



PROTECTION OF INFORMATION ACT AGREEMENT AND CONSENT DECLARATION

BY AND BETWEEN:

TVR LAW herein duly represented by

Tineke van Rooyen

And

POPI ACT AGREEMENT AND CONSENT DECLARATION

1. PARTIES

1.1 The Parties to this Agreement are:

- 1.1.1 **TVR LAW**, a legal practice duly registered at the Eastern Cape Division of the Legal Practice Council in terms of Legal Practice Act 28 of 2014 of the Republic of South Africa with **practice number: 67790**, herein represented by Tineke van Rooyen (ID No.: 670707 0020 080), in her capacity as duly authorised sole proprietor of TVR LAW;

(hereinafter referred to as "the Firm")

1.1.2

(hereinafter referred to as "the Client")

2. DEFINITIONS

- 2.1 The following definitions are those set out or referenced in POPIA itself and are applied throughout this Consent Document, unless the context indicates a contrary meaning:

- 2.1.1 **"Consent"** means any voluntary, specific and informed expression of will in terms of which permission is given for the Processing of Personal Information;
- 2.1.2 **"Constitution"** means the Constitution of the Republic of South Africa, 1996;
- 2.1.3 **"Data Subject"** means the person to whom Personal Information relates;
- 2.1.4 **"De-identify"**, in relation to Personal Information of a Data Subject, means to delete any information that:
- 2.1.4.1 identifies the Data Subject;
 - 2.1.4.2 can be used or manipulated by a reasonably foreseeable method to identify the Data Subject; or
 - 2.1.4.3 can be linked by a reasonably foreseeable method to other information that identifies the Data Subject,

- 2.1.5 **"Direct marketing"** means to approach a Data Subject, either in person or by mail or Electronic communication, for the direct or indirect purpose of –
 - 2.1.5.1 promoting or offering to supply, in the ordinary course of business, any goods or services to the Data Subject; or
 - 2.1.5.2 requesting the Data Subject to make a donation of any kind for any reason;
- 2.1.6 **"Electronic communication"** means any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient's terminal equipment until it is collected by the recipient;
- 2.1.7 **"Information Officer"** of, or in relation to, a private body means the head of a private body as contemplated in section 1, of the Promotion of Access to Information Act;
- 2.1.8 **"Information Regulator"** means the independent Regulatory body having jurisdiction throughout South Africa, and having been established in terms of section 39 of POPIA to perform certain functions under both POPIA and PAIA;
- 2.1.9 **"Operator"** means a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of that party;
- 2.1.10 **"Person"** means a natural person or a juristic person;
- 2.1.11 **"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 –
 - 2.1.11.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, wellbeing, disability, religion, conscience, belief, culture, language and birth of the person;
 - 2.1.11.2 information relating to the education or the medical, financial, criminal or employment history of the person;
 - 2.1.11.3 any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
 - 2.1.11.4 the biometric information of the person;
 - 2.1.11.5 the personal opinions, views or preferences of the person;
 - 2.1.11.6 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;
 - 2.1.11.7 the views or opinions of another individual about the person; and

- 2.1.11.8 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;
- 2.1.12 **"Processing"** means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including –
- 2.1.12.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use; dissemination by means of transmission, distribution or making available in any other form; or
- 2.1.12.2 merging, linking, as well as restriction, degradation, erasure or destruction of information;
- 2.1.13 **"Promotion of Access to Information Act"** and **"PAIA"** means the Promotion of Access to Information Act 2 of 2000, together with Regulation 187 of 15 February 2002 as amended to 1 June 2007;
- 2.1.14 **"Protection of Personal Information Act"** and **"POPIA"** means the Protection of Personal Information Act 4 of 2013, together with any and all Regulations that may in the future be promulgated thereunder;
- 2.1.15 **"Public Record"** means a Record that is accessible in the public domain, and which is in the possession of or under the control of a public body, whether or not it was created by that public body;
- 2.1.16 **"Record"** means any Recorded information –
- 2.1.16.1 regardless of form or medium, including any of the following:
- i. Writing on any material;
 - ii. Information produced, recorded or stored by means of any tape Recorder, computer equipment, whether hardware or software or both, or other device, and any material subsequently derived from information so produced, Recorded or stored;
 - iii. Label, marking or other writing that identifies or describes anything of which it forms part, or to which it is attached by any means;
 - iv. Book, map, plan, graph or drawing;
 - v. Photograph, film, negative, tape or other device in which one or more visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced;
- 2.1.16.2 in the possession or under the control of a responsible party;
- 2.1.16.3 whether or not it was created by a responsible party; and
- 2.1.16.4 regardless of when it came into existence;

