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Docex 32 Roodepoort  
Practice Number 14258



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## BOTHA COETZEE MAPEKULA INC.

(“BCM”)

### PRIVACY POLICY IN TERMS OF THE PROTECTION OF PERSONAL INFORMATION ACT 4 OF 2013, AS AMENDED FROM TIME TO TIME

Revised: October 2023

*This Privacy Policy (hereinafter referred to as “the/this Policy”) of our law firm has been prepared in terms of the Protection of Personal Information Act 4 of 2013 (“the POPI Act”) and sets out how we manage and process your Personal Information (referred to herein as “PI”). We will use your PI only for the purposes for which it was collected and agreed with you, and which is necessary for us to attend to the mandate and complete the instruction to the best of our ability.*

*Throughout this Policy, reference to “our”/“we”/“us” will refer to BCM – we are deemed to be a Responsible Party as defined in the POPI Act and we collect and process your PI in order to render legal services to you (“the Services”) based on the information you provide us with and the instruction we are mandated to carry out, you being the Data Subject as defined in the POPI Act.*

*This Policy informs you of the manner regarding the collection, use, and disclosure of your PI when you use our Services and the choices you have associated with that PI.*

#### 1. THE PURPOSE OF THE POPI ACT – THE RIGHT TO PRIVACY

The POPI Act, as one of its aims, strives to regulate, in harmony with international standards, the processing of PI by public and private bodies in a manner that gives effect to the right to Privacy which is enshrined in section 14 of the Constitution of South Africa (subject to justifiable limitations that are aimed at protecting other rights and important interests).

## 2. WHAT IS PERSONAL INFORMATION?

### 2.1 The POPI Act defines PI as follows:

*“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:*

- *information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or 5 mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;*
- *information relating to the education or the medical, financial, criminal or employment history of the person;*
- *any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;*
- *the biometric information of the person;*
- *the personal opinions, views or preferences of the person;*
- *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;*
- *the views or opinions of another individual about the person; and*
- *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.*

## 3. THE MEANING OF PROCESSING

Processing is defined in the POPI Act to include the *collection, receipt, storage, recording, organisation, collation, updating or modification, usage, retrieval, retention and destruction* of PI.

## 4. HOW WE MAY USE YOUR PERSONAL INFORMATION

### 4.1 We may use your PI in the following different manners:-

- 4.1.1 To confirm and verify your identity or to verify that you are an authorised user for security purposes; or
- 4.1.2 For the detection and prevention of fraud, crime, money laundering or other malpractice;
- 4.1.3 To conduct market or customer satisfaction research or for statistical analysis;
- 4.1.4 For audit and record keeping purposes;

- 4.1.5 In connection with legal proceedings.
- 4.1.6 To provide and maintain the Service;
- 4.1.7 To notify you about changes to our Service;
- 4.1.8 To allow you to participate in interactive features of our Service when you choose to do so;
- 4.1.9 To provide customer care and support;
- 4.1.10 To provide analysis or valuable information so that we can improve the Service;
- 4.1.11 To detect, prevent and address technical issues; and
- 4.1.12 To ensure we abide by other legislation such the Financial Intelligence Centre Act. some PI we may need to keep record of for a period of 5 years.

## 5. THE 8 PRINCIPLES OF LAWFUL PROCESSING BY RESPONSIBLE PARTIES

- 5.1 We are committed to protecting your privacy and to ensure that your PI is collected and used properly, lawfully and in accordance with current data privacy and protection laws.
- 5.2 Chapter 3 of the POPI Act establishes the conditions for lawful processing of PI which we (as a Responsible Party) must abide by and these consist of eight conditions, namely:

### 5.2.1 Accountability

We must ensure that the conditions and all the measures set out in the Act that give effect to such conditions, are complied with at the time of the determining the purpose and means of the processing.

### 5.2.2 Processing limitation

The second principle deals with the lawfulness of processing, minimality of information collected, consent, justification and objection, and the collection of PI directly from the Data Subject.

### 5.2.3 Purpose specification

The third principle provides that PI must be collected for a specific purpose and the Data Subject from whom the PI is collected must be made aware of the purpose for which the PI was collected.

### 5.2.4 Further processing limitation

The fourth principle regulates the further processing of PI. If a Responsible Party further processes PI, such processing must be compatible with the purpose for which the information was collected in principle 3.

### 5.2.5 Information quality

The fifth principle provides that the Responsible Party must take reasonable steps to ensure that the PI that has been collected is complete, accurate, not misleading and up to date. In so doing, the Responsible Party must take into consideration the purpose for which the PI was collected.

### 5.2.5 Openness

Data Subjects must be made aware of certain information when giving their consent, this is specified in our Consent Form to process PI. Thus, we may need to ask for your consent for each separate instruction we receive from you.

