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*Gaia Fund 1 Custodian Co (RF) Proprietary  
Limited*  
Reg: 2020/758442/07

## Protection of Personal Information Act (“POPIA”) 4 of 2013 Policy

### for Gaia Fund 1 Custodian Co (RF) Proprietary Limited

(Registration number: 2020/758442/07)

#### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

“**Data subject**” means to whom the personal information relates. In this case it will be our client (you).

“**Personal information**” means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Fund 1 Custodian Co (RF) Proprietary Limited** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Fund 1 Custodian Co (RF) Proprietary Limited**.

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Fund 1 Custodian Co (RF) Proprietary Limited** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **Gaia Fund 1 Custodian Co (RF) Proprietary Limited**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

- (1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;
- (c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;
- (d) otherwise ensuring compliance by the body with the provisions of this Act.

## **Liability of Information Officers**

### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
    - a) destroys, damages or alters a record;
    - b) conceals a record; or
    - c) falsifies a record or makes a false record
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
- #### **4. THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when the operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their

knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** must be aware of. The staff of **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** will implement the information protection principles in POPIA:

1. **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** will not withhold such information.
3. You may request for corrections to be made to erroneous information and **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

**7. HOW GAIA FUND 1 CUSTODIAN CO (RF) PROPRIETARY LIMITED WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

**Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

**Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:

1. when you consent;
2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
3. processing complies with an obligation imposed on us by law;
4. processing protects your legitimate interest;
5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or
6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;

- the source from which it is collected, if not collected from you itself;
- our name and address;
- whether or not the information that you supply is voluntary or mandatory;
- the consequences of failure to provide the information;
- any particular law authorising or requiring the collection of the information;
- any intended transborder transfers;
- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

## **8. HOW GAIA FUND 1 CUSTODIAN CO (RF) PROPRIETARY LIMITED WILL PROCESS YOUR DATA OTHER THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Fund 1 Custodian Co (RF) Proprietary Limited** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.  
The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.



Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## **12. STEPS GAIA FUND 1 CUSTODIAN CO (RF) PROPRIETARY LIMITED MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA FUND 1 CUSTODIAN CO (RF) PROPRIETARY LIMITED.**

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## **13. FURTHER COMPLIANCE CONSIDERATIONS**

### **13.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** or any third-party processing personal information on instruction from **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### **13.2 SANCTIONS**

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### **13.3 DATA RETENTION**

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Fund 1 Custodian Co (RF) Proprietary Limited has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Fund 1 Custodian Co (RF) Proprietary Limited destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Fund 1 Custodian Co (RF) Proprietary Limited must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **13.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **14. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

## **14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

### **Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.

4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.

4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;
    - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
    - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—
  - a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
  - b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.
3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.
4. It is not necessary for a responsible party to comply with subsection (1) if—
  - a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
  - c) non-compliance is necessary—
    - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
    - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
    - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
    - iv. in the interests of national security;
  - d) compliance would prejudice a lawful purpose of the collection;
  - e) compliance is not reasonably practicable in the circumstances of the particular case; or
  - f) the information will—
    - i. not be used in a form in which the data subject may be identified; or
    - ii. be used for historical, statistical or research purposes.



**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

## **15. CONCLUSION**

POPIA requires **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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## Gaia Fund 1 Custodian Co (RF) Proprietary Limited

(Registration number: **2020/758442/07**)

### PROMOTION OF ACCESS TO INFORMATION MANUAL

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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## **1. Introduction:**

**Gaia Fund 1 Custodian Co (RF) Proprietary Limited** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Fund 1 Custodian Co (RF) Proprietary Limited  
(Registration number: 2020/758442/07)

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

**5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

**6. Procedure to request access to records held by Gaia Fund 1 Custodian Co (RF) Proprietary Limited in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

**Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **Gaia Fund 1 Custodian Co (RF) Proprietary Limited** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

#### **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed. It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees. Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

#### **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999

- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth

- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Fund 1 Custodian Co (RF) Proprietary Limited**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.





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*Gaia Fund 2 SPV (Pty) Ltd*  
Reg: 2018/501724/07

## Protection of Personal Information Act ("POPIA") 4 of 2013 Policy for Gaia Fund 2 SPV (Pty) Ltd

(Registration number: 2018/501724/07)

### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**"Data subject"** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Fund 2 SPV (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Fund 2 SPV (Pty) Ltd.**

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Fund 2 SPV (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **Gaia Fund 2 SPV (Pty) Ltd**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;

(c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;

(d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
  - a) destroys, damages or alters a record;
  - b) conceals a record; or
  - c) falsifies a record or makes a false record
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when the operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Fund 2 SPV (Pty) Ltd** must be aware of. The staff of **Gaia Fund 2 SPV (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Fund 2 SPV (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia Fund 2 SPV (Pty) Ltd** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia Fund 2 SPV (Pty) Ltd** will not withhold such information.

3. You may request for corrections to be made to erroneous information and **Gaia Fund 2 SPV (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Fund 2 SPV (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Fund 2 SPV (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW GAIA FUND 2 SPV (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;
  5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or

6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;
    - any intended transborder transfers;

- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA FUND 2 SPV (PTY) LTD WILL PROCESS YOUR DATA OTHER**

#### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Fund 2 SPV (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.

The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.



## 12. STEPS GAIA FUND 2 SPV (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING

### 12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA FUND 2 SPV (PTY) LTD.

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## 13. FURTHER COMPLIANCE CONSIDERATIONS

### 13.1 DATA BREACH NOTIFICATION

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Fund 2 SPV (Pty) Ltd** or any third-party processing personal information on instruction from **Gaia Fund 2 SPV (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;

- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### 13.2 SANCTIONS

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### 13.3 DATA RETENTION

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Fund 2 SPV (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Fund 2 SPV (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Fund 2 SPV (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Fund 2 SPV (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Fund 2 SPV (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

### **13.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Fund 2 SPV (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

### **14. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Fund 2 SPV (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

#### **14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—

- a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
- 2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
- 3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
- 4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

- 1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—

- a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
- b) the name and address of the responsible party;
- c) the purpose for which the information is being collected;
- d) whether or not the supply of the information by that data subject is voluntary or mandatory;
- e) the consequences of failure to provide the information;
- f) any particular law authorising or requiring the collection of the information;
- g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
- h) any further information such as the—
  - i. recipient or category of recipients of the information;
  - ii. nature or category of the information;
  - iii. existence of the right of access to and the right to rectify the information collected;
  - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
  - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—

- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
- b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data

subject of the same information or information of the same kind if the purpose of collection of the information remains the same.

4. It is not necessary for a responsible party to comply with subsection (1) if—
- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
  - c) non-compliance is necessary—
    - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
    - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
    - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
    - iv. in the interests of national security;
  - d) compliance would prejudice a lawful purpose of the collection;
  - e) compliance is not reasonably practicable in the circumstances of the particular case; or
  - f) the information will—
    - i. not be used in a form in which the data subject may be identified; or
    - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.



## **15. CONCLUSION**

POPIA requires **Gaia Fund 2 SPV (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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Directors  
• Matthys Michiel Nieuwoudt  
*Gaia Fund 2 SPV (Pty) Ltd*  
Reg: 2018/501724/07

## Gaia Fund 2 SPV (Pty) Ltd

(Registration number: 2018/501724/07)

### PROMOTION OF ACCESS TO INFORMATION MANUAL

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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## **1. Introduction:**

**Gaia Fund 2 SPV (Pty) Ltd** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Fund 2 SPV (Pty) Ltd  
(Registration number: 2018/501724/07)

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

## **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

## **6. Procedure to request access to records held by Gaia Fund 2 SPV (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;
- The PAIA request form must be hand-delivered or sent via email to **Gaia Fund 2 SPV (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

## **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.

It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees.

Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;

7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);

7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;

7.4 Records may be withheld until the fees have been paid.

7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

## **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999
- ☐ Unemployment Contributions Act 4 of 2002
- ☐ Unemployment Insurance Act 63 of 2001;

- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth
- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person

- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Fund 2 SPV (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.





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*Gaia Infrastructure Partners (Pty) Ltd*  
Reg: 2012/093632/07

## Protection of Personal Information Act ("POPIA") 4 of 2013 Policy

### for Gaia Infrastructure Partners (Pty) Ltd

(Registration number: 2012/093632/07)

#### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**"Data subject"** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Infrastructure Partners (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Infrastructure Partners (Pty) Ltd.**

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Infrastructure Partners (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **Gaia Infrastructure Partners (Pty) Ltd**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;

(c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;

(d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
  - a) destroys, damages or alters a record;
  - b) conceals a record; or
  - c) falsifies a record or makes a false record
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when the operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Infrastructure Partners (Pty) Ltd** must be aware of. The staff of **Gaia Infrastructure Partners (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Infrastructure Partners (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia Infrastructure Partners (Pty) Ltd** will not store personal information about you without getting your direct consent.

2. You may request to review any personal information stored about you at any time and **Gaia Infrastructure Partners (Pty) Ltd** will not withhold such information.
3. You may request for corrections to be made to erroneous information and **Gaia Infrastructure Partners (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Infrastructure Partners (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Infrastructure Partners (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW GAIA INFRASTRUCTURE PARTNERS (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;

5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or
6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;

- any intended transborder transfers;
- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA INFRASTRUCTURE PARTNERS (PTY) LTD WILL PROCESS YOUR DATA OTHER THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.

- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Infrastructure Partners (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.  
The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.



## **12. STEPS GAIA INFRASTRUCTURE PARTNERS (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA INFRASTRUCTURE PARTNERS (PTY) LTD.**

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## **13. FURTHER COMPLIANCE CONSIDERATIONS**

### **13.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Infrastructure Partners (Pty) Ltd** or any third-party processing personal information on instruction from **Gaia Infrastructure Partners (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### **13.2 SANCTIONS**

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### **13.3 DATA RETENTION**

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Infrastructure Partners (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Infrastructure Partners (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Infrastructure Partners (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Infrastructure Partners (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Infrastructure Partners (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **13.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Infrastructure Partners (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **14. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Infrastructure Partners (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

##### **14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—

- a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
- 2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
- 3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
- 4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

- 1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—

- a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
- b) the name and address of the responsible party;
- c) the purpose for which the information is being collected;
- d) whether or not the supply of the information by that data subject is voluntary or mandatory;
- e) the consequences of failure to provide the information;
- f) any particular law authorising or requiring the collection of the information;
- g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
- h) any further information such as the—
  - i. recipient or category of recipients of the information;
  - ii. nature or category of the information;
  - iii. existence of the right of access to and the right to rectify the information collected;
  - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
  - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—

- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
- b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data

subject of the same information or information of the same kind if the purpose of collection of the information remains the same.

4. It is not necessary for a responsible party to comply with subsection (1) if—
- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
  - c) non-compliance is necessary—
    - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
    - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
    - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
    - iv. in the interests of national security;
  - d) compliance would prejudice a lawful purpose of the collection;
  - e) compliance is not reasonably practicable in the circumstances of the particular case; or
  - f) the information will—
    - i. not be used in a form in which the data subject may be identified; or
    - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.



## **15. CONCLUSION**

POPIA requires **Gaia Infrastructure Partners (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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Directors  
• Matthys Michiel Nieuwoudt  
• Leon De Wit

*Gaia Infrastructure Partners (Pty) Ltd*  
*Reg: 2012/093632/07*

## **Gaia Infrastructure Partners (Pty) Ltd**

(Registration number: **2012/093632/07**)

### **PROMOTION OF ACCESS TO INFORMATION MANUAL**

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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1. Introduction
2. Business contact details in terms of Section 51(1)(a)
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6. Procedure to request access to records held by the business in terms of Section 51(1)(e)
7. Prescribed fees for requesting information
8. Applicable legislation in terms of Section 51(1)(c)
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## **1. Introduction:**

**Gaia Infrastructure Partners (Pty) Ltd** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Infrastructure Partners (Pty) Ltd  
(Registration number: 2012/093632/07)

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

**5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

**6. Procedure to request access to records held by Gaia Infrastructure Partners (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

**Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **Gaia Infrastructure Partners (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

#### **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed. It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees. Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

#### **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999

- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth

- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Infrastructure Partners (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.





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*Gaia IP Black Employee Share Ownership  
Trust*  
Reg: IT000360/2017(C)

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## Protection of Personal Information Act ("POPIA") 4 of 2013 Policy

### for Gaia IP Black Employee Share Ownership Trust

(IT000360/2017(C))

#### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**"Data subject"** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia IP Black Employee Share Ownership Trust** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia IP Black Employee Share Ownership Trust**.

