

Introduction

Welcome to OPENCOLLAB's Privacy Policy. At OPENCOLLAB we respect your privacy and are committed to protecting your Personal Information. This policy ("Policy") explains how we process Personal Information and what your privacy rights are.

It is important that you read this policy together with any other privacy policy or fair processing policy we may provide on specific occasions when we are collecting or processing Personal Information about you so that you are fully aware of how and why we are using the information.

Reference to "consent", "your consent" or "your explicit consent" shall include the ticking of a tick box or clicking on a "send message" button or "I agree" button or sending a reply by email after we have made available our Privacy Policy to you.

1) Important information and who we are

a) Responsible Party

- i) Opencollab (Proprietary) Limited is the Responsible Party when engaging with you as a potential customer/ customer or user of our website and/ or other social media sites ("Sites") and is responsible for your Personal Information (also referred to as "OPENCOLLAB", "we", "us" or "our" in this Privacy Policy).
- ii) Take note: Where you as a person (including juristic person) make use of our Service for your customers (as agreed to between us), then you (as our "Customer") will act as the Responsible Party towards your own customers and OPENCOLLAB as the Operator, acting on your instructions. As Responsible Party you have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Personal Information you or someone on your behalf make available to the OPENCOLLAB Services (including but not limited to student information).
- iii) We have appointed an information officer (IO) who is responsible for overseeing questions in relation to this Privacy Policy. If you have any questions about this Privacy Policy, including any requests relating to our processing of your Personal Information, please contact the IO using the details set out below.

b) Contact details

- i) If you have any questions about this Privacy Policy or our privacy practices, please contact us at:
 - (1) Information Officer: Martilene Orffer
 - (2) Deputy Information Officer: Garth Airey
 - (3) Email address: info@opencollab.co.za
 - (4) Other contact details as per our website: <https://www.opencollab.co.za/contact/>
 - (5) Also refer to our PAIA & POPI Manual, which is available at: <https://www.opencollab.co.za/legal/>
- ii) You have the right to make a complaint at any time to the Information Regulator's office (IR), the Republic of South Africa's authority for data protection issues (<https://www.inforegulator.org.za/>). **We would, however, appreciate the chance to deal with your concerns before you approach the IR, so please contact us in the first instance.**

c) Changes to the Privacy Policy and your duty to inform us of changes

- i) We keep our Privacy Policy under regular review. This version was last updated as per the date in the footer. Archived versions can be obtained by contacting us. Any changes made to our Privacy Policy in future will be posted on our website or made available during your engagement with OPENCOLLAB. The new version will apply the moment it is published on our website. Use the date in the footer to confirm that you have read and understand the latest version of the Privacy Policy.
- ii) It is important that the Personal Information we hold about you is accurate and current. Please keep us informed if your Personal Information changes during your relationship with us.

d) Third-party links: Our Sites may include links to third-party websites, plug-ins and applications. Clicking on those links or enabling those connections may allow third parties to collect or share data about you. If you disclose your Personal Information to a third party, such as an entity which operates a website linked to this website or our social media sites, **WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE, HOWEVER ARISING, SUFFERED BY YOU AS A RESULT OF THE DISCLOSURE OF SUCH INFORMATION TO THE THIRD PARTY.** This is because we do not regulate or control how that third party uses your Personal Information. You should always ensure that you read the privacy policy of any third party. When you leave our website, we encourage you to read the privacy policy of every website you visit.

- e) **Integration into other sites:** This Privacy Policy applies to OPENCOLLAB services only. We do not exercise control over the sites who provide OPENCOLLAB services as part of their own offering. These other sites may place their own cookies or other files on your computer, collect data or solicit Personal Information from you. We cannot be held responsible for any wrongful handling of end users' information by our customers.

2) The data we collect about you

- a) Personal Information means the information as per the DEFINITIONS as set out in section 15) of this Policy. Personal Information does not include data where the identity has been removed (anonymous data).
- b) We may process different kinds of personal information about you when we engage with you, which we have grouped together as follows:
 - i) **Identity Data** includes first name, last name, username or similar identifier, title, date of birth and gender.
 - ii) **Contact Data** includes billing address, delivery address, email address and telephone numbers.
 - iii) **Financial Data** includes payment card details.
 - iv) **Special Personal Information** includes biometric and health information.
 - v) **Transaction Data** includes details about payments to and from you and other details of products and/ or services you have acquired from us or accessed on our website.

