

# INFORMATION MANUAL OF:



## **MBT PETROLEUM (PTY) LTD**

*Compiled in terms of Section 51 of the  
Promotion of Access to Information Act,  
Act No. 2 of 2000*

*OUR* Manual

*YOUR* Guide

Protection for **EVERYONE**



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## **SCHEDULES:**

- A - Details of Company
- B - Officials: Head of Company and Information Officer
- C - Other directors and prescribed officers
- D - Automatic availability of Records
- E - Business activities
- F - Group structures and connected companies
- G - Records available in terms of other legislation
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## **ANNEXURES:**

- 1 - Request form
- 2 - Fees

## 1. DEFINITIONS AND INTERPRETATION:

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them hereunder, namely-

- 1.1 **“Access fee”** or **“request fee”** means a fee prescribed in terms of section 54 and Part III of the Regulations for the purposes of access and reproduction as per Annexure 2.
- 1.2 **“Act”** means the Promotion of Access to Information Act, Act 2 of 2000, as amended from time to time and the Regulations regarding the Promotion of Access to Information, published in terms of Government Gazette Notice 187 of 15 February 2002 as amended from time to time.
- 1.3 **“Application”** means an Application to a Court in terms of the Act (Section 78).
- 1.4 **“Biometrics”** means a technique of personal identification that is based on physical, physiological or behavioural characterisation, including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition;
- 1.5 **“Consent”** means any voluntary, specific and informed expression agreeing to the Processing of Personal Information.
- 1.6 **“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act No. 1088 of 1996).
- 1.7 **“Court”** means-
  - 1.7.1 the Constitutional Court acting in terms of section 167(6)(a) of the Constitution; or
  - 1.7.2 a High Court or another Court of similar status; or
  - 1.7.3 a Magistrate’s Court, either generally or in respect of a specified class of decisions in terms of this Act, designated by the Minister, by notice in the *Government Gazette*, and presided over by a Magistrate designated in writing by the Minister, after consultation with the Magistrates Commission, within whose area of jurisdiction –
    - 1.7.3.1 the decision of the Information Officer or relevant authority of a Public Body or the Head of a Private Body has been taken;

- 1.7.3.2 the Public Body or Private Body concerned has its principal place of administration or business; or
- 1.7.3.3 the Requester or Third Party concerned is domiciled or ordinarily resident.
- 1.8 **“Data subject”** means the Person to whom the Personal Information relates, including a Third Party.
- 1.9 **“Information Officer”** means the Person acting on behalf of the Company and discharging the duties and responsibilities assigned to the Head of the Private Body by the Act. The Information Officer is duly authorised to act as such and such authorisation has been confirmed in writing by the Head of the Private Body.
- 1.10 **“Manual”** means this Manual, compiled and published in terms of Section 51 of the Act and Regulation 9, also referred to as the Information Manual.
- 1.11 **“Official”** means any Person who works for or provides services to or on behalf of the Company, whether permanently or temporarily, full time or part time, and who receives or is entitled to receive any remuneration or payment. This includes, without limitation, directors (both executive and non-executive) and all permanent, temporary and part-time staff, contract workers as well as the Head<sup>1</sup> of the Private Body as defined in the Act.
- 1.12 **“Person”** means a natural Person or a juristic Person.
- 1.13 **“Personal information”** means information of an identifiable, living or deceased<sup>2</sup>, natural person, and where applicable, an identifiable, existing juristic person, including, but not limited to:

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<sup>1</sup> Definition of “head” as defined in Section 1 of the Act

