KUFESA LEGAL CONSULTANTS (PTY) LTD PAIA MANUAL IN TERMS OF THE PROMOTION OF ACCESS TO INFORMATION ACT 2 OF 2000

1. RIGHT OF ACCESS TO INFORMATION

1.1. Introduction

The 1996 South African Constitution, by providing a statutory right of access on request to any record held by the state as well as access to records held by private bodies, entrenches the fundamental right to access to information.

The Promotion of Access to Information Act 2 of 2000 ("the Act"), which came into effect on 9 March 2001, seeks to advance the values of transparency and accountability in South Africa and provides the mechanism for requesters to exercise and protect their constitutional right to request access to a record.

The Act establishes the following statutory rights of requesters to any record of a private body if:

- That record is required for the exercise or protection of any of his or her legal rights;
- That requester complies with all the procedural requirements; and
- Access is not refused in terms of any ground referred to in the Act.

In terms of the Act private bodies are required to publish a manual to assist requesters who wish to request access to a record.

1.2. Availability of the Kufesa PAIA Manual and Entry Point for requests

This document serves as the Kufesa PAIA Manual ("the Manual") in accordance with the requirements of section 51 of the Act to facilitate access to records held by Kufesa. A copy of this Manual is available to any person of the public in a PDF ("Portable Document Format") version on the website of Kufesa at www.kufesa.za or on request from the Information Officer referred to in this Manual. Kufesa endorses the spirit of the Act and believes that this Manual will assist requesters in exercising their rights.

In summary the Manual provides information on the:

- Contact details of the Information Officer;
- Structure and functions of Kufesa;
- Subjects and categories of records that are held by Kufesa; and
- Procedure that needs to be followed and criteria that have to be met by a requester to request access to a record.

1.3.Who may request access to information

The Act provides that a requester is only entitled to access to a record if the record is required for the exercise or protection of a right. Only requests for access to a record, where the requester has satisfied the Information Officer that the record is required to exercise or protect a right, will be considered. A requester may act in different capacities in making a request for a record. This will influence the amount to be charged when a request has been lodged.

Requesters may make a request as:

- A personal requester who requests a record about him/herself;
- An agent requester who requests a record on behalf of someone else with that person's consent and where it is required for the protection of that person's legal right;
- A third party requester who requests a record about someone else with that person's consent and where it is required for the protection of that person's legal right; and
- A public body who may request a record if:
    - It fulfills the requirements of procedural compliance;
    - The record is required for the exercise or protection of a right; and
    - No grounds for refusal exist.

1.4.**Contact Details of Kufesa's Information Officer:**

Kufesa has granted powers to the Information Officer below in terms of the Act to handle all requests on its behalf and ensure that the requirements of the Act are administered in a fair, objective and unbiased manner.

KUFESA CONTACT DETAILS

Information Officer: Nomonde Gxilishe

Physical Address: Unit 15, 3 Platinum Close, Albertsdal, Johannesburg.

Tel: 0812562073, E-mail: nomonde@kufesa.co.za

1.5. Policy with regard to Confidentiality and Access to Information

Kufesa will protect the confidentiality of information provided to it by third parties, subject to Kufesa's obligations to disclose information in terms of any applicable law or a court order requiring disclosure of the information. If access is requested to a record that contains information about a third party, Kufesa is obliged to attempt to contact this third party to inform them of the request.

This enables the third party the opportunity of responding by either consenting to the access or by providing reasons why the access should be denied. In the event that the third party furnishing reasons for the support or denial of access, the Information Officer will consider these reasons in determining whether access should be granted, or not.

1.6. SAHRC guidance to Requesters on how to use the Act: Sec 51 (1) (b)(i)

The Information Regulator is required in terms of section 10 of the Act to update and make available the existing guide that has been complied by the South African Human Rights Commission ("SAHRC") that contains information to assist a person wishing to exercise a right in terms of the Act and the Protection of Personal Information Act 4 of 2013 ("POPI Act") for requesters. It contains information to assist a person wishing to exercise a right in terms of the Act.