- vi) **Technical Data** includes internet protocol (IP) address, your login data, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform, and other technology on the devices you use to access this website.
 - vii) **Profile Data** includes usernames and passwords, purchases or orders made by you, client interests, preferences, feedback and survey responses (where made available).
 - viii) **Usage Data** includes information about how you use our website, products and services. This information shall include the full Uniform Resource Locators (URL) Clickstream to, through and from our website (including the date and time) and the services you viewed or searched for, page response times, download errors, length of visits to certain pages, page interaction information (such as scrolling, clicks, and mouse-overs) and methods used to browse away from the page and any phone number used to call our customer service number, service transaction instructions from and to you via our APIs.
 - ix) **Marketing and Communications Data** includes your preferences in receiving marketing from us and our third parties and your communication preferences.
- c) We also collect, use and share aggregated data and pattern data such as (but not limited to) statistical or demographic data for any purpose (**Aggregated Data**). Aggregated Data could be derived from your Personal Information but is not considered Personal Information in law as this data will **not** directly or indirectly reveal your (the Data Subject's) identity. For example, we may aggregate your Usage Data to calculate the percentage of users accessing a specific website feature. However, if we combine or connect Aggregated Data with your Personal Information so that it can directly or indirectly identify you, we will treat the combined data as Personal Information which will be used in accordance with this Privacy Policy.
- d) We do not collect any **Special Personal Information** about you unless we have received your consent. When you visit our offices, you may be required to provide Special Personal Information to the reception.
- e) **Submission of Personal Information on behalf of Data Subject:** If you or your Authorised Users provide information on behalf of someone else, then it is your responsibility to:-
- i) ensure that the necessary Consent has been obtained from the Data Subject (including consent to transfer Personal Information to us) before making the Personal Information available to us. On receipt of Personal Information, we assume that the necessary Consent has been obtained and will process the Personal Information as per your/Authorised Users instructions and in accordance with this Privacy Policy and applicable Data Protection Laws.
 - ii) ensure the accuracy, quality, and legality of the Personal Information;
 - iii) comply with all necessary transparency (openness) and lawfulness requirements under applicable Data Protection Laws prior to provision of the Personal Information to us;
 - iv) ensure that all Processing instructions comply with applicable laws.
By submitting such Personal Information on behalf of another person, you indemnify us against any Third-party claim, where such Third-party claim relates to Personal Information that has been Processed by us without the necessary Consent or other available exception allowed by law.
- f) **If you fail to provide Personal Information:** Where we need to collect Personal Information by law, or under the terms of a contract we have with you, and you fail to provide that data when requested, we may not be able to perform the contract we have or are trying to enter into with you (for example, to provide you with services, including services for no charge). In this case, we may have to cancel a service you have with us, but we will notify you if this is the case at the time.
- g) **We do not process information of children, unless we receive your Consent.**

3) How is Personal Information collected?

We use different methods to collect data from and about you including through:

- a) **Direct interactions.** You may directly provide us with your Personal Information when you;
 - i) apply for any of our services;
 - ii) engage with us via Zoom, Skype or any other video conferencing facility;
 - iii) access any of our facilities/ offices;
 - iv) submit a request on the page provided on our website for more information of our products/ services (subject to specific product/ service terms and conditions);
 - v) completion of a COVID19 questionnaire;
 - vi) request marketing to be sent to you;
 - vii) contact us via our contact form ([click here](#)), WhatsApp or other social media sites messaging platforms we may subscribe to; or
 - viii) give us feedback.
- b) **Automated technologies or interactions.** As you interact with our services or website, we will automatically collect Technical Data about your equipment/ devices, browsing actions and patterns. We collect this Personal Information by using cookies (see clause 4) below), server logs and other similar technologies. We may also receive Technical Data about you if you visit other websites employing our cookies.
- c) **Third parties or publicly available sources.** We will receive Personal Information about you from various third parties and public sources as set out below:
 - i) Technical Data from the following parties:
 - (1) analytics providers such as Google ("How Google uses information from sites or apps that use our services", located at <https://policies.google.com/technologies/partner-sites>)
 - (2) advertising networks; and

- (3) search information providers.
 - ii) Contact, financial and transaction data from providers of technical and payment services.
 - iii) Identity and contact data from publicly available sources such as CIPC.
- d) **GDPR.** When using OPENCOLLAB services embedded in another site, certain disclosures must be given to and consent obtained from end users in the European Union where the law requires such disclosures and consents. For end users in the European Union you must use commercially reasonable efforts to ensure that an end user is provided with clear and comprehensive information about this site's policies. If you have end users in the European Union, you will need to ensure that your use of the system complies with the General Data Protection Regulation (GDPR).