- 2.1.17 **"Regulator"** means the Information Regulator established in terms of section 39;
- 2.1.18 **"Responsible party"** means a public or private body or any other person which, alone or in conjunction with others, determines the purpose of and means for Processing Personal Information, in this document, being TVR LAW;
- 2.1.19 **"Restriction"** means to withhold from circulation, use or publication any Personal Information that forms part of a filing system, but not to delete or destroy such information;
- 2.1.20 **"Special Personal Information"** means Personal Information as referred to in section 26 concerning –
- 2.1.20.1 the religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life or biometric information of a Data Subject; or
 - 2.1.20.2 the criminal behaviour of a Data Subject to the extent that such information relates to –
 - i. the alleged commission by a Data Subject of any offence; or
 - ii. any proceedings in respect of any offence allegedly committed by a Data Subject or the disposal of such proceedings;
- 2.1.21 **"Unique identifier"** means any identifier that is assigned to a Data Subject and is used by a responsible party for the purposes of the operations of that responsible party and that uniquely identifies that Data Subject in relation to that responsible party.

3. PURPOSE FOR THE COLLECTION AND PROCESSING

- 3.1 The purpose for the collection and processing of your personal Information and the reason for the Firm requiring your Personal Information is for the Firm –
- 3.1.1 to comply with lawful obligations and all applicable legislation;
 - 3.1.2 to give effect to a contractual relationship between the Firm and yourself;
 - 3.1.3 to conduct its business operations; and
 - 3.1.4 to protect the legitimate interests of the Firm, yourself and or any third parties.
- 3.2 All personal information which you provide to the Firm will only be used for the purposes set out above.

4. CONSEQUENCES OF WITHHOLDING CONSENT TO COLLECT AND TO PROCESS PERSONAL INFORMATION

- 4.1 You are within your rights to withhold consent to the Firm collecting and processing your personal information.

- 4.2 In the event that you withhold consent to providing the Firm with your personal information, the Firm will not be able to engage with you or to enter into an agreement or relationship with you.

5. STORAGE OF PERSONAL INFORMATION

- 5.1 All personal information, whether hard copy or a soft copy, which you provide to the Firm will be held and stored securely and for the purpose for which it was collected.
- 5.2 The secure storage facilities for the personal information will be audited regularly by the Firm.
- 5.3 The information as contained in soft copies, will be stored electronically in a centralised data base.
- 5.4 Where appropriate, hard copies of personal information will be stored and retained safely under lock and key.

6. RETENTION, ARCHIVING AND DESTRUCTION OF PERSONAL INFORMATION

- 6.1 The POPIA principle that personal information is not retained for longer than is necessary for achieving the purpose for which it was collected and subsequently processed, is one by which the Firm abides.
- 6.2 The exceptions to the above principle specifically provided in POPIA are where –
- 6.2.1 the retention of the record is required or authorised by law;
 - 6.2.2 the Firm reasonably requires the record for lawful purposes related to its functions or activities;
 - 6.2.3 the retention of the record is required in terms of an agreement between the Firm and yourself; or
 - 6.2.4 the record is retained for historical purposes, with the Firm having established appropriate safeguards against the record being used for any other purpose.
- 6.3 When the Firm no longer requires the personal information, the Firm will safely and securely archive the personal information for a period of 7 years, as per the requirements of the Companies Act 71 of 2008, or longer, should this be required by any other legislation applicable within South Africa.
- 6.4 The Firm may proceed with processing the personal information which has been archived in the event that the processing purpose is revived for any reason whatsoever.
- 6.5 When the Firm is no longer authorised to retain your personal information, it shall destroy or delete such personal information or records of personal information or de-identify them in a manner that prevents their reconstruction in an intelligible form.

7. DISCLOSURE AND TRANSFER OF PERSONAL INFORMATION

- 7.1 The Firm may from time-to-time transfer and/or disclose your personal information to other parties, and other entities, and/or approved third party product and service providers and related companies or agents.
- 7.2 Such disclosure shall always be subject to a written agreement concluded between the Firm and such other person ("the recipient") obligating the recipient to comply with strict confidentiality, with all the information security conditions and provisions as contained in the Firm's POPI Policy and as contained in POPIA itself.

8. TRANSFER OF PERSONAL INFORMATION OUTSIDE OF SOUTH AFRICA

- 8.1 The Firm does not transfer any personal information outside of the borders of South Africa.
- 8.2 In the event that the Firm, at a future date, elects to transfer personal information outside of the South African borders, for example for the purpose of outsourcing a business function to an offshore company, it undertakes to transfer your personal information only to a person in a country that has in place similar privacy laws to POPIA and in addition, where the party to whom the transfer is to be made, is bound contractually to no lesser terms and obligations than those imposed by POPIA.

