRATION NUMBER: 2011/039627/23

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Availabed cc

REGISTRATION NUMBER: 2005/176492/23

**PROTECTION OF PERSONAL INFORMATION
POLICY**

**IN TERMS OF THE PROTECTION OF PERSONAL
INFORMATION ACT 4 OF 2013**

VERSION	1
PUBLISHING DATE / COMMENCEMENT DATE	01-07-2021
FREQUENCY OF REVIEW	Annually
NEXT REVIEW DATE	01-08-2022
POLICY OWNER	AVAILABED

POLICY STATEMENT

The right to privacy is an integrated principle and right envisaged in society and protected in the South African Constitution and under the provisions and regulations of the Protection of Personal Information Act 4 of 2013 (“POPIA”).

POPIA aims to promote the protection of personal information processed by public and private bodies and to introduce conditions and processes so as to establish minimum requirements for the processing of personal information in a context-sensitive manner.

Availabed is involved in the collection, use and disclosure of certain aspects of personal information of clients, customers, employees, service suppliers and other stakeholders.

In the essence and spirit of POPIA Availabed has drafted and adopted this policy in attempts to commit and effectively manage personal information in accordance with POPIA.

This policy forms an integrated part of Availabed’s internal business processes and procedures.

All employees, volunteers, contractors, suppliers and any other role player acting on behalf of or for Availabed is required to familiarise themselves with the policy’s requirements, procedures and provisions and **MUST** undertake to comply with the set out requirements, procedures and provisions.

POLICY ADOPTION

By signing this document, I authorise the policy owner’s adoption of the processes and procedures outlined in this document.

Name and Surname	Michelle Raubenheimer
Capacity	Co-Owner
Signature	
Date	30 June 2021

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1. Definitions

The following definitions as stated below shall be interpreted in the context that they appear, unless stated otherwise:

1.1. 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 –

- (i) 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 a person;
- (ii) Information relating to education, medical, financial, criminal or employment history of a person;
- (iii) Any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (iv) The biometric information of the person;
- (v) The personal opinions, views or preferences of the person;
- (vi) 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;
- (vii) The views or opinions of another individual about the person;
- (viii) 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.

- 1.2. **Person** means a natural or juristic person.
 - 1.3. **Data Subject** means the person to whom the personal information relates.
 - 1.4. **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.
 - 1.5. **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 that party.
 - 1.6. **Consent** means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information.
 - 1.7. **Information Officer** of, or in relation to a –
 - (a) Public body means an information officer or deputy information officer as contemplated in terms of section 1 or 17; OR
 - (b) Private body means the head of a private body as contemplated in section 1, of the promotion of access to information Act.
- The purpose of the information officer is to ensure that the company or organisation complies with POPIA.
 - Where no information officer is appointed, the head of the company or the organisation will be responsible for performing the information officer's duties.
 - Once the Information Officer is appointed, the officer must be registered with the South African Information Regulator established under POPIA prior to performing his or her duties.

- 1.8. **Regulator** means the Information Regulator established in terms of section 39.
- 1.9. **Processing** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including –
- (a) The collection, receipt recording, organisation, collation, storage, updating or modification, retrieval, alteration or use;
 - (b) Dissemination by means of transmission, distribution, or making available in any other form,
 - (c) Merging, linking, as well as restriction, degradation, erasure, or destruction of information.
- 1.10. **Record** means any recorded information –
- (a) Regardless of form or medium, including any of the following:
 - (i) Writing on any material;
 - (ii) Information produced, recorded or stored by means of any tape-recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, recorded or stored.
 - (iii) Label, marking or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means;
 - (iv) Book, map, plan, graph or drawing;

(v) Photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced.

(b) In the possession or under the control of a responsible party.

(c) Whether or not it was created by a responsible party; and

(d) Regardless of when it came into existence.

1.11. **Electronic communication** means any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient's terminal equipment until it is collected by the recipient.