4) Cookies

- a) Our website makes use of cookies to help us understand our users better. Cookies are small pieces of information sent by an organisation to your computer or device and stored locally to allow that website to recognise you when you visit. Cookies do not harm your computer or device or any files on your computer or device. Depending on the type of cookie we use, cookies also allow us to make our websites more user friendly.
- b) OPENCOLLAB may use third party vendors, including but not limited to Google and MSN/ Bing to show OPENCOLLAB-related ads on sites on the internet. Third party vendors use cookies to serve ads based on a user's prior visits to our sites or other websites. Users may opt-out of Google's use of cookies by visiting the Google Advertising Settings Page or the Network Advertising Initiative's opt-out page for other third-party vendors' use of cookies.
- c) You should be able to adjust your browser so that your computer or device does not accept cookies. If you do this, you will still be able to browse the website but the functions that allow you to access an existing account or page that requires a username or password will not be available.
- d) You can, alternatively, adjust your browser to notify you when a website attempts to put a cookie on your computer or device. How you adjust your browser to stop it accepting, or to notify you of, cookies will depend on the type of internet browser programme your computer uses.
- e) Please remember, cookies do not contain identity, contacts or financial information. We do not exchange cookies with any third-party websites or external data suppliers.

5) How we use your Personal Information

- a) We will not sell your Personal Information.
- b) All Personal Information that OPENCOLLAB may receive from you shall be dealt with as confidential information.
- c) We will only use Personal Information within the framework of the law. Most commonly, we will use Personal Information in the following circumstances:
 - i) Where you have given us your consent; or
 - ii) Where we need to perform the contract we are about to enter into or have entered into with you; or
 - iii) Where it is necessary for the protection of the Data Subject's legitimate interest; or
 - iv) Where it is necessary for our legitimate interests (or those of a third party) and your interests and fundamental rights do not override those interests; or
 - v) Where we need to comply with a legal obligation.
- d) Generally, we do not rely on consent as a legal basis for processing your Personal Information although we will get your consent before sending third-party direct marketing communications to you via email or text message. You have the right to withdraw consent to marketing at any time by contacting us.
- e) **Purposes for which we will use Personal Information**
 - i) We have set out below, in a table format, a description of all the ways we plan to use Personal Information, and which of the legal bases we rely on to do so. We have also identified what our legitimate interests are where appropriate.
 - ii) Note that we may process Personal Information for more than one lawful ground depending on the specific purpose for which we are using the data. Please contact us if you need details about the specific legal ground we are relying on to process your Personal Information, where more than one ground has been set out in the table below.
- f) OPENCOLLAB only shares Personal Information with other companies or individuals outside of OPENCOLLAB in the following circumstances:
 - i) We have your consent. We require opt-in for the sharing of any Special Personal Information (where applicable).
 - ii) We may provide such information to collaborating companies or other trusted businesses or persons for the purpose of processing Personal Information on our behalf. We require that these parties agree to process such information based on our instructions and in compliance with this Privacy Policy and any other appropriate confidentiality and security measures.
 - iii) We have a good faith belief that access, use, preservation or disclosure of such information is reasonably necessary to:
 - (1) satisfy any applicable law, regulation, legal process or enforceable governmental request;
 - (2) enforce applicable Terms of Use, including investigation of potential violations thereof;
 - (3) detect, prevent, or otherwise address fraud, security or technical issues; or
 - (4) protect against imminent harm to the rights, property or safety of OPENCOLLAB, its users or the public as required or permitted by law.