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia IP Black Employee Share Ownership Trust** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **Gaia IP Black Employee Share Ownership Trust**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

- (1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;
- (c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;
- (d) otherwise ensuring compliance by the body with the provisions of this Act.

## **Liability of Information Officers**

### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
    - a) destroys, damages or alters a record;
    - b) conceals a record; or
    - c) falsifies a record or makes a false record
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
- #### **4. THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when the operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their

knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia IP Black Employee Share Ownership Trust** must be aware of. The staff of **Gaia IP Black Employee Share Ownership Trust** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia IP Black Employee Share Ownership Trust** will implement the information protection principles in POPIA:

1. **Gaia IP Black Employee Share Ownership Trust** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia IP Black Employee Share Ownership Trust** will not withhold such information.
3. You may request for corrections to be made to erroneous information and **Gaia IP Black Employee Share Ownership Trust** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia IP Black Employee Share Ownership Trust** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia IP Black Employee Share Ownership Trust** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

#### **7. HOW GAIA IP BLACK EMPLOYEE SHARE OWNERSHIP TRUST WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

##### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

##### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;

2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
3. processing complies with an obligation imposed on us by law;
4. processing protects your legitimate interest;
5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or
6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;

- our name and address;
- whether or not the information that you supply is voluntary or mandatory;
- the consequences of failure to provide the information;
- any particular law authorising or requiring the collection of the information;
- any intended transborder transfers;
- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

## **8. HOW GAIA IP BLACK EMPLOYEE SHARE OWNERSHIP TRUST WILL PROCESS YOUR DATA OTHER THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia IP Black Employee Share Ownership Trust** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.  
The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.



Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## **12. STEPS GAIA IP BLACK EMPLOYEE SHARE OWNERSHIP TRUST MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA IP BLACK EMPLOYEE SHARE OWNERSHIP TRUST.**

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## **13. FURTHER COMPLIANCE CONSIDERATIONS**

### **13.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia IP Black Employee Share Ownership Trust** or any third-party processing personal information on instruction from **Gaia IP Black Employee Share Ownership Trust** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### **13.2 SANCTIONS**

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### **13.3 DATA RETENTION**

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia IP Black Employee Share Ownership Trust** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia IP Black Employee Share Ownership Trust** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia IP Black Employee Share Ownership Trust has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia IP Black Employee Share Ownership Trust destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia IP Black Employee Share Ownership Trust must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **13.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia IP Black Employee Share Ownership Trust** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **14. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia IP Black Employee Share Ownership Trust** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

## **14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

### **Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.

4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party

must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.

4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;
    - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and

- v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.
- 2. The steps referred to in subsection (1) must be taken—
  - a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
  - b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.
- 3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.
- 4. It is not necessary for a responsible party to comply with subsection (1) if—
  - a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
  - c) non-compliance is necessary—
    - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
    - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
    - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
    - iv. in the interests of national security;
  - d) compliance would prejudice a lawful purpose of the collection;
  - e) compliance is not reasonably practicable in the circumstances of the particular case; or



- f) the information will—
  - i. not be used in a form in which the data subject may be identified; or
  - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

## **15. CONCLUSION**

POPIA requires **Gaia IP Black Employee Share Ownership Trust** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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Directors  
• Matthys Michiel Nieuwoudt

*Gaia IP Black Employee Share Ownership Trust*

*Reg: IT000360/2017(C)*

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## **Gaia IP Black Employee Share Ownership Trust**

(IT000360/2017(C))

### **PROMOTION OF ACCESS TO INFORMATION MANUAL**

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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1. Introduction
2. Business contact details in terms of Section 51(1)(a)
3. Availability of the Manual
4. The Promotion of Access to Information Act ('PAIA')
5. The Objectives of PAIA
6. Procedure to request access to records held by the business in terms of Section 51(1)(e)
7. Prescribed fees for requesting information
8. Applicable legislation in terms of Section 51(1)(c)
9. Schedule of Records
10. Grounds for refusal

## **1. Introduction:**

**Gaia IP Black Employee Share Ownership Trust** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia IP Black Employee Share Ownership Trust  
(Registration number: IT000360/2017(C))

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

**5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

**6. Procedure to request access to records held by Gaia IP Black Employee Share Ownership Trust in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

**Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered, posted, faxed or sent via email to **Gaia IP Black Employee Share Ownership Trust** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

## **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed. It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees. Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

## **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 57 of 1988
- ☐ Trust Property Control Act
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ South African Reserve Bank Act 90 of 1989
- ☐ Value Added Tax Act 89 of 1991
- ☐ Other

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Trust Information**

- Documentation of incorporation
- Minutes of Trustees meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Trust Information
- Information relating to current and completed applications
- Information relating to work in progress
- Records generated in relation to financial statements
- Trustees ID documents

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

## **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:

- trade secrets of that third party;
- financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia IP Black Employee Share Ownership Trust**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.





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*Gaia Management Holdings (Pty) Ltd*  
Reg: 2017/103135/07

## **Protection of Personal Information Act (“POPIA”) 4 of 2013 Policy**

### **for Gaia Management Holdings (Pty) Ltd**

**(Registration number: 2017/103135/07)**

#### **1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS**

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**“Data subject”** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Management Holdings (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Management Holdings (Pty) Ltd.**

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Management Holdings (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **Gaia Management Holdings (Pty) Ltd**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;

(c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;

(d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
  - a) destroys, damages or alters a record;
  - b) conceals a record; or
  - c) falsifies a record or makes a false record
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when an operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Management Holdings (Pty) Ltd** must be aware of. The staff of **Gaia Management Holdings (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Management Holdings (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia Management Holdings (Pty) Ltd** will not store personal information about you without getting your direct consent.

2. You may request to review any personal information stored about you at any time and **Gaia Management Holdings (Pty) Ltd** will not withhold such information.
3. You may request for corrections to be made to erroneous information and **Gaia Management Holdings (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Management Holdings (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Management Holdings (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW GAIA MANAGEMENT HOLDINGS (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;

5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or
6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;

- any intended transborder transfers;
- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA MANAGEMENT HOLDINGS (PTY) LTD WILL PROCESS YOUR DATA OTHER THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Management Holdings (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.

The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.



## 12. STEPS GAIA MANAGEMENT HOLDINGS (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING

### 12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA MANAGEMENT HOLDINGS (PTY) LTD.

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## 13. FURTHER COMPLIANCE CONSIDERATIONS

### 13.1 DATA BREACH NOTIFICATION

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Management Holdings (Pty) Ltd** or any third-party processing personal information on instruction from **Gaia Management Holdings (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### 13.2 SANCTIONS

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### 13.3 DATA RETENTION

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Management Holdings (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Management**

**Holdings (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Management Holdings (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Management Holdings (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Management Holdings (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

### 13.4 DATA TRANSFERS AND OUTSOURCING

POPIA provides that **Gaia Management Holdings (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

### 14. DATA SUBJECT ACCESS REQUEST POLICY

If the Data subject (you) wants **Gaia Management Holdings (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

#### 14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 23 states that:**

1. "A data subject, having provided adequate proof of identity, has the right to—

1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
  1. within a reasonable time;
  2. at a prescribed fee, if any;
  3. in a reasonable manner and format; and
  4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—

- a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
- 2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
- 3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
- 4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

- 1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—

- a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
- b) the name and address of the responsible party;
- c) the purpose for which the information is being collected;
- d) whether or not the supply of the information by that data subject is voluntary or mandatory;
- e) the consequences of failure to provide the information;
- f) any particular law authorising or requiring the collection of the information;
- g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
- h) any further information such as the—
  - i. recipient or category of recipients of the information;
  - ii. nature or category of the information;
  - iii. existence of the right of access to and the right to rectify the information collected;
  - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
  - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—

- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
- b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data

subject of the same information or information of the same kind if the purpose of collection of the information remains the same.

4. It is not necessary for a responsible party to comply with subsection (1) if—
- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
  - c) non-compliance is necessary—
    - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
    - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
    - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
    - iv. in the interests of national security;
  - d) compliance would prejudice a lawful purpose of the collection;
  - e) compliance is not reasonably practicable in the circumstances of the particular case; or
  - f) the information will—
    - i. not be used in a form in which the data subject may be identified; or
    - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.



## **15. CONCLUSION**

POPIA requires **Gaia Management Holdings (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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Directors  
• Mich Nieuwoudt • Leon De Wit  
• Clive Ferreira • Philip Botha Schabort  
• Philip van Rooyen

*Gaia Management Holdings (Pty) Ltd*  
Reg: 2017/103135/07

## Gaia Management Holdings (Pty) Ltd

(Registration number: 2017/103135/07)

### PROMOTION OF ACCESS TO INFORMATION MANUAL

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

## **INDEX:**

1. Introduction
2. Business contact details in terms of Section 51(1)(a)
3. Availability of the Manual
4. The Promotion of Access to Information Act ('PAIA')
5. The Objectives of PAIA
6. Procedure to request access to records held by the business in terms of Section 51(1)(e)
7. Prescribed fees for requesting information
8. Applicable legislation in terms of Section 51(1)(c)
9. Schedule of Records
10. Grounds for refusal

## **1. Introduction:**

**Gaia Management Holdings (Pty) Ltd** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Management Holdings (Pty) Ltd  
(Registration number: 2017/103135/07)

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

#### **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

#### **6. Procedure to request access to records held by Gaia Management Holdings (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

#### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **Gaia Management Holdings (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

#### **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed. It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees. Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

#### **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999

- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth

- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Management Holdings (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.





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*Gaia N3 Holdings (Pty) Ltd*  
Reg: 2018/443402/07

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## Protection of Personal Information Act ("POPIA") 4 of 2013 Policy

### for Gaia N3 Holdings (Pty) Ltd

(Registration number: 2018/443402/07)

#### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**"Data subject"** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia N3 Holdings (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia N3 Holdings (Pty) Ltd.**

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia N3 Holdings (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **Gaia N3 Holdings (Pty) Ltd**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;

(c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;

(d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
  - a) destroys, damages or alters a record;
  - b) conceals a record; or
  - c) falsifies a record or makes a false record
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when the operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia N3 Holdings (Pty) Ltd** must be aware of. The staff of **Gaia N3 Holdings (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia N3 Holdings (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia N3 Holdings (Pty) Ltd** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia N3 Holdings (Pty) Ltd** will not withhold such information.

3. You may request for corrections to be made to erroneous information and **Gaia N3 Holdings (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia N3 Holdings (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia N3 Holdings (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW GAIA N3 HOLDINGS (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;
  5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or

6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;
    - any intended transborder transfers;

- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA N3 HOLDINGS (PTY) LTD WILL PROCESS YOUR DATA OTHER**

#### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia N3 Holdings (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.

The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.



## 12. STEPS GAIA N3 HOLDINGS (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING

### 12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA N3 HOLDINGS (PTY) LTD.

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## 13. FURTHER COMPLIANCE CONSIDERATIONS

### 13.1 DATA BREACH NOTIFICATION

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia N3 Holdings (Pty) Ltd** or any third-party processing personal information on instruction from **Gaia N3 Holdings (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient.)

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;

- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### 13.2 SANCTIONS

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### 13.3 DATA RETENTION

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia N3 Holdings (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia N3 Holdings (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia N3 Holdings (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia N3 Holdings (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia N3 Holdings (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **13.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia N3 Holdings (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **14. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia N3 Holdings (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

##### **14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

##### **Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible

party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—

1. within a reasonable time;
  2. at a prescribed fee, if any;
  3. in a reasonable manner and format; and
  4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.

2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;

- e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;
    - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
    - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.
2. The steps referred to in subsection (1) must be taken—
- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
  - b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.
3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.
4. It is not necessary for a responsible party to comply with subsection (1) if—
- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;

- c) non-compliance is necessary—
  - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
  - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
  - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
  - iv. in the interests of national security;
- d) compliance would prejudice a lawful purpose of the collection;
- e) compliance is not reasonably practicable in the circumstances of the particular case; or
- f) the information will—
  - i. not be used in a form in which the data subject may be identified; or
  - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

**15. CONCLUSION**

POPIA requires **Gaia N3 Holdings (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.





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• Matthys Michiel Nieuwoudt  
• Itumeleng Leie

*Gaia N3 Holdings (Pty) Ltd*  
Reg: 2018/443402/07

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## **Gaia N3 Holdings (Pty) Ltd**

(Registration number: **2018/443402/07**)

### **PROMOTION OF ACCESS TO INFORMATION MANUAL**

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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1. Introduction
2. Business contact details in terms of Section 51(1)(a)
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7. Prescribed fees for requesting information
8. Applicable legislation in terms of Section 51(1)(c)
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## **1. Introduction:**

**Gaia N3 Holdings (Pty) Ltd** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia N3 Holdings (Pty) Ltd  
(Registration number: 2018/443402/07)

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

## **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

## **6. Procedure to request access to records held by Gaia N3 Holdings (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;
- The PAIA request form must be hand-delivered or sent via email to **Gaia N3 Holdings (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

## **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.

It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees.

Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;

7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);

7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;

7.4 Records may be withheld until the fees have been paid.

7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

## **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999
- ☐ Unemployment Contributions Act 4 of 2002
- ☐ Unemployment Insurance Act 63 of 2001;

- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth
- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person

- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia N3 Holdings (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.



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*Gaia Umhlaba (Pty) Ltd*  
Reg: 2018/443189/07

## Protection of Personal Information Act ("POPIA") 4 of 2013 Policy for Gaia Umhlaba (Pty) Ltd

(Registration number: 2018/443189/07)

### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**"Data subject"** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Umhlaba (Pty) Ltd** may process the above personal information of a data subject.



**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Umhlaba (Pty) Ltd.**

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Umhlaba (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **Gaia Umhlaba (Pty) Ltd**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;

(c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;

(d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
  - a) destroys, damages or alters a record;
  - b) conceals a record; or
  - c) falsifies a record or makes a false record
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when the operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Umhlaba (Pty) Ltd** must be aware of. The staff of **Gaia Umhlaba (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Umhlaba (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia Umhlaba (Pty) Ltd** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia Umhlaba (Pty) Ltd** will not withhold such information.

3. You may request for corrections to be made to erroneous information and **Gaia Umhlaba (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Umhlaba (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Umhlaba (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW GAIA UMHLABA (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;
  5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or

6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;
    - any intended transborder transfers;

- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA UMHLABA (PTY) LTD WILL PROCESS YOUR DATA OTHER**

##### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Umhlaba (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.

The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## 12. STEPS GAIA UMHLABA (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING

### 12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA UMHLABA (PTY) LTD.

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## 13. FURTHER COMPLIANCE CONSIDERATIONS

### 13.1 DATA BREACH NOTIFICATION

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Umhlaba (Pty) Ltd** or any third-party processing personal information on instruction from **Gaia Umhlaba (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;



- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### 13.2 SANCTIONS

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### 13.3 DATA RETENTION

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Umhlaba (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Umhlaba (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Umhlaba (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Umhlaba (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Umhlaba (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **13.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Umhlaba (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **14. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Umhlaba (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

##### **14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

##### **Section 23 states that:**

1. "A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible

party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—

1. within a reasonable time;
  2. at a prescribed fee, if any;
  3. in a reasonable manner and format; and
  4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.

2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;

- e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;
    - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
    - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.
2. The steps referred to in subsection (1) must be taken—
- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
  - b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.
3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.
4. It is not necessary for a responsible party to comply with subsection (1) if—
- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;

- c) non-compliance is necessary—
  - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
  - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
  - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
  - iv. in the interests of national security;
- d) compliance would prejudice a lawful purpose of the collection;
- e) compliance is not reasonably practicable in the circumstances of the particular case; or
- f) the information will—
  - i. not be used in a form in which the data subject may be identified; or
  - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

**15. CONCLUSION**

POPIA requires **Gaia Umhlaba (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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Techno Park,  
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Directors  
• Matthys Michiel Nieuwoudt  
• Ismael Irafaan Abrahams  
• Itumeleng Leie

*Gaia Umhlaba (Pty) Ltd*  
Reg: 2018/443189/07

## Gaia Umhlaba (Pty) Ltd

(Registration number: **2018/443189/07**)

### PROMOTION OF ACCESS TO INFORMATION MANUAL

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.



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2. Business contact details in terms of Section 51(1)(a)
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## **1. Introduction:**

**Gaia Umhlaba (Pty) Ltd** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Umhlaba (Pty) Ltd  
(Registration number: 2018/443189/07)

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

## **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

## **6. Procedure to request access to records held by Gaia Umhlaba (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;
- The PAIA request form must be hand-delivered or sent via email to **Gaia Umhlaba (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

## **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.

It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees.

Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;

7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);

7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;

7.4 Records may be withheld until the fees have been paid.

7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

## **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999
- ☐ Unemployment Contributions Act 4 of 2002
- ☐ Unemployment Insurance Act 63 of 2001;

- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth
- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person

- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Umhlaba (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.



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*RE Times (RF) (Pty) Ltd*  
Reg: 2014/214921/07

## Protection of Personal Information Act ("POPIA") 4 of 2013 Policy for RE Times (RF) (Pty) Ltd

(Registration number: 2014/214921/07)

### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**"Data subject"** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**RE Times (RF) (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **RE Times (RF) (Pty) Ltd.**

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**RE Times (RF) (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **RE Times (RF) (Pty) Ltd**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;



(c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;

(d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
  - a) destroys, damages or alters a record;
  - b) conceals a record; or
  - c) falsifies a record or makes a false record
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when the operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **RE Times (RF) (Pty) Ltd** must be aware of. The staff of **RE Times (RF) (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **RE Times (RF) (Pty) Ltd** will implement the information protection principles in POPIA:

1. **RE Times (RF) (Pty) Ltd** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **RE Times (RF) (Pty) Ltd** will not withhold such information.

3. You may request for corrections to be made to erroneous information and **RE Times (RF) (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **RE Times (RF) (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **RE Times (RF) (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW RE TIMES (RF) (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;
  5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or

6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;
    - any intended transborder transfers;

- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW RE TIMES (RF) (PTY) LTD WILL PROCESS YOUR DATA OTHER**

#### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**RE Times (RF) (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.

The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## 12. STEPS RE TIMES (RF) (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING

### 12.1 WHAT COMPLIANCE WILL REQUIRE OF RE TIMES (RF) (PTY) LTD.

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## 13. FURTHER COMPLIANCE CONSIDERATIONS

### 13.1 DATA BREACH NOTIFICATION

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **RE Times (RF) (Pty) Ltd** or any third-party processing personal information on instruction from **RE Times (RF) (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;

- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### 13.2 SANCTIONS

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### 13.3 DATA RETENTION

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **RE Times (RF) (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **RE Times (RF) (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.



**If RE Times (RF) (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must RE Times (RF) (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**RE Times (RF) (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **13.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **RE Times (RF) (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **14. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **RE Times (RF) (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

##### **14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

##### **Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and

2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
  1. within a reasonable time;
  2. at a prescribed fee, if any;
  3. in a reasonable manner and format; and
  4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or

- b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
- 2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
- 3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
- 4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

- 1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;

- c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;
    - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
    - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.
2. The steps referred to in subsection (1) must be taken—
- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
  - b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.
3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.
4. It is not necessary for a responsible party to comply with subsection (1) if—

- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
- b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
- c) non-compliance is necessary—
  - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
  - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
  - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
  - iv. in the interests of national security;
- d) compliance would prejudice a lawful purpose of the collection;
- e) compliance is not reasonably practicable in the circumstances of the particular case; or
- f) the information will—
  - i. not be used in a form in which the data subject may be identified; or
  - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

## **15. CONCLUSION**

POPIA requires **RE Times (RF) (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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*RE Times (RF) (Pty) Ltd*  
Reg: 2014/214921/07

## **RE Times (RF) (Pty) Ltd**

(Registration number: **2014/214921/07**)

### **PROMOTION OF ACCESS TO INFORMATION MANUAL**

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.



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## **1. Introduction:**

**RE Times (RF) (Pty) Ltd** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: RE Times (RF) (Pty) Ltd  
(Registration number: 2014/214921/07)

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

## **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

## **6. Procedure to request access to records held by RE Times (RF) (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;
- The PAIA request form must be hand-delivered or sent via email to **RE Times (RF) (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

## **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.

It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees.

Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;

7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);

7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;

7.4 Records may be withheld until the fees have been paid.

7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

## **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999
- ☐ Unemployment Contributions Act 4 of 2002
- ☐ Unemployment Insurance Act 63 of 2001;

- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth
- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person

- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **RE Times (RF) (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.



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*Gaia Fibonacci Fibre Fund (Pty) Ltd*  
*Reg: 2020/443987/07*

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## **Protection of Personal Information Act (“POPIA”) 4 of 2013 Policy**

### **for Gaia Fibonacci Fibre Fund (Pty) Ltd**

**(Registration number: 2020/443987/07)**

#### **1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS**

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**“Data subject”** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Fibonacci Fibre Fund (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Fibonacci Fibre Fund (Pty) Ltd.**

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Fibonacci Fibre Fund (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Renier Cilliers De Wit is the Information Protection Officer for **Gaia Fibonacci Fibre Fund (Pty) Ltd**. You can contact him at [renier@gaia.group](mailto:renier@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;



(c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;

(d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
  - a) destroys, damages or alters a record;
  - b) conceals a record; or
  - c) falsifies a record or makes a false record
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
  - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
4. **THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when acting in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Fibonacci Fibre Fund (Pty) Ltd** must be aware of. The staff of **Gaia Fibonacci Fibre Fund (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Fibonacci Fibre Fund (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia Fibonacci Fibre Fund (Pty) Ltd** will not store personal information about you without getting your direct consent.

2. You may request to review any personal information stored about you at any time and **Gaia Fibonacci Fibre Fund (Pty) Ltd** will not withhold such information.
3. You may request for corrections to be made to erroneous information and **Gaia Fibonacci Fibre Fund (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Fibonacci Fibre Fund (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Fibonacci Fibre Fund (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW GAIA FIBONACCI FIBRE FUND (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;

5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or
6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;

- any intended transborder transfers;
- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA FIBONACCI FIBRE FUND (PTY) LTD WILL PROCESS YOUR DATA OTHER**

#### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.

- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Fibonacci Fibre Fund (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.  
The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## **12. STEPS GAIA FIBONACCI FIBRE FUND (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA FIBONACCI FIBRE FUND (PTY) LTD.**

- **Our information officer's role:** An information Officer is registered in line with POPIA. The information Officer is Renier Cilliers De Wit.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## **13. EFFECT ON CERTAIN MARKETING PROCEDURES**

### **13.1 DIRECT MARKETING**

#### **Electronic direct marketing and consent**

According to POPIA, direct marketing is electronic communication that is directed at an individual or entity and which promotes or offers to supply any goods or services. Examples include emails, SMS messages, messages sent via social media platforms directly to a specific individual and advertising sent to a custom audience via social media platforms (ie, where it is known who the recipients are).

Once categorised as (electronic) direct marketing, we must ascertain whether an opt-in consent must be obtained. There are two scenarios.

- If this is a **first approach** to the person, consent must be obtained for any unsolicited (ie, that person did not ask for it) marketing to that person. In other words, where we want to contact a person for the first time with marketing communication which was not requested (unsolicited), we must obtain consent before sending electronic marketing to individuals. We may approach someone for direct marketing consent once only, and provided that they have not withheld consent previously. There is a form (Form 4) in the Regulations to POPIA that sets out an example of such a consent. We may use it as is, or choose to adapt it and make it more attractive than the legislature's attempt (whilst making sure the necessary information is contained therein so that the person knows at all times what marketing he is consenting to and from whom it will be received).
- **On the other hand**, when it comes to contacting our existing customers, there are three criteria that need to be met before we can start marketing to them directly:
  1. If the client's contact information was obtained in the context of a rendering a service;
  2. If we want to inform that client of similar offerings;
  3. If the client is given opportunities to refuse the direct marketing, both at the time the information is collected and every time marketing is directed to him/her. Marketing to that client will generally be in order provided an opt-out option appears in each electronic marketing message.

We must further manage our own client databases effectively and keep records of where, how and when the personal information was initially obtained; whether the person is an existing customer and, if so, in respect of what products or services; whether the person has consented to receiving direct marketing; and whether the person has unsubscribed from receiving direct marketing.

It is advisable therefore to:

- use bulk email and SMS software that keeps track of opt-in and opt out information and automatically includes an automatic opt out on each message sent to existing clients and others that have opted-in to receive marketing; and to
- ask people directly if they may be added to the agency's database.

#### **14. FURTHER COMPLIANCE CONSIDERATIONS**

##### **14.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Fibonacci Fibre Fund (Pty) Ltd** or any third-party processing



personal information on instruction from **Gaia Fibonacci Fibre Fund (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

## **14.2 SANCTIONS**

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

## **14.3 DATA RETENTION**

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Fibonacci Fibre Fund (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;

- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Fibonacci Fibre Fund (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Fibonacci Fibre Fund (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Fibonacci Fibre Fund (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Fibonacci Fibre Fund (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or

- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **14.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Fibonacci Fibre Fund (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **15. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Fibonacci Fibre Fund (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

##### **15.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to

records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.