The SAHRC guide is available from the SAHRC website at https://www.sahrc.org.za/home/21/files/Section%2010%20guide%202014.pdf

You may also request any additional information to assist you in making a request from the SAHRC. Please direct any queries to: The South African Human Rights Commission:

PAIA Unit
Physical Address:
Forum 3
Braampark Office Park, Braamfontein
Tel: +27 (0) 11 877 3600 (Head Office)
E-mail: info@sahrc.org.za
Postal Address:
Private Bag 2700 Houghton,
2041
Fax: +27 (0) 11 403 0684
Website: www.sahrc.org.za

2. KUFESA STRUCTURE

2.1.Scope

This Manual has been prepared in respect of Kufesa Legal Consultants (Pty) Ltd. The scope of this Manual will serve to provide a reference regarding the records held by Kufesa at its Registered Office and various operations.

2.2.Kufesa Profile and Structure

Kufesa is a private company that provides expert legal services with its practitioners registered with professional bodies: The Legal Practice Council ("LPC").

Kufesa provides expert legal services that include:

Legal Advisory Services;

Legal Drafting;

Legal Consultancy.

Kufesa partners with clients to ensure that, when it comes to the finance function of their business, they are well informed and therefore better able to make strategic business decisions.

3. CLASSES OF RECORDS

3.1. Automatic Disclosure: Records automatically available to the Public

No notice has been published in terms of section 52 of the Act. However, the following records are automatically available at the registered office of Kufesa on payment of the prescribed fee for reproduction:

- Documentation and information relating to Kufesa which is held by the Companies and Intellectual Properties Commission in accordance with the requirements set out in set out in section 25 of the Companies Act 71 of 2008.
- Product and Promotional Brochures
- News and other Marketing Information

3.2. Legislative requirements: Records available in accordance with other legislation

Records are kept in accordance with such other legislation as applicable to Kufesa, which includes, but is not limited to:

- Banks Act 94 of 1990
- Basic Conditions of Employment Act 75 of 1997
- Broad-Based Black Economic Empowerment Act 53 of 2003
- Civil Proceedings Evidence Act, 1965 (Act 25 of 1965)
- Companies Act 71 of 2008
- Compensation for Occupational Injuries and Diseases Act 130 of 1993
- Competition Act 89 of 1998
- Constitution of South Africa Act 108 of 1996
- Copyright Act 98 of 1987
- Consumer Protection Act 68 of 2008

- Criminal Procedure Act 51 of 1977
- Customs and Excise Act, 1964
- Deeds Registries Act 57 of 1937
- Debt Collectors Act 114 of 1998
- Electronic Communications and Trans-actions Act 25 of 2002
- Employment Equity Act 55 of 1998
- Finance Act 2 of 2007
- Firearms Control Act 60 of 2000;
- Income Tax Act 58 of 1962
- Insider Trading Act 135 of 1998
- Insolvency Act 24 of 1936
- Labour Relations Act 66 of 1995
- Long Term Insurance Act 52 of 1998
- Magistrates Court Act 32 of 1944
- Non Profit Organisations Act 71 of 1997
- Occupational Health and Safety Act 85 of 1993
- Patents Act 57 of 1987
- Pension Funds Act 24 of 1956
- Prevention of Organised Crime Act 14 of 1998
- Protection of Information Act, No. 84 of 1982
- Regulation of Interception of Communications and Provision of Communication Related Information Act 70 of 2002
- Securities Services Act 36 of 2004
- Short Term Insurance Act. 53 of 1998
- Skills Development Act 97 of 1998
- Skills Development Levies Act 97 of 1999
- South African Revenue Service Act 34 of 1997
- Statistics Act 6 of 1999
- Tax on Retirement Funds Act No 38 of 1996
- Trust Property Control Act 57 of 1988
- Unemployment Insurance Act 63 of 2001

- Value Added Tax Act 89 of 1991

Although Kufesa has used its best endeavours to supply you with a list of applicable legislation it is possible that the above list may be incomplete.