<sup>2</sup> See specific inclusion as per Section 63(1) of the Act

- 1.13.1 race, gender, sex, pregnancy, marital status, national or ethnic origin, colour, sexual orientation, age, physical or mental health, disability, religion, conscience, belief, culture, language and birth or death<sup>3</sup> of a Person;
  - 1.13.2 education, medical, financial, criminal or employment history;
  - 1.13.3 the biometric information of the Person;
  - 1.13.4 ID number, symbol, e-mail address, physical address, telephone number or other particular assignment or unique allocation to a Person;
  - 1.13.5 private or confidential correspondence;
  - 1.13.6 the personal views, opinions or preferences of the Person;
  - 1.13.7 a name, if it appears together with other Personal Information or if disclosure of the name itself would reveal Personal Information about the Person; and
  - 1.13.8 the views or opinions of another individual about a Person.
- 1.14 **“Personal Requester”** means a Requester seeking access to a Record containing Personal Information about the Requester himself/herself.
- 1.15 **“Private Body”** means –
- 1.15.1 a natural Person who conducts or has conducted on any trade, business or profession, but only in such capacity;
  - 1.15.2 a partnership which conducts or has conducted any trade, business or profession; or
  - 1.15.3 any former or existing juristic Person, but excluding a Public Body.
- 1.16 **“Processing”** means any operation or activity, whether or not by automatic means, including:

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<sup>3</sup> See implied inclusion by Section 63(1) of the Act and footnote 2

- 1.16.1 collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- 1.16.2 dissemination by means of transmission, distribution or making available in any form;
- 1.16.3 merging, linking, erasure or destruction.
- 1.17 **“POAJA”** means the Promotion of Administrative Justice Act, Act No. 20 of 2000, as amended.
- 1.18 **“POPI”** means the Protection of Personal Information Act, Act No. 4 of 2013, to be implemented.
- 1.19 **“Public Body”** means –
  - 1.19.1 any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
  - 1.19.2 any other functionary or institution when-
    - 1.19.2.1 exercising a power or performing a duty in terms of the Constitution or a provincial Constitution; or
    - 1.19.2.2 exercising a public power or performing a public function in terms of any legislation.
- 1.20 **“Record”** means any recorded information, regardless of form or medium, including writing, electronic information, label, marketing, image, film, map, graph, drawing or tape which is in the possession or under the control of the Company, irrespective of whether it was created by the Company and regardless of when it came into existence.
- 1.21 **“Regulator”** means the Information Regulator established in terms of POPI to regulate affairs in terms of PAIA and POPI.
- 1.22 **“Request”** means a request for access to a Record or information of the Company.



- 1.23 “**Requester**” means any Person, including a Public Body or an Official thereof, making a Request for access to a Record of the Company, including any Person acting on behalf of that Person<sup>4</sup>.
- 1.24 “**SAHRC**” means the South African Human Rights Commission.
- 1.25 “**The Company**” means **MBT PETROLEUM (PTY) LTD**, a private company (reg. no. 2005/002810/07) incorporated in the Republic of South Africa.
- 1.26 “**Third Party**”, in relation to a Request for access, means any Person, excluding the Company or a Personal Requester.
- 1.27 In this Manual **paragraph headings** are for convenience only and are not to be used in its interpretation.
- 1.28 An **expression** which denotes –
- 1.28.1 any gender, includes the other gender;
  - 1.28.2 the singular, includes the plural and *vice versa*; and
  - 1.28.3 an Official includes a reference to that Official’s successors in title and assignees allowed in law.
- 1.29 Any reference in this Manual to –
- 1.29.1 “**business hours**” shall be construed as being the hours between 08h30 and 17h00 on any business day. Any reference to time shall be based upon South African Standard Time;
  - 1.29.2 “**days**” shall be construed as calendar days unless qualified by the word “business”, in which instance a “**business day**” and “**working days**” shall be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;
  - 1.29.3 “**law**” means any law of general application and includes common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) or statutory or regulatory body which has the force of law;

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<sup>4</sup> See Section 1 “individuals’ next of kin” and Section 63 (d) and (e) of the Act.

- 1.29.4 "**person**" apart from the statutory definition<sup>5</sup> shall also in the normal sense mean any Person, company, close corporation, trust, partnership or other entity, whether or not having separate legal personality; and
- 1.29.5 "**writing**" means legible writing, in English, including any form of electronic communication contemplated in the Electronic Communications and Transactions Act, Act No. 25 of 2002.
- 1.30 The words "**include**" and "**including**" mean "include without limitation" and "including without limitation". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.31 The words "**will**" and "**must**" used in the context of any obligation or restriction imposed on a Person have the same meaning as the word "**shall**".
- 1.32 Any substantive provision, conferring **rights** or **imposing obligations** on a Person and appearing in any of the definitions in paragraph 1 or elsewhere in this Manual, shall be given effect to as if it were a substantive provision in the body of the Manual.
- 1.33 **Words and expressions** defined in any paragraph shall, unless the application of any such word or expression is specifically limited to that paragraph, bear the meaning assigned to such word or expression throughout this Manual.
- 1.34 Unless otherwise provided, defined terms appearing in this Manual **in title case** shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 1.35 A reference to any **statutory enactment** shall be construed as a reference to that enactment as at the Signature Date, and as amended or substituted from time to time.
- 1.36 Any reference in this Manual to "**this Manual**" or in any other agreement or document shall be construed as a reference to this Manual.
- 1.37 Unless specifically otherwise provided, any **number of days** prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.

