

IVINGS MCFARLANE ATTORNEYS
PRIVACY POLICY

1. **DEFINITIONS**

Although the main terms used in this policy are defined below, there may be some terms that have not been defined, in which case reference should be had to POPIA and PAIA for such definitions.

- 1.1. **"Data Subject"** as defined in POPIA, means the person or entity to whom Personal Information relates, and includes individuals and entities. The Data Subject is also referred to as "you" in this policy;
- 1.2. **"Direct Marketing"** means approaching a Data Subject on an unsolicited basis either in person or by mail or electronic communication (including automatic calling machines, fax machines, SMSes or email) for the direct or indirect purpose of promoting or offering to supply goods or services in the ordinary course of business;
- 1.3. **"IMA"** means Ivings McFarlane Attorneys and any other individual or entity associated with it or who renders services for it;
- 1.4. **"PAIA"** means the Promotion of Access to Information Act, 2 of 2000;
- 1.5. **"Personal Information"** includes but is not limited to:
 - 1.5.1. Personal Information as defined in POPIA which means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person;
 - 1.5.2. Special Personal Information as defined in POPIA which means (a) 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 (b) 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;
 - 1.5.3. Personal information of a child as defined in POPIA which is Personal Information about a natural person under the age of 18 (eighteen) years who is not legally competent, without the assistance of a competent person, to take any decision in respect of any matter concerning him or herself. Our products and website are however not aimed at people under the age of 18 and Personal Information of children should be provided with caution;
- 1.1. **"POPIA"** means the Protection of Personal Information Act, 4 of 2013;
- 1.2. **"Processing"** as defined in POPIA, means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including 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 merging, linking as well as restriction, degradation, erasure or destruction of Personal Information;

- 1.3. “**Security Incident**” means where there are reasonable grounds to believe that the Personal Information of a Data Subject has been accessed or acquired by any unauthorised person.

2. PURPOSE

The purpose of this policy is to establish measures and standards in relation to the Processing of Personal Information and sets out the rights and obligations of individuals and entities in relation to their Personal Information. This policy should be read carefully.

3. SCOPE

- 3.1. This policy applies to the Personal Information that IMA Processes and collects in connection with *inter alia*:

- 3.1.1. Our legal and professional services;
- 3.1.2. Our website <http://www.imalaw.co.za/>;
- 3.1.3. Our events, training and business development activities;
- 3.1.4. Our communications and other online and offline business interactions;
- 3.1.5. Videos taken by or for us;
- 3.1.6. The Personal Information that we obtain from third party service providers;
- 3.1.7. The Personal Information that we obtain from publicly available sources;
- 3.1.8. The Personal Information contained in requests for tenders quotations, proposal and the like made by us or to us; and
- 3.1.9. The Personal Information contained in relation to the supply of products and services to us.

- 3.2. This policy does not apply to the Processing of Personal Information:

- 3.2.1. For purely household activities;
- 3.2.2. Where the Personal Information has been de-identified to the extent that it cannot be re-identified;
- 3.2.3. If a public body requires it for *inter alia* national security and detecting unlawful activities;
- 3.2.4. If it is required by Cabinet or the Courts.

4. INTERPRETATION

This policy has been developed based on POPIA and PAIA. To the extent that any provision hereof contradicts or is inconsistent with POPIA or PAIA and such

contradiction or inconsistency is not permissible in terms of POPIA or PAIA, the provisions of POPIA and PAIA apply.

5. CROSS REFERENCING

- 5.1. This policy should be read together with the IMA's PAIA and POPIA Manual. IMA's PAIA and POPIA Manual can also be found on IMA's website or on request to the Information Officer.
- 5.2. To the extent that any other policy, procedure or contract contains provisions which contradict or are inconsistent with this policy, the more stringent provision will prevail and such other policy, procedure or contract should be read as if specifically incorporating the more stringent provision.

6. IMA

IMA is a law firm based in South Africa with its registered office at 12 Zareba Street, Richmond Hill, Gqeberha. IMA is a responsible party in respect of Personal Information that it processes. IMA aims to process Personal Information in terms of POPIA.