Wherever it comes to Kufesa's attention that existing or new legislation allows a requester access on a basis other than that set out in the Act, we shall update the list accordingly.

3.3.Records held by Kufesa: Kufesa Record Subjects and Categories

3.3.1. Corporate Secretariat and Governance

- Applicable Statutory Documents
- Annual Reports
- Board of Directors and Board Committee Terms of Reference
- Codes of Conduct
- Executive Committee Meeting Minutes
- Legal Compliance Records
- Memoranda of Incorporation
- Minutes of Board of Directors and Board Committee Meetings
- Minutes of Shareholders' Meetings
- Company Policies and Procedures
- Share Certificates
- Shareholder Agreements
- Share Registers
- Strategic plans
- Statutory Returns to Relevant Authorities

3.3.2. Finance and Taxation

- Policies and Procedures
- Accounting Records
- Annual Financial Statements
- Audit Reports

- Capital Expenditure Records
- Investment Records
- Invoices and Statements
- Management Reports
- Purchasing Records
- Sale and Supply Records
- Tax Records and Returns
- Treasury Dealing
- Transactional Records

3.3.3. Human Resources

- Education and Training Records
- Employee Benefit Records
- Employment Contracts
- Employee Information
- Policies and Procedures
- Leave Records
- Medical Records
- Pension and Retirement Funding Records
- Tax Returns of employees
- UIF Returns

3.3.4. Information Technology

- Agreements
- Disaster Recovery
- Hardware and Software Packages
- Policies and Procedures
- Internal Systems Support and Programming
- Licenses
- Operating Systems

3.3.5. Intellectual Property

- Trademark applications
- Agreements relating to intellectual property
- Copyrights

3.3.6. Legal

- Complaints, pleadings, briefs and other documents pertaining to any actual or pending litigation, arbitration or investigation
- Material licenses, permits and authorizations

3.3.7. Sales, Marketing and Communication

- Brochures, Newsletters and Advertising Material
- Client Information
- Marketing Brochures
- Marketing Strategies
- Product Brochures
- Policies and Procedures

4. PROCESSING OF PERSONAL INFORMATION IN TERMS OF THE POPI ACT

Kufesa processes personal information in terms of its detailed POPI Act Manual which is available on its website and can be accessed on request to the Information Officer.

5. ACCESS PROCEDURE AND REQUESTS

The purpose of this section is to provide requesters with sufficient guidelines and procedures to facilitate a request for access to a record held by Kufesa.

It is important to note that an application for access to information can be refused in the event that the application does not comply with the procedural requirements of the Act. In addition, the successful completion and submission of an access request form does not automatically allow the requester access to the requested record. An application for access to a record is subject to certain limitations if the requested record falls within a certain category as specified within Part 3 Chapter 4 of the Act.

If it is reasonably suspected that the requester has obtained access to Kufesa's records through the submission of materially false or misleading information, legal proceedings may be instituted against such requester.

5.1. Guidance on Completion of Prescribed Access Form:

In order for Kufesa to facilitate your access to a record you need to complete the attached prescribed access form attached as Annexure B. Please take note that the prescribed access form must be completed in full, failure to do so will result in the process being delayed until such additional information is provided. Kufesa will not be held liable for delays due to receipt of incomplete forms. Due cognisance should be taken of the following instructions when completing the Access Request Form because the Information Officer shall not process any request for access to a record until satisfied that all requirements have been met:

- The Access Request Form must be completed in the English language.
- Proof of identity is required to authenticate the requester's identify. If the requester acts as an agent requester, the requester shall provide proof of the identity of the person on whose behalf the request is made, the authority or mandate given to the requester by such person and proof of the identity of the requester as provided above.
- Type or print in BLOCK LETTERS an answer to every question.
- If a question does not apply, state "N/A" in response to that question.
- If there is nothing to disclose in reply to a particular question, state "nil" in response to that question.
- If there is insufficient space on a printed form in which to answer a question, additional information may be provided on an additional attached folio.
- When the use of an additional folio is required, precede each answer thereon with the title applicable to that question.