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<sup>5</sup> See clause 1.2 and Section 1 of the Act

- 1.38 If the due date for performance of any obligation in terms of this Manual is a day which is not a business day, then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding business day.
- 1.39 Where **figures** are referred to in **numerals** and in **words**, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.40 The use of any expression in this Manual covering a **process** available under South African law shall be construed as including any equivalent or analogous proceedings under the law of any other jurisdiction.
- 1.41 In this Manual the words "**paragraph**", "**schedule**", "**annexure**" or "**appendix**" refer to a paragraph, schedule, annexure or an appendix to this Manual.

## **2. PURPOSE OF THIS MANUAL**

Section 32 of the Constitution provides for the right of access to information held by another Person when that information is required for the exercise or protection of any right. To give effect to this Constitutional right, the Promotion of Access to Information Act (PAIA) was enacted by Parliament in 2000 and regulations promulgated by the Minister of Justice in 2001. As no right is absolute, the right of access to information held by a Public or Private Body may be limited to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom. Consideration of access to information is a process of balancing of rights.

Other legislation has also impacted on the flow of information and the restriction applicable in this regard.

The Company not only wishes to comply with this legislation but also wishes to promote an internal culture and business environment compatible with these values and principles. This Manual will provide for procedures and policies to enhance access to information held by the Company and matters connected therewith. The policies and procedures are designed to:

- expedite any Request for access
- provide clarity regarding the Officials to be approached in this regard
- set a standard for consideration of Requests for access
- align all internal policies to information compliance in general.

This Manual is not an isolated or stand-alone document. The Company endeavours to align all commercial and internal Records and policies to be fully information compliant. The Manual will refer to such policies where applicable and guide any Requester through the internal processes of the Company.

The aim of this Manual is to deal with Requests for access to information and Records in the most cost-effective and efficient way, with due consideration of the rights of the Requester, the Company and any Third Party.

### **3. LEGAL STATUS AND APPLICATION OF LAW:**

- 3.1 Should any provision of this Manual be in contradiction to the Act or any other legislation, then the provisions of the Act or other legislation shall apply.
- 3.2 Nothing in this Manual prevents the Company from providing access to information or Records in the possession of the Company in a manner which is materially less onerous in terms of any legislation other than provided for in this Manual or in the Act<sup>6</sup>.
- 3.3 The Act and this Manual do not apply to Records requested for criminal or civil proceedings<sup>7</sup>.
- 3.4 The Act and this Manual apply to the exclusion of any provision or other legislation that prohibits or restricts the disclosure of a Record of the Company and that is materially inconsistent with the object or a provision of the Act or this Manual<sup>8</sup>.
- 3.5 Unless specifically provided for in any commercial or other agreements, this Manual does not *per se* create any contractual relationship with any Requester or Person.
- 3.6 The Company shall be bound by the correctness of the information provided herein.
- 3.7 Failure to follow the procedures and comply with the conditions contained in this Manual may lead to the refusal of a Request for access to information.
- 3.8 When considering protection of Personal Information, the provisions of the POPI Act shall be applied. If other legislation provides for more extensive conditions for processing Personal Information, such other legislation shall prevail. Pending announcement of the implementation of POPI, the obligations for information compliance is in any event established South African law incorporated in common law, corporate governance practices, existing constitutional right of protection of privacy and the provision thereof in the Consumer Protection Act. Furthermore, existing law and practices make provision for Information Officers to deal with Requests made pursuant to the implementation of POPI.