1.12. **Filing system** means any structured set of personal information, whether centralised, decentralised, or dispersed on a functional or geographical basis, which is accessible according to specific criteria.

1.13. **Unique identifier** means any identifier that is assigned to a data subject and is used by a responsible party for the purpose of the operations of that responsible party and that uniquely identifies that data subject in relation to that responsible party.

1.14. **De-identify**, in relation to personal information of a data subject, means to delete any information that –

(a) Identifies the data subject;

(b) Can be used or manipulated by a reasonably foreseeable method to identify the data subject; OR

(c) Can be linked by a reasonably foreseeable method to other information that identifies the data subject.

1.15. **Re-identify**, in relation to personal information of a data subject, means to resurrect any information that has been de-identified, that –

(a) Identifies the data subject;

(b) Can be used or manipulated by a reasonably foreseeable method to identify the data subject; OR

(c) Can be linked by a reasonably foreseeable method to other information that identifies the data subject.

1.16. **Direct marketing** means to approach a data subject, either in person or by mail or electronic communication, for direct or indirect purpose of –

(a) Promoting or offering to supply, in the ordinary course of business, any goods or services to the data subject; OR

(b) Requesting the data subject to make a donation of any kind for any reason.

2. **Policy Purpose**

The purpose of this policy is to protect Availabed from compliance risk associated with the implementation of the provisions and regulations of POPIA, which includes:

(i) Breaches of Confidentially

Availabed could suffer loss in revenue where it is found that the personal information of clients, employees, suppliers or other stakeholders have been shared or disclosed without consent or inappropriately.

(ii) Failing to offer choice

The data subjects, i.e. clients, should be free to choose how their personal information is being processed and for what purpose.

(iii) Reputational damage

Availabed could suffer a decline in stakeholders and Goodwill should an adverse event such as a computer hacker deleting personal information held by them.

This policy document demonstrates Availabed's commitment and dedication to protect the privacy and privacy rights of data subjects, i.e. clients and suppliers, by implementing the following measures:

- (i) By cultivating an organisational culture that recognises privacy as a valuable integrated human right in society and within the realm of business.
- (ii) By developing and implementing internal procedures and protocols for the purpose of managing and limiting compliance risk associated with the protection of personal information as required under POPIA.
- (iii) By developing a business culture and practice in Availabed that will provide reasonable assurance that the right to privacy of data subjects are protected and balanced with the legitimate business of Availabed.
- (iv) By assigning specific duties and responsibilities to control owners, including the appointment of an information officer and where necessary and required appoint Deputy Information officers in order to assure compliance with the requirement of POPIA and to protect the rights and interests of data subjects and Availabed.
- (v) By continuously providing training to the employees to provide them guidance and to keep them up to date with the latest requirements and provisions of POPIA in order to allow them to continuously act in accordance with the Act.

3. Policy Application

In terms of **section 3 of POPIA**, the act applies to the processing of personal information entered in a record by or for a responsible party by making use of automated or non – automated means and the responsible party is domiciled in the Republic of South Africa.

In terms of **Section 6 of POPIA**, the act shall not apply to the processing of personal information for the following purposes:

- In the course of a purely personal or household activity;
- Personal information that has been de-identified to the extent that it cannot be re-identified again;
- By cabinet and its committees or the Executive Council of a province;
- Relating to the judicial functions of a court referred to in section 166 of the Constitution.

In summary of the above, this policy document and its guiding provisions and regulations apply to:

- All Employees and management of Availabed;
- All contractors, suppliers and other stakeholders acting on behalf of or in the interest of Availabed.

4. General guiding principles

All employees, suppliers, agents and other stakeholders acting on behalf of or in the interest of Availabed will at all times be subject to, and act in accordance with, the following guiding principles:

Accountability

All employees, suppliers, agents and stakeholders acting on behalf of or in the interest of Availabed **MUST** ensure proper compliance with the provisions and regulations of POPIA and shall at all time act and perform their duties and responsibilities in accordance with the guidance principles outlined in this policy document.

