



PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000 (“PAIA”) AND PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013 (“POPI”) MANUAL

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1. INTERPRETATION OF THIS MANUAL

- 1.1. This manual should be interpreted in conjunction with the provisions of the Promotion of Access to Information Act 2 of 2000 (“**PAIA**”) and the provisions of the Protection of Personal Information Act 4 of 2013 (“**POPIA**”).

2. PURPOSE OF THIS MANUAL

- 2.1. The purpose of this manual is to:

- 2.1.1. facilitate requests for access to information as set out in sections 14 and 51 of the PAIA which gives effect to the rights enshrined in section 32 of the Constitution of the Republic of South Africa 1996 (“**the Constitution**”); and
- 2.1.2. address the requirements as set out in the POPIA which provides for the lawful and fair processing of personal information, in accordance with the right to privacy as entrenched in section 14 of the Constitution.

3. THE COMPANY

- 3.1. Full name: THUBELA & KHUMALO ATTORNEYS INC.
- 3.2. Registration No.: 2025 / 752250 / 21
- 3.3. Physical address (Head Office): 75, 14th Avenue, Northcliff, Johannesburg
- 3.4. Telephone: +27 81 781 0017
- 3.5. Website: <https://www.tkattorneysinc.com/>
- 3.6. Email: enquiries@tkattorneysinc.co.za



3.7. Postal address: P O Box 2178, Sunninghill, 2072

4. **THE INFORMATION OFFICER**

4.1. Name: Tiekie Kok

4.2. Email Address: tiekie@tkattorneysinc.co.za

4.3. Contact Number: +27 81 781 0017

5. **THE DEPUTY INFORMATION OFFICER**

5.1. Name: Refuwe Thubela

5.2. Email Address: refuwe@tkattorneysinc.co.za

5.3. Contact Number: +27 81 781 0017

6. **GUIDANCE ON PAIA**

6.1. The Regulator has, in terms of section 10(1) of PAIA updated and made available the revised Guide on how to use PAIA ("Guide"), in an easily comprehensible form and way, as may be reasonably required by a person who wishes to exercise any right contemplated in PAIA and POPIA.

6.2. The Guide is available in only in the English language.

6.3. The aforesaid Guide contains the description of:

6.3.1. the objects of PAIA and POPIA;

6.3.2. the postal and street address, phone and fax number and, if

available, electronic mail address of:

- 6.3.2.1. the Information Officer of every public body; and
 - 6.3.2.2. every Deputy Information Officer of every public and private body designated in terms of section 17(1) of PAIA and section 56 of POPIA;
- 6.3.3. the manner and form of a request for:
- 6.3.3.1. access to a record of a public body contemplated in section 11; and
 - 6.3.3.2. access to a record of a private body contemplated in section 50;
- 6.3.4. the assistance available from the Information Officer of a public body in terms of PAIA and POPIA;
- 6.3.5. the assistance available from the Regulator in terms of PAIA and POPIA;
- 6.3.6. all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by PAIA and POPIA, including the manner of lodging:
- 6.3.6.1. an internal appeal;
 - 6.3.6.2. a complaint to the Regulator; and
 - 6.3.6.3. an application with a court against a decision by the Information Officer of a public body, a decision on internal appeal or decision by the Regulator or a decision of the head of a private body;



- 6.3.7. the provisions of sections 14 and 51 requiring a public body and a private body, respectively, to compile a manual, and how to obtain access to a manual;
 - 6.3.8. the provisions of sections 155 and 526 providing for the voluntary disclosure of categories of records by a public body and private body, respectively;
 - 6.3.9. the notices issued in terms of sections 227 and 548 regarding fees to be paid in relation to requests for access; and
 - 6.3.10. the regulations made in terms of section 92.
- 6.4. Members of the public can inspect or make copies of the Guide from the offices of Thubela & Khumalo Attorneys Inc., and the Regulator during normal working hours. The Guide is available only in English.
- 6.5. The Guide can also be obtained:
- 6.5.1. upon request to the Information Officer; or
 - 6.5.2. from the website of the Regulator (<https://inforegulator.org.za/>).

7. RECORDS HELD BY THUBELA & KHUMALO ATTORNEYS INC.

7.1. Records that are automatically available in terms of section 51(1)(c)

- 7.1.1. At this stage, no notices have been published by the Information Regulator on the categories of records automatically available without a person having to request access thereto in terms of PAIA.
- 7.1.2. The records that are located on the Thubela & Khumalo Attorneys Inc., website, however, are automatically available and are freely accessible to any person requesting this information. It is therefore not necessary to apply for access thereto in terms of PAIA. Thubela & Khumalo Attorneys Inc's website address is <https://www.tkattorneysinc.co.za>.