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<sup>6</sup> See paragraph 11.3

<sup>7</sup> See paragraphs 18.3 and 18.4

<sup>8</sup> See paragraph 18.5

- 3.9 Whereas consideration of a request and a decision in this regard fall within the definition of administrative action<sup>9</sup>, the provisions and principles of POAJA shall apply.
- 3.10 No provision in this Manual creates a right, interest or legitimate expectation to be provided with any Record or information. Each Request for access shall be considered on merit and shall not be refused without good reason.
- 3.11 By publishing this Manual and making it available as contemplated below, the Manual is placed in the public domain and becomes a public document<sup>10</sup>.

#### **4. AVAILABILITY OF THIS MANUAL:**

This Manual shall be available:

- 4.1 on the Company's website ([www.mbtpetroleum.co.za](http://www.mbtpetroleum.co.za)), or as a summary in the event of a lengthy Manual with adequate information to obtain a complete version if required;
- 4.2 at the Head Office or main place of business as per Schedule A;
- 4.3 as per e-mail from the officials listed in Schedule B;
- 4.4 from the South African Human Rights Commission (contact details as per paragraph 5.2 below);
- 4.5 from the controlling body, at:
- A. Department of Labour
- 4.6 from *Government Gazette* Printers at: (Not Published)

149 Bosman Street  
PRETORIA

Telephone: 012 748 6000  
Website: [www.gpwonline.co.za](http://www.gpwonline.co.za)

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<sup>9</sup> See Section 1

<sup>10</sup> See paragraph 4 and Regulation 9

## **5. GUIDE AS PROVIDED FOR IN SECTION 10 OF THE ACT:**

- 5.1 The Human Rights Commission has compiled a Guide to the Act to assist members of the public as well as private and Public Bodies to access information and Records more effectively.
- 5.2 This Guide can be obtained from the Human Rights Commission at:

PAIA Unit  
The Research and Documentation Department

Postal address: Private Bag X2700  
HOUGHTON  
2041

Physical address: Braampark  
Forum 3  
33 Hoofd Street  
JOHANNESBURG  
2017

Telephone: +27 11 877 3803 / 3825  
Fax: +27 11 403 0625  
Website: [www.sahrc.org.za](http://www.sahrc.org.za)  
E-mail: [paia@sahrc.org.za](mailto:paia@sahrc.org.za)

## **6. DETAILS OF THE COMPANY:**

- 6.1 The details of the Company are provided in Schedule A.
- 6.2 Only the details required in relation to this Manual are provided. Any other details are available from the Company Intelligence Property Commission (CIPC).
- 6.3 As required by the Act, details of the Head of the Company and the Information Officer (optional) are provided in Schedule B.
- 6.4 Although also available from CIPC, the details of the other directors and prescribed officers<sup>11</sup> and top senior management are provided in Schedule C.

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<sup>11</sup> As per Section 38 of the Companies Act

6.5 Although the Act does not prescribe the appointment of an Information Officer by a Private Body, the Company has appointed an Information Officer to fulfil the obligations of the Head of the Company with regard to information compliance issues.

## **7. VOLUNTARY DISCLOSURE AND AUTOMATIC AVAILABILITY OF CERTAIN RECORDS:**

7.1 The following Records are already in the public domain or are intended to be placed in the public domain. Access to such Records can be obtained without following the steps contained in Manual. These Records can be categorised as those which:

7.1.1 the Company is compelled in terms of legislation to reveal to statutory officials so that they can perform their duties;

7.1.2 can be purchased from the Company; or

7.1.3 provided free of charge.

7.2 A more comprehensive list of these categories of information is provided in Schedule D. A Request for access to information and Records under this paragraph can be made to any Person contemplated in Schedule C and does not have to be directed to those stipulated in Schedule B.

