

COMPLIANCE MANUAL
FOR THE IMPLEMENTATION OF THE
PROTECTION OF PERSONAL INFORMATION ACT, 4 of 2013 (“POPIA”)
AND SECTIONS 14 AND 51 OF THE PROMOTION OF ACCESS TO INFORMATION
ACT, 2 OF 2000 (“PAIA”)

1. PURPOSE

1.1 In compliance with POPIA:

- ❖ State the purpose for which personal information of data subjects may be processed.
- ❖ State the categories of personal information relating to such Data Subjects.
- ❖ Provide a description of the categories of Data Subjects for whom the Company processes personal information, as well as the categories of personal information relating to such Data Subjects.
- ❖ State the recipients to whom personal information may be supplied.
- ❖ Outline the procedure that a data subject may follow in terms of PAIA to request for information and the manner in which a request for access will be facilitated by _____.

2. DEFINITIONS AND INTERPRETATION

In this Policy, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

“Act” means the Protection of Personal Information Act, Act No. 4 of 2013 (“POPIA”)

"Company" means _____], registration number _____, a private company duly registered and incorporated in the Republic of South Africa;

“Contractor” means any person who is contracted to provide services to the Company, excluding employees and “service provider” shall have corresponding meaning.

“Data subject” means the person to whom personal information relates.

“Employee means a person who is employed by the Company.

“Information Officer” means the designated compliance officer appointed by the Company to address compliance with the Act, from time to time.

PAIA means Promotion of Access to Information Act, 2 of 2000

"Policy" means this Protection of Personal Information (“POPI”) policy contained in this manual and any addendum thereto as may be amended from time to time.

“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.

3. COMPANY OVERVIEW

The Company is primarily engaged in the manufacturing of

The following is provided in compliance with Sections 14 and 51 of PAIA.

COMPANY DETAILS

The details of _____ (Company name) (Section 51(1)(a))

Chief Executive Officer / Managing Director (Complete the Title of the head of the company)	(Complete person’s name and surname)
Physical Address of company	
Postal Address of company	
Telephone number of company	

Email of company	
Website of company	

The contact details of the Information Officer are as follows:

Information Officer Name	
Physical Address	
Postal Address	
Telephone Number	(Provide Company tel. number – landline)
Email Address	

4. **GUIDE FOR USE OF PAIA REQUESTS FOR INFORMATION**

(Section 51 (1) (b))

The South African Human Rights Commission (SAHRC) is responsible for compiling a guide that will facilitate the use of PAIA for requests for information. The guide is available from the South African Human Rights Commission.

Requests and queries can be directed to:

The South African Human Rights
Commission: PAIA Unit

Address:

Forum 3 Braampark Offices 33
Hoofd St.
Braamfontein

2017

Phone: +27 (11) 877-3600

Fax: +27 (11) 403-0625

Email: PAIA@sahrc.org.za

Website: www.sahrc.org.za

5. RECORDS AUTOMATICALLY AVAILABLE (Section 51 (1) (c))

5.1 Certain company records are available without requiring requests in terms of the PAIA. This information may be viewed, collected, purchased or copied (certain fees will apply if copied by the company) at the offices of the company or on the company website.

- ❖ List info that is automatically available / can be accessed by general public without a request for such information for example information available on the company website or other examples as indicated below:
 - B-BBEE certificate
 - Product / service information
 - Company Directory
 - Marketing brochures
 - Names and contact details of certain clients displayed on company website.
 - Etc.....

- ❖ List info that is automatically available / can be accessed by employees without a request for such information for example:
 - Employee records are available to the employee whose information it is.
 - Records of disciplinary hearings and related information are available to the employee concerned.
 - Company policies and procedures.

- ❖ No notices relating to _____ (insert company name) have been published by the Minister in terms of Section 52(2) of the Act.