Failing to comply with the provisions and regulations of POPIA could potentially damage and cause Availabed to suffer substantial harm financially, reputational and in terms of goodwill. It could also expose Availabed to a civil claim for damages.

Avilabed shall hold all parties relating to is operational functioning liable for any failure to comply with the provisions and regulations of POPIA and shall enforce the necessary steps to remedy any failure.

Processing limitation

Avilabed commits and ensures that all personal information under its control is processed in the following manners:

- Fair, lawful and non-excessive manner, And
- Only with the informed consent of the data subject, And
- Only for the specific defined purpose.

Avilabed has implemented the following measures pertaining to the processing of the personal information of data subjects:

- Data subjects will be informed of the reasons and purpose for collecting his, her or its personal information and obtain written consent prior to the processing of personal information.
- Where services or transactions are concluded over the telephone or electronic video feed, Availabed will confirm the purpose for collecting the personal information of the data subject with written consent via email direct after the telephone conversation or video feed.
- Availabed shall further in addition to the above make the necessary entry into the data subjects personal file noting that the data subject has been informed and that written consent has been received.
- Availabed hereby expressly undertakes not to distribute or share the personal information of their data subjects, i.e. clients and suppliers, between separate legal entities, individuals or third parties not directly involved with the facilitating of the purpose for which the information was originally collected.

Purpose specification

All employees, suppliers, agents or stakeholders acting on behalf or in the interest of Availabed shall be informed of the principle of transparency.

Avilabed will process personal information of data subjects only for specific, explicit defined and legitimate reasons. Personal information shall be collected by Availabed for the following reasons, but not limited to:

- **Administrative purposes** – Capturing of personal information for creating client files and for financial purposes.
- **Legal mandates and procedures** – To capture personal information in order to comply and complete all legal mandates on behalf and for a client.

Further processing limitation

Avilabed will further process personal information for purposes of marketing to existing clients and potential further clientele.

Avilabed shall only process such information with the written consent of the data subject and the process of processing of personal information shall be communicated to the data subject before such personal information is processed.

Information quality

Avilabed will take all reasonable step to ensure that all personal information collected is complete, accurate and not misleading.

All personal information received from third parties other than the data subject, shall be confirmed with the data subject or by way of independent sources.

Open communication

Avilabed will take all reasonable steps to inform and continuously inform the data subject that their personal information is being collected including for the purpose for which it is being collected and processed.

In addition to the above Avilabed shall establish and maintain open communication to all data subjects who want to:

- Enquire whether personal information of them is being kept by Avilabed.
- Request access to related personal information, or
- Request Avilabed to update or correct related personal information, or
- Make a complaint concerning the processing of personal information.

Security safeguards

Availabed has the following security safeguard measures implemented:

- All personal information of data subject, such as medical records and personal information are stored and kept in filing cabinets which can only be accessed via a key in the possession of the Director.
- In addition to the above measures personal information of data subjects are also stored and accessed electronically via a server.
- Each employee has his or her own access details and before accessing a data subject's personal information the employee's access details must be entered.
- Availabed will on an annual basis review their current measures for storing, accessing personal information and combating cyber-attacks, which will include reviewing of their IT service providers.
- All new employees shall undergo POPIA Compliance training and shall be required to sign an employment contract containing clauses pertaining to the use and storage of employee or data subject personal information.
- All existing employees shall be required to sign an addendum to their current contracts of employment containing consent and confidentiality clauses.
- Availabed shall ensure that all service providers or supplier enter into a service level agreement with Availabed, whereby both parties undertake and pledge their efforts to ensure that compliance is given to the provisions and regulations of POPIA.

Data subject participation

Availabed shall implement all necessary measures and protocol to ensure that a data subject is allowed to:

- Request that his, her or its personal information is corrected or deleted which is held by the company.
- Request that their information be removed from any form of direct or indirect marketing and be allowed to refuse any electronic newsletter or related marketing.