## **8. NATURE OF BUSINESS AND BUSINESS ACTIVITIES:**

The Company operates in the **Wholesale sector** and provides highly specialised Petroleum products. In order to understand the management of information, trade secrets and other information that the Company needs to protect, a more comprehensive list of business activities is provided in Schedule E. A marketing brochure and other similar documents are also enclosed in Schedule E to further illustrate the Company's business activities. The Company must be affiliated with the following controlling/ regulatory/ statutory bodies:

- Wholesale & Retail
- SAPIA (South African Petroleum Industry Association)



## **9. MANAGEMENT OF THE COMPANY:**

- 9.1 The Company's MOI (Memorandum of Incorporation) is available from the CIPC.
- 9.2 The Company utilises the special drafted MOI provided by CIPC;
- 9.3 The shareholders and directors not enter into a shareholder and/or directors agreement.
- 9.4 In terms of the governing documents of the Company –
  - any one of the directors may enter into a binding agreement with any Third Party;

## **10. GROUP STRUCTURES AND CONNECTED COMPANIES:**

- 10.1 The Company is not part of any holding/subsidiary structure or any associated companies via cross directorship or shareholding at this point in time.
- 10.2 In the event of a holding/subsidiary relationship or an association via cross-directorship or shareholding in the future, the procedure provided for in this Manual may be used to access information of those connected or related entities. The designated Officials as per Schedule F would guide the Requester in this regard.

## **11. RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION:**

- 11.1 Given the nature of the Company and accompanying business activities, the Company is from time to time in possession of records in terms of various pieces of legislation. A list of the legislation applicable on the Company can be found in Schedule F.
- 11.2 The principle is that this information is usually only available to Persons specified in such legislation. However, in order to promote access, any Request would be considered subject to the normal balancing of rights as envisaged in the purpose of this Manual above.

11.3 In dealing with a Request for Records held in terms of specific legislation, the Requester can exercise its rights by following the less onerous route<sup>12</sup>.

## **12. PROCEDURE TO MAKE A REQUEST FOR ACCESS**

12.1 The Requester must duly complete and sign the prescribed form as per Annexure 1 and forward such to the Officials specified in Schedule B. Only Officials mentioned in Schedule B may accept requests in terms of the Act and this Manual, unless provided for otherwise. Any reference to an Official in relation to any procedure for access shall only refer to an Official mentioned in Schedule B.

12.2 The Officials receiving a Request may refer the Request back to the Requester and insist that the prescribed form in terms of paragraph 12.1 be used or that any additional information be provided such as the Official may reasonable require to make a determination, in terms of the Act and this Manual.

12.3 Any Request or prescribed form referred back to the Requester shall be processed within seven (7) days of receipt of a Request.

12.4 If the Request is made on behalf of another Person, proof must be submitted of the capacity in which such Person makes the Request.

12.5 The Official shall notify the Requester as soon as practical possible, but not later than 30 days, of his/her decision to grant or refuse access. Access shall be granted in writing or in any reasonable manner as requested by the Requester.

12.6 If the Request for access is granted, the notice in terms of paragraph 12.5 must state the following:

12.6.1 The Access fee (if any) to be paid upon access

12.6.2 The form in which access shall be given; and

12.6.3 That the Requester may lodge an application with a Court to object to the Access fee to be paid or the form of access granted.

12.7 If the Request for access is refused, the notice in terms of paragraph 12.5 must-

12.7.1 state adequate reasons for the refusal, including the provisions of the Act and this Manual on which such refusal is based;

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<sup>12</sup> Section 6 of the Act as amended.

- 12.7.2 exclude from any such reasons any reference to the content of the Record; and
  - 12.7.3 state that the Requester may lodge an application with a Court to object to the refusal of the Request or may apply any other remedies available to the Requester.
- 12.8 The Official to whom a Request has been addressed may once extend the period of 30 days referred to in paragraph 12.5 (referred to as the “original period”) for a further period of not more than 30 days, if-
- 12.8.1 the Request is for a large number of Records or requires a search through a large number of Records and if compliance with the original period would unreasonably interfere with the activities of the Company concerned;
  - 12.8.2 the Request requires a search for Records in, or the collection thereof from, an office of the Company not situated within the same town or city as the office of the Head of the Company and which search cannot reasonably be completed within the original period;
  - 12.8.3 consultation among divisions of the Company or with another company is necessary, or desirable to reach a decision regarding the Request and which cannot reasonably be completed within the original period;
  - 12.8.4 more than one of the circumstances contemplated above exist in respect of the Request, making compliance with the original period not reasonably possible; or
  - 12.8.5 the Requester consents in writing to such extension.
- 12.9 If a period is extended in terms of paragraph 12.8, the Official must, as soon as reasonably possible, but in any event within 30 days after the Request is received, notify the Requester of such extension, the period of the extension and the reasons for the extension.
- 12.10 The notice in terms of paragraph 12.9 must state-
- 12.10.1 the period of extension;

12.10.2 adequate reasons for the extension, including the provisions of the Act and this Manual that are relied upon; and

12.10.3 that the Requester may lodge an application with a Court against the extension.