5.2.Submission of Prescribed Access Form

The completed Access Request Form must be submitted via e-mail and must be addressed to the Information Officer.

5.3.Payment of Prescribed Fees

Payment details can be obtained from the Information Officer and payment can be made either via a direct deposit, by bank guaranteed cheque or by postal order (no credit card payments are accepted). Proof of payment must be supplied. Four types of fees are provided for in terms of the Act:

- Request fee: An initial, non-refundable R70-00 (incl. VAT) is payable on submission. This fee is not applicable to Personal Requesters, referring to any person seeking access to records that contain their personal information.
- Reproduction fee: This fee is payable with respect to all records that are automatically available.
- Access fee: If the request for access is successful an access fee may be required to re-imburse Kufesa for the costs involved in the search, reproduction and/or preparation of the record and will be calculated based on the Prescribed Fees.
- Deposit: A deposit of one third (1/3) of the amount of the applicable access fee, is payable if Kufesa receives a request for access to information held on a person other than the requester himself/herself and the preparation for the record will take more than six (6) hours. In the event that access is refused to the requested record, the full deposit will be refunded to the requester.

5.4. Notification

Kufesa will within thirty (30) days of receipt of the request decide whether to grant or decline the request and give notice with reasons (if required) to that effect.

The thirty (30) day period within which Kufesa has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty (30) days, if the request is for a large volume of information, or the request requires a search for information held at another office of Kufesa and the information cannot be reasonably be obtained within the original thirty (30) day period. Kufesa will notify the requester in writer should an extension be sought.

If the request for access to a record is successful the requester will be notified of the following:

- The amount of the access fee payable upon gaining access to the record;
- An indication of the form in which the access will be granted; and
- Notice that the requester may lodge an application with a court against the payment of the access fee and the procedure, including the period, for lodging the application.

If the request for access to a record is not successful the requester will be notified of the following:

- Adequate reasons for the refusal (refer to Third Party Information and Grounds for Refusal); and
- That the requester may lodge an application with a court against the refusal of the request and the procedure, including the period, for lodging the application.

5.5.Records that cannot be found or do not exist

If Kufesa has searched for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try to locate the record.

6. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS AND APPEAL

6.1. Grounds for Refusal Chapter 4

The thirty (30) day period within which the Information Officer is required to reply to a request, as stipulated in the Act, shall commence only once a requester has complied with all the requirements of the Act in requesting access to a record, to the satisfaction of the Information Officer.

Requests may be refused on the following grounds, as set out in the Act:

- Mandatory protection of privacy of a third party who is a natural person, including a deceased person, which would involve the unreasonable disclosure of personal information of that natural person;
- Mandatory protection of commercial information of a third party or Kufesa if the record contains:
    - Trade secrets of the third party or Kufesa;
    - Financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of the third party or Kufesa; and
    - Information disclosed in confidence by a third party to Kufesa if the disclosure could put that third party to a disadvantage or commercial competition.
- Mandatory protection of certain confidential information of a third party if disclosure of the record would result in a breach of a duty of confidence owed to that party in terms of an agreement;
- Mandatory protection of the safety of individuals, and the protection of property;
- Mandatory protection of records privileged from production in legal proceedings, unless the legal privilege has been waived; and
- Mandatory protection of research information of a third party and of Kufesa.

6.2.Appeal

If a requester is aggrieved by the refusal of the Information Officer to grant a request for a record, the requester may, within thirty (30) days of notification of the Information Officer's decision, apply to court for appropriate relief.

7. THE PRESCRIBED FORMS AND FEES

The prescribed forms and fees are available on the website of the Department of Justice and Constitutional Development at www.justice.gov.za under the forms section.