7.2. **Records held by Thubela & Khumalo Attorneys Inc in accordance with other legislation**

- 7.2.1. Thubela & Khumalo Attorneys Inc., is required in accordance with legislation to retain certain records.
- 7.2.2. We hold records for the purposes of PAIA in accordance with the following legislation, among others: Basic Conditions of Employment Act 75 of 1997; Broad-Based Black Economic Empowerment Act 53 of 2003; Companies Act 71 of 2008; Compensation for Occupational Injuries and Diseases Act 130 of 1993; Electronic Communications and Transaction Act 25 of 2002; Employment Equity Act 55 of 1998; Financial Intelligence Centre Act 38 of 2001; Income Tax Act 58 of 1962; Labour Relations Act 66 of 1995; Legal Practice Act 28 of 2014; Occupational Health and Safety Act 85 of 1993; Pension Funds Act 24 of 1956; Skills Development Levies Act 9 of 1999; Skills Development Act 9 of 1999; Unemployment Insurance Act 63 of 2001; and Value Added Tax Act 89 of 1991.

7.3. **Other types of records held by Thubela & Khumalo Attorneys Inc in terms of section 51(1) of PAIA**

- 7.3.1. Certain records held by Thubela & Khumalo Attorneys Inc., are not automatically available without a request in terms of PAIA and a request made in terms of PAIA for any of the said records may be refused in accordance with any of the grounds of refusal as set out in PAIA. These records are as follows:
- 7.3.1.1. Statutory records: company incorporation documents; share register; memorandum of Incorporation; minutes of meetings of the board of directors; records relating to the appointment of directors, auditors and other officers;
- 7.3.1.2. **Income tax:** pay-as-you-earn (PAYE) records; documents issued to employees for income tax purposes; records of payments made to South African Revenue Services on behalf of employees; all or any statutory compliance; Value Added Tax; skills development levies; Unemployment Insurance Fund;
- 7.3.1.3. **Labour relations:** personnel documents and records; employment contracts; medical aid records; Pension Fund records; disciplinary records; salary records; disciplinary code and/or procedures; leave records; training records; training manuals; address lists; internal telephone lists;



- 7.3.1.4. **Finance:** receipts and payments; bank statements; a list of the company's debtors and creditors; budgets; management accounts; asset registers; invoices; salaries; minutes of meetings; correspondence;
- 7.3.1.5. **Risk and compliance:** contracts; policies and procedures; risk assessment; compliance records;
- 7.3.1.6. **Others:** IT usage statistics and equipment details; supplier lists; secretarial records; media releases and public relation events records.

8. HOW TO REQUEST ACCESS TO A RECORD

- 8.1. To request a record in terms of PAIA, the requestor must complete the prescribed form attached to this manual as Annexure A. This request must be sent to the Information Officer at the address provided in paragraph 4.2.
- 8.2. For POPIA-related requests to object to the processing of personal information, correct or delete personal information, the request must be made in writing on the applicable prescribed Form 1 (objection) or Form 2 (correction or deletion), which are attached to this Manual as Annexure B.
- 8.3. The requestor must provide sufficient detail to enable the Information Officer to identify the record(s) requested and the requestor. The requestor must indicate which form of access is required, identify the right that he/she is seeking to exercise or protect and provide an explanation of why the requested record is required for the exercise or protection of that right.
- 8.4. If the request is made on behalf of another person, the requestor must submit proof of the capacity in which the requestor is making the request, to the reasonable satisfaction of the Information Officer.
- 8.5. PAIA makes provision for certain grounds upon which a request for access to information must be refused. On this basis, the Information Officer will decide whether or not to grant a request for access to information

9. PAYMENT OF FEES

- 9.1. PAIA provides for two types of fees, namely:
 - 9.1.1. a request fee, which will be a standard non-refundable administration fee, payable prior to the request being considered; and



- 9.1.2. an access fee, payable when access is granted which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal and electronic transfer costs.
- 9.2. Subsequent to a request being made, the Information Officer, shall by notice require the requester, excluding personal requester, to pay the prescribed request fee (if any) before further processing of the request.
- 9.3. If the search for and preparation for disclosure of the record has been made, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, Thubela & Khumalo Attorneys Inc., will request the requester to pay as a deposit the prescribed portion of the access fee which would be payable if the request is granted.
- 9.4. Thubela & Khumalo Attorneys Inc., may withhold a record until the requester has paid the fees as indicated in Annexure C.
- 9.5. A requester whose request has been granted must pay the applicable access fee for reproduction, search, preparation and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
- 9.6. In terms of POPIA, a data subject has the right to request Thubela & Khumalo Attorneys Inc., to confirm, free of charge, whether or not it holds personal information about the data subject and request from Thubela & Khumalo Attorneys Inc., the record or a description of the personal information held, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information.
- 9.7. POPIA further provides that where the data subject is required to pay a fee for services provided to them, Thubela & Khumalo Attorneys Inc., must provide the data subject with a written estimate of the payable amount before providing the service and may require that the requestor pay a deposit for all or part of the fee.

