

# **Silverbirch Privacy Policy (POPIA Act)**

Last revised on 27 May 2021

## **PROTECTION OF PERSONAL INFORMATION POLICY OF THE SILVERBIRCH RESTAURANT IN COMPLIANCE WITH THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 AND THE EUROPEAN GENERAL DATA PROTECTION REGULATIONS**

### **1. INTRODUCTION**

*The right to privacy is an integral human right recognised and protected in the South African Constitution and in the Protection of Personal Information Act 4 of 2013 (“POPIA”).*

*The new General Data Protection Regulation (“GDPR”) exists for the purpose of the protection of data privacy for all.*

*Simply put, this new law equates to South Africa’s Protection of Personal Information legislation.*

*A person’s right to privacy entails having control over his or her personal information and being able to conduct his or her affairs relatively free from unwanted intrusions. Given the importance of privacy, The Silverbirch is committed to effectively managing personal information in accordance with POPIA’s and the GDPR’s provisions.*

### **2. APPLICATION**

*The Policy applies to all of the Silverbirch’s electronic platforms, any Data Subjects, who access and make use of the aforementioned electronic platforms and all the Personal information collected by The Silverbirch and owned by the Responsible party. The contents of this policy are also, where necessary, applicable to the Responsible party.*

- **Data** **Subject**  
*This refers to the natural or juristic person to whom personal information relates, such as an individual client, customer or a company that makes use of The Silverbirch’s services.*
- **Operator**  
*An operator means an independent contractor who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of that party. The Silverbirch acts as an operator for various responsible parties.*
- **Responsible** **Party**  
*The responsible party is the entity that needs the personal information for a particular reason and determines the purpose of and means for processing the personal information. In this case, the Company to whom The Silverbirch renders services to is the responsible party.*

*The Silverbirch collects and stores personal information on behalf of the Responsible party and processes same on their behalf. The Silverbirch is in compliance with the provisions of POPIA and the GDPR.*

### **3. ACCOUNTABILITY**

*The Silverbirch will ensure that the provisions of POPIA and the guiding principles outlined in this policy are complied with through the encouragement of desired behaviour. However, The Silverbirch will take appropriate sanctions, which may include disciplinary action, against those individuals who through their intentional or negligent actions and/or omissions fail to comply with the principles and responsibilities outlined in this policy.*

#### **4. COLLECTION OF PERSONAL INFORMATION**

*The Silverbirch collects the following personal information on behalf of the Responsible Party:*

- *Name;*
- *Telephone number;*
- *Email address;*
- *Booking history;*

*The Silverbirch may require additional personal information in the future and will notify the data subject should they do so and amend the policy accordingly.*

#### **5. PROCESSING OF PERSONAL INFORMATION**

*The Silverbirch will ensure that personal information under its control is processed:*

- *in a fair, lawful and non-excessive manner, and*
- *only with the informed consent of the data subject, and*
- *only for a specifically defined purpose.*

*The Silverbirch processes personal information on behalf of the Responsible party for the purpose of online reservations; the online ordering platforms, ticketing, vouchers and for marketing purposes as determined by the Responsible party.*

*The Responsible party will be responsible for the processing of personal data where the data subjects contact them telephonically to make reservations.*

*The Silverbirch will under no circumstances distribute or share personal information between separate legal entities, associated organisations or with any individuals that are not directly involved with facilitating the purpose for which the information was originally collected. Where applicable, the data subject must be informed of the possibility that their personal information will be shared with other aspects of the Silverbirchs business and be provided with the reasons for doing so.*

#### **6. RIGHTS OF DATA SUBJECTS**

*The Silverbirch will ensure that its clients and customers are made aware of the rights conferred upon them as data subjects. In addition of being recorded herein the data subjects will be notified of their rights in the Silverbirch's terms and conditions contained online.*

*The Silverbirch will ensure that it gives effect to the following seven rights.*

