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# MEGCHEM

Holdings (Pty) Ltd.

BMS-L2-POPI  
Revision 01

**PROTECTION OF PERSONAL INFORMATION  
ACT, No 4 OF 2013 – PRIVACY POLICY**



## PROTECTION OF PERSONAL INFORMATION ACT, No 4 OF 2013 – PRIVACY POLICY

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#### Notes:

- References to documents and forms are to the latest revision except if stated otherwise
- Documents and forms are available in Laserfiche BMS [Documents](#)

## **PROTECTION OF PERSONAL INFORMATION ACT, No 4 OF 2013 – PRIVACY POLICY**

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### **1 INTRODUCTION AND OBJECTIVE**

#### **1.1 The purpose of this policy is to enable MegChem Holdings to:**

- 1.1.1 Comply with the law in respect of the data it holds about individuals
- 1.1.2 Follow good practice
- 1.1.3 Protect MegChem Holdings staff and other individuals
- 1.1.4 Protect MegChem Holdings from the consequences of a breach of its responsibilities

#### **1.2 This policy applies to information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person but is not limited to:**

- 1.2.1 Contact information – telephone number, email address etc.
- 1.2.2 Private correspondence
- 1.2.3 Biometric information – blood group etc.
- 1.2.4 Demographic information – age, gender, race, date of birth, ethnicity etc.
- 1.2.5 Opinions of and about a person or group
- 1.2.6 History – employment, financial information, medical history, criminal history as well as educational history

#### **1.3 Policy statement: MegChem Holdings will:**

- 1.3.1 Comply with both the law and good practice
- 1.3.2 Respect individuals' rights
- 1.3.3 Be open and honest with individuals whose data is held
- 1.3.4 Provide training to staff who handle personal data

#### **1.4 MegChem Holdings recognises the first priority under the POPI Act:**

- 1.4.1 Keep the information securely and in the right hands
- 1.4.2 Retain good quality information

#### **1.5 The second priority:**

Is to ensure the legitimate concerns of individuals about the ways their data is being used is taken into account, MegChem Holdings will be open and transparent and will seek to give individuals as much choice as possible and be reasonable over what data is held and how it will be used

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### **1.6 MegChem Holdings has identified the following potential key risks, which this policy is designed to address:**

- 1.6.1 Breach of confidentiality – information being given out inappropriately
- 1.6.2 Insufficient clarity about the uses and range to which the personal information/data is going to be used and therefore not informing the data subject correctly
- 1.6.3 Failure to get consent from data subject
- 1.6.4 Breach of security – unauthorised access
- 1.6.5 Possible harm to an individual if personal information/ data is not up to date

## **2 SCOPE**

This Scope applies to all departments in MegChem Holdings and its subsidiaries, working with personal information as defined in 1.2 above.

The scope of this document excludes the Company's operations outside the Republic of South Africa and will serve to provide a reference regarding the records held by the Company at its Registered Office and various operations within the borders of the Republic of South Africa.

## **3 ABBREVIATIONS**

- 3.1 "POPI" Protection of Personal Information Act no 4 of 2013
- 3.2 "PAIA" Promotion of access to information Act no 2 of 2002

## **4 DEFINITIONS**

- 4.1 Data Subject: - individual natural person or juristic persons
- 4.2 Special information: - Religious beliefs, health information, biometric information, Criminal records, records of children.

## **5 REFERENCES (Internal Procedures complying with POPI)**

- 5.1 BMS-6.8-005 Debtors Procedure - MegChem
- 5.2 LQMS-DP-01 Debtors Procedure - SecMet
- 5.3 BMS-6.3-015 Policy on the use of Encryption – MegChem Holdings
- 5.4 BMS-6.3-016 Policy System Access Control – MegChem Holdings
- 5.5 BMS-VDB-QUOTATION -MegChem
- 5.6 BMS-EM-QUOTATION- MegChem
- 5.7 BMS-EI-QUOTATION- MegChem

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- 5.8 BMS-MEASURE-QUOTATION- MegChem
- 5.9 BMS-ME-QUOTATION- MegChem
- 5.10 BMS-ME-QUOTATION-SAS- MegChem
- 5.11 BMS-PM-QUOTATION-SASOL-SASTECH- MegChem
- 5.12 BMS-WC-QA- MegChem
- 5.13 BMS-WC-QO- MegChem
- 5.14 BMS-7.2-001B Specimen Contract – MegChem
- 5.15 BMS-02-6.0-002- (Information System Infrastructure and Enterprise Software)- MegChem
- 5.16 BMS-6.2-011 (Conditions of Service)- MegChem
- 5.17 Contract of Employment- MegChem