6. LIST OF APPLICABLE LEGISLATION

(Section 51 (1) (d))

- ❖ Certain records are held by the company in terms of legislation other than PAIA. The specific records that are available in terms of the legislation are set out in the applicable legislation. Legislation provides that certain

persons specified in the relevant legislation may access to specified records, upon request. The legislation is the following:

- ❖ Banks Amendment Act No 20 of 2007
- ❖ Basic Conditions of Employment Act No.75 of 1997
- ❖ Board Based Black Economic Empowerment Act, No 53 of 2003
- ❖ Companies Act No. 71 of 2008 (as amended)
- ❖ Compensation for Occupational Injuries and diseases Act, No 130 of 1993
- ❖ Competition Act No. 89 of 1998
- ❖ Consumer Affairs (Unfair Business Practices) Act No. 71 of 1988
- ❖ Consumer Protection Act No 68 of 2008
- ❖ Copyright Act No. 98 of 1978
- ❖ Customs and Excise Act No. 91 of 1964
- ❖ Debt Collectors Act No. 114 of 1998
- ❖ Employment Equity Act No. 55 of 1998
- ❖ Income Tax Act No. 58 of 1962
- ❖ Labour Relations Act No. 66 of 1995
- ❖ National Credit Act No 34 of 2005
- ❖ Occupational Health and Safety Act No 85 of 1993
- ❖ Patents Act No 57 of 1978
- ❖ Pension Funds Act No. 24 of 1956
- ❖ Promotion of Equality and Prevention of Unfair Discrimination Act, No 4 of 2000
- ❖ Protection of Personal Information Act No 4 of 2013
- ❖ Regulation of Interception of Communications and Provision of Communication- related Information Act No 70 of 2002
- ❖ Sale and Services Matters Act No. 25 of 1964
- ❖ Skills Development Levies Act No. 9 of 1999
- ❖ Skills Development Act No. 97 of 1998
- ❖ South African Revenue Services Act No 34 of 1997
- ❖ Trade Practices Act No. 76 of 1976
- ❖ Trademarks Act No. 194 of 1993
- ❖ Unemployment Contributions Act No. 4 of 2002
- ❖ Unemployment Insurance Act No. 63 of 2001
- ❖ Value Added Tax Act No. 89 of 1991.

7. SCHEDULE OF RECORDS HELD IN ACCORDANCE WITH OTHER LEGISLATION (Section 51 (1) (e))

- ❖ Statutory company information
 - Company Incorporation Documents
 - Register of directors.

- Register of shareholders.
 - Statutory returns to relevant authorities including Vat, workman's compensation, UIF, skills development levies.
- ❖ Finance and Accounting
 - Financial records
 - Bank account information
 - Salary information
 - Fixed asset register
 - Tax records
 - Debtors' and creditors' records
 - Insurance records
 - Auditors' reports
- ❖ Employee Records
 - Employee tax information
 - List of employees
 - Employment contracts
 - Collective agreements
 - Payroll records
 - Disciplinary Records
 - Conditions of employment and policies
 - Employee personal details
 - Employment equity plan
 - Information relating to prospective employees including personal information and application forms
 - Skills development plan
 - Disciplinary code and procedure
 - Grievance procedure
 - Internal policies and procedures regarding loans, smoking, use of company resources/facilities...etc.
- ❖ Marketing
 - Marketing brochures and other promotional records
- ❖ Clients
 - Client documentation including FICA documents
 - Credit information
 - Records of client details and information listed with credit bureaus.
 - Sales Records

- ❖ Suppliers
 - Suppliers lists
 - Details of suppliers including banking details
 - Agreements with suppliers
 - Transactional Records and supporting information
 - Support and maintenance agreements
 - IT programs including software license agreements

- ❖ Property
 - Asset registers
 - Lease agreements in respect of immovable property

8. ACCESS REQUEST PROCEDURE

(section 51(1)(e))

- ❖ Any request to access company records in terms of Section 50 of PAIA must be made on Form C (Attached as Annexure A??) as contained in the Regulations relating to the PAIA. Form C is available on the SAHRC website at www.sahrc.org.za.
- ❖ Form C must be completed in full and sufficient detail and must enable the company to identify the records requested, determine the identity of the requester, obtain contact details of the requester, have clarity as to the form of access that is required and an explanation of the reason.
- ❖ An application for access to a Record is subject to certain limitations if the requested Record falls within a certain category as specified within Chapter 4, part 3, of PAIA.
- ❖ If it is reasonably suspected that the Requester has obtained access to Records through the submission of materially false or misleading information, legal proceedings may be instituted against such a Requested.
- ❖ The Company will make a decision in relation to the request within 30 days of receipt of the request unless third parties are required to be notified or the 30-day period is extended as provided for in the PAIA.
- ❖ If after all reasonable steps have been taken, a record requested cannot be found, or if it does not exist, the Information Officer shall notify the requester by way of an affidavit or affirmation notify the Requester that it is not possible to provide access to the requested record.
- ❖ If a request is refused, the requester may apply to Court for an order compelling the records requested to be made available or for another appropriate order.