12.11<sup>1</sup> Severability

12.11.1 If a Request is made for access to a Record of the Company containing information which may or must be refused, every part of the Record that does not contain such information, and where such information can reasonably be deleted, shall be disclosed.

12.11.2 If a Request for access to a part of a Record is granted and the other part of the Record is refused, the provisions of paragraph 12.6 and paragraph 12.7 shall apply.

### **13. PRESCRIBED FEES**

13.1 An Official to whom a Request is made must by notice require the Requester to pay the prescribed fee (if any) before further processing the Request. The prescribed fees are provided in Annexure 2. The payment of fees shall not be applicable to a personal Requester.

13.2 If the search for a Record of a Private Body in respect of which a Request for access by a Requester other than a Personal Requester, has been made, and the preparation of the Record for disclosure, in the opinion of the Official concerned, would require more than the hours prescribed for this purpose, the Official shall by notice require the Requester, other than a Personal Requester, to pay a deposit which shall not be more than one third of the Access fee that would be payable if the Request is granted.

13.3 The notice referred to in paragraph 13.2 must state-

13.3.1 the amount of the deposit payable;

13.3.2 that the Requester may lodge an application with a Court against the tender or payment of the Access fee in terms of paragraph 12.5, or tender or payment of a deposit in terms of paragraph 13.2, as the case may be.

- 13.4 If a deposit has been paid in respect of a Request for access which is refused, the Official concerned must repay the deposit to the Requester.
- 13.5 The Official may withhold a Record until the Requester concerned has paid the applicable fees (if any).
- 13.6 A Requester whose Request for access to a Record has been granted must pay an Access fee for reproduction and for search and preparation, respectively, and for any time reasonably required in excess of the prescribed hours to search for and prepare (including making any arrangements) the Record for disclosure.
- 13.7 Access fees prescribed for purposes of paragraph 13.6 must provide for a reasonable Access fee for-
- 13.7.1 the cost of making a copy of a Record, or a transcription of the content of a Record, if applicable, and the postal fee; and
- 13.7.2 the time reasonably required to search for the Record and disclose the Record to the Requester.
- 13.7.3 the cost of making any arrangement regarding the above search, preparation and disclosure to the Requester
- 13.8 The charging of fees shall always be subject to the determination and exclusion of certain categories of persons as determined by the Minister<sup>13</sup> or any other *Government Gazette* notice regulating fees and reproduction for specific professions.

**14. RECORDS THAT ARE LOST CANNOT BE FOUND OR DO NOT EXIST:**

- 14.1 In the event that:
- 14.1.1 all reasonable steps have been taken to find a Record requested; and
- 14.1.2 there are reasonable grounds for believing that the Record –
- 14.1.2.1 is in the Private Body's possession but cannot be found; or
- 14.1.2.2 does not exist

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<sup>13</sup> See paragraph 1.1

- 14.1.3 the Official must, by way of affidavit or affirmation, notify the Requester that it is not possible to give access to that Record.
- 14.2 The affidavit or affirmation referred to in paragraph 14.1 must give a full account of all steps taken to find the Record in question or to determine whether the Record exists, as the case may be, including all communications with every Person who conducted the search on behalf of the Official. For purposes of this Act, the notice in terms of paragraph 14.1 is to be regarded as a decision to refuse a Request for access to the Record concerned.
- 14.3 If, after notice is given in terms of paragraph 14.1, the Record in question is found, the Requester concerned must be given access to the Record unless access is refused on a ground for refusal contemplated in this Manual or the Act<sup>14</sup>.

**15. REFUSAL OR DEEMED REFUSAL OF REQUEST:**

- 15.1 If an Official fails to make a decision within the 30-day period; or
- 15.2 If notice is given that the Record is lost or cannot be found or does not exist in terms of paragraph 14, it shall be deemed a refusal of a Request.
- 15.3 For all other instances, any written communication, be it on the prescribed form or not, refusing a Request for access shall constitute a refusal.