7. IMA INFORMATION OFFICER

- 7.1. The details of the IMA Information Officer is the following:

Donna McFarlane
 Physical Address: 12 Zareba Street, Richmond Hill, Gqeberha
 Telephone: 071 860 9296
 E-mail: donna@imalaw.co.za

8. PROCESSING PERSONAL INFORMATION

- 8.1. IMA has attempted to ensure that all its clients are provided with a notice regarding their Personal Information which should be read as if specifically incorporated into this policy.
- 8.2. It is not mandatory for you to provide us with your Personal Information in order to access our website. However, in certain instances it is mandatory to provide us with your Personal Information, and failure to do so will result in us not being able to carry out our actions for the conclusion or performance of services/functions/a contract with you.
- 8.3. IMA may collect the following Personal Information about you:
 - 8.3.1. **Identity and contact information:** Including name, address (including proof of address), other contact details (e.g. email and telephone numbers), gender, marital status, date and place of birth, nationality, employer, job title and other employment history, and family details, including their relationship to you, identification numbers issued by government bodies or agencies, such as your identity number, passport number, tax identification number and driving licence number and company registration number;
 - 8.3.2. **Financial information:** Including bank account or payment card details, financial records, income, tax, investment, insurance or other financial information;

- 8.3.3. **Engagement information:** Including information that you provide to us as part of us providing products and services to you, which depends on the nature of instructions given by you. Information you provide to us for the purposes of attending meetings and events, including dietary requirements which may reveal information about your health or religious beliefs;
- 8.3.4. **Marketing an communication information:** Including demographic information such as your preferences and interests, information relevant to the provision of our products and services, information relevant to the procurement of products and services from suppliers;
- 8.3.5. **Technical, usage and data information:** Including IP address, login data, browser type, location, plug ins, platform, device, time spent and any other Personal Information that we may passively collect from you accessing our website;
- 8.3.6. **Special or sensitive personal information:** As defined in applicable data protection legislation, including information about your health, racial or ethnic origin, political opinions, religious or philosophical beliefs and trade union membership, your genetic and biometric information, information about your sex life;
- 8.3.7. **Relevant information as required by applicable laws:** Including anti-money laundering legislation and as part of our client onboarding procedures, including evidence of source of funds;
- 8.3.8. **Images and video:** Including still and video images captured by videos taken for and on behalf of us;
- 8.3.9. **Historical and statistical data;**
- 8.3.10. **Other:** Including identity data, contact data and special personal information from publicly available sources or third parties, service providers and the like who conduct screening on clients or vendors for anti-money laundering purposes;

9. HOW IMA COLLECTS PERSONAL INFORMATION FROM YOU

Although IMA will attempt to obtain Personal Information directly from you, it may also obtain information through:

- 9.1. Direct or passive indirect interactions;
- 9.2. Third parties;
- 9.3. Video and images;
- 9.4. Our website;
- 9.5. Publicly available sources.

10. PURPOSE OF PROCESSING PERSONAL INFORMATION

IMA may process the Personal Information it collects for a number of lawful purposes including:

- 10.1. To communicate with you;
- 10.2. To register you as a client of IMA;
- 10.3. To conduct sanctions screening against any list that IMA may in its sole discretion elect;
- 10.4. To verify the identity of your beneficial owners;
- 10.5. To comply with lawful requests for information received from law enforcement, government and tax collection agencies (local and foreign);
- 10.6. To detect and prevent fraud, crime and money laundering;
- 10.7. In the interests of security;
- 10.8. To allow you access to a premises where we operate or require your attendance;
- 10.9. To allow you access to our website;
- 10.10. To comply with statutory and regulatory obligations;
- 10.11. To carry out and render our legal or other services;
- 10.12. To give effect to instructions from you;
- 10.13. To provide any services, products or offerings that you may have requested or otherwise consented to, or which may be ancillary thereto, or associated therewith, and to notify you about changes to such services, products or offerings;
- 10.14. To manage IMA's relationship with you, including, but not limited to:
 - 10.14.1. Notifying you about change to IMA's terms, including this policy;
 - 10.14.2. Asking you for feedback;
 - 10.14.3. Assessing and dealing with complaints and requests;
 - 10.14.4. Managing payments, fees, charges and accounts, including collecting and recovering monies owing to IMA;
- 10.15. To keep any work product or documentation as part of IMA's precedents;
- 10.16. To monitor, keep record of and have access to all forms of communication between you and IMA (including email, telephone calls, in person discussions);
- 10.17. To administer and protect IMA's website (including troubleshooting, data analysis, testing, system maintenance, support, reporting and hosting data);
- 10.18. For operational, auditing, legal and record keeping requirements;

- 10.19. To create, maintain and update contact data;
- 10.20. To use data analytics to improve IMA's website, products and services and to monitor web traffic;
- 10.21. To conduct market research and provide you with information about IMA's products and services from time to time;
- 10.22. To disclose information to third parties for the purpose agreed to, set out in this document or as legally permitted;
- 10.23. For purposes of material aimed at marketing IMA;
- 10.24. To procure goods and services;
- 10.25. To respond to requests for quotations and tenders;
- 10.26. To protect its reputation;
- 10.27. For statistical purposes.