9 PAYMENT OF FEES

- ❖ The completed Access Request Form C must be submitted either via e-mail or physical delivery at the company offices and must be addressed to the Information Officer as indicated in Section 4 of this Manual.
- ❖ The fees for reproduction of a record as referred to in section 52(3) are as follows -
 - ❖ for every photocopy of an A4 size page or part thereof R _____
 - ❖ for every printed copy of an A4-size page or part thereof R _____
 - ❖ for a copy of a compact disc R _____
 - ❖ for a transcript of visual images for an A4 size page or part thereof R _____
 - ❖ for a copy of visual images R _____
 - ❖ for a transcript of an audio record, for an A4-size page or part thereof R _____
 - ❖ for a copy of an audio record R _____
- ❖ The request fee payable by a requester, other than a personal requester is R _____
- ❖ If the head of the company or the request liaison officer is of the opinion that six hours will be exceeded to search, reproduce and/or prepare the information requested, a deposit is payable equal to one-third of an amount of R _____ for each hour or part thereof, exceeding the six hours.
- ❖ This fee is not applicable to Personal Requesters (Data Subjects), referring to any person seeking access to Records that contain their personal information in terms of POPIA.

10 THIRD PARTY INFORMATION

- ❖ Where information is requested from the Company that relates to a third party, the Company is obliged to notify the third party of the request. This enables the third party the opportunity of responding by either consenting to the access or by providing reasons why the access should be denied.
- ❖ In the event of the third-party furnishing reasons for the support or denial of access, the Information Officer will consider these reasons in determining whether access should be granted, or not. If the Company grants the access to the requested information, the third party is entitled to approach Court in relation to such decision.

11 PROCESSING OF PERSONAL INFORMATION ACT, 4 of 2013 (“POPIA”)

11.1 PURPOSE OF POPIA

The Protection of Personal Information Act, 4 of 2013 (POPIA), regulates and controls the Processing of personal information relating to identifiable, living natural persons and, where applicable, existing juristic persons. Processing includes, the collection, receipt, recording, collation storage, updating or modification retrieval, use dissemination, merging, erasure or destruction of information.

In terms of POPIA, a Responsible Party has a legal duty to process a Data Subject’s (another person) personal information in a lawful, responsible manner and to protect privacy interests of Data Subjects.

11.2 DESCRIPTION OF CATEGORIES OF DATA SUBJECTS

The Company process personal information relating to categories of data subjects (persons) including, but not limited to, the following:

- ❖ Employees and job applicants
- ❖ Company clients
- ❖ Company Suppliers
- ❖ Contractors / service providers
- ❖ Users of mobile applications and Company website to enquire about services/products and related information, as well as buying and selling of goods
- ❖ Government departments including the Department of Employment and Labour, DTI, and SARS

11.3 PROCESSING OF PERSONAL INFORMATION

- ❖ The Company undertake to take reasonable steps to comply with POPIA at all times and to process personal information in a lawful manner.
- ❖ The Company will process information only for the purpose for which it is intended and in performance of the following:
 - For the performance of contracts with data subjects including employees, clients, suppliers and service providers.
 - To obtain personal information form a credit bureau or credit provider
 - To protect the Company’s and/or data subjects’ and/or a third-party legitimate interests, including to secure the integrity and confidentiality of personal information
 - For the purposes of attending to data subjects’ queries and requests