10. **APPLICABLE TIME PERIODS**

- 10.1. Thubela & Khumalo Attorneys Inc., will inform the requester within 30 days after receipt of the request of its decision whether or not to grant the request.
- 10.2. The 30-day period may be extended by a further period of not more than 30 days if the request is for a large number of records or requires a search through a large number of records and compliance with the original period would unreasonably interfere with the activities of Thubela & Khumalo Attorneys Inc., or the records are not located at Thubela & Khumalo Attorneys Inc's offices.



11. **OUTCOME OF REQUEST**

- 11.1. Should the request be refused, the notice will state adequate reasons for the refusal, including the provisions of the PAIA relied upon; and that the requester may lodge an application with a Court against the refusal of the request.

12. **GROUNDINGS FOR REFUSAL OF ACCESS TO RECORDS**

- 12.1. **In terms of sections 62 to 69 of PAIA access granted to a record may be refused on one or more of the following grounds:** protection of privacy to a third party who is a natural person; protection of the commercial information of a third party; protection of certain confidential information of a third person; protection of the safety of individuals and the protection of property; protection of records privileged from production and legal proceedings; the commercial information and activities of Thubela & Khumalo Attorneys Inc; the protection of research information of a third party; and any other ground legally available on which to refuse access to the information requested.
- 12.2. Despite any provisions of PAIA, a request must be granted if the disclosure of the record would reveal evidence of substantial contravention of, or failure to comply with, the law or imminent and serious public safety or environment risk, and the public interest in the disclosure of the record clearly outweighs the harm contemplated in terms of section 70 of PAIA.

13. **REMEDIES FOR REFUSAL**

- 13.1. Should the requester be dissatisfied with the Information Officer's decision to refuse access, that person may within 30 days after notification of the refusal apply to a Court for the appropriate relief.

14. **PROCESSING OF PERSONAL INFORMATION**

- 14.1. Chapter 3 of POPIA provides for the minimum conditions that are required for the lawful processing of personal information by a Responsible Party. These minimum conditions may not be departed from unless specific exclusions apply, as highlighted in POPIA.
- 14.2. In order to carry out the everyday tasks and obligations of its business, Thubela & Khumalo Attorneys Inc., processes personal information relating to both natural and juristic persons.
- 14.3. The manner in which this information is processed and the purpose for which it is processed is determined by Thubela & Khumalo Attorneys Inc. Thubela & Khumalo Attorneys Inc., is therefore termed a "Responsible Party" for the purposes of POPIA and will ensure that the personal information of a Data Subject is processed and protected in accordance with POPIA.



15. CATEGORIES OF DATA SUBJECTS

- 15.1. In terms of Section 1 of POPIA, a “Data Subject” is defined as being either a natural or a juristic person.
- 15.2. **For the purposes of this manual, the categories of Data Subjects that Thubela & Khumalo Attorneys Inc., may collect personal information includes:** clients; employees; directors; agents; financial institutions; potential clients; interviewees/potential job candidates; attendees of Thubela & Khumalo Attorneys Inc.’s seminars and other events at our premises; suppliers; any other third party vendor, business or organisation who provides Thubela & Khumalo Attorneys Inc., with a product or service.

16. TYPE OF PERSONAL INFORMATION THAT MAY BE PROCESSED

- 16.1. **Personal information that may be processed from any of the abovementioned parties by Thubela & Khumalo Attorneys Inc., subject to their role and relationship with Thubela & Khumalo Attorneys Inc., includes:** full names; contact details (inclusive of email addresses, phone numbers, and physical addresses); credit information; banking details; employment history (inclusive of prior employment contracts); educational and training history; disciplinary proceedings; criminal history; medical aid and pension fund records; identity number (inclusive of identity books and passports; age; gender; nationality; language; online appraisals, reviews and recommendations; any other information that may be required by Thubela & Khumalo Attorneys Inc., in order to carry out its operations and comply with its obligations in the ordinary course of business.