Purpose/Activity	Type of data	Lawful basis for processing including basis of legitimate interest
Subscribe to receive news and product updates from OPENCOLLAB – existing OPENCOLLAB customer Subscribe to receive news and product updates from OPENCOLLAB – non-customer	(a) Identity, (b) Contact, (c) Marketing and Communications	(a) Performance of a contract with OPENCOLLAB customer (b) Consent
To register you as a customer/Authorised User at OPENCOLLAB	(a) Identity (b) Contact (c) Financial (d) Marketing and Communications	(a) Consent (b) Performance of a contract with you (including the browse wrap agreement (Terms of Use of our website))
To receive OPENCOLLAB communication as a customer of OPENCOLLAB	(a) Identity (b) Contact	(a) Existing customer (as per POPIA) of OPENCOLLAB (b) Your consent
To perform in accordance with our service agreement (a) Provide the products/ services: (b) Manage payments, fees and charges (c) Collect and recover money owed to us	(a) Identity (b) Contact, (c) Financial (d) Transaction (e) Marketing and Communications	(a) Consent (b) Performance of a contract with you (b) Necessary for our legitimate interests (to recover debts due to us)
To manage our relationship with you as a customer: (a) Notifying you about changes to our terms or privacy policy (b) Asking you to leave a review or take a survey	(a) Identity (b) Contact (c) Marketing and Communications	(a) Performance of a contract with you (b) Necessary to comply with a legal obligation (c) Necessary for our legitimate interests (to keep our records updated and to study how customers use our services)
To reply to your submission via our “Contact” page	(a) Identity (b) Contact details	Consent
To follow our COVID19 protocol; and determine whether you can be allowed on to our premises	(a) Identity (b) Contact (c) Special Personal Information	(a) Consent (b) Necessary to comply with a legal obligation (c) Necessary for our legitimate interests and the interest of other persons on the premises (d) Required by law
To enable you to partake in a prize draw, competition, promotion or complete a survey (where available)	(a) Identity (b) Contact (c) Profile (d) Usage (e) Marketing and Communications	(a) Performance of a contract with you, (b) Necessary for our legitimate interests (to study how customers use our services, to develop them and grow our business)
To administer and protect our business and this website (including troubleshooting, data analysis, testing, system maintenance, support, reporting and hosting of data)	(a) Identity (b) Contact (c) Technical	(a) Necessary for our legitimate interests (for running our business, provision of administration and IT services, network security, to prevent fraud and in the context of a business reorganisation or group restructuring exercise) (b) Necessary to comply with a legal obligation
To deliver relevant website content and advertisements to you and measure or understand the effectiveness of the advertising we serve to you	(a) Identity (b) Contact (c) Usage (d) Marketing and Communications (e) Technical	Necessary for our legitimate interests (to study how customers use our services, to develop them, to grow our business and to inform our marketing strategy)
To use data analytics to improve our website, services, marketing, customer relationships and experiences	(a) Technical (b) Usage	Necessary for our legitimate interests (to define types of customers for our services, to keep our website updated and relevant, to develop our business and to inform our marketing strategy)
To make suggestions and recommendations to you about services that may be of interest to you	(a) Identity (b) Contact (c) Technical (d) Usage (e) Marketing and Communications	(a) Existing customer: as per POPIA (b) Potential customer: Consent

- g) **Marketing:** We strive to provide you with choices regarding certain Personal Information uses, particularly around marketing and advertising.
- i) **Promotional offers from us**
- (1) **As a Customer:**
- When you acquired any of our Services or make use of our website (browse wrap agreement) we will deal with you as a customer under the POPIA.
 - We will use your identity and contact information to submit to you information/ material of our other services that are related and that we feel may be of interest to you.
 - Important: you may ask us on submission of your identity, and contact information not to send you the above-mentioned information. At any time subsequent to our initial engagement, you can make use of the opting out options under par. 5)g)iii) below.
- (2) **Not a Customer of OPENCOLLAB yet:**
- We may collect through one of our employees or through our mailing system or through any other publically available source your email address.
 - However, before we use same for any direct marketing purposes, we will give you the opportunity to opt out prior to sending you direct marketing material.
- ii) **Third-party marketing**
- (1) We will get your express opt-in consent before we share your Personal Information with any Third party for marketing purposes.
- (2) **TAKE NOTE:** We may provide (without your consent) third party marketing parties/advertisers with anonymous aggregate information (Aggregate Data) about our users (for example, we may inform them that 500 men aged under 30 have clicked on a specific product or advertisement on any given day). We may also use such aggregate information to help advertisers reach the kind of audience they want to target (for example, women in a specific region). We may make use of the Personal Information we have collected from you to enable us to comply with our advertisers' wishes by displaying their advertisement to that target audience. **IMPORTANT: We do not disclose information about identifiable individuals to our advertisers.**
- iii) **Opting out**
- (1) You can ask us or third parties to stop sending you marketing messages at any time by logging into the website or unsubscribe on the email communication or by contacting us at any time on: info@opencollab.co.za or using our [Contact](#) facility and requesting to opt-out of our marketing services.
- (2) Where you opt out of receiving these marketing messages, this will not apply to Personal Information provided to us as a result of a service/ product engagement or acquisition, service experience or other transactions.
- h) **Change of purpose**
- i) We will only use your Personal Information for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose. If you wish to get an explanation as to how the processing for the new purpose is compatible with the original purpose, please contact us.
- ii) If we need to use your Personal Information for an unrelated purpose, we will notify you and we will explain the legal basis which allows us to do so.
- iii) Please note that we may process your Personal Information without your knowledge or consent, in compliance with the above rules, where this is required or permitted by law.