9. YOUR RIGHTS TO OBJECT TO THE PROCESSING OF YOUR PERSONAL INFORMATION

- 9.1 You have the right to have your personal information processed in accordance with the eight conditions of lawful processing of personal information as set out in POPIA.
- 9.2 In terms of Section 11(3) of POPIA and in the prescribed manner, you have the right, unless legislation provides for such processing, to object at any time to the Firm processing your personal Information, on reasonable grounds and relating to your particular situation.
- 9.3 On receipt of your notice of objection together with the reasons therefor, the Firm is responsible to place any further processing of your personal Information on hold until the reason for the objection has been addressed and either –
 - 9.3.1 the objection is resolved and withdrawn, or
 - 9.3.2 the objection is upheld and accepted by the Firm.
- 9.4 In the event that the objection is upheld, no further processing of your personal information shall be done by the Firm.
- 9.5 In addition to the right to notify us of your objection to the processing of your personal information, you have the right to submit a complaint directly to the Information Regulator in terms of Section 74 of POPIA, alleging interference with the protection of your personal information.

10. YOUR RIGHT TO WITHDRAW YOUR CONSENT TO THE PROCESSING OF YOUR PERSONAL INFORMATION

10. In terms of Section 11(2) of POPIA, you have the right to withdraw your consent to the Firm processing your personal information, provided that the lawfulness of the processing of your personal information before such withdrawal or the processing of personal information – if the processing is necessary to carry out actions for the conclusion or performance of a contract to which you are a party - will not be affected.

11. YOUR RIGHT TO ACCESS YOUR PERSONAL INFORMATION

- 11.1 You have the right at any time to request the Firm to provide you with:
- 11.1.1 the details of any of your personal information that the Firm holds, including any record relating to your personal information; and
 - 11.1.2 the details of the manner in which the Firm has used and processed your personal information.
- 11.2 Such request shall be made in writing to the Information Officer of the Firm.
- 11.3 The requester shall make the request in terms of Section 53 of PAIA and specifically, as set out in Form C of the PAIA Regulations of 2002 as amended, which standard PAIA Form is available on request from the Information Officer of the Firm.

12. YOUR RIGHT TO REQUEST CORRECTION, DESTRUCTION OR DELETION

- 12.1 You have the right to request the Firm, where necessary, to correct and/or delete your personal information that is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully.
- 12.2 You also have the right to request the Firm to destroy or to delete a record of your personal information that the Firm is no longer authorised to retain.
- 12.3 On receiving either of the requests as set out above, the Firm is responsible to follow the process as out in Section 24 of POPIA.

13. ACCURACY OF INFORMATION AND ONUS

- 13.1 POPIA requires that all your personal information and related details as supplied are complete, accurate and up to date. Whilst the Firm will always use its best endeavours to ensure that your personal information is reliable, it is your responsibility to advise the Firm of any changes to your personal information, as and when these changes may occur.

14. COMPLAINTS

- 14.1 The Client has the right to address any complaints to the Firm's designated Information Officer.

15. INFORMATION OFFICER

15.1 The Firm's Information Officer contact details are as follows:

Address: 1 Mimosa Street, Wavecrest, Jeffreys Bay.
Contact number: 073 044 2155
Email address: tineke@tvrlaw.co.za

16. DECLARATION AND INFORMED CONSENT

- 16.1 I consent to providing the personal information required, to the Firm, on the understanding that the Firm is responsible to abide by the principles set out in POPIA, in the Firm's POPI Policy, and in this document.
- 16.2 I declare that all personal information being supplied by me to the Firm is accurate, up to date, not misleading, and that it is complete in all material respects.
- 16.3 I undertake to advise the Firm immediately of any changes to my personal information, should any of the details change.
- 16.4 By providing the Firm with my personal information, I consent and give the Firm permission to process and further process the personal information, as and when required, that I supply to the Firm, understanding the purposes for which the personal information is required and for which it will be used.
- 16.5 I further agree that I provided all personal information directly to the Firm, that I am aware of the identity of the Firm as well as the Firm's physical address and that the supply of personal information to the Firm is mandatory and in the event that such information is not supplied, the Firm shall not supply any service to the client whatsoever.

THUS DONE AND SIGNED at _____ on this _____ day of _____ 20____.

TVR LAW
THE FIRM

WITNESS 1

WITNESS 2

THUS DONE AND SIGNED at _____ on this _____ day of
_____ 20____.

THE CLIENT

WITNESS 1

WITNESS 2