We must notify the Regulator if there has been unauthorised access of PI held by us or our nominated IT service provider once we become aware of same. If PI is going to be collected, the Responsible Party must take “reasonably practicable steps to ensure that the Data Subject has been made aware that his or her PI is going to be collected. The Responsible Party should for example, take reasonable steps to make the Data Subject aware of its name and address, and the purpose for which the PI is being collected.

### 5.2.6 Security safeguards

The seventh principle provides that the Responsible Party must ensure that the integrity of the PI in its control is secured through technical and organisational measures.

### 5.2.7 Data subject participation

The eighth principle provides that Data Subjects have the right to request that a Responsible Party confirm (free of charge) whether it holds PI about the Data Subject, and he or she may also request a description of such information. Should you wish to access certain information from us, our PAIA Manual may be applicable, but we will assist you once you have contacted the Information Officer or the Deputy Officer.

## 6. WHAT ARE YOUR RIGHTS?

Section 5 of the POPI Act provides that you have the following rights pertaining to your PI:

- 6.1.1 have your PI processed in accordance with the conditions for the lawful processing of PI as referred to in Chapter 3, including the right to be *notified* that PI about you is being collected as provided for in terms of section 18 or your or

its PI has been accessed or acquired by an unauthorised person as provided for in terms of section 22;

- 6.1.2 establish whether we hold PI about you and as you may request access to your PI (there may be a fee involved but this would be subject to what the set out in our PAIA Manual);
- 6.1.3 request, where necessary, the correction, destruction or deletion of your PI;
- 6.1.4 to object, on reasonable grounds relating to your or the particular situation, to the processing of your or its PI (subject to FICA);
- 6.1.5 to object to the processing of your PI at any time for purposes of direct marketing; and
- 6.1.6 to submit a complaint to the Regulator if you feel there has been or will be interference with the protection of your PI and to submit a complaint to the Regulator including to institute civil proceedings regarding the alleged interference.

## 7. HOW WE SHARE YOUR INFORMATION WITH OUR SERVICE PROVIDERS

- 7.1 We share your PI with our nominated IT service providers in terms of processing and storing your PI and to render the legal services to you. We do require the IT providers to assist us to run our business however we manage our relationship with these providers as they assist with storing records and processing data, which allows us to run our business operations and organisation from day-to-day. These are some instances when we need to share your information with our service provider.
- 7.2 We use service providers to provide us with customer relationship management software, IT services, provide cloud storage services, perform audits and do our income taxes.
- 7.3 We only share the minimum amount of your information. Our service providers agree to keep your information secure and confidential and only use your information for the purposes for which we shared it with them. Some of the service providers that we use may be in other countries. Therefore we provide for appropriate safeguards before we share – and we request that service providers sign our agreement which is in accordance with the POPI Act and this Policy.

## 8. KEEPING YOUR PERSONAL INFORMATION SECURE

- 8.1 We use our best endeavours to secure the integrity and confidentiality of PI in our possession or under our control by taking appropriate, reasonable technical and organisational measures to prevent –
  - 8.1.1.1 loss of, damage to or unauthorised destruction of PI; and
  - 8.1.1.2 unlawful access to or processing of PI.

- 8.2 The transmission of information from you to us via the internet or a mobile phone network connection may not be completely secure, and any transmission is at your risk. We will use our best endeavours to provide adequate protection for your PI held and to stop unauthorized access and use of PI.
- 8.3 Security policies and procedures which we do attend to are:
  - 8.3.1 Physical security;
  - 8.3.2 Computer and network security;
  - 8.3.3 Access to PI;
  - 8.3.4 Secure communications;
  - 8.3.5 Security in contracting out activities or functions;
  - 8.3.6 Retention and disposal of information;
  - 8.3.7 Monitoring access and usage of information; and
  - 8.3.8 Investigating and reacting to security incidents.
- 8.4 When contracting with third party service providers, we may impose appropriate security, privacy, and confidentiality obligations upon them including to ensure that the data shared will remain safe and is kept secure.
- 8.5 The Information Officer shall take such steps necessary to ensure that BCM abides by the POPI Act obligations and that same are carried forward into any such service/operator contract with a third party in that service providers that may store and/or process such information from time to time. The nominated third parties must agree to comply with the terms of this Policy and the applicable statutory obligations.
- 8.6 Even though we regularly monitor our systems for any loopholes, no system is perfect and thus we cannot be 100% guaranteed that no authorised access will happen as hackers do find ways to enter systems and breach physical, technical, or managerial safeguards. We will, however, inform you of any breaches affecting your PI or whether your data has been compromised and will report same to the Information Regulator.
- 8.7 If PI is accessed or acquired by any unauthorised person, we will notify the Information Regulator as soon as practically possible and yourself as soon as reasonably possible.