17. PURPOSE OF PROCESSING PERSONAL INFORMATION

- 17.1. Section 13 of POPIA provides that personal information must be collected for a “specific, explicitly defined and lawful purpose related to a function or activity of the Responsible Party.”
- 17.2. Thubela & Khumalo Attorneys Inc., will process your personal information in the ordinary course of the business of providing legal and related services.
- 17.3. Thubela & Khumalo Attorneys Inc., processes personal information for the purposes of performing its duties and meeting the obligations and requirements of any agreement or contract between itself and a client or third party; the management of the administrative and accounting practices carried out in the ordinary course of business; employee recruitment processes; sale and credit application procedures; product improvement; marketing and statistical purposes (inclusive of social media marketing, SMS communication, email communication and telephonic communication); payment processes; security and software protocol; statutory



requirements; any other purpose that may be relevant in order to successfully conduct the business activities of Thubela & Khumalo Attorneys Inc.

18. RECIPIENTS OF PERSONAL INFORMATION

- 18.1. The recipients to whom Thubela & Khumalo Attorneys Inc., may provide a Data Subject's personal information include: governmental authorities if by law, Thubela & Khumalo Attorneys Inc., is obliged to share such information; any organisation through which Thubela & Khumalo Attorneys Inc., implements its payments processes; any financial institution from which payment is received on behalf of an employee, client, organisation, or firm by Thubela & Khumalo Attorneys Inc; any organisation through which Thubela & Khumalo Attorneys Inc conducts its day to day transactions, administration, sale, credit, and account operations; any employee, director or agent who is employed or who acts on behalf of Thubela & Khumalo Attorneys Inc.
- 18.2. Should Thubela & Khumalo Attorneys Inc., disclose your information to third parties, the latter will be obliged to use that personal information for the reasons and purposes the information was disclosed for. To this end, we have agreements in place with the relevant third parties to ensure that an adequate level of security and confidentiality is adopted by the third parties to which your personal information is being transferred to.
- 18.3. Thubela & Khumalo Attorneys Inc., may be obliged to disclose your personal information where we have a duty to disclose in terms of law or where we believe it is necessary to protect our rights. This includes where we are required to disclose your personal information as a result of litigation being instituted by or against us.

19. CROSS-BORDER TRANSFER / FLOW OF INFORMATION

- 19.1. Thubela & Khumalo Attorneys Inc., does not transfer personal information to any region outside of the Republic of South Africa.
- 19.2. Should this change at any point in time, Thubela & Khumalo Attorneys Inc., will process and transfer personal information in accordance with section 72 of POPIA.
- 19.3. Section 72 of POPIA provides that personal information may only be transferred outside of the Republic of South Africa if the recipient organisation of the information is able to successfully implement and maintain a similar and "adequate level" of protection over the information that is transferred and subsequently received by it. The transfer of the aforementioned personal information is necessary for the purposes of upholding a contractual obligation; and
- 19.4. Personal information may be transferred to a region outside of the Republic if:
 - 19.4.1. the transfer of the aforementioned personal information is necessary for the purposes of upholding a contractual obligation; and



19.4.2. the data subject to whom the personal information relates, provides consent for the personal information to be transferred outside of the Republic.

19.5. If it is likely that the Data Subject to whom the personal information relates will give their consent to the transfer of personal information, obtaining such consent is not necessary as outlined in section 72(e)(ii) of POPIA.

20. PROCESSING OF PERSONAL INFORMATION

20.1. Sections 11(3) and 11(4) of POPIA allow for a Data Subject to object, at any time, to their personal information being processed.

20.2. In accordance with the provisions set out in sections 11(3) and (4) of POPIA, Thubela & Khumalo Attorneys Inc., will, as soon as is reasonably practicable, desist from processing the personal information of a Data Subject if and when they communicate such a request to Thubela & Khumalo Attorneys Inc.

20.3. A Data Subject must, as per the procedure set out on the Thubela & Khumalo Attorneys Inc's website, inform Thubela & Khumalo Attorneys Inc., that they do not wish to have their personal information processed any longer.

21. REQUEST FOR THE CORRECTION OR DELETION OF PERSONAL INFORMATION

21.1. Section 24 of POPIA provides that a Data Subject may request that their personal information be:

21.1.1. corrected; or

21.1.2. deleted,

if that personal information is "*inaccurate, irrelevant, excessive, out of date, incomplete, misleading, or obtained unlawfully.*"

21.2. Thubela & Khumalo Attorneys Inc., will, as soon as is reasonably practicable, correct or delete the personal information of a Data Subject if and when they do so communicate such a request to Thubela & Khumalo Attorneys Inc.