6) Disclosures of Personal Information

- a) We may share Personal Information with the parties set out below for the purposes set out in the table above.
- i) **Internal Third Parties** as set out in the DEFINITIONS. Where we share Personal Information to our group (collaborating companies), we ensure your Personal Information is protected by requiring all our collaborating companies to follow this policy when processing your Personal Information.
- ii) **External third parties** as set out in the DEFINITIONS.
- iii) We may provide such information to affiliates in the OPENCOLLAB group of companies (if any), to collaborating companies or other trusted businesses or persons for the purpose of processing Personal Information on our behalf.
- iv) Third parties to whom we may choose to sell, transfer or merge parts of our business or our assets. Alternatively, we may seek to acquire other businesses or merge with them. If a change happens to our business, then the new owners may use your Personal Information in the same way as set out in this Privacy Policy.
- b) We require all third parties to respect the security of your Personal Information and to treat it in accordance with the law. We require that these parties agree to process such information based on our instructions and in compliance with this Privacy Policy and any other appropriate confidentiality and security measures.
- c) We do not allow our third-party service providers to use your Personal Information for their own purposes and only permit them to process your Personal Information for specified purposes and in accordance with our instructions.

7) INTERNATIONAL TRANSFERS

- a) Some of our external third parties may be based outside your country so their processing of your Personal Information could involve a transfer of data outside your country.
- b) Whenever we transfer your Personal Information out of your country, we ensure a similar degree of protection is afforded to it by ensuring at least one of the following safeguards is implemented:

- i) We will only transfer your Personal Information to countries that have appropriate data protection and privacy legislation to protect your Personal Information.
 - ii) Where we use certain service providers, we conclude an agreement with them to confirm that your Personal Information is confidential, they can only process on our instructions and that they should establish and maintain appropriate technological and organisational measurements to protect your Personal Information.
 - iii) Where we use providers based in the US, we may transfer data to them if they are part of the Privacy Shield which requires them to provide protection to personal information similar to the principles under the GDPR, which we believe are good principles to ensure compliance.
 - iv) Confirming that the necessary pre-authorisation from the Information Regulator (only where said pre-authorisation is required by the Data Protection Legislation), has been obtained by the Responsible Party. i.e. section 57 of the POPI Act.
- c) By submitting your Personal Information to us you consent to the transfer of your Personal Information outside the borders of your country (when required).

8) DATA SECURITY

- a) We have put in place appropriate technological and organisational measures to prevent Personal Information from being accidentally lost, used or accessed in an unauthorised way, altered or disclosed. In addition, we limit access to Personal Information to those employees, agents, contractors and other third parties who have a business need to know. They will only process Personal Information on our instructions, and they are subject to a duty of confidentiality.
- b) We have put in place procedures to deal with any suspected Personal Information breach and will notify you and any applicable regulator of a breach where we are legally required to do so.
- c) Where we act as Operator, the Responsible Party must ensure that it has implemented appropriate technical and organisational measures against unauthorised or unlawful processing, access, disclosure, copying, modification, storage, reproduction, display or distribution of Personal Information. Other than securing the Personal Information on collection of same from the Responsible Party via the OPENCOLLAB services, OPENCOLLAB shall not be responsible for any other Responsible Party's security safeguard obligations.

9) DATA RETENTION

How long will we use your Personal Information for?

- a) We will only retain your Personal Information for as long as reasonably necessary to fulfil the purposes we collected it for, including for the purposes of satisfying any legal, regulatory, tax, accounting or reporting requirements. We may retain your Personal Information for a longer period in the event of a complaint or if we reasonably believe there is a prospect of litigation in respect to our relationship with you.
- b) To determine the appropriate retention period for Personal Information, we consider the amount, nature and sensitivity of the Personal Information, the potential risk of harm from unauthorised use or disclosure of your Personal Information, the purposes for which we process your Personal Information and whether we can achieve those purposes through other means, and the applicable legal, regulatory, tax, accounting or other requirements.
- c) By law we have to keep basic information about our customers (including Contact, Identity and Transaction Data) for seven years after they cease being customers for tax purposes.
- d) In some circumstances you can ask us to delete your data: see *your legal rights* below for further information.
- e) In some circumstances we will anonymise your Personal Information (so that it can no longer be associated with you) for research or statistical purposes, in which case we may use this information indefinitely without further notice to you.