## 9. USE OF OUR WEBSITE AND COOKIES

- 9.1 Cookies, in their simplest form, are small clusters of data. A web server passes these data clusters through to your computer after you've landed on a website. Your computer then stores the data as files inside your browser cache.
- 9.2 Our website may from time to time make use of cookies, which cookies use your data if you are visiting our website.
- 9.3 Almost all websites contain cookies that, for example, assist with the following:

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- 9.3.1 Saving your password(s) so you don't need to remember them whenever you visit websites
- 9.3.2 Verifying user login details
- 9.3.3 Improve the overall functionality of the website (these cookies stay on your device so it's easier for you to use the website the next time around).
- 9.4 Cookies can be managed by you under *settings* of the browser which you use. Some types of cookies cannot be removed as these cookies form part of being able to make use of and browse the website.
- 9.5 Cookies may be used by other third-party entities (e.g. the server) but this is not a danger and can be managed. Session cookies are temporary. They literally only last for a "session." Once you close the browser window, or leave the website, the cookie disappears. Unlike other cookies, session cookies are never stored on your computer. Session cookies allow you to browse websites without constantly re-entering the same information.

## 10. DISCLOSURE OF INFORMATION

- 10.1 We may disclose your PI to the service providers who are involved in the delivery of products or services to efficiently render services to you. We have agreements in place ensuring that ensure that these service providers comply with the privacy requirements as required by the POPI Act and this Policy.
- 10.2 We may also disclose your information:-
  - 10.2.1 where we have a duty or a right to disclose in terms of law; or
  - 10.2.2 where we believe it is necessary to protect our rights
- 10.2 Pertaining to our website. please note that we do not control how other third parties manage their opt-out processes.

## 11. AMENDMENTS TO THE POLICY

Amendments to the Policy may occur from time to time. As this Policy may be amended from time to time or should amendments be necessary in terms of the POPI Act or any other legislation in force including and any directives and codes of conduct issued by the Information Regulator from time to time. The Policy is available on our website for review.

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## 12. THE INFORMATION OFFICER AND DEPUTY INFORMATION OFFICER

12.1 BCM's based in Roodepoort, Johannesburg and specialises in all legal matters. The Directors have nominated as the Information Officer Jan Hendrik Coetzee (one of the Directors) whose contact details are set out below.

Office Tel: (011) 763-2177

Direct Fax: (011) 763-4432

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12.2 To assist the Information Officer with discharging his duties the appointed Deputy Information Officer is Kimesha Govender who has accepted the nomination is nominated, and her details are below:

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Any concerns arising regarding this Policy (whether potential and/or existing clients should be escalated to the Information Officer or the Deputy Information Officer.

## 13. TRAINING

13.1 Training of staff and employees will be conducted annually or more if required by way of:-

13.1.1 a meeting involving the entire group of employees and administrative personnel or by scheduling group sessions, when important changes occur and as frequently as the board of Directors may direct (but at least annually). Training and individual refresher training will also be available to employees on request.

13.1.2 Each staff member will be provided with a copy of the Policy as revised from time to time and may be required to sign an acknowledgement of receipt and an acknowledgement that training was received.



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#### 14. NON-COMPLIANCE AND PENALTIES FOR NON-COMPLIANCE

- 14.1 Compliance will be enforced by an Information Regulator, which will have far-reaching powers.
- 14.2 The legislation provides for the following penalties for non-compliance:
  - 14.2.1 months to ten years' imprisonment; or
  - 14.2.2 Up to R 10 million fine; or
  - 14.2.3 Civil/criminal remedies.
- 14.3 Failure by any employee to comply with this Policy or knows that there is someone failing the ruled POPI ACT will constitute a breach of such employee's conditions of employment. This could expose such employee to disciplinary procedures or may expose the staff member and/or BCM to administrative or criminal penalties which could be severe in the event of non-compliance, alleged or suspected non-compliance with the POPI Act. Disciplinary hearings or dismissal could ensue should the staff member be held responsible for non-compliance in severe cases.

#### 15. INFORMATION REGULATOR

- 15.1 If you have any queries about this Policy or need further information about this Policy or privacy practices, wish to withdraw consent, exercise any of your rights or preferences or access or correct your PI, please contact us at the numbers/addresses listed on our website or use the contact details set out in paragraph 12.
- 15.2 The Information Regulator can be reached on the website with the link:- <https://www.justice.gov.za/infoereg/portal.html> should you wish to lay a complaint.
- 15.3 The Address is: JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001.  
Tel: 010 023 5200 and e-mail: [enquiries@infoeregulator.org.za](mailto:enquiries@infoeregulator.org.za).