5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have

been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.

4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;

- iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
- v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—

- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
- b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.

4. It is not necessary for a responsible party to comply with subsection (1) if—

- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
- b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
- c) non-compliance is necessary—
  - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
  - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined

in section 1 of the South African Revenue Service Act, 1997  
(Act No. 34 of 1997);

iii. for the conduct of proceedings in any court or tribunal that  
have been commenced or are reasonably contemplated; or

iv. in the interests of national security;

d) compliance would prejudice a lawful purpose of the collection;

e) compliance is not reasonably practicable in the circumstances of the  
particular case; or

f) the information will—

i. not be used in a form in which the data subject may be  
identified; or

ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

**16. CONCLUSION**

POPIA requires **Gaia Fibonacci Fibre Fund (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy staff will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.





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*Gaia Fibonacci Fibre Fund (Pty) Ltd Reg:  
2020/443987/07*

## **Gaia Fibonacci Fibre Fund (Pty) Ltd**

(Registration number: **2020/443987/07**)

### **PROMOTION OF ACCESS TO INFORMATION MANUAL**

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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## **1. Introduction:**

**Gaia Fibonacci Fibre Fund (Pty) Ltd**, together with Fibonacci Fund Managers and Avenge Technologies, brings to market a dedicated fibre infrastructure fund which invests in exclusive fibre networks over which internet service providers provide data access to a growing base of end users.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Fibonacci Fibre Fund (Pty) Ltd  
(Registration number: 2020/443987/07)

Information Officer: Renier Cilliers De Wit (email: [renier@gaia.group](mailto:renier@gaia.group))

Postal Address: 20 Flaming Rock Crescent, Mooikloof, Pretoria, Gauteng, 0081

Physical Address: 20 Flaming Rock Crescent, Mooikloof, Pretoria, Gauteng, 0081

Telephone: 084 545 0450

E-mail: [renier@gaia.group](mailto:renier@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

#### **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

#### **6. Procedure to request access to records held by Gaia Fibonacci Fibre Fund (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

#### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **Gaia Fibonacci Fibre Fund (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

#### **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed. It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees. Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

#### **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999

- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth

- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Fibonacci Fibre Fund (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.



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*TCWF Investment SPV (RF) Proprietary  
Limited*

*Reg: 2020/113819/07*

## Protection of Personal Information Act (“POPIA”) 4 of 2013 Policy

### for TCWF Investment SPV (RF) Proprietary Limited

(Registration number: 2020/113819/07)

#### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**“Data subject”** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.



**TCWF Investment SPV (RF) Proprietary Limited** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **TCWF Investment SPV (RF) Proprietary Limited**.

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**TCWF Investment SPV (RF) Proprietary Limited** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Matthys Michiel Nieuwoudt is the Information Protection Officer for **TCWF Investment SPV (RF) Proprietary Limited**. You can contact him at [mich@gaia.group](mailto:mich@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

- (1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;
- (c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;
- (d) otherwise ensuring compliance by the body with the provisions of this Act.

## **Liability of Information Officers**

### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
    - a) destroys, damages or alters a record;
    - b) conceals a record; or
    - c) falsifies a record or makes a false record
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
- #### **4. THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when the operator acts in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their

knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **TCWF Investment SPV (RF) Proprietary Limited** must be aware of. The staff of **TCWF Investment SPV (RF) Proprietary Limited** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **TCWF Investment SPV (RF) Proprietary Limited** will implement the information protection principles in POPIA:

1. **TCWF Investment SPV (RF) Proprietary Limited** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **TCWF Investment SPV (RF) Proprietary Limited** will not withhold such information.
3. You may request for corrections to be made to erroneous information and **TCWF Investment SPV (RF) Proprietary Limited** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **TCWF Investment SPV (RF) Proprietary Limited** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **TCWF Investment SPV (RF) Proprietary Limited** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

#### **7. HOW TCWF INVESTMENT SPV (RF) PROPRIETARY LIMITED WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

##### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

##### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:

1. when you consent;
2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
3. processing complies with an obligation imposed on us by law;
4. processing protects your legitimate interest;
5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or
6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;

- the source from which it is collected, if not collected from you itself;
- our name and address;
- whether or not the information that you supply is voluntary or mandatory;
- the consequences of failure to provide the information;
- any particular law authorising or requiring the collection of the information;
- any intended transborder transfers;
- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

## **8. HOW TCWF INVESTMENT SPV (RF) PROPRIETARY LIMITED WILL PROCESS YOUR DATA OTHER THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**TCWF Investment SPV (RF) Proprietary Limited** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.  
The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## **12. STEPS TCWF INVESTMENT SPV (RF) PROPRIETARY LIMITED MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF TCWF INVESTMENT SPV (RF) PROPRIETARY LIMITED.**

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.



## **13. FURTHER COMPLIANCE CONSIDERATIONS**

### **13.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **TCWF Investment SPV (RF) Proprietary Limited** or any third-party processing personal information on instruction from **TCWF Investment SPV (RF) Proprietary Limited** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient).

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### **13.2 SANCTIONS**

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### **13.3 DATA RETENTION**

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **TCWF Investment SPV (RF) Proprietary Limited** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **TCWF Investment SPV (RF) Proprietary Limited** has established appropriate safeguards against the records being used for any other purposes.

**If TCWF Investment SPV (RF) Proprietary Limited has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must TCWF Investment SPV (RF) Proprietary Limited destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**TCWF Investment SPV (RF) Proprietary Limited must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **13.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **TCWF Investment SPV (RF) Proprietary Limited** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **14. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **TCWF Investment SPV (RF) Proprietary Limited** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

## **14.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

### **Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.

4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.

4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;
    - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
    - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—
  - a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
  - b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.
3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.
4. It is not necessary for a responsible party to comply with subsection (1) if—
  - a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
  - c) non-compliance is necessary—
    - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
    - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
    - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
    - iv. in the interests of national security;
  - d) compliance would prejudice a lawful purpose of the collection;
  - e) compliance is not reasonably practicable in the circumstances of the particular case; or
  - f) the information will—
    - i. not be used in a form in which the data subject may be identified; or
    - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

**15. CONCLUSION**

POPIA requires **TCWF Investment SPV (RF) Proprietary Limited** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.





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Directors  
• Matthys Michiel Nieuwoudt

*TCWF Investment SPV (RF) Proprietary  
Limited*

*Reg: 2020/113819/07*

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## **TCWF Investment SPV (RF) Proprietary Limited**

(Registration number: **2020/113819/07**)

### **PROMOTION OF ACCESS TO INFORMATION MANUAL**

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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2. Business contact details in terms of Section 51(1)(a)
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## **1. Introduction:**

**TCWF Investment SPV (RF) Proprietary Limited** was founded and is managed by leading investment, engineering and strategy experts. Gaia comprises highly skilled actuarial, engineering, project development, and investment professionals with a demonstrated investment performance track record.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: TCWF Investment SPV (RF) Proprietary Limited  
(Registration number: 2020/113819/07)

Information Officer: Matthys Michiel Nieuwoudt (email: [mich@gaia.group](mailto:mich@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 083 253 2469

E-mail: [mich@gaia.group](mailto:mich@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

#### **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

#### **6. Procedure to request access to records held by TCWF Investment SPV (RF) Proprietary Limited in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

#### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **TCWF Investment SPV (RF) Proprietary Limited** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

#### **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.  
It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees.  
Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

#### **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999

- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth

- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **TCWF Investment SPV (RF) Proprietary Limited**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.



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*Gaia Fund 1 Limited*  
*Reg: 2020/113877/06*

## Protection of Personal Information Act (“POPIA”) 4 of 2013 Policy for Gaia Fund 1 Limited

(Registration number: 2020/113877/06)

### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**“Data subject”** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

(a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;

(b) information relating to the education or the medical, financial, criminal or employment history of the person;

(c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;

(d) the biometric information of the person;

(e) the personal opinions, views or preferences of the person;

(f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;

(g) the views or opinions of another individual about the person; and

(h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.



**Gaia Fund 1 Limited** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Fund 1 Limited**.

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Fund 1 Limited** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Renier Cilliers De Wit is the Information Protection Officer for **Gaia Fund 1 Limited**. You can contact him at [renier@gaia.group](mailto:renier@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;

- (b) dealing with requests made to the body pursuant to this Act;
- (c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;
- (d) otherwise ensuring compliance by the body with the provisions of this Act.

## **Liability of Information Officers**

### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
    - a) destroys, damages or alters a record;
    - b) conceals a record; or
    - c) falsifies a record or makes a false record
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
- 4. THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when acting in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Fund 1 Limited** must be aware of. The staff of **Gaia Fund 1 Limited** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Fund 1 Limited** will implement the information protection principles in POPIA:

1. **Gaia Fund 1 Limited** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia Fund 1 Limited** will not withhold such information.

3. You may request for corrections to be made to erroneous information and **Gaia Fund 1 Limited** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Fund 1 Limited** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Fund 1 Limited** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW GAIA FUND 1 LIMITED WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;
  5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or

6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;
    - any intended transborder transfers;

- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA FUND 1 LIMITED WILL PROCESS YOUR DATA OTHER**

##### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Fund 1 Limited** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.

The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## **12. STEPS GAIA FUND 1 LIMITED MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA FUND 1 LIMITED.**

- **Our information officer's role:** An information Officer is registered in line with POPIA.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## **13. EFFECT ON CERTAIN MARKETING PROCEDURES**

### **13.1 DIRECT MARKETING**

#### **Electronic direct marketing and consent**

According to POPIA, direct marketing is electronic communication that is directed at an individual or entity and which promotes or offers to supply any goods or services. Examples include emails, SMS messages, messages sent via social media platforms directly to a specific individual and advertising sent to a custom audience via social media platforms (ie, where it is known who the recipients are).

Once categorised as (electronic) direct marketing, we must ascertain whether an opt-in consent must be obtained. There are two scenarios.



- If this is a **first approach** to the person, consent must be obtained for any unsolicited (ie, that person did not ask for it) marketing to that person. In other words, where we want to contact a person for the first time with marketing communication which was not requested (unsolicited), we must obtain consent before sending electronic marketing to individuals. We may approach someone for direct marketing consent once only, and provided that they have not withheld consent previously. There is a form (Form 4) in the Regulations to POPIA that sets out an example of such a consent. We may use it as is, or choose to adapt it and make it more attractive than the legislature's attempt (whilst making sure the necessary information is contained therein so that the person knows at all times what marketing he is consenting to and from whom it will be received).
- **On the other hand**, when it comes to contacting our existing customers, there are three criteria that need to be met before we can start marketing to them directly:
  1. If the client's contact information was obtained in the context of a rendering a service;
  2. If we want to inform that client of similar offerings;
  3. If the client is given opportunities to refuse the direct marketing, both at the time the information is collected and every time marketing is directed to him/her. Marketing to that client will generally be in order provided an opt-out option appears in each electronic marketing message.

We must further manage our own client databases effectively and keep records of where, how and when the personal information was initially obtained; whether the person is an existing customer and, if so, in respect of what products or services; whether the person has consented to receiving direct marketing; and whether the person has unsubscribed from receiving direct marketing.

It is advisable therefore to:

- use bulk email and SMS software that keeps track of opt-in and opt out information and automatically includes an automatic opt out on each message sent to existing clients and others that have opted-in to receive marketing; and to
- ask people directly if they may be added to the agency's database.

#### **14. FURTHER COMPLIANCE CONSIDERATIONS**

##### **14.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Fund 1 Limited** or any third-party processing personal information on instruction from **Gaia Fund 1 Limited** (the operator), must notify you and the

Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient.)

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

## **14.2 SANCTIONS**

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

## **14.3 DATA RETENTION**

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Fund 1 Limited** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or

- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Fund 1 Limited** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Fund 1 Limited has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Fund 1 Limited destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Fund 1 Limited must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **14.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Fund 1 Limited** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **15. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Fund 1 Limited** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

##### **15.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—

- a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
- 2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
- 3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
- 4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

- 1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—

- a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
- b) the name and address of the responsible party;
- c) the purpose for which the information is being collected;
- d) whether or not the supply of the information by that data subject is voluntary or mandatory;
- e) the consequences of failure to provide the information;
- f) any particular law authorising or requiring the collection of the information;
- g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
- h) any further information such as the—
  - i. recipient or category of recipients of the information;
  - ii. nature or category of the information;
  - iii. existence of the right of access to and the right to rectify the information collected;
  - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
  - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—

- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
- b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data

subject of the same information or information of the same kind if the purpose of collection of the information remains the same.