21.3. Thubela & Khumalo Attorneys Inc., commits to providing the Data Subject with evidence proving that the personal information of the Data Subject has been corrected or delete.



22. DATA SECURITY

- 22.1. Thubela & Khumalo Attorneys Inc., takes reasonable, appropriate and adequate technical and organisational measures to ensure that your personal information is kept secure and is protected against unauthorised or unlawful processing, accidental loss, destruction, damage, alteration, disclosure or unauthorised access. We contractually mandate any third parties to which your personal information is transferred to do the same
- 22.2. Thubela & Khumalo Attorneys Inc., regularly reviews our security controls and related processes to ensure that your personal information is secure. However, where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person, we will notify the Regulator and you, unless the Regulator or a public body responsible for detection, prevention or investigation of offences, informs us that notifying you will impede a criminal investigation.

23. AVAILABILITY OF THIS MANUAL

This manual is available in electronic and hard copies in English. The hard copies are available at the head office of Thubela & Khumalo Attorneys Inc., as contained in paragraph 3.3. The electronic version of this manual is available on Thubela & Khumalo Attorneys Inc's website.

24. UPDATING OF THIS MANUAL

Thubela & Khumalo Attorneys Inc., will review and update this manual, if necessary, on a periodic basis.



"ANNEXURE A"
FORM 2
REQUEST FOR ACCESS TO RECORD
[Regulation 7]

NOTE:

1. *Proof of identity must be attached by the requester.*
2. *If requests made on behalf of another person, proof of such authorisation, must be attached to this form.*

TO: The Information Officer

(Address)

E-mail address:

Fax number:

Mark with an "X"

Request is made in my own name Request is made on behalf of another person.

PERSONAL INFORMATION

Full Names

Identity Number

Capacity in which
request is made
(when made on behalf
of another person)

Postal Address

Street Address

E-mail Address

Contact Numbers

Tel. (B):

Facsimile:

Cellular:





Full names of person on whose behalf request is made (<i>if applicable</i>):	
Identity Number	
Postal Address	

Street Address				
E-mail Address				
Contact Numbers	Tel. (B)		Facsimile	
	Cellular			

PARTICULARS OF RECORD REQUESTED
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. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)

Description of record or relevant part of the record:	

Reference number, if available	
--------------------------------	--

Any further particulars of record	

TYPE OF RECORD <i>(Mark the applicable box with an "X")</i>	
Record is in written or printed form	
Record comprises virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Record consists of recorded words or information which can be reproduced in sound	
Record is held on a computer or in an electronic, or machine-readable form	

FORM OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Printed copy of record <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of record on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of record on compact disc drive <i>(including virtual images and soundtracks)</i>	
Copy of record saved on cloud storage server	

MANNER OF ACCESS <i>(Mark the applicable box with an "X")</i>	
Personal inspection of record at registered address of public/private body <i>(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)</i>	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format <i>(including transcriptions)</i>	
E-mail of information <i>(including soundtracks if possible)</i>	
Cloud share/file transfer	



Preferred language <i>(Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)</i>	
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

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:	

FEES

- a) *A request fee must be paid before the request will be considered.*
- b) *You will be notified of the amount of the access fee to be paid.*
- c) *The fee payable for 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 exemption of the payment of any fee, please state the reason for exemption*

Reason	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication <i>(Please specify)</i>



Signed at _____ this _____ day of _20 _____

Signature of Requester / person on whose behalf request is made

FOR OFFICIAL USE

Reference number:	
Request received by: (State Rank, Name And Surname of Information Officer)	
Date received:	
Access fees:	
Deposit (if any):	

Signature of Information Officer



"ANNEXURE B"

FORM 1

OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION IN TERMS OF SECTION 11(3) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO.4 OF 2013)

REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2017 [Regulation 2(1)]

Note:

1. *Affidavits or other documentary evidence in support of the objection must be attached.*
2. *If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.*

Reference Number....

A	DETAILS OF DATA SUBJECT
Name and surname of data subject:	
Residential, postal or business address:	
	Code ()
Contact number(s):	
Fax number:	
E-mail address:	
B	DETAILS OF RESPONSIBLE PARTY
Name and surname of responsible party (if the responsible party is a natural):	
Residential, postal or business address:	



	Code ()
Contact number(s):	
Fax number:	
E-mail address:	

Name of public or private body (if the responsible party is not a natural person):	
Business address:	
	Code ()
Contact number(s):	
Fax number:	
E-mail address:	
C	REASONS FOR OBJECTION (Please provide detailed reasons for the objection)

Signed at this day of20.....

.....

Signature of data subject (applicant)