### **6 ROLES AND RESPONSIBILITIES**

- 6.1 All records required by this policy and the POPI ACT including records such as consent forms, record retention and destroying of records after retention period etc., shall be controlled as follow:
  - 6.1.1 Personnel Records – HR department
  - 6.1.2 Financial Records – Finance department
  - 6.1.3 Information Systems records – IS department and/or EDSNext developers
  - 6.1.4 Document and record control and archiving – Document Control Centre

### **7 POLICY WITH REGARD TO CONFIDENTIALITY AND ACCESS TO INFORMATION**

- 7.1 The MegChem Holdings will protect the confidentiality of information provided to it by third parties, subject to the Company's obligations to disclose information in terms of any applicable law or regulation or a court order requiring disclosure of information
- 7.2 If access is requested to a record that contains information about a third party, the Company is obliged to attempt to contact such third party to inform him/her/it of the request
- 7.3 The Company will give the third party an opportunity of responding by either consenting to the access or by providing reasons why the access should be denied. In the event that the third-party furnishing reasons for the support or denial of access, the Information Officer/Deputy Information Officer will consider these reasons in determining whether access should be granted to the requestor or not

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### 8 PARTICULARS IN TERMS OF SECTION 51 OF THE PAIA ACT

- 8.1 The Act seeks to advance a culture of transparency and accountability in both public and private bodies
- 8.2 The legislation was enacted as a direct response to Section 32(2) of the Constitution of South Africa – the right of access to information – which requires that the Government implements laws in an effort to make information pertaining to public and private bodies more accessible to all
- 8.3 The Act gives effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights
- 8.4 Where a request is made in terms of the PAIA Act, the body to whom the request is made is obliged to release the information, except where the PAIA Act expressly provides that the information may or must not be released. One of the main requirements specified in the PAIA Act is the compilation of a manual that provides information on both the types and categories of records held by the public or private body
- 8.5 In terms of the PAIA Act, MegChem Holdings is regarded as a “private body” and therefore the requirements regarding access must be in compliance with the provisions of the PAIA Act relevant to private bodies and more in particular Section 51 of the PAIA Act
- 8.6 In compliance with Section 51 of the PAIA Act this document sets out the following details:
  - 8.6.1 The MegChem Holdings contact details including, physical and postal addresses, telephone and fax PAIA and POPI Manual
  - 8.6.2 Categories of information held by MegChem Holdings that is available without a person having to formally request such details in terms of the PAIA Act
  - 8.6.3 Categories of information held by the MegChem Holdings that is available in accordance with other legislation and which, subject to the PAIA Act, may be made available by the MegChem Holdings on receipt of and consideration of a formal request, made in terms of the PAIA Act
  - 8.6.4 Sufficient information to facilitate a request for access to records and a description of the subjects on which records are available from the MegChem Holdings

### 9 SUBJECTS AND CATEGORIES OF RECORDS HELD BY the MEGCHEM HOLDINGS:

The list(s) below depict records of information which the MegChem Holdings has available in terms of laws applicable to the Company and its Subsidiary companies (jointly referred to as the Company):

- Applicable Statutory Documents
- Policies and Procedures
- Code of Conduct
- Records relating to the appointment of directors and auditor
- Health & Safety Records
- Share Certificates
- Legal Compliance Records

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- Share Register and other statutory registers
- Memoranda of Incorporation
- Accounting Records
- Leases
- Annual Financial Statements
- PAYE Records
- Audit Reports
- Payment Terms
- Banking Records Bank Statements
- Records of payments made to SARS on behalf of employees
- Business Plan and Budgets
- Tax Records and Returns
- Debtors and Creditors Statements and Invoices
- Transaction Records
- Documents issued to employees for income tax purposes
- Treasury Dealing
- Electronic banking records
- All other statutory compliances:
  - Income Tax Returns
  - Skills Development Levies Returns
  - UIF Returns
  - VAT Returns
- Workmen's Compensation Returns
- Personnel Documents and Records:
  - CV's, application details
  - Job Profiles
  - Disciplinary Code and Records
  - Leave Records
  - Disciplinary Procedures and CCMA matters
  - Letters of Appointment and Employment Contracts
  - EE Submissions
  - Organisational Structures
  - Employee Benefit Records
  - PAYE Returns