11. DISCLOSURE OF PERSONAL INFORMATION

- 11.1. IMA may share information with other employees, appointees, agents, advisors or suppliers to IMA.
- 11.2. IMA may in certain circumstances share Personal Information with third parties outside of IMA. When it does so, it will ensure reasonable safeguards are in place to protect such Personal Information. Examples of third parties with whom Personal Information may be shared include:
 - 11.2.1. Entities/individuals who perform services for IMA including but not limited to: Cloud storage, IT, auditing, accounting, legal, recruiters, filing, storage and advocacy;
 - 11.2.2. Service providers conducting screening for IMA;
 - 11.2.3. Regulators and other authorities;
 - 11.2.4. Agents acting on your behalf;
 - 11.2.5. Tracing agents, sheriffs and the like;
 - 11.2.6. Clients and prospective clients for purposes of rendering legal services, proposals, quotations, tenders etc;
 - 11.2.7. Third parties with whom IMA may choose to sell/transfer/merge parts of its business or assets, alternatively, IMA may seek to acquire businesses or merge with them.

12. AUTHORITY

Where an individual provides Personal Information to IMA on behalf of another or a juristic person, he/she warrants that he/she has the necessary authority to do so and has done so in accordance with POPIA.

13. OBLIGATIONS OF DATA SUBJECT

- 13.1. There is an obligation on all Data Subjects who provide Personal Information to IMA to ensure that such Personal Information is at all times accurate, up to date, not misleading and complete in all respects. Data Subject's must advise IMA of any change to their Personal Information.
- 13.2. If you are concerned about any aspect of this policy as it relates to your Personal Information, please do not continue to use our website, services or engage with us. We would also appreciate if you advised us as such.

14. TRANSFER OF INFORMATION OUTSIDE OF SOUTH AFRICA

- 14.1. We will not sell your information.
- 14.2. IMA may transfer your Personal Information outside of South Africa. The main reason for transfer outside of South Africa is for cloud storage purposes. Should IMA transfer information outside of South Africa, it will do so in accordance with legislation.

15. RETENTION OF PERSONAL INFORMATION

- 15.1. We will keep your Personal Information while you consent to this, engage with us or while we perform services for you.
- 15.2. IMA may also be required by legislation to retain Personal Information for longer periods.
- 15.3. IMA will destroy the Personal Information once the above periods have expired, unless further consent/legislation provides otherwise.

16. DIRECT MARKETING

- 16.1. IMA does not generally engage in Direct Marketing.
- 16.2. You have the right to object to receiving direct marketing at any time by requesting as such to email address donna@imalaw.co.za.
- 16.3. In terms of the Consumer Protection Act, 68 of 2008, should IMA at any point market any products or services through any means other than by Direct Marketing (i.e. by telephone call), the Data Subject may at any time object to their Personal Information being used for marketing in which case IMA may no longer use their Personal Information for marketing purposes.

17. CCTV

All Data Subjects who enter on IMA's premises or premises from where IMA operates consent to the release of and Processing by IMA of video, stills and CCTV footage in which they appear, regardless of whether such footage is the property of IMA or otherwise. This footage may be used for security purposes or to monitor compliance with IMA's rules, regulations and procedures.

18. WEBSITE

- 18.1. Information on IMA's website does not constitute legal advice and is for general information purposes only.
- 18.2. Although every effort is made to ensure all information on IMA's website is accurate, IMA accepts no liability or responsibility whatsoever if any information is, for whatever reason, incorrect, inaccurate or dated. We accept no responsibility for any loss or damage, whether direct, indirect or consequential, which may arise from access to or reliance on the information contained on our website.
- 18.3. IMA has also taken reasonable measures to ensure the integrity of this website and its contents, however no warranty is given that any files, downloads or applications available via this website are free of viruses which may have the ability to corrupt your system.
- 18.4. IMA may use cookies and anonymous identifiers which enable our computer system to recognise you when you next visit our website to distinguish you from other users and to improve our service to you, and which can be used to enhance the content of the website and make it more user-friendly, as well as to give you a more personalised experience. You may disable the use of cookies by configuring your browser to refuse all cookies or to indicate when a cookie is being sent. However, please note that some parts of the website will not function properly if you refuse cookies and you may not be able to enjoy all of the features and functionality of the website. The Personal Information that we passively collect from you accessing our website may include your identity, contact details, technical information, profile information, usage or any other Personal Information which you permit us, from time to time, to passively collect from you.

19. LINKS

IMA may load onto its website or send links to third party websites, plug ins and applications. Clicking on these links may enable those third parties to collect or share your Personal Information. IMA has no control over these websites and is not responsible for their privacy policies. When you leave the IMA website, we encourage you to read all applicable privacy policies.