10) RECORDS

We will keep detailed, accurate and up-to-date written records regarding any processing of Personal Information we carry out, including but not limited to, the access, control and security of the Personal Information and approved subcontractors, the processing purposes, categories of processing, any possible transfers of Personal Information to a third-party country and related safeguards, the instructions as received from our customers and a general description of the technical and organisational security measures and retention and destruction of Personal Information.

11) SOCIAL MEDIA

- a) Our website may, in certain circumstances, provide you with social plug-ins from various social media networks. If you choose to interact with a social network such as Facebook or LinkedIn (for example by registering an account or click on the link from our website), your activity on our websites will also be made available to that social network. This is necessary for the performance of your contract with us which allows you to interact with a social network. If you are logged in on one of these social networks during your visit to one of our websites or are interacting with one of the social plug-ins, the social network might add this information to your respective profile on this network based on your privacy settings. If you would like to prevent this type of information transfer, please log out of your social network account before you enter one of our websites, or change the necessary privacy settings, where possible.
- b) Communication, engagement and actions taken through external social media networks that we participate in are custom to the terms and conditions as well as the privacy policies held with each social media platform respectively.

- c) You are advised to use social media networks wisely and communicate/engage with them with due care and caution in regard to their own privacy policies (if any). **PLEASE NOTE: WE WILL NEVER ASK FOR PERSONAL OR SENSITIVE INFORMATION THROUGH SOCIAL MEDIA NETWORKS AND ENCOURAGE USERS, WISHING TO DISCUSS SENSITIVE DETAILS OR TO RESOLVE ISSUES/CONCERNS, TO CONTACT US THROUGH PRIMARY COMMUNICATION CHANNELS SUCH AS BY TELEPHONE OR EMAIL.**
- d) Our social media network page(s) may share web links to relevant web pages. By default, some social media platforms shorten lengthy URL's. You are advised to exercise caution and due care before clicking on any shortened URL's published on social media platforms by this website. Despite our best efforts to ensure that only genuine URL's are published many social media platforms are prone to spam and hacking and therefore our website and its owners cannot be held liable for any damages or implications caused by visiting any shortened links.

12) Your legal rights

- a) Under certain circumstances, you have the following rights under data protection laws in relation to your Personal Information:
 - i) **Request access** to Personal Information (commonly known as a "data subject access request"). There may be a fee associated with this request – see d) below. This enables you to receive a copy of the Personal Information we hold about you and to check that we are lawfully processing it. See the OPENCOLLAB Promotion of Access to Information Act and Protection of Personal Information Manual ("PAIA & POPI Manual"), which is available at: <https://www.opencollab.co.za/legal/>
 - ii) **Request correction** of the Personal Information that we hold about you. This enables you to have any incomplete or inaccurate data we hold about you corrected, though we may need to verify the accuracy of the new data you provide to us.
 - iii) **Request erasure** of your Personal Information. This enables you to ask us to delete or remove Personal Information where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your Personal Information where you have successfully exercised your right to object to processing (see iv) below), where we may have processed your information unlawfully or where we are required to erase your Personal Information to comply with local law. Note, however, that we may not always be able to comply with your request of erasure for specific legal reasons which will be notified to you, if applicable, at the time of your request. Take Note: Erasure of your Personal Information shall further not limit our rights in terms of Aggregate Data and Pattern Data
 - iv) **Object to processing** of your Personal Information where we are relying on a legitimate interest (or those of a third party) and there is something about your particular situation which makes you want to object to processing on this ground as you feel it impacts on your fundamental rights and freedoms. You also have the right to object where we are processing your Personal Information for direct marketing purposes. In some cases, we may demonstrate that we have compelling legitimate grounds to process your information which override your rights and freedoms.
 - v) **Request restriction of processing** of your Personal Information. This enables you to ask us to suspend the processing of your Personal Information in the following scenarios:
 - (1) If you want us to establish the data's accuracy.
 - (2) Where our use of the data is unlawful, but you do not want us to erase it.
 - (3) Where you need us to hold the data even if we no longer require it as you need it to establish, exercise or defend legal claims.
 - (4) You have objected to our use of your data, but we need to verify whether we have overriding legitimate grounds to use it.
 - vi) **Request the transfer** of your Personal Information to you or to a third party. We will provide to you, or a third party you have chosen, your Personal Information in a structured, commonly used, machine-readable format. Note that this right only applies to automated information which you initially provided consent for us to use or where we used the information to perform a contract with you. Contact us if you need to transfer your Personal Information.
 - vii) **Withdraw consent at any time** where we are relying on consent to process your Personal Information. However, this will not affect the lawfulness of any processing carried out before you withdraw your consent. If you withdraw your consent, we may not be able to provide certain services to you. We will advise you if this is the case at the time you withdraw your consent.
- b) **If you wish to exercise any of the rights set out above, please contact our Deputy Information Officer at the details mentioned in 1)b) above.**
- c) **Take note of the following that will apply where OPENCOLLAB acts as Operator and the OPENCOLLAB Customer as the Responsible Party:**
 - i) **OPENCOLLAB will notify the OPENCOLLAB Customer immediately if it receives any complaint, notice or communication that relates directly or indirectly to the processing of the Personal Information or to either party's compliance with the Data Protection Legislation.**
 - ii) **OPENCOLLAB will notify the OPENCOLLAB Customer within 2 (two) working days if it receives a request from a Data Subject for access to their Personal Information or to exercise any of their related rights under the data protection legislation.**
 - iii) **OPENCOLLAB will give the OPENCOLLAB Customer its full co-operation and assistance in responding to any complaint, notice, communication or Data Subject request and the OPENCOLLAB Customer shall remunerate OPENCOLLAB for any reasonable costs that OPENCOLLAB may incur as a result of said request. OPENCOLLAB shall not be liable for the OPENCOLLAB Customer's non-compliance of any Data Subject requests.**
 - iv) **OPENCOLLAB shall not disclose the Personal Information to any Data Subject or to a Third party unless written instruction has been obtained from the Responsible Party or as required by law.**