- ***The Right to Access Personal Information*** *The Silverbirch recognises that a data subject has the right to establish whether the company holds personal information related to him, her or it including the right to request access to that personal information.*
- ***The Right to have Personal Information Corrected or Deleted*** *the data subject has the right to request, where necessary, that his, her or its personal information must be corrected or deleted where The Silverbirch is no longer authorised to retain the personal information.*
- ***The Right to Object to the Processing of Personal Information*** *the data subject has the right, on reasonable grounds, to object to the processing of his, her or its personal information. In such circumstances, The Silverbirch will give due consideration to the request and the requirements of POPIA.*

- *The Silverbirch may cease to use or disclose the data subject's personal information and may, subject to any statutory and contractual record keeping requirements, also approve the destruction of the personal information.*
- **The Right to Object to Direct Marketing**  
*The data subject has the right to object to the processing of his, her or its personal information for purposes of direct marketing by means of unsolicited electronic communications.*
- **The Right to Complain**  
*The data subject has the right to submit a complaint regarding an alleged infringement of any of the rights protected under POPIA and to institute civil proceedings regarding the alleged non-compliance with the protection of his, her or its personal information. The Silverbirch will assist with the complaint procedure against the responsible party, and the Silverbirch will use its best endeavours to assist in resolving the dispute as speedily as possible.*
- **The Right to be Informed**  
*The data subject has the right to be notified that his, her or its personal information is being collected by The Silverbirch. The data subject also has the right to be notified in any situation where The Silverbirch has reasonable grounds to believe that the personal information of the data subject has been accessed or acquired by an unauthorised person. As an operator The Silverbirch will notify the responsible party immediately should they suspect a breach and / or unauthorised access to personal information.*

## **7. RECORD**

*The Silverbirch keeps an appropriate record of all personal information.*

*Record means any recorded information, regardless of form or medium, including any of the following:*

- *writing of any material;*
- *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;*
- *label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;*
- *book, map, plan, graph or drawing;*
- *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*

## **8. AGREEMENT TO BE BOUND AND CONSENT TO PROCESS**

*By making use of The Silverbirch's services and accessing The Silverbirch's electronic platforms, the Data Subject and Responsible parties:*

- *acknowledge that they have read and understood the policy and related provisions;*
- *agrees to be bound by this policy; and*
- *gives the Silverbirch consent to process and further process the required Personal Information for the required purpose, in accordance with this policy.*

## **9. SECURITY OF PERSONAL INFORMATION**

- *The Silverbirch is committed to protecting personal information from misuse, loss, theft, unauthorized access, modification, or disclosure by using electronic and physical defences.*
- *The Silverbirch will manage the security of its filing system to ensure that personal information is adequately protected. To this end, security controls will be implemented in order to minimise the risk of loss, unauthorised access, disclosure, interference, modification or destruction.*
- *The Silverbirch server is managed and stored with a third party, who is compliant with the provisions for storing and processing personal information. Third-party service providers will be required to enter into service level agreements with The Silverbirch where both parties pledge their mutual commitment to POPIA and the lawful processing of any personal information pursuant to the agreement.*
- *The Silverbirch ensures that all electronic records comprising of personal information are securely stored and made accessible only to authorised individuals.*
- *All new employees will be required to sign employment contracts containing contractual terms for the use and storage of employee information. Confidentiality clauses will also be included to reduce the risk of unauthorised disclosures of personal information.*
- *All existing employees will, after the required consultation process has been followed, be required to sign an addendum to their employment containing the relevant consent and confidentiality clauses.*
- *A data subject may request the correction or deletion of his, her or its personal information held by The Silverbirch. The Silverbirch will ensure that it provides a facility for data subjects who want to request the correction or deletion of their personal information.*
- *Employees and other persons acting on behalf of the organisation will under no circumstances:*
  - *Process or have access to personal information where such processing or access is not a requirement to perform their respective work-related tasks or duties.*
  - *Save copies of personal information directly to their own private computers, laptops or other mobile devices like tablets or smart phones. All personal information must be accessed and updated from The Silverbirch's central database or a dedicated server.*
  - *Share personal information informally. In particular, personal information should never be sent by email, as this form of communication is not secure. Where access to personal information is required, this may be requested from the relevant line manager or the Information Officer.*
  - *Transfer personal information outside of South Africa without the express permission.*
- *Employees and other persons acting on behalf of The Silverbirch are responsible for:*
  - *Keeping all personal information that they come into contact with secure, by taking sensible precautions and following the guidelines outlined within this policy.*
  - *Ensuring that personal information is held in as few places as is necessary. No unnecessary additional records, filing systems and data sets should therefore be created.*
  - *Ensuring that personal information is encrypted prior to sending or sharing the information electronically. The IT Manager will assist employees and where required, other persons acting on behalf of The Silverbirch, with the sending or sharing of personal information to or with authorised external persons.*
  - *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. Passwords must be changed regularly and may not be shared with unauthorised persons.*
  - *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 removable storage medias such as external drives, CDs or DVDs that these are kept locked away securely when not being used.*
- *Ensuring that where personal information is stored on paper, that such hard copy records are kept in a secure place where unauthorised people cannot access it. For instance, in a locked drawer of a filing cabinet.*
- *Ensuring that where personal information has been printed out, that the paper printouts are not left unattended where unauthorised individuals could see or copy them. For instance, close to the printer.*
- *Taking reasonable steps to ensure that personal information is stored only for as long as it is needed or required in terms of the purpose for which it was originally collected. Where an employee, or a person acting on behalf of The Silverbirch, becomes aware or suspicious of any security breach such as the unauthorised access, interference, modification, destruction or the unsanctioned disclosure of personal information, he or she must immediately report to the appropriate person.*