20. SECURITY MEASURES

- 20.1. IMA will secure the integrity and confidentiality of Personal Information in its possession and under its control by taking all appropriate, reasonable, technical and organisational measures to prevent loss of, or damage to, or unauthorised destruction of, or access to or Processing of Personal Information.
- 20.2. In this regard, IMA will take reasonable measures to:
 - 20.2.1. Identify all reasonable foreseeable internal and external risks to the Personal Information it holds;
 - 20.2.2. Establish and maintain appropriate safeguards against the risks identified by *inter alia* making use of electronic and computer safeguards, such as firewalls and data encryption, to secure Personal Information, having physical access control to its premises and only authorising access to Personal Information to those who require it to fulfil their designated responsibilities;

- 20.2.3. Regularly verify that the safeguards are effectively implemented; and
- 20.2.4. Ensure that the safeguards are continually updated in respect of new risks or deficiencies in previously implemented safeguards.
- 20.3. IMA will have regard to generally accepted information security practices and procedures applicable to it or in its industry.
- 20.4. IMA has taken reasonable measures to ensure the integrity of any documents, files, items or emails it sends, however no warranty is given that any documents, files, items or emails are free of viruses which have the ability to corrupt your system.
- 20.5. You indemnify and hold IMA harmless from any loss, damage or injury that you may incur as a result of:
 - 20.5.1. Any security compromise of Personal Information to unauthorised persons;
 - 20.5.2. Your acts or omissions during the provision of Personal Information to IMA.

21. SUCCESSION

If a change happens in IMA's business, then the new owner/s may use Personal Information in the same way set out in this policy.

22. ACCESS TO, CORRECTION OR DELETION OF PERSONAL INFORMATION

- 22.1. A Data Subject may in terms of section 23 of POPIA request IMA to:
 - 22.1.1. Confirm if IMA holds Personal Information about them (free of charge);
 - 22.1.2. Provide them with particulars of the Personal Information about them that IMA holds;
 - 22.1.3. Identify all of the third parties or categories of third parties who have had access to their Personal Information.
- 22.2. IMA may refuse to comply with a request if *inter alia* the disclosure is not permitted in terms of Chapter 4 of PAIA¹ or restrict such access in terms of sections 61 of PAIA.²
- 22.3. If a request in terms of section 23 is granted, the Data Subject then also has the right to request the correction of their Personal Information.
- 22.4. A Data Subject may in terms of section 24 of POPIA request IMA to:

¹ These grounds include mandatory protection of privacy of a third party who is a natural person, of commercial information of a third party, of certain confidential information of a third party, of safety of individuals and protection of property, of records privileged from production in legal proceedings, of research information of third party and protection of research information or a private body and if the information is the commercial information of a private body in certain circumstances.

² Section 61 of PAIA deals with access to health and other records.

22.4.1. Correct or delete their Personal Information that is inaccurate, irrelevant, excessive, incomplete, misleading or has been obtained unlawfully;

22.4.2. Destroy or delete a record of Personal Information about the Data Subject that IMA is no longer permitted to retain.

22.5. A Data Subject may also object to the Processing of their Personal Information in terms of section 11(3)(a) of POPIA (i.e. if their consent has not been obtained to the Processing but instead the Personal Information is being Processed in their legitimate interest, or in pursuit of the legislative interests of IMA or of a third party to whom the information is supplied) by providing reasonable grounds for such objection, and unless legislation provides for such Processing. The Data Subject must also accept that there may in certain circumstances be consequences to their objection being given effect to, which consequences will be detailed to them before the Data Subject confirms their objections.

22.6. The forms and process in relation to requests in terms of sections 23, 24 and 11(3)(a) of POPIA are contained in IMA's PAIA and POPIA Manual, which forms can also be obtained from IMA on request. The completed forms must be sent to the Information Officer. IMA will if required by the Data Subject render the Data Subject with reasonable assistance in submitting such forms. IMA may request verification of the identity of the Data Subject before complying with any request.

23. COMPLAINTS TO INFORMATION REGULATOR

Any person who feels that their Personal Information is not being dealt with appropriately may, after notifying IMA of this, and if not resolved by IMA within 7 working days, submit a complaint to the Information Regulator in terms of POPIA Regulations, which form can also be obtained from IMA on request. The completed form should be sent to POPIAComplaints@inforegulator.org.za.

24. ADVICE

Should any person need any advice in relation to this policy they should contact the Information Officer.

25. NON-WAIVER

IMA's failure to exercise or enforce any right or provisions of this policy shall not constitute a waiver of such right.

26. AMENDMENTS AND REVIEW

IMA reserves its right to review and/or amend all policies and procedures related to or dealing with POPIA, PAIA and/or Personal Information as and when required. This policy should accordingly be checked on a regular basis for updates.