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- Employment Contracts
- Payroll Reports
- Employee FSCA Compliance Documents
- Performance Records
- Employee Information
- Personal Records
- Employee Relations
- Psychometric Assessments
- Employee Termination documentation
- Qualifications
- Forms and Applications
- SDL Returns
- Grievance Procedure
- Training and Development
- Group HR Policies and Procedures
- UIF Returns
- IRP5's
- Information Technology and Infrastructure
- Disaster Recovery Policy and Plans
- Root Cause Analyses
- Facilities
- Security Access
- ICT Policies, Standards, Procedures and Templates
- Software Licenses
- Information, Communication and Technology Policies
- Supplier Agreements/ Vendor Agreements
- Intellectual property pertaining to solutions and products developed
- Legal: Agreement and Contracts
- Health and Safety Records
- Proposals and Tenders
- Marketing Brochures
- Business Interactions with other entities:
  - Agreements with third parties (Clients, Vendors and Suppliers)
  - Licensing and Support Agreements



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- Customer Satisfaction Surveys
- Service Level Agreements
- Insurance Declarations
- Insurance Claim Files
- Insurance Policies
- Regulatory:
- Applications
- Registrations
- Licenses

### 10 RECORDS THAT ARE NOT AUTOMATICALLY AVAILABLE

Records of MegChem Holdings which are not automatically available must be requested in terms of the procedure set out and which may be subject to the restrictions and right of refusal to access as provided for in the PAIA Act.

The requester must complete the prescribed form application form attached hereto as Annexure A marked Form A and submit the form to the relevant department assisted by the Information Officer/Deputy Information Officer of the Company.

The prescribed form must be electronically filled in with sufficient particulars to at least enable the Information Officer of the Company to identify: (a) record or records requested; (b) identity of the requester; (c) which form of access is required, if the request is granted; and (d) postal address, telephone number and email address of the requester.

The requester must state that he/she requires the information to exercise or protect her/his right and clearly state what the nature of the right is to be exercised or protected. In addition, the requester must clearly specify why the records are necessary to exercise or protect such a right.

Such request must be processed within 30 (thirty) days after the request has been received. The requester shall be informed whether the access has been granted or denied within 30 (thirty) days of receipt of the request and give notice with reasons to that effect.

The 30 (thirty) day period within which MegChem Holdings has to decide whether to grant or refuse the request, may be extended for a further period of not more than 30 (thirty) days if the request is for a vast amount of information, or the information cannot reasonably be obtained within the original 30 (thirty) day period. The Information Officer/Deputy Information Officer will notify the requester in writing should an extension be sought.

If the request for access is granted, the Information Officer/Deputy Information Officer of MegChem Holdings must advise the requestor:

- a. the access fee (if any) to be paid upon access
- b. the form in which access will be given

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- c. that the requester may lodge an application with a court against the access fee to be paid or the form of access granted, and the procedure, including the period allowed, for lodging the application

If the request for access is refused, the Information Officer/Deputy Information Officer of the Company must:

- a. state adequate reasons for the refusal, including the provisions of this Act relied on
- b. exclude, from any such reasons, any reference to the content of the record
- c. state that the requester may lodge an application with a court against the refusal of the PAIA and POPI Manual, and the procedure (including the period) for lodging the application

In terms of Section 54 of the PAIA Act, if all reasonable steps have been taken to find the record requested and there are reasonable grounds to believe that the record is in possession of MegChem Holdings but cannot be found, and if it does not exist, then the Information Officer/Deputy Information Officer of MegChem Holdings must notify the requester that it is not possible to give access to that record. If after notice is given, the record in question is found, the requester must be given access thereto unless the ground for the refusal of access exists. If the request is declined for any reason the notice must include adequate reasons for the decision, together with the relevant provisions of the PAIA Act relied upon and provide the procedure to be followed should the requester wish appeal the decision.

**11 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS - SECTION 62-69 OF THE PAIA ACT**

- 11.1 MegChem Holdings has the right to refuse access to information on one or more of the following grounds: Mandatory protection of the privacy of a third party who is a natural person, if such disclosure would involve the unreasonable disclosure of Personal Information about a third party, including a deceased individual, subject to the provisions of section 63 (2)
- 11.2 Mandatory protection of the commercial information of a third party, if the record contains:
  - 11.2.1 Trade secrets of that party
  - 11.2.2 Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interest of that third party
  - 11.2.3 Information disclosed in confidence by a third party, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition
  - 11.2.4 Mandatory protection of confidential information of third parties if it is protected in terms of any agreement
- 11.3 Mandatory protection of certain confidential information of third party, where the head of a private body must refuse a request for access to a record of the body if its disclosure would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement
- 11.4 Mandatory protection of the safety of individuals and the protection of property, where such disclosure could endanger the life or physical safety of an individual, or prejudice or impair the security of:

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- 11.4.1 a building, structure or any system
- 11.4.2 a means of transport, or
- 11.4.3 any other property
- 11.5 Mandatory protection of records, which would be regarded as privileged from production in legal proceedings
- 11.6 Commercial information of private body, in that a request for access to a record may be refused if the record contains:
  - 11.6.1 trade secrets, financial, commercial, scientific or technical information of the institution, which disclosure, could likely cause harm to the financial or commercial interest of the institution
  - 11.6.2 Information which, if disclosed could prejudice or put the institution at a disadvantage in negotiations or commercial competition
  - 11.6.3 A computer program which is owned by the institution and which is protected by copyright
- 11.7 Mandatory protection of research information of the institution. A request will be refused if this disclosure would disclose the identity of the institution, the researcher or the subject matter of the research and would place the researcher at a serious disadvantage
- 11.8 Mandatory disclosure in public interest. Despite any of the protections mentioned above, the Director of MegChem Holdings shall grant a request for access to a record if:
  - 11.8.1 the disclosure of the record would reveal evidence of-
    - 11.8.1.1 a substantial contravention of, or failure to comply with, the law; or
    - 11.8.1.2 imminent and serious public safety or environmental risk; and
  - 11.8.2 the public interest in the disclosure of the record clearly outweighs the harm contemplated in the provision in question

## **12 APPEAL – REMEDIES**

- 12.1 MegChem Holdings does not have an internal appeal procedure. As such, the decision made by the Information Officer /Deputy Information Officer of the Company is final and requesters will have to exercise such external remedies at their disposal if the request for information is refused and the requester is not satisfied with the answer supplied by the Deputy Information Officer of MegChem Holdings
- 12.2 If a requester is aggrieved by the refusal of the Information Officer /Deputy Information Officer to grant a request for a record, the requester may, within thirty (30) days of notification of the Information Officer /Deputy Information Officer's decision, apply to court for appropriate relief. The court will review the request and decide whether in fact the Information Officer /Deputy Information Officer of MegChem Holdings should give the requester the information requested or not. A court hearing an application in terms of the PAIA Act may grant any order that is just and equitable including orders:
  - 12.2.1 confirming, amending or setting aside the decision which is the subject of the application

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12.2.2 requiring the Information Officer /Deputy Information Officer of the Company the head of a private body to take such action or to refrain from taking such action, as the court considers necessary within the period mentioned in the court order

12.2.3 granting an interdict, interim or specific relief, a declaratory order or compensation; or

12.2.4 granting an order as to costs

### **13 METHOD**

#### **13.1 Conditions Required by the POPI Act and Processing Principles**

13.1.1 Accountability - Condition 1 in terms of the Act Section 5, Part B, POPI Act:

MegChem Holdings will ensure that the information processing principles are adhered to. The appointment of a responsible person(s) to ensure that these principals are adhered to.

13.1.1.1 Information Officer Responsibilities:

Developing, maintaining the POPI Policy which addresses all relevant provisions of the POPI Act but not limiting to the following:

13.1.1.2 Reviewing the POPI Act and updates as published

13.1.1.3 Ensuring the POPI Act induction training takes place for staff working with personal information as defined in 1.2

13.1.1.4 Ensuring that internal and external Privacy notices are developed

13.1.1.5 Handling data subjects access requests

13.1.1.6 Approving disclosures of personal data

13.1.1.7 Approving contracts with Data operators

13.1.1.8 Ensuring that appropriate policies and controls are in place for ensuring the information quality of personal information

13.1.1.9 Ensuring appropriate Security Safeguards are in place

13.1.1.10 Handling all aspects of relationship with the regulator as foreseen in the POPI Act

13.1.1.11 Provide direction to any Deputy Information Officer when appointed

13.1.1.12 The Information Officer will be appointed by MegChem Holdings and the re-appointment or replacement and the need for any Deputy to assist the Information Officer will be reviewed on an annual basis

#### **13.2 Processing Restriction Condition 2 in Terms of the POPI Act Section 9-12**

13.2.1 Processing will be done lawfully, and personal information may only be processed if it is sufficient, relevant and not excessive given the purpose for which it is processed

13.2.2 MegChem Holdings will gain written consent where appropriate, alternatively a recording must be kept of verbal consent

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### **13.3 Specific Purpose Condition 3 in Terms of the POPI Act Section 13-14**

13.3.1 Personal information must be collected for a specific, defined and legal purpose in relation to a function or activity of MegChem Holdings

13.3.2 MegChem Holdings will establish retention periods for a least the following categories

13.3.2.1 Directors

13.3.2.2 Staff

13.3.2.3 Customers/ Clients

13.3.2.4 Suppliers/ Contractors

### **13.4 Further Processing Restrictions, Condition 4 in terms of the POPI Act Section 15**

13.4.1 This is where personal information of a third party is received and transferred to another responsible party for processing