- v) **Where you, as a Data Subject are a client/ customer/ employee of the OPENCOLLAB Customer and wishes to submit a complaint or request, then we recommend that you submit it to the OPENCOLLAB Customer.**
- d) **Fee required:** Apart from any prescribed fees under any applicable data protection legislation, you will not have to pay a fee to access your Personal Information (or to exercise any of the other rights). However, we may charge a reasonable fee if your request is clearly unfounded, repetitive or excessive. Alternatively, we could refuse to comply with your request in these circumstances.
- e) **What we may need from you:** We may need to request specific information from you to help us confirm your identity and ensure your right to access your Personal Information (or to exercise any of your other rights). This is a security measure to ensure that Personal Information is not disclosed to any person who has no right to receive it. We may also contact you to ask you for further information in relation to your request to speed up our response.
- f) **Time limit to respond:** We try to respond to all legitimate requests within 30 (thirty) days. Occasionally it could take us longer than 30 (thirty) days if your request is particularly complex or you have made a number of requests. In this case, we will notify you and keep you updated.

13) SUBCONTRACTORS

- a) We may authorise a third party (subcontractor) to process the Personal Information on our behalf. Where we use sub-contractors, we will:
 - i) enter into a written contract with the subcontractor that contains terms substantially the same as those set out in this Privacy Policy, in particular, in relation to requiring appropriate technical and organisational data security measures; and
 - ii) maintain control over all Personal Information we entrust to the subcontractor.
- b) We agree to select subcontractors carefully according to their suitability and reliability.
- c) A subcontractor within the meaning of this Privacy Policy shall not exist if we commission third parties with additional services, that are not an essential part of this Privacy Policy.
- d) Where the subcontractor fails to fulfil its obligations under such written agreement, we remain fully liable to you for the subcontractor's performance of its agreement obligations.

14) PERSONAL INFORMATION BREACH (WHERE OPENCOLLAB ACTS AS OPERATOR)