- For the purposes of performing the Company's internal operations, including production, rendering of required services, financial related activities including payroll administration, customer care activities and management of Human resources related activities.
 - For purposes of complying with legal requirements
- ❖ The Company undertakes to obtain consent to process personal information when consent may be required.
 - ❖ The Company will cease the processing personal information if the required consent is withdrawn, or if a legitimate objection is raised unless processing is necessary for conclusion or performance of a contract to which the Data Subject is a party or complies with an obligation imposed by law.
 - ❖ Personal information will be collected directly from the data subject whose information is required, unless:
 - Collection will not prejudice the legitimate interests of the data subject
 - To comply with an obligation imposed by law or for the conduct of proceedings in any Court or tribunal or it is not reasonably practical in the prevailing circumstances
 - Compliance will prejudice a lawful purpose of the collection or to avoid prejudice to the maintenance of the law by any public body
 - The information is contained in or derived from a public record, or
 - The data subject has consented to the collection of personal information from another source, or
 - ❖ Data subjects will be advised of the purposes of the collection of the personal information.
 - ❖ The Company undertake to take reasonable steps to ensure that the Personal Information is complete, accurate, not misleading and updated where necessary.

11.4 STORAGE AND RETENTION AND DESTRUCTION OF INFORMATION

- ❖ The Company will ensure that a Data Subject's Personal Information is securely stored electronically and/or retained in hard copy and securely stored electronically and/or in a secure venue.
- ❖ Personal information will, for operational reasons, only be accessible to a limited number of authorized employees and providers, including IT and security personnel, on a function responsibility specific basis.
- All such Personal Information will be kept and/or stored securely. The Company will ensure that regular audits regarding the safety and the security of all Data Subject's Personal Information are performed.

- Appropriate technical and organizational measures will be taken by the Company to ensure that Personal Information remains confidential and secure against unauthorized or unlawful processing and accidental loss or destruction or damage.
- The Company shall retain records of the personal information collected for the minimum period as required by law unless the data subject has furnished consent or instructed the Company to retain the records for a longer period.
- Once the purpose for which the Personal Information was held comes to an end and is no longer required, such Personal Information will be safely and securely archived for the required prescribed periods or longer period should this be required by the company. The company thereafter will ensure that such Personal Information is permanently destroyed.

11.5 ACCESS BY OTHERS AND CROSS BORDER TRANSFER

- ❖ The Company may have to disclose a Data Subject's Personal Information to other parties, including product or third-party service providers, the state and or governmental officials, third country or international service providers. This disclosure will be subject to an agreement between the company and the party to whom it is disclosing the Data Subject's personal Information which contractually obliges the recipient of this personal Information to comply with strict confidentiality and data security. Where personal information and related data is transferred to a third country or international organization, the Personal Information will only be transferred with the Data Subject's consent unless the third country or international organization has similar data privacy laws in place or where the recipient of the Personal Information is subject to obligations similar than those imposed by POPIA.

11.6 REQUEST PROCEDURE:

- ❖ The Data Subject may request, in writing, that the Company provide him/her/it, upon proof of identity, and free of charge, with the information held in relation to the Data Subject and/or a description of the personal information and/or the identity of any third party who may have access or had access to their personal information.
- ❖ The Data Subject who wishes to obtain personal information, other than own Personal Information, must make application for such in accordance with PAIA as described in paragraph 8 above.
- ❖ Subject to written request submitted to the Company or the Information Officer at the postal or physical address or electronic mail address set out in paragraph 3 of this Manual, a Data Subject may:
 - Request, in writing, that the Company provide him/her/it with Personal

Information, other than Personal Information relating to the Data Subject, held by the Company.

- Request the Company to update or rectify any inaccurate personal information.
- Object to processing and further processing of personal information by the Company.
- Withdraw consent to processing and further processing of personal information where consent was previously provided.
- Request the Company to delete or destroy personal information about the Data Subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, misleading or unlawfully obtained.