4. It is not necessary for a responsible party to comply with subsection (1) if—
- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
  - c) non-compliance is necessary—
    - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
    - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
    - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
    - iv. in the interests of national security;
  - d) compliance would prejudice a lawful purpose of the collection;
  - e) compliance is not reasonably practicable in the circumstances of the particular case; or
  - f) the information will—
    - i. not be used in a form in which the data subject may be identified; or
    - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.



## **16. CONCLUSION**

POPIA requires **Gaia Fund 1 Limited** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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*Gaia Fund 1 Limited*  
*Reg: 2020/113877/06*

## Gaia Fund 1 Limited

(Registration number: **2020/113877/06**)

### PROMOTION OF ACCESS TO INFORMATION MANUAL

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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2. Business contact details in terms of Section 51(1)(a)
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## **1. Introduction:**

**Gaia Fund 1 Limited**, as a listed vehicle on the 4 Africa Exchange, provides unit trusts, investment funds and institutions access to infrastructure as an asset class in a regulated, transparent and cost-effective structure.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Fund 1 Limited  
(Registration number: 2020/113877/06)

Information Officer: Renier Cilliers De Wit (email: [renier@gaia.group](mailto:renier@gaia.group))

Postal Address: 37 Vineyard Road, Claremont, Western Cape, 7708, South Africa

Physical Address: 37 Vineyard Road, Claremont, Western Cape, 7708, South Africa

Telephone: 084 545 0450

E-mail: [renier@gaia.group](mailto:renier@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

#### **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

#### **6. Procedure to request access to records held by Gaia Fund 1 Limited in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

#### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **Gaia Fund 1 Limited** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

## **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed. It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees. Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

## **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998

- Skills Development Levies Act 9 of 1999
- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records

- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth
- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Fund 1 Limited**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.





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## Protection of Personal Information Act (“POPIA”) 4 of 2013 Policy

### for Gaia Fund Managers (Pty) Ltd

(Registration number: 2015/059447/07)

#### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**“Data subject”** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and
- (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Fund Managers (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Fund Managers (Pty) Ltd**.

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Fund Managers (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Renier Cilliers De Wit is the Information Protection Officer for **Gaia Fund Managers (Pty) Ltd**. You can contact him at [renier@gaia.group](mailto:renier@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;

- (b) dealing with requests made to the body pursuant to this Act;
- (c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;
- (d) otherwise ensuring compliance by the body with the provisions of this Act.

## **Liability of Information Officers**

### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
    - a) destroys, damages or alters a record;
    - b) conceals a record; or
    - c) falsifies a record or makes a false record
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
- 4. THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when acting in terms of the agreement/mandate;
- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);

- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Fund Managers (Pty) Ltd** must be aware of. The staff of **Gaia Fund Managers (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Fund Managers (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia Fund Managers (Pty) Ltd** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia Fund Managers (Pty) Ltd** will not withhold such information.

3. You may request for corrections to be made to erroneous information and **Gaia Fund Managers (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Fund Managers (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Fund Managers (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

## **7. HOW GAIA FUND MANAGERS (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

### **Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

### **Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when we get your consent;
  2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
  3. processing complies with an obligation imposed on us by law;
  4. processing protects your legitimate interest;
  5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or

6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;
    - our name and address;
    - whether or not the information that you supply is voluntary or mandatory;
    - the consequences of failure to provide the information;
    - any particular law authorising or requiring the collection of the information;
    - any intended transborder transfers;

- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA FUND MANAGERS (PTY) LTD WILL PROCESS YOUR DATA OTHER**

#### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.
- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Fund Managers (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.

The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.



## **12. STEPS GAIA FUND MANAGERS (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA FUND MANAGERS (PTY) LTD.**

- **Our information officer's role:** An information Officer is registered in line with POPIA. The information Officer is Renier Cilliers De Wit.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## **13. EMPLOYEES AND EMPLOYMENT CONTRACTS**

The general provisions under POPIA will apply equally to any personal information processed as part of a data subject's employment. POPIA does specifically include a data subject's employment history within the definition of personal information. This means that POPIA applies to the collection and use of personal information of prospective employees, current employees and past employees, as well as the monitoring employees' email, internet access, location data and the video surveillance of employees in the employment context.

We must ensure:

- lawful justification for the processing of personal information;
- the personal information being processed must be relevant, adequate and not excessive having regard to the purpose for which it is processed;
- the employee must be notified of the purposes of collection and processing of personal information, and the employer must consider each employees' right to access, modification and erasure in light of POPIA requirements.

It is further advisable to include provisions in the employment contract recording the employee's obligation to adhere to the privacy policies of the employer, both with regard to the private information of the employer and the private information of clients and service providers that the employee may come in contact with in the course of his/her employment.

**Gaia Fund Managers (Pty) Ltd** must also make every effort to maintain awareness of compliance with the privacy policies of the employer by way of regular training/updates of employees on the requirements of the Act and the employer's own policies.

#### **14. EFFECT ON CERTAIN MARKETING PROCEDURES**

##### **14.1 DIRECT MARKETING**

###### **Electronic direct marketing and consent**

According to POPIA, direct marketing is electronic communication that is directed at an individual or entity and which promotes or offers to supply any goods or services. Examples include emails, SMS messages, messages sent via social media platforms directly to a specific individual and advertising sent to a custom audience via social media platforms (ie, where it is known who the recipients are).

Once categorised as (electronic) direct marketing, we must ascertain whether an opt-in consent must be obtained. There are two scenarios.

- If this is a **first approach** to the person, consent must be obtained for any unsolicited (ie, that person did not ask for it) marketing to that person. In other words, where we want to contact a person for the first time with marketing communication which was not requested (unsolicited), we must obtain consent before sending electronic marketing to individuals. We may approach someone for direct marketing consent once only, and provided that they have not withheld consent previously. There is a form (Form 4) in the Regulations to POPIA that sets out an example of such a consent. We may use it as is, or choose to adapt it and make it more attractive than the legislature's attempt (whilst making sure the necessary information

is contained therein so that the person knows at all times what marketing he is consenting to and from whom it will be received).

- **On the other hand**, when it comes to contacting our existing customers, there are three criteria that need to be met before we can start marketing to them directly:
  1. If the client's contact information was obtained in the context of a rendering a service;
  2. If we want to inform that client of similar offerings;
  3. If the client is given opportunities to refuse the direct marketing, both at the time the information is collected and every time marketing is directed to him/her. Marketing to that client will generally be in order provided an opt-out option appears in each electronic marketing message.

We must further manage our own client databases effectively and keep records of where, how and when the personal information was initially obtained; whether the person is an existing customer and, if so, in respect of what products or services; whether the person has consented to receiving direct marketing; and whether the person has unsubscribed from receiving direct marketing.

It is advisable therefore to:

- use bulk email and SMS software that keeps track of opt-in and opt out information and automatically includes an automatic opt out on each message sent to existing clients and others that have opted-in to receive marketing; and to
- ask people directly if they may be added to the agency's database.

## **15. FURTHER COMPLIANCE CONSIDERATIONS**

### **15.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Fund Managers (Pty) Ltd** or any third-party processing personal information on instruction from **Gaia Fund Managers (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient.)

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and

- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

## 15.2 SANCTIONS

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

## 15.3 DATA RETENTION

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Fund Managers (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Fund Managers (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Fund Managers (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Fund Managers (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Fund Managers (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **15.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Fund Managers (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

## **16. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Fund Managers (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

### **16.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

#### **Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and

2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
  1. within a reasonable time;
  2. at a prescribed fee, if any;
  3. in a reasonable manner and format; and
  4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.



**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;
    - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and

- v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—

- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
- b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.

4. It is not necessary for a responsible party to comply with subsection (1) if—

- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
- b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
- c) non-compliance is necessary—
  - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
  - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);

- iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
  - iv. in the interests of national security;
- d) compliance would prejudice a lawful purpose of the collection;
- e) compliance is not reasonably practicable in the circumstances of the particular case; or
- f) the information will—
  - i. not be used in a form in which the data subject may be identified; or
  - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

**17. CONCLUSION**

POPIA requires **Gaia Fund Managers (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy together with the awareness of all staff will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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<b>www.gaia.group</b>	<b>+27 (0)84 545 0450</b>	<i>Gaia Fund Managers (Pty) Ltd</i> <i>Reg: 2015/059447/07</i>

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## Gaia Fund Managers (Pty) Ltd

(Registration number: **2015/059447/07**)

### **PROMOTION OF ACCESS TO INFORMATION MANUAL**

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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2. Business contact details in terms of Section 51(1)(a)
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## **1. Introduction:**

**Gaia Fund Managers (Pty) Ltd**, as a specialist asset manager, assists fund managers, pension funds and institutions to make infrastructure investments where our unique engineering, finance and project management skillset can ensure value creation throughout the project lifecycle.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Fund Managers (Pty) Ltd  
(Registration number: 2015/059447/07)

Information Officer: Renier Cilliers De Wit (email: [renier@gaia.group](mailto:renier@gaia.group))

Postal Address: PO Box 44721, Claremont, 7700

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7735

Telephone: 084 545 0450

E-mail: [renier@gaia.group](mailto:renier@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

#### **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

#### **6. Procedure to request access to records held by Gaia Fund Managers (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

#### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **Gaia Fund Managers (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

## **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.  
It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees.  
Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

## **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998



- Skills Development Levies Act 9 of 1999
- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Employee Records:**

- PAYE records
- UIF records
- Workmen's Compensation records
- Employee records
- Contracts of employment and remuneration records
- Performance appraisals
- Job descriptions
- Training records
- Correspondence relating to personnel
- Consents

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

#### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth
- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

#### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

#### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Fund Managers (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial

competition;

- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.



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*Gaia Private Equity (Pty) Ltd*  
*Reg: 2017/052699/07*

## Protection of Personal Information Act (“POPIA”) 4 of 2013 Policy

### for Gaia Private Equity (Pty) Ltd

(Registration number: 2017/052699/07)

#### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**“Data subject”** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and

(h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Private Equity (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

(a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;

(b) dissemination by means of transmission, distribution or making available in any other form; or

(c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Private Equity (Pty) Ltd**.

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Private Equity (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Renier Cilliers De Wit is the Information Protection Officer for **Gaia Private Equity (Pty) Ltd**. You can contact him at [renier@gaia.group](mailto:renier@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;
- (c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;
- (d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
    - a) destroys, damages or alters a record;
    - b) conceals a record; or
    - c) falsifies a record or makes a false record
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
- 4. THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when acting in terms of the agreement/mandate;

- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);
- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Private Equity (Pty) Ltd** must be aware of. The staff of **Gaia Private Equity (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.

How **Gaia Private Equity (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia Private Equity (Pty) Ltd** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia Private Equity (Pty) Ltd** will not withhold such information.
3. You may request for corrections to be made to erroneous information and **Gaia Private Equity (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Private Equity (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Private Equity (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

**7. HOW GAIA PRIVATE EQUITY (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

**Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

**Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;



2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
3. processing complies with an obligation imposed on us by law;
4. processing protects your legitimate interest;
5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or
6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;

- our name and address;
- whether or not the information that you supply is voluntary or mandatory;
- the consequences of failure to provide the information;
- any particular law authorising or requiring the collection of the information;
- any intended transborder transfers;
- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA PRIVATE EQUITY (PTY) LTD WILL PROCESS YOUR DATA OTHER**

#### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.

- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Private Equity (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.  
The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under

Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## **12. STEPS GAIA PRIVATE EQUITY (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA PRIVATE EQUITY (PTY) LTD.**

- **Our information officer's role:** An information Officer is registered in line with POPIA. The information Officer is Renier Cilliers De Wit.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## **13. EFFECT ON CERTAIN MARKETING PROCEDURES**

### **13.1 DIRECT MARKETING**

#### **Electronic direct marketing and consent**

According to POPIA, direct marketing is electronic communication that is directed at an individual or entity and which promotes or offers to supply any goods or services. Examples include emails, SMS

messages, messages sent via social media platforms directly to a specific individual and advertising sent to a custom audience via social media platforms (ie, where it is known who the recipients are).

Once categorised as (electronic) direct marketing, we must ascertain whether an opt-in consent must be obtained. There are two scenarios.

- If this is a **first approach** to the person, consent must be obtained for any unsolicited (ie, that person did not ask for it) marketing to that person. In other words, where we want to contact a person for the first time with marketing communication which was not requested (unsolicited), we must obtain consent before sending electronic marketing to individuals. We may approach someone for direct marketing consent once only, and provided that they have not withheld consent previously. There is a form (Form 4) in the Regulations to POPIA that sets out an example of such a consent. We may use it as is, or choose to adapt it and make it more attractive than the legislature's attempt (whilst making sure the necessary information is contained therein so that the person knows at all times what marketing he is consenting to and from whom it will be received).
- **On the other hand**, when it comes to contacting our existing customers, there are three criteria that need to be met before we can start marketing to them directly:
  1. If the client's contact information was obtained in the context of a rendering a service;
  2. If we want to inform that client of similar offerings;
  3. If the client is given opportunities to refuse the direct marketing, both at the time the information is collected and every time marketing is directed to him/her. Marketing to that client will generally be in order provided an opt-out option appears in each electronic marketing message.