### **13.5 Information Quality, Condition 5 in terms of the POPI Act Section 16**

13.5.1 MegChem Holdings will take reasonable steps to ensure that the personal information is correct, accurate not misleading and that it should be updated on a regular basis

13.5.2 IT Systems will be designed, where possible, to encourage and facilitate the entry of accurate data

13.5.3 Data on any individual will be held in as few places as necessary, and staff will be discouraged from establishing unnecessary data sets

13.5.4 Effective procedures will be in place so that all relevant systems are updated when information about any individual changes

13.5.5 MegChem Holdings will review and update personal information on an annual basis

13.5.6 Archived electronic records are stored securely for 7 years

13.5.7 Paper record achieving take place at SecMet site, certificate of destruction will be obtained of each batch of archived documents destroyed

### **13.6 Openness, Condition 6 in terms of the POPI Act Chapter 17 -18**

13.6.1 Certain prescribed information must be provided to the data subject by MegChem Holdings, including the information collected, the name and address of the responsible party, the purpose for which the information is collected and whether the information provided by the data subject is voluntarily or mandatory

13.6.2 Staff will be informed through this policy

13.6.3 Customers and other interested parties through Privacy policy

13.6.4 When data is collected, the number of mandatory fields will be kept to a minimum and data subjects will be informed which fields are mandatory and why

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### **13.7 Security Safeguards, Condition 7 in terms of POPI Act Section 19-22**

13.7.1 MegChem Holdings will protect the integrity of the personal information in its possession and under its control by ensuring that measures are in place to prevent loss of, damage to or unauthorized destruction of personal information

13.7.2 Risks Identified by MegChem Holdings

13.7.2.1 Staff with access to personal information could misuse it

13.7.2.2 Staff may be tricked into giving away information, either about customers/ colleagues through social engineering

13.7.2.3 Access to MegChem Holdings computer System will be controlled by function, and personal information will have limited access

13.7.2.4 MegChem Holdings will ensure that adequate steps are taken to provide business continuity in the event that information is accessed illegally

### **13.8 Data subject participation, Condition 8 in terms of the POPI Act Section 23-25:**

13.8.1 A data subject has the right to: request personal information that MegChem Holdings holds for free

13.8.2 update or destroy personal information that is incorrect, irrelevant, misleading or unlawful

13.8.3 destroy a record of personal information that is unnecessary for MegChem Holdings to keep

13.8.4 Any access request will be handled by the Information Officer/Deputy Information Officer in compliance with the POPI Act and in compliance with the PAIA Act

13.8.5 Subject access request must be in writing – all staff are required to pass on anything which might be a subject access request to the information officer/Deputy Information Officer.

13.8.6 If an individual making a subject access request is not known to the Information Officer/Deputy Information Officer their identity will be verified before handing over any information

13.8.7 Fees for access to personal information will be handled in compliance with the PAIA Act

13.8.8 Processing of Special personal information POPI Act section 26-33

13.8.9 MegChem Holdings will process special information by means of a general authorisation alternatively a specific authorisation for the different types of personal information

## **14 PROCESSING PERSONAL INFORMATION OF CHILDREN POPI ACT SECTION 34-35**

14.1 This information applies to individuals who are under 18 years of age

14.2 General authorisation is required from adult/ guardian

14.3 Prior Authorisation POPPI Act section 57-59

14.4 MegChem Holdings will adhere to the process of Prior Authorisation required in terms of section 57-59

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- 14.5 Direct Marketing, Directories and Automated Decision Making POPI Act section 69-71
- 14.6 MegChem Holdings data collecting which might be used for marketing purposes, these purposes will be made clear to the data subject and an option given opt in or out
- 14.7 Electronic contact, emails, email addresses are collected and any future use for marketing is identified and the provision of the address made optional

**15 TRANS-BORDER INFORMATION FLOWS POPI ACT SECTION 72**

- 15.1 Compliance with the requirements of section 72 will be achieved through contractual agreements with third parties if the need arises.

**16 STAFF TRAINING AND ACCPETANCE OF RESPONSIBILITIES POPI ACT CHAPETER 5**

- 16.1 Information for the staff is contained in this policy document
- 16.2 MegChem Holding will make sure staff who have access to personal information will have their responsibilities outlined in respective procedures

**17 FORMS**

- 17.1 Annexure A: Request to Access Records Section 51
- 17.2 Annexure B: Information Officer Part A, Deputy Information Officer Part B, Body Responsible Party Part C, Declaration Part D, Information Required for Statistical Purposes Part E