- a) OPENCOLLAB will without undue delay notify the Responsible Party if any Personal Information (of the Responsible Party or its Data Subject) is lost or destroyed or becomes damaged, corrupted, or unusable.
- b) OPENCOLLAB will without undue delay and where reasonably possible, after it has come to knowledge of OPENCOLLAB, notify the Responsible Party of:
 - i) any accidental, unauthorised or unlawful processing of the Personal Information; or
 - ii) any Personal Information breach.
- c) Where OPENCOLLAB becomes aware of a situation as described in (a) and/ or (b) above, it shall, without undue delay, also provide the Responsible Party with the following information:
 - i) description of the nature of (a) and/ or (b), including the categories and approximate number of both Data Subjects and Personal Information records concerned;
 - ii) the likely consequences of such an occurrence; and
 - iii) description of the measures taken or proposed to be taken to address (a) and/ or (b), including measures to mitigate its possible adverse effects.
- d) Immediately following any unauthorized or unlawful Personal Information processing or Personal Information breach, the parties will co-ordinate with each other to investigate the matter. OPENCOLLAB will reasonably co-operate with the Responsible Party in the Responsible Party's handling of the matter.
- e) OPENCOLLAB will not inform any Third party of any Personal Information breach without first obtaining the Responsible Party's prior written consent, except when required to do so by law.
- f) OPENCOLLAB agrees that the Customer has the sole right to determine:
 - i) whether to provide notice of the Personal Information breach to any Data Subjects, supervisory authorities, regulators, law enforcement agencies or others, as required by law or regulation, including the contents and delivery method of the notice; and
 - ii) whether to offer any type of remedy to affected Data Subjects, including the nature and extent of such remedy.
- g) The Responsible Party indemnifies OPENCOLLAB against any claim from the supervisory authorities or Data Subjects where the Responsible Party (Customer) refuses or neglects to provide the required notices.
- h) OPENCOLLAB will cover all reasonable direct expenses associated with the performance of the obligations under clause b), clause c) and clause d) unless the matter arose from the client's specific instructions, negligence, willful default or breach of this Policy or any contract or any Third party actions outside the reasonable control of OPENCOLLAB, in which case the Responsible Party will cover all reasonable expenses.

15) DEFINITIONS

- a) **Authorised Users** means those persons that have been appointed and authorised by OPENCOLLAB customers to access the OPENCOLLAB Services;
- b) **Consent** means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of Personal Information.
- c) **Data Subject** means the person to whom Personal Information relates that will be processed by OPENCOLLAB or a relevant third party.
- d) **Data Protection Legislation** means any and all applicable laws relating to the protection of personal data or Personal Information, including but not limited to POPI Act and GDPR;
- e) **GDPR** means the General Data protection Regulation (EU) 2016/679;
- f) **Legitimate Interest** means the interest of our business in conducting and managing our business to enable us to give you the best service/ product and the best and most secure experience. We make sure we consider and balance any potential impact on you (both positive and negative) and your rights before we process your Personal Information for our legitimate interests. We do not use your Personal Information for activities where our interests are overridden by the impact on you (unless we have your consent or are otherwise required or permitted to by law). You can obtain further information about how we assess our legitimate interests against any potential impact on you in respect of specific activities by contacting us.
- g) **Operator** means a party who processes Personal Information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of that Responsible Party.
- h) **Performance of Contract** means processing your data where it is necessary for the performance of a contract to which you are a party or to take steps at your request before entering into such a contract.
- i) **Personal Information** means information as defined in the Protection of Personal Information Act 4 of 2013 ([POPI Act](#) - Click on link to view).
- j) **Processing** means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including-
 - i) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
 - ii) dissemination by means of transmission, distribution or making available in any other form; or
 - iii) merging, linking, as well as restriction, degradation, erasure or destruction of information.
- k) **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.
- l) **Special Personal Information** means information that may be sensitive information, such as details about your race or ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about your health, and biometric information or criminal convictions and offences.
- m) **THIRD PARTIES**
 - i) **Internal third parties**: Other companies in the OPENCOLLAB Group (if any), acting as joint responsible parties or operators and who may also provide IT and system administration services and undertake leadership reporting.
 - ii) **External third parties**
 - (1) Authorised Users and/or Third parties as instructed by you under the service agreement between you and OPENCOLLAB, including but not limited to South African Revenue Services.
 - (2) Service providers acting as Operators who provide IT and system administration services.
 - (3) Service providers integrated as sub-contractors into the OPENCOLLAB services.
 - (4) OPENCOLLAB customers that make use of the OPENCOLLAB Services for the benefit of their own customers (Data Subjects);
 - (5) Professional advisers acting as operators or joint Responsible Parties, including lawyers, bankers, auditors and insurers who provide consultancy, banking, legal, insurance and accounting services.
 - (6) The Revenue Services, regulators and other authorities acting as operators or joint Responsible Parties who require reporting of processing activities in certain circumstances.
 - (7) Court of law or any other authority where we have an obligation under law to share your Personal Information.
 - (8) In the event that we sell or buy any business or assets, in which case we may disclose your Personal Information to the prospective seller or buyer of such business or assets.

END OF POLICY