We must further manage our own client databases effectively and keep records of where, how and when the personal information was initially obtained; whether the person is an existing customer and, if so, in respect of what products or services; whether the person has consented to receiving direct marketing; and whether the person has unsubscribed from receiving direct marketing.

It is advisable therefore to:

- use bulk email and SMS software that keeps track of opt-in and opt out information and automatically includes an automatic opt out on each message sent to existing clients and others that have opted-in to receive marketing; and to
- ask people directly if they may be added to the agency's database.

## **14. FURTHER COMPLIANCE CONSIDERATIONS**

### **14.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Private Equity (Pty) Ltd** or any third-party processing personal information on instruction from **Gaia Private Equity (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient.)

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### **14.2 SANCTIONS**

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### **14.3 DATA RETENTION**

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Private Equity (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Private Equity (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Private Equity (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Private Equity (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Private Equity (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.

The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **14.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Private Equity (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **15. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Private Equity (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

##### **15.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that



information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and

2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.
5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication

that a correction of the information has been requested but has not been made.

3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;

- iii. existence of the right of access to and the right to rectify the information collected;
- iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
- v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—

- a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
- b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.

3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.

4. It is not necessary for a responsible party to comply with subsection (1) if—

- a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
- b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
- c) non-compliance is necessary—
  - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
  - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);

- iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
- iv. in the interests of national security;
- d) compliance would prejudice a lawful purpose of the collection;
- e) compliance is not reasonably practicable in the circumstances of the particular case; or
- f) the information will—
  - i. not be used in a form in which the data subject may be identified; or
  - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

**16. CONCLUSION**

POPIA requires **Gaia Private Equity (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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**12 Meson Close,  
Techno Park,  
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• Mich Nieuwoudt • Killian Petika Schabort  
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*Gaia Private Equity (Pty) Ltd*  
*Reg: 2017/052699/07*

## **Gaia Private Equity (Pty) Ltd**

(Registration number: **2017/052699/07**)

### **PROMOTION OF ACCESS TO INFORMATION MANUAL**

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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1. Introduction
2. Business contact details in terms of Section 51(1)(a)
3. Availability of the Manual
4. The Promotion of Access to Information Act ('PAIA')
5. The Objectives of PAIA
6. Procedure to request access to records held by the business in terms of Section 51(1)(e)
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8. Applicable legislation in terms of Section 51(1)(c)
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10. Grounds for refusal

## **1. Introduction:**

**Gaia Private Equity (Pty) Ltd**, through its private equity division and tax efficient S12J Venture Capital Company, Gaia Venture Capital Limited, invests in infrastructure and agribusiness private companies and projects which meet our investment mantra of delivering predictable, inflation linked and long-term cash yielding returns.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Private Equity (Pty) Ltd  
(Registration number: 2017/052699/07)

Information Officer: Renier Cilliers De Wit (email: [renier@gaia.group](mailto:renier@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 021 671 7210

E-mail: [renier@gaia.group](mailto:renier@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).



**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

#### **5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

#### **6. Procedure to request access to records held by Gaia Private Equity (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

#### **Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **Gaia Private Equity (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

#### **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed.

It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees.

Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;

7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);

7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;

7.4 Records may be withheld until the fees have been paid.

7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

#### **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999

- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth

- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Private Equity (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.



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*Gaia Venture Capital Ltd*

*Reg: 2017/186790/06*

## Protection of Personal Information Act ("POPIA") 4 of 2013 Policy

### for Gaia Venture Capital (Pty) Ltd

(Registration number: 2017/186790/06)

#### 1. SUMMARY OF POPIA AND IMPORTANT CONCEPTS

Section 14 of the Constitution of the Republic of South Africa, 1996 provides that everyone has the right to privacy. POPIA protects individuals against the unlawful collection, retention, transfer and use of their personal information and aims to ensure that the processing of personal information does not infringe the right to privacy of the data subject.

Important concepts are defined in Section 1 of the Act:

**"Data subject"** means to whom the personal information relates. In this case it will be our client (you).

**"Personal information"** means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to—

- (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
- (b) information relating to the education or the medical, financial, criminal or employment history of the person;
- (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- (d) the biometric information of the person;
- (e) the personal opinions, views or preferences of the person;
- (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- (g) the views or opinions of another individual about the person; and

(h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

**Gaia Venture Capital (Pty) Ltd** may process the above personal information of a data subject.

**"Process"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including—

- (a) the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- (b) dissemination by means of transmission, distribution or making available in any other form; or
- (c) merging, linking, as well as restriction, degradation, erasure or destruction of information.

**"Responsible party"** is defined as a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for processing information. In this case it will be **Gaia Venture Capital (Pty) Ltd**.

## **2. CONFIDENTIALITY OF PERSONAL AND BUSINESS INFORMATION**

**Gaia Venture Capital (Pty) Ltd** undertakes to take reasonable steps to keep your personal and business information, held by us, safe and confidential; that your information will be processed lawfully and in a reasonable manner; to keep it only for a specified and explicit lawful purpose; to process it only in ways compatible with the purpose for which it was given initially; to keep data accurate, to not retain it for a period longer than is necessary for the specified purpose and we will also provide a copy of personal information to the data subject, on request.

You should acknowledge that any personal and business information supplied to us is accurate and may be processed by us in the context of POPIA. In terms of Section 29 of the Financial Intelligence Centre Act we are required by law to report certain suspicions or unusual transactions of which we come aware to the Financial Intelligence Centre. This statutory requirement, which applies to both prospective clients and existing clients, override the professional ethics rules of confidentiality, which we observe. This clause shall not apply when confidential information enters the public domain or when we are required to disclose it to our insurers, legal advisors or under legal obligation.

## **3. INFORMATION PROTECTION OFFICER**

POPIA requires that an Information Protection Officer be appointed. Renier Cilliers De Wit is the Information Protection Officer for **Gaia Venture Capital (Pty) Ltd**. You can contact him at [renier@gaia.group](mailto:renier@gaia.group).

The duties of the Information Protection Officer are set out in Section 55(1) of the Act, that reads:

(1) Each responsible party must ensure that there are, within that body, one or more information protection officers whose responsibilities include –

- (a) the encouragement of compliance, by the body, with the information protection principles;
- (b) dealing with requests made to the body pursuant to this Act;
- (c) working with the Commission in relation to investigations conducted pursuant to Chapter 6 of this Act in relation to the body;
- (d) otherwise ensuring compliance by the body with the provisions of this Act.

### **Liability of Information Officers**

#### Nature of offence and penalty:

1. **Offence: Section 90(1) of PAIA:** A person (including an information officer) who, with intent to deny a right of access in terms of this Act:
    - a) destroys, damages or alters a record;
    - b) conceals a record; or
    - c) falsifies a record or makes a false record
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  2. **Offence: Section 90(2) of PAIA:** The Information Officer who wilfully or in a grossly negligent manner fails to comply with the provisions of section 14 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  3. **Offence: Section 90(3) of PAIA:** The head of a private body who, wilfully or in a grossly negligent manner, fails to comply with the provisions of section 51 of PAIA.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
  4. **Offence: Section 77K of PAIA:** Non-compliance with an Enforcement Notice.
    - **Penalty:** a fine or imprisonment for a period not exceeding 2 years.
- 4. THE OPERATOR**

The operator is the party that performs the actual processing of your personal information on our behalf.

#### **If we appoint an operator then we:**

- retain ultimate accountability for an operator when acting in terms of the agreement/mandate;

- must ensure that an operator must only processes the information furnished to it with the knowledge or authorisation of us, must treat personal information which comes to their knowledge as confidential and must not disclose it to others (unless required by law or in the course of the proper performance of their duties);
- must, in terms of a written contract between us and the operator, ensure that the operator which processes personal information for us, establishes and maintains the security measures as prescribed under POPIA.

### **Duties of the operator**

POPIA prescribes that an operator must notify us immediately where there are reasonable grounds to believe that your personal information has been accessed or acquired by any unauthorised person.

## **5. EXCLUSIONS**

If the information that has been processed does not fall within the definition of personal information, it is excluded from POPIA and the processing of the information may proceed without compliance with POPIA.

The following types of processing are excluded, namely information:

- processed for purely personal or household activity;
- that has been de-identified (if the information which links it to a specific data subject has been deleted or the link between a data subject and their personal information has been broken to such an extent that someone cannot link the information back to the relevant data subject again. An example would be a medical report without the name or any contact detail of the person to whom it relates);
- processed on behalf of the State or used by the Cabinet, Executive Council of a province and any municipality;
- processed for investigation and prosecution of criminal matters;
- used exclusively for journalistic purposes;
- required for the judicial functions of courts, and/or
- which is exempted by the Regulator (in terms of section 34 of POPI).

## **6. INFORMATION PROTECTION PRINCIPLES**

You have a number of rights in terms of POPIA, which **Gaia Venture Capital (Pty) Ltd** must be aware of. The staff of **Gaia Venture Capital (Pty) Ltd** will be educated on the principles of POPIA and the information Protection Officer will be aware of the personal information that is being held.



How **Gaia Venture Capital (Pty) Ltd** will implement the information protection principles in POPIA:

1. **Gaia Venture Capital (Pty) Ltd** will not store personal information about you without getting your direct consent.
2. You may request to review any personal information stored about you at any time and **Gaia Venture Capital (Pty) Ltd** will not withhold such information.
3. You may request for corrections to be made to erroneous information and **Gaia Venture Capital (Pty) Ltd** will be obliged to make such corrections.
4. No Personal Information will be disclosed to any person without your direct authorisation. A breach in this regard will be considered a serious and punishable offence.
5. **Gaia Venture Capital (Pty) Ltd** will not make alterations or changes of any nature to the personal information or data kept on you, without your direct authorisation.
6. **Gaia Venture Capital (Pty) Ltd** will not release data to any person resulting in your distinctive identification for the purposes of research, statistics or any other similar purpose.

**7. HOW GAIA VENTURE CAPITAL (PTY) LTD WILL COLLECT YOUR DATA**

We may collect personal data in a number of ways, for example: from the information you provide to us when you meet with one of our employees, when you communicate with us by telephone, email or other forms of electronic communication (in this respect, we may monitor, record and store any such communication), when you complete or we complete on your behalf client on-boarding application or other forms, from your agents, advisers, intermediaries, insurance companies, fund managers, investment managers and custodians of your assets, from publicly available sources or third parties where we need to conduct background checks about you.

We will process your personal information in line with the following conditions:

**Processing condition 1: accountability**

- We ensure that the conditions set out in POPIA, and all the measures that give effect to such conditions, are complied with at the time of the determination of the purpose and means of the processing and during the processing itself.

**Processing condition 2: processing limitation**

- The information we collect is not excessive, legally justifiable, and is not collected from third parties without good reason.
- There are six justification grounds in order to lawfully process your personal information:
  1. when you consent;

2. where processing is necessary to carry out actions for the conclusion or performance of a contract to which you are party;
3. processing complies with an obligation imposed on us by law;
4. processing protects your legitimate interest;
5. processing is necessary for pursuing our legitimate interests or of a third party to whom the information is supplied; or
6. processing is necessary for the proper performance of a public law duty by a public body.

#### **Processing condition 3: purpose specification**

- Personal information is collected for a specific, explicitly defined and lawful purpose related to a function or activity of us.
- Retention records of personal information is not retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

#### **Processing condition 4: further processing limitation**

- further processing is in accordance or compatible with the purpose for which personal information is collected.
- Further processing is allowed:
  - where you have consented to the further processing of the information; or
  - where the information is used for historical, statistical or research purposes and we ensure that the processing is carried out solely for such purposes and will not be published in an identifiable form.

#### **Processing condition 5: information quality**

We take reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

#### **Processing condition 6: openness**

- Documentation
  - PAIA Manual (on our website: [www.gaia.group](http://www.gaia.group) and at our office)
  - POPIA Manual (on our website [www.gaia.group](http://www.gaia.group) and at our office)
- Notification to a data subject
  - We take reasonably practicable steps to ensure that you are aware of:
    - the information being collected;
    - the source from which it is collected, if not collected from you itself;

- our name and address;
- whether or not the information that you supply is voluntary or mandatory;
- the consequences of failure to provide the information;
- any particular law authorising or requiring the collection of the information;
- any intended transborder transfers;
- any further information which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of you to be reasonable.