5. Rights of data subjects

Availabed shall ensure to inform their data subjects, i.e. clients and suppliers, of their rights conferred upon them in terms of POPIA.

Availabed will ensure that the following rights are given effect:

- (i) Right to access personal information.
- (ii) Right to have Personal Information corrected or deleted.
- (iii) Right to object to the processing of Personal information.
- (iv) Right to object to Direct Marketing.
- (v) Right to complain to the Information Regulator.
- (vi) Right to be informed.

6. Information Officer

Availabed appointed an Information Officer, whose details are as follows:

Name and Surname	Michelle Raubenheimer
Capacity	Co-Owner
Telephone number	082 057 8370
Email address	pretoria@availabed.co.za

Availabed is unable to register the above appointed Information Officer in light of the Regulator's online portal not properly functioning.

A manual application for registration has been prepared and will be submitted electronically. The prepared application is available upon request.

7. Specific duties and responsibilities

7.1. Owner / Director

The Owner, Michelle Raubenheimer, shall at all times be held accountable and is ultimately answerable for the ensuring that Availabed meets its legal obligations in terms of POPIA.

The owner shall be responsible for the:

- Appointment of an information officer, and where necessary, a Deputy Information Officer.
- Ensuring that all persons processing personal information on behalf of Availabed:
 - (i) Are appropriately trained and supervised to do so;
 - (ii) Understand that they are contractually obligated to protect the personal information they come into contact with, and

- (iii) Are aware that a wilful or negligent breach of this policy's processes and provisions may lead to disciplinary action being taken against them.
- Scheduling of a periodic POPIA Audit in order to accurately assess and review the ways which Availabed collects, holds, uses, shares, discloses, destroys and process personal information.

7.2. Information Officer

Avilabed has appointed Michelle Raubenheimer, a Co-owner as their information officer.

The Information officer shall be responsible for:

- Taking steps to ensure that Availabed is reasonably compliant with the Provisions of the POPIA.
- Keeping the Owner updated about Availabed's information protection responsibilities under POPIA.
- Continually analysing privacy regulations and aligning them with Availabed's personal information processing procedures.
- Ensuring that POPIA Audits are scheduled and conducted on a regular basis.
- Ensuring that Availabed makes it convenient for data subjects, i.e. clients or suppliers, who want to update their personal information or submit POPIA related complaints to the company.
- Approving any contracts entered into with suppliers, employees or third-party stakeholders which may have an impact on the personal information held by Availabed.

- Ensuring that employees and other parties acting on behalf or in the interest of Availabed are fully aware of the risks associated with the processing of personal information and that they remain informed about Availabed's security controls, procedures and protocols.
- Ensuring and supervising the awareness training of employees and other individuals involved in the processing of personal information on behalf of Availabed.
- Addressing all POPIA related requests and complaints made by Clients or other data subjects.
- Working with the Information Regulator Authority in relation to any ongoing investigations. The Information Officers will therefore act as the contact point for the Information Regulator authority on issues relating to the processing of personal information and will consult with the Information Regulator where appropriate.

7.3. Employees and other Persons acting on behalf of the Organisation

All employees and other persons acting on behalf of Availabed will during the course and in line with their performance of their duties gain access to and become acquainted with personal information of clients, suppliers and other employees. They are required to treat personal information as a confidential business asset and to respect the privacy of the data subjects.

Employees and other persons acting on behalf of Availabed may not directly or indirectly utilise, disclose or make public in any manner to any person or third party, either within Availabed or externally, any personal information, unless such information is already publicly known or the disclosure of the information is necessary for the employee or person to perform his or her duties.

Employees and other persons acting on behalf of Availabed will only process personal information after written informed consent has been given by the Client, employee, supplier or any other third party.