## **10. THIRD PARTY PROCESSING**

*The Silverbirch uses many third party services for the management and storage of data, for email and SMS communication and other tasks involving personal information. We have conducted due diligence and these third party processors are all fully compliant with the relevant provisions of POPIA and GDPR. Procedures and safeguarding measures are in place to secure, encrypt and maintain the integrity of the data.*

## **11. RETENTION OF PERSONAL INFORMATION**

*The Silverbirch shall retain personal information for as long as it is necessary to fulfil the purpose for which it was collected where after it shall be deleted. The criteria The Silverbirch uses to determine retention periods includes whether:*

- *The Silverbirch is under contractual or other obligations to retain personal data;*
- *Personal information is needed to maintain business records.*

## **12. DIRECT MARKETING**

*One can choose whether to receive marketing communications from The Silverbirch in respect of the Responsible party and for The Silverbirch.*

*The Silverbirch shall not avail your personal information to unaffiliated third parties for direct marketing purposes or otherwise make personal information commercially available to any third party, unless one has provided consent to it.*

*Should one wish to opt out of receiving such marketing, they will be given the option to do so, alternatively they can contact The Silverbirch.*

*Where The Silverbirch uses personal data for the purposes of their own marketing and not that of the Responsible party, they warrant that they are compliant with all appropriate provisions of the POPIA and the GDPR.*

## **13. DISCIPLINARY ACTION**

*Where a POPI complaint or a POPI infringement investigation has been finalised, The Silverbirch may recommend any appropriate administrative, legal and/or disciplinary action to be taken against any employee reasonably suspected of being implicated in any non-compliant activity outlined within this policy. In the case of ignorance or minor negligence, The Silverbirch will undertake to*

*provide further awareness training to the employee. Any gross negligence or the wilful mismanagement of personal information, will be considered a serious form of misconduct for which The Silverbirch may summarily dismiss the employee. Disciplinary procedures will commence where there is sufficient evidence to support an employee's gross negligence. Examples of immediate actions that may be taken subsequent to an investigation include: A recommendation to commence with disciplinary action. A referral to appropriate law enforcement agencies for criminal investigation. Recovery of funds and assets in order to limit any prejudice or damages caused.*

#### **14. CHANGES TO POLICY**

*The Silverbirch may update this policy from time to time. In the event of an update, The Silverbirch shall post the revised version, with an updated revision date.*

For and on behalf of The Silverbirch Restaurant

Corrado Tomassini

011 792 5714