#### **Processing condition 7: security safeguards**

We secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-

- loss of, damage to or unauthorised destruction of personal information; and
- unlawful access to or processing of personal information.

In order to give effect to this we take reasonable measures to-

- identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
- establish and maintain appropriate safeguards against the risks identified;
- regularly verify that the safeguards are effectively implemented; and
- ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

#### **Processing condition 8: data subject participation**

We recognise your various rights under POPIA:

- the right to confirmation;
- the right to access;
- the right to correction, destruction or deletion; and
- the right to objection

#### **8. HOW GAIA VENTURE CAPITAL (PTY) LTD WILL PROCESS YOUR DATA OTHER**

#### **THAN WITH YOUR CONSENT, HOW WE USE THAT DATA AND WHO WE SHARE IT WITH**

- We may process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.

- Complies with an obligation imposed on us by law.
- Protects your legitimate interest.
- Is necessary for pursuing our legitimate interests or those of a third party to whom the information was supplied.

## **9. DATA TRANSFERS OF PERSONAL INFORMATION**

**Gaia Venture Capital (Pty) Ltd** should adhere to the following –

1. Make use of secure online channels.
2. Make use of strong passwords.
3. Make use of a secure email that will encrypt the data.
4. A written agreement should be put in place before data will be transferred to a third party.  
The agreement with the third party should set out the purpose for the required information.

## **10. THE REGULATOR FOR DATA PROTECTION**

POPIA introduces and provides for the establishment of an independent supervisory authority, the Information Regulator. It is specifically tasked with the duty to monitor and police compliance with the data protection provisions contained in POPIA.

### **10.1 SUBMITTING COMPLAINTS TO THE REGULATOR**

Any person (you, as our client) may, either orally or in writing submit a complaint to the Information Regulator in the event of alleged interference with their rights to privacy.

After receipt of a complaint, the Information Regulator is obliged to investigate the complaint, act as a conciliator where appropriate and take further action as contemplated by POPIA. In exercising its investigative powers, the Information Regulator may, amongst other things:

- summon and enforce the appearance of persons;
- compel the provision of written or oral evidence under oath;
- receive evidence irrespective of whether such evidence is admissible in a court of law; and
- enter and search any premises occupied by a us.

Where necessary, the Information Regulator may apply to a judge of the High Court or a magistrate to issue a warrant to enable the Information Regulator to enter and search premises.

## **11. SPECIAL NOTIFICATION/REGISTRATION REQUIREMENTS**

No registration or notification requirements for the processing of personal information are prescribed by POPIA other than prior authorisation with regard to certain limited categories of processing under

Section 57 of POPIA which relates to the cross-border transfer of special personal information or personal information concerning children.

## **12. STEPS GAIA VENTURE CAPITAL (PTY) LTD MUST IMPLEMENT TO BECOME COMPLIANT AND MARKETING**

### **12.1 WHAT COMPLIANCE WILL REQUIRE OF GAIA VENTURE CAPITAL (PTY) LTD.**

- **Our information officer's role:** An information Officer is registered in line with POPIA. The information Officer is Renier Cilliers De Wit.
- **Buy-in and staff training:** In order to ensure effective compliance, buy-in from senior management all the way down the chain of command is needed. Employees will be informed of what data privacy is about and what their duties are in terms of POPIA.
- **Find the personal information in our agency:** We will do a self-check/GAP analysis/ impact assessment. We will perform a detailed check on when and how information is collected, how it is stored and used and ultimately deleted or destroyed and whether it was collected with the necessary consent or otherwise obtained lawfully where consent is not required. Once such a "self-audit" is completed, there should be a clear understanding of how data is being processed in our agency. Gaps and risks should become identifiable.
- **Design a practicable compliance framework, which usually include identified processes and policies:** A proper gap analysis will help identify which processes and policies have to be put in place. These often include:
  - updates to employment contracts
  - updates to supplier agreements
  - changes to marketing practices
  - implementation of policies such as privacy policy, data breach policy, data subject record access request policy, employee device policy, and so forth.
- **Implementation:** The compliance framework should be implemented, monitored and maintained. Policies and procedures do nothing to aid compliance if they are not properly implemented.

## **13. EFFECT ON CERTAIN MARKETING PROCEDURES**

### **13.1 DIRECT MARKETING**

#### **Electronic direct marketing and consent**

According to POPIA, direct marketing is electronic communication that is directed at an individual or entity and which promotes or offers to supply any goods or services. Examples include emails, SMS

messages, messages sent via social media platforms directly to a specific individual and advertising sent to a custom audience via social media platforms (ie, where it is known who the recipients are).

Once categorised as (electronic) direct marketing, we must ascertain whether an opt-in consent must be obtained. There are two scenarios.

- If this is a **first approach** to the person, consent must be obtained for any unsolicited (ie, that person did not ask for it) marketing to that person. In other words, where we want to contact a person for the first time with marketing communication which was not requested (unsolicited), we must obtain consent before sending electronic marketing to individuals. We may approach someone for direct marketing consent once only, and provided that they have not withheld consent previously. There is a form (Form 4) in the Regulations to POPIA that sets out an example of such a consent. We may use it as is, or choose to adapt it and make it more attractive than the legislature's attempt (whilst making sure the necessary information is contained therein so that the person knows at all times what marketing he is consenting to and from whom it will be received).
- **On the other hand**, when it comes to contacting our existing customers, there are three criteria that need to be met before we can start marketing to them directly:
  1. If the client's contact information was obtained in the context of a rendering a service;
  2. If we want to inform that client of similar offerings;
  3. If the client is given opportunities to refuse the direct marketing, both at the time the information is collected and every time marketing is directed to him/her. Marketing to that client will generally be in order provided an opt-out option appears in each electronic marketing message.

We must further manage our own client databases effectively and keep records of where, how and when the personal information was initially obtained; whether the person is an existing customer and, if so, in respect of what products or services; whether the person has consented to receiving direct marketing; and whether the person has unsubscribed from receiving direct marketing.

It is advisable therefore to:

- use bulk email and SMS software that keeps track of opt-in and opt out information and automatically includes an automatic opt out on each message sent to existing clients and others that have opted-in to receive marketing; and to
- ask people directly if they may be added to the agency's database.

## **14. FURTHER COMPLIANCE CONSIDERATIONS**

### **14.1 DATA BREACH NOTIFICATION**

Where there are reasonable grounds to believe that your personal information has been accessed or acquired by an unauthorised person, **Gaia Venture Capital (Pty) Ltd** or any third-party processing personal information on instruction from **Gaia Venture Capital (Pty) Ltd** (the operator), must notify you and the Information Regulator. (Take note: Notice to the data subject is not required if the identity of the data subject cannot be established as a result of the breach, in the hands of the recipient.)

Notification to you (data subject) must be:

- made as soon as reasonably possible after the discovery of the breach;
- sufficiently detailed;
- in writing; and
- communicated to you by mail to your last known physical or postal address; or by email to your last known email address; or by placement in a prominent position on the website of us; or by publication in the news media; or as may be directed by the Information Regulator.

### **14.2 SANCTIONS**

It has been noted above that the Information Regulator is responsible for the investigation and enforcement of POPIA. A person contravenes the provisions of POPIA if he/she:

- hinders, obstructs or unlawfully influences the Information Regulator;
- fails to comply with an information or enforcement notice;
- gives false evidence before the Information Regulator on any matter after having been sworn in or having made an affirmation;
- contravenes the conditions;
- knowingly or recklessly, without the consent of us obtains, discloses, or procures the disclosure, sell, or offers to sell your details to another person; and will be guilty of an offence.

Contravention of POPIA could result in far-reaching sanctions, these include the imposition of fines up to R10 million, imprisonment for a period of 12 months to 10 years and/or a damage claim by you.

### **14.3 DATA RETENTION**

In terms of POPIA, records of personal information must not be retained any longer than is necessary for achieving the purpose for which the information was collected or subsequently processed.

Unless:

- Retention of the record is required or authorised by law or code of conduct (for example: The Companies Act 71 of 2008);
- **Gaia Venture Capital (Pty) Ltd** reasonably requires the record for lawful purposes related to its functions or activities;
- Retention of the record is required by a contract between the parties thereto; or
- The data subject or a competent person, where the data subject is a child, has consented to the retention of the record.

Notwithstanding these exceptions, records of personal information may be retained for periods in excess of these mentioned for historical, statistical, or research purposes if **Gaia Venture Capital (Pty) Ltd** has established appropriate safeguards against the records being used for any other purposes.

**If Gaia Venture Capital (Pty) Ltd has used a record of personal information of a data subject to make a decision about the data subject, we must—**

1. retain the record for such period as may be required or prescribed by law or code of conduct.

**When must Gaia Venture Capital (Pty) Ltd destroy or delete a record of personal information or de-identify it:**

As soon as reasonably practicable after the responsible party is no longer authorised to retain the record in terms of the above. The destruction or deletion of a record of personal information must be done in a manner that prevents its reconstruction in an intelligible form.

**Gaia Venture Capital (Pty) Ltd must restrict processing of personal information if—**

1. its accuracy is contested by the data subject, for a period enabling the responsible party to verify the accuracy of the information;
2. the responsible party no longer needs the personal information for achieving the purpose for which the information was collected or subsequently processed, but it has to be maintained for purposes of proof;
3. the processing is unlawful and the data subject opposes its destruction or deletion and requests the restriction of its use instead; or
4. the data subject requests to transmit the personal data into another automated processing system.



The above personal information may, with the exception of storage, only be processed for:

- purposes of proof; or
- with the data subject's consent; or
- with the consent of a competent person in respect of a child; or
- for the protection of the rights of another natural or legal person or if such processing is in the public interest.

Where processing of personal information is restricted in accordance with the above, the responsible party must inform the data subject before lifting the restriction on processing.

#### **14.4 DATA TRANSFERS AND OUTSOURCING**

POPIA provides that **Gaia Venture Capital (Pty) Ltd** may not transfer personal information about you to a third party in a foreign jurisdiction unless:

- the recipient is subject to a law or contract which: upholds principles of reasonable processing of the information that are substantially similar to the principles contained in POPIA;
- includes provisions that are substantially similar to those contained in POPIA relating to the further transfer of personal information from the recipient to third parties;
- you consent to the transfer;
- the transfer is necessary for the performance of a contract between you and us, or for the implementation of pre-contractual measures taken in response to your request;
- the transfer is necessary for the conclusion or performance of a contract concluded in your interest between us and a third party; or
- the transfer is for your benefit and it is not reasonably practicable to obtain your consent to that transfer; and if it were reasonably practicable to obtain such consent, you would be likely to give it.

#### **15. DATA SUBJECT ACCESS REQUEST POLICY**

If the Data subject (you) wants **Gaia Venture Capital (Pty) Ltd** to confirm that we are holding personal information about you; wants a description of the information or wants to correct such personal information held, the following process, set out in the below sections, should be followed.

##### **15.1 THE PROCESS TO REQUEST FOR ACCESS AND CHANGES TO PERSONAL INFORMATION UNDER POPIA**

**Section 23** of the POPIA states that a data subject may request a responsible party to confirm that they are holding personal information about the data subject and may obtain a description of that

information and details about who has had access to it. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 24** of the POPIA, provides for a right to request correction of personal information held by a responsible party if it is inaccurate, incomplete, misleading, out of date, and obtained unlawfully, irrelevant or excessive. Where such a request is received, the matter must be referred to the Information Protection Officer who will ensure that the correct procedures are adopted.

**Section 23 states that:**

1. “A data subject, having provided adequate proof of identity, has the right to—
  1. request a responsible party to confirm, free of charge, whether or not the responsible party holds personal information about the data subject; and
  2. request from a responsible party the record or a description of the personal information about the data subject held by the responsible party, including information about the identity of all third parties, or categories of third parties, who have, or have had, access to the information—
    1. within a reasonable time;
    2. at a prescribed fee, if any;
    3. in a reasonable manner and format; and
    4. in a form that is generally understandable.
2. If, in response to a request in terms of subsection (1), personal information is communicated to a data subject, the data subject must be advised of the right in terms of section 24 to request the correction of information.
3. If a data subject is required by a responsible party to pay a fee for services provided to the data subject in terms of subsection (1)(b) to enable the responsible party to respond to a request, the responsible party—
  1. must give the applicant a written estimate of the fee before providing the services; and
  2. may require the applicant to pay a deposit for all or part of the fee.
4. A responsible party may or must refuse, as the case may be, to disclose any information requested in terms of subsection (1) to which the grounds for refusal of access to records set out in the applicable sections of Chapter 4 of Part 2 and Chapter 4 of Part 3 of the Promotion of Access to Information Act apply.