Employees and other persons acting on behalf of Availabed shall be responsible for:

- Keeping all personal information that they come into contact with secure, by taking sensible and reasonable precautions and following the guidelines as set out in this Policy document.
- Ensuring that personal information is held in as few places as possible and necessary.
- Ensuring that personal information is encrypted prior to sending or sharing the information electronically.
- Ensuring that all computers, laptops and devices such as tablets, flash drives and smartphones that store personal information are password protected and never left unattended.
- Ensuring that their computer screens and other devices are switched off or locked when not in use or when away from their desks.
- Ensuring that where personal information is stored on paper and in hard copy, that such records are kept in a secure place where unauthorised people cannot access it. For example, in a locked drawer in a filing cabinet.
- Ensuring that where personal information has been printed out, that the paper print outs are not left unattended where unauthorised persons could see or copy the information.
- Taking reasonable steps to ensure that personal information is kept accurate and up to date.

- Taking reasonable steps to ensure that personal information is stored only for as long as it is needed and for the purpose for which it is needed and originally collected.
- Undergoing POPIA awareness training from time to time.

8. POPIA Audits

The appointed Information Officer of Availabed in association with other Directors and an appointed legal practitioner of their choice shall annually schedule and conduct POPIA Audits to ensure that the company remains compliant with the provisions of POPIA and all related directives from the Information Regulator Authority.

9. Request to access personal information by data subjects and third parties

Any request to access personal information by a client, employee, supplier or third party can be made via email to the Information Officer. The Information officer shall provide the requesting party with a Personal Information request form, to be completed and returned to the Information Officer.

Once the Information officer receives the Personal Information request form, he or she shall verify the information received and thereafter proceed with the request of the data subject.

All requests received by Availabed shall be processed within **14 (Fourteen) working days** from date when the completed Personal Information request form has been received.

10. POPIA Complaints Procedures

All data subjects have a right to complain and issue their complaints to the information officer of Availabed. Availabed takes all complaints very seriously and will address all complaints and issues swiftly and amicably.

The following complaints procedures shall be followed:

- (i) All complaints must be submitted to the Information officer via a completed POPIA Complaint form, which is to be submitted to the Information officer via email.
- (ii) The Information Officer shall provide the data subject with written acknowledgement of receipt within **2 (two) working days** after receipt of the completed complaint form.
- (iii) In the event that a POPIA Complaint form is received by any other employee or person other than the information officer, that employee or person shall within **1 (one) working day** ensure that the complaint is brought under the attention of the information officer. Failure by an employee to do so, shall subject him or her to disciplinary action.
- (iv) The information officer will carefully consider the complaint and address the complainant's concerns in an amicable manner.
- (v) The information officer is also tasked to determine whether the complaint is related to an error or a breach of confidentiality that has occurred and which may have a wider impact on Availabed's clients or other relevant third parties.
- (vi) The information officer will revert to the complainant with a proposed solution with the option of escalating the complaint to the Director within **14 (Fourteen) working days** of receipt of the complaint. The information officer shall also provide reasons for any decision taken and communicate any anticipated deviation from the specific timelines.

- (vii) In the event that the data subject is not satisfied with the Information Officer's decision and reasons, the data subject has the right to refer the matter to the Information Regulator Authority.

11. Disciplinary Code of Conduct

Avilabed has provided training and will continuously provide awareness and training to its employees regarding the provisions and requirements of POPIA.

In the event that a POPIA complaint is received or a POPIA infringement investigation has been finalised, Avilabed reserve its right to proceed with any administrative, legal and/or disciplinary action to be taken against the employee reasonably suspected of being implicated in any non-compliance of POPIA.

Any gross negligence or wilful mismanagement of personal information will be considered as a serious form of misconduct and Avilabed may summarily dismiss any employee.

CONTACT PERSONS

Any enquiries as to the content of this policy document may be raised with the following individuals:

Name and Surname	Michelle Raubenheimer
Capacity	Co-Owner
Telephone number	082 057 8370

Name and Surname	Amanda Pretorius
Capacity	Co-Owner
Telephone Number	074 167 1030