11.7 SECURITY SAFEGUARDS AND BREACHES

- ❖ Should it appear that the personal information of a Data Subject has been accessed or acquired by an unauthorized person, the Company will, as soon as reasonably possible, notify the Information Regulator and the relevant Data Subject, unless the Company unable to identify the Data Subjects.
- ❖ The notification to the Data Subject will provide sufficient information to enable the Data Subject to protect himself/herself/itself against the potential consequences of the breach, and will include:
 - A description of the possible consequences of the breach
 - Details of the measures that the Company intend to take or have taken to address the breach
 - A recommendation of what the Data Subject may do to mitigate the adverse effects of the breach
 - The identity of the person, if known, who may have accessed or obtained the personal information.
- ❖ Employees and/or Contractors/Service providers should report any known or suspected breach of information to the appointed Information Officer. Failure to report the aforementioned breach will be regarded as a transgression and will lead to disciplinary action against the employee, (which may include dismissal) and terminating of the Contractor/Service provider contract. In addition, the Information Regulator which may institute action against offenders which makes them liable for a fine or imprisonment or both.
- ❖ The Company must ensure a complaints process exist to deal with allegations of information breaches.

- ❖ The Company has implemented technical and organizational measures designed to protect the security of personal information. Access to computers and servers containing Personal information has been limited to selected individuals only and is unique password protected. Hard copy Personal Information is stored at a dedicated venue and locked with limited access by selected individuals. Employees and contractors that may have access to Personal Information has entered into confidentiality agreements with the Company. Regular audits regarding the safety and the security of your Personal Information.

Signed on this ____ day of June 2021 at _____.

ON BEHALF OF THE COMPANY

NAME

ANNEXURE A

FORM C

REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY

(Section 53(1) of the Promotion of Access to Information Act 2000 (Act No. 2 of 2000))

A. PARTICULARS OF PRIVATE BODY

THE HEAD/INFORMATION OFFICER:

B. PARTICULARS OF PERSON REQUESTING ACCESS TO THE RECORD

- | |
|---|
| <p>(a) <i>The particulars of the person who requests access to the record must be recorded below.</i></p> <p>(b) <i>The address and/or fax number in the Republic to which information must be sent.</i></p> <p>(c) <i>Proof of the capacity in which the request has been made, if applicable, must be attached.</i></p> |
|---|

Full names and surname: _____

Identity number: _____

Postal address: _____

Telephone number: _____ E-mail: _____

Capacity in which request is made, when made on behalf of another person:

C. PARTICULARS OF PERSON ON WHOSE BEHALF REQUEST IS MADE

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname: _____

Identity number: _____

D. PARTICULARS OF RECORD REQUESTED

- (a) Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.
- (b) If the provided space is inadequate please continue on a separate page and attach it to this form. The Requester must sign all the pages attached hereto.

1 Description of the record or relevant part of the record: _____

2 Reference number, if available: _____

3 Any further particulars of the record:

E FEES

- (a) A request for access to a record other than a record, other than a record containing personal information about yourself, will be processed only after a **request fee** has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The **fee payable for the access** to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.
- (d) If you qualify for the exemption of the payment of any fee, please state the reason for exemption.

Reason for the exemption from payment of fees: _____

F. Form of access to record

If you are prevented by disability to read, view of or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required:

Mark the appropriate box with an **X**.

NOTES:

- (a) Compliance with your request for access in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for the access to the record, if any, will be determined partly by the form in which access is requested.

1. If the record is in written or printed form:				
	Copy of record*		Inspection of record	
2. If the record consists of visual images- (This includes photographs, slides, video recordings, computer-generated images, sketches, etc.)				
	View the images		Copy of the images*	Transcription of the images*
3. If record consists of recorded words or information which can be reproduced in sound:				
	Listen to the soundtrack (audio cassette)		Transcription of soundtrack* (written or printed document)	
4. If record is held on computer or in an electronic or machine-readable form:				
	Printed copy of record*		Printed copy of information derived from the record*	Copy in computer readable form* (stiffy or compact disc)

*If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? Postage is payable.	YES	NO
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G. PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED

*If the provided space is inadequate, please continue on a separate page and attach it to this form.
The requester must sign all the additional pages.*

- Indicate which right is to be exercised or protected: _____

- Explain why the record requested is required for the exercise or protection of the aforementioned right:

H. NOTICE OF DECISION REGARDING REQUEST FOR ACCESS

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

Signed at _____ this _____ day of _____.

SIGNATURE OF REQUESTER /
PERSON ON WHOSE BEHALF
REQUEST IS MADE