5. The provisions of sections 30 and 61 of the Promotion of Access to Information Act are applicable in respect of access to health or other records.
6. If a request for access to personal information is made to a responsible party and part of that information may or must be refused in terms of subsection (4)(a), every other part must be disclosed.”

**Section 24 states that:**

1. “A data subject may, in the prescribed manner, request a responsible party to—
  - a) correct or delete personal information about the data subject in its possession or under its control that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully; or
  - b) destroy or delete a record of personal information about the data subject that the responsible party is no longer authorised to retain in terms of section 14.
2. On receipt of a request in terms of subsection (1) a responsible party must, as soon as reasonably practicable—
  - a) correct the information;
  - b) destroy or delete the information;
  - c) provide the data subject, to his or her satisfaction, with credible evidence in support of the information; or
  - d) where agreement cannot be reached between the responsible party and the data subject, and if the data subject so requests, take such steps as are reasonable in the circumstances, to attach to the information in such a manner that it will always be read with the information, an indication that a correction of the information has been requested but has not been made.
3. If the responsible party has taken steps under subsection (2) that result in a change to the information and the changed information has an impact on decisions that have been or will be taken in respect of the data subject in question, the responsible party must, if reasonably practicable, inform each person or body or responsible party to whom the personal information has been disclosed of those steps.
4. The responsible party must notify a data subject, who has made a request in terms of subsection (1), of the action taken as a result of the request.

**Section 25, regulates the manner of access to information, and reads as follow:**

The provisions of sections 18 and 53 of the Promotion of Access to Information Act apply to requests made in terms of section 23 of this Act.

**Section 18, regulates the Notification to Data subject when collecting personal information, and reads as follow:**

1. If personal information is collected, the responsible party must take reasonably practicable steps to ensure that the data subject is aware of—
  - a) the information being collected and where the information is not collected from the data subject, the source from which it is collected;
  - b) the name and address of the responsible party;
  - c) the purpose for which the information is being collected;
  - d) whether or not the supply of the information by that data subject is voluntary or mandatory;
  - e) the consequences of failure to provide the information;
  - f) any particular law authorising or requiring the collection of the information;
  - g) the fact that, where applicable, the responsible party intends to transfer the information to a third country or international organisation and the level of protection afforded to the information by that third country or international organisation;
  - h) any further information such as the—
    - i. recipient or category of recipients of the information;
    - ii. nature or category of the information;
    - iii. existence of the right of access to and the right to rectify the information collected;
    - iv. existence of the right to object to the processing of personal information as referred to in section 11(3); and
    - v. right to lodge a complaint to the Information Regulator and the contact details of the Information Regulator, which is necessary, having regard to the specific circumstances in which the information is or is not to be processed, to enable processing in respect of the data subject to be reasonable.

2. The steps referred to in subsection (1) must be taken—
  - a) if the personal information is collected directly from the data subject, before the information is collected, unless the data subject is already aware of the information referred to in that subsection; or
  - b) in any other case, before the information is collected or as soon as reasonably practicable after it has been collected.
3. A responsible party that has previously taken the steps referred to in subsection (1) complies with subsection (1) in relation to the subsequent collection from the data subject of the same information or information of the same kind if the purpose of collection of the information remains the same.
4. It is not necessary for a responsible party to comply with subsection (1) if—
  - a) the data subject or a competent person where the data subject is a child has provided consent for the non-compliance;
  - b) non-compliance would not prejudice the legitimate interests of the data subject as set out in terms of this Act;
  - c) non-compliance is necessary—
    - i. to avoid prejudice to the maintenance of the law by any public body, including the prevention, detection, investigation, prosecution and punishment of offences;
    - ii. to comply with an obligation imposed by law or to enforce legislation concerning the collection of revenue as defined in section 1 of the South African Revenue Service Act, 1997 (Act No. 34 of 1997);
    - iii. for the conduct of proceedings in any court or tribunal that have been commenced or are reasonably contemplated; or
    - iv. in the interests of national security;
  - d) compliance would prejudice a lawful purpose of the collection;
  - e) compliance is not reasonably practicable in the circumstances of the particular case; or
  - f) the information will—
    - i. not be used in a form in which the data subject may be identified; or
    - ii. be used for historical, statistical or research purposes.

**Section 53, regulates the protection of the Regulator, and states:**

Any person acting on behalf or under the direction of the Regulator, is not civilly or criminally liable for anything done in good faith in the exercise or performance or purported exercise or performance of any power, duty or function of the Regulator in terms of this Act or the Promotion of Access to Information Act.

**16. CONCLUSION**

POPIA requires **Gaia Venture Capital (Pty) Ltd** to establish appropriate policies and procedures to protect the various forms of personal information that are part of their business operations. Strict adherence to this Policy will ensure that the company complies with the relevant legislation and safeguards the personal information entrusted to them.



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*Gaia Venture Capital Ltd*

*Reg: 2017/186790/06*

## Gaia Venture Capital (Pty) Ltd

(Registration number: **2017/186790/06**)

### PROMOTION OF ACCESS TO INFORMATION MANUAL

*(in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 ("PAIA"))*

This manual is published in terms of Section 51 of the Promotion to Access to Information Act, 2000 (Act No.2 of 2000) ("the Act"). The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right to access of information held by the State and to information held by another person or entity, where such information is required by someone to protect his/her rights. This manual serves to inform members of the public of the categories of information the practice holds. Access to the records and information is not automatic. Any person, who would like to request access to any of the above records or information, is required to complete a request form.

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## **1. Introduction:**

**Gaia Venture Capital (Pty) Ltd**, through its private equity division and tax efficient S12J Venture Capital Company, Gaia Venture Capital Limited, invests in infrastructure and agribusiness private companies and projects which meet our investment mantra of delivering predictable, inflation linked and long-term cash yielding returns.

## **2. Business Contact Details in terms of Section 51 (1)(a):**

Name of business: Gaia Venture Capital (Pty) Ltd  
(Registration number: 2017/186790/06)

Information Officer: Renier Cilliers De Wit (email: [renier@gaia.group](mailto:renier@gaia.group))

Postal Address: PO Box 12700, Die Boord, Stellenbosch, 7613

Physical Address: 37 Vineyard Road, Claremont, Cape Town, 7708

Telephone: 084 545 0450

E-mail: [renier@gaia.group](mailto:renier@gaia.group)

Website: [www.gaia.group](http://www.gaia.group)

## **3. Availability of this manual**

A copy of this Manual is available –

- At the physical address of the business
- On request from the Information Officer
- On our website

This Manual will be updated from time to time, as and when required.

## **4. THE PROMOTION OF ACCESS TO INFORMATION ACT ('PAIA')**

The SA Human Rights Commission (SAHRC) has, in terms of section 10 of the Promotion of Access to Information Act (PAIA), developed a guide containing information reasonably required by a person wishing to exercise or protect any right in terms of PAIA.

The guide contains amongst others the following information:

- The purpose of PAIA;
- The manner, form, and costs of a request for access to information held by a body;
- Assistance available from Information Officers and the SAHRC;
- Legal remedies when access to information is denied;
- When access to information may be denied; and
- The contact details of Information Officers in the National, Provincial and Local Government.

The Guide is available on the SAHRC's website at [www.sahrc.org.za](http://www.sahrc.org.za).

**The PAIA Manual will be kept at the offices and on our website until the Regulations are amended with regard to where the PAIA Manual must be kept/registered.**

**5. Objectives of PAIA**

- To promote transparency, accountability and effective governance of all public and private bodies;
- To assist members of the public to effectively scrutinize and participate in decision making by public bodies;
- To ensure that the state promotes a human rights culture and social justice;
- To encourage openness;
- To establish voluntary and mandatory mechanisms or procedures which give effect to the right of access to information in a speedy, inexpensive and effortless manner.

**6. Procedure to request access to records held by Gaia Venture Capital (Pty) Ltd in terms of Section 51(1)(e)**

Use the prescribed 'Form C' which is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

**6.1** Address your request to our Information Officer

**6.2** Provide sufficient details to enable us to identify:

- (a) The record(s) requested;
- (b) The requester (and if an agent is lodging the request, proof of capacity);
- (c) The form of access required;
- (d) (i) The postal address or fax number of the requester in the Republic;  
(ii) If the requester wishes to be informed of the decision in any manner (in addition to written notification), the manner and particulars thereof;]
- (e) The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

**Procedure when making a PAIA request**

A requester must be granted access to the records requested if he/she has complied with the following procedural requirements:

- The PAIA request must be made on the correct form (Form C for private bodies), addressed to the Information Officer, or to the head of the private body;

- The PAIA request form must be hand-delivered or sent via email to **Gaia Venture Capital (Pty) Ltd** upon request; and
- The records requested are not subject to the refusal grounds provided for under PAIA.

#### **7. Prescribed fees for requesting information:**

The following applies to requests (other than personal requests):

- 7.1 A requestor is required to pay the prescribed fees (R50.00) before a request will be processed. It is important to note that requesters who are requesting access to their personal information are exempt from paying the request fee; however, they are still required to pay access fees. Requesters who earn less than R14, 712 per year (if single) and R27,192 per year (if married or in a life partnership), do NOT have to pay access fees;
- 7.2 If the preparation of the record requested, requires more than the prescribed hours (six), a deposit shall be paid (of not more than one third of the access fee which would be payable if the request was granted);
- 7.3 A requestor may lodge an application with a court against the tender/payment of the request fee and/or deposit;
- 7.4 Records may be withheld until the fees have been paid.
- 7.5 The fee structure is available on the website of the SOUTH AFRICAN HUMAN RIGHTS COMMISSION at [www.sahrc.org.za](http://www.sahrc.org.za).

#### **8. Applicable legislation in terms of Section 51(1)(c):**

Information is available in terms of the following legislation to the persons or entities specified in such legislation, as well as the specific protections offered by such laws. The applicable legislation:

- ☐ Basic Conditions of Employment 75 of 1997
- ☐ Companies Act 71 of 2008
- ☐ Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
- ☐ Consumer Protection Act 68 of 2008
- ☐ Electronic Communications and Transactions Act 25 of 2002
- ☐ Income Tax Act 95 of 1967
- ☐ Labour Relations Act 66 of 1995
- ☐ National Credit Act 34 of 2005
- ☐ Occupational Health & Safety Act 85 of 1993
- ☐ Promotion of Access to Information Act 2 of 2000
- ☐ Protection of Personal Information Act 4 of 2013
- ☐ Skills Development Act 97 of 1998
- ☐ Skills Development Levies Act 9 of 1999

- Unemployment Contributions Act 4 of 2002
- Unemployment Insurance Act 63 of 2001;
- Value Added Tax Act 89 of 1991

## **9. Schedule of Records:**

At the business, we hold the following categories of information subject to grounds for refusal to the access thereof. We have not submitted any description to the Minister for publication in the Gazette:

### **Company Information**

- Documentation of incorporation
- Minutes of Board and Shareholder meetings;
- Annual Financial Statements and internal accounting records
- Tax returns
- Internal and external correspondence
- Internal Policies and Procedures

### **Legal**

- Material licenses, permits and authorisations
- Contracts

### **Insurance**

- Insurance policies
- Claim records
- Details of insurance coverage, limits and insurers

### **Operations**

- Company Information
- Client and Customer Registry
- Contracts
- Information relating to Work in Progress
- Marketing and Future Strategies
- Marketing and Sales Records
- Suppliers Registry
- Bank Statements

### **Client related Records**

- Client data basis
- Records generated within the business relating to the client including transactional records
- Full Name, Gender, Marital status, Nationality, Language preference, Date of birth

- Information relating to education, Financials (Bank statements/Payment advice), Criminal or employment history of a person
- Identifying numbers such as Identity or Passport number / Tax identification numbers or IRP5 number
- References
- E-mail address
- Physical address / Postal address

### **Other Party Records**

The business may possess records pertaining to other parties, including without limitation contractors, suppliers, subsidiary/holding/sister companies, joint venture companies, and service providers.

### **10. Grounds for Refusal of Access to Records**

The main grounds for the refusal of a request for information relates to the mandatory protection of the privacy of a third party who is:

- a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- mandatory protection of the commercial information of a third party, if the record contains:
  - trade secrets of that third party;
  - financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- information disclosed in confidence by a third party to **Gaia Venture Capital (Pty) Ltd**, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- mandatory protection of the safety of individuals and the protection of property;
- mandatory protection of records which would be regarded as privileged in legal proceedings;
- the commercial activities of the business, which may include trade secrets of the private body;
- requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources, shall be refused.