**16. RIGHTS OF THIRD PARTIES:**

16.1 NOTICE TO THIRD PARTIES:

16.1.1 The Official considering a Request for access to a Record shall take all reasonable steps to inform a Third Party to whom or which the Record relates of the Request.

16.1.2 The Official must inform a Third Party in terms of paragraph 16.1.1

16.1.2.1 as soon as reasonably possible, but in any event within 21 days after that Request is received; and

16.1.2.2 by the fastest means reasonably possible.

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<sup>14</sup> Chapter 4 of the Act

16.1.3 When informing a Third Party in terms of paragraph 16.1.1, the Official considering a Request for access to a Record must-

16.1.3.1 describe the content of the Record;

16.1.3.2 furnish the name of the Requester;

16.1.3.3 describe the provisions of the Act and other legislation applicable to the Record as the case may be;

16.1.3.4 in any case where the Official believes that the public interest<sup>15</sup> rules apply, describe those provisions in terms of the Act specifying which of the circumstances in the opinion of the Official might apply and state the reasons why he or she is of the opinion that the Public Interest rules might apply; and

16.1.3.5 within 21 days after the Third Party is informed-

16.1.3.5.1 make written or oral representations to the Official why the Request for access should be refused;

16.1.3.5.2 appear in person or by means of representation before the Official; or

16.1.3.5.3 give written consent for the disclosure of the Record to the Requester.

## 16.2 REPRESENTATIONS AND CONSENT BY THIRD PARTIES:

16.2.1 A Third Party that is informed in terms of paragraph 16.1 of a Request for access, may, within 21 days after being so informed-

16.2.1.1 make written or oral representations to the Official concerned as to why the Request should be refused; or

16.2.1.2 appear in person or by means of representation before the Official; or

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<sup>15</sup> Paragraph 17.12 and Section 10 of the Act

16.2.1.3 give written consent for the disclosure of the Request to the Requester concerned.

16.2.2 A Third Party that obtains knowledge about a Request for access other than in terms of paragraph 16.1 may:

16.2.2.1 make written or oral representations to the Official concerned as to why the Request should be refused; or

16.2.2.2 insist to appear in person or by means of representation before the Official; or

16.2.2.3 give written consent for the disclosure of the Request to the Requester concerned.

### 16.3 DECISION ON REPRESENTATIONS FOR REFUSAL AND NOTICE THEREOF:

16.3.1 The Official must, as soon as reasonably possible, but in any event within 30 days after every Third Party is informed as provided for in paragraph 16.1:

16.3.1.1 decide, after due regard to any representations made by a Third Party in terms of paragraph 16.2, whether to grant the Request for access; and

16.3.1.2 notify the Third Party so informed and a Third Party not informed in terms of paragraph 16.1 but which made representations in terms of paragraph 16.2 or is located before the decision is taken, of the decision.

16.3.2 If, after all reasonable steps have been taken as required by paragraph 16.1, a Third Party is not informed of a Request, any decision whether to grant the Request for access must be made with due regard to the fact that the Third Party did not have the opportunity to make representations in terms of paragraph 16.2 as to why the Request should be refused.

16.3.3 If the Request is granted, the notice must state-



- 16.3.3.1 adequate reasons for granting the Request, including the provisions of the Act, other legislation and this Manual relied upon to justify granting of the Request;
  - 16.3.3.2 that the Third Party may lodge an application with a Court against the decision of the Official within 30 days after notice is given and other remedies available have been utilised; and
  - 16.3.3.3 that the Requester shall be given access to the Record after the expiry of the applicable period contemplated in paragraph 16.3.3.2, unless an application is lodged with a Court or any other administrative remedy<sup>16</sup> is utilised within that period.
- 16.3.4 If the Official decides in terms of paragraph 16.3.1 to grant the Request for access, he or she must give the Requester access to the Record concerned after the expiry of 30 days of written notice having been given, unless an application against the decision is lodged with a Court or any other remedy is utilised within that period.

#### 16.4 GENERAL RIGHTS OF THIRD PARTIES

16.4.1 A Data Subject or Third Party has the right:

- 16.4.1.1 to object, on reasonable grounds, to the processing their Personal Information;
- 16.4.1.2 to be notified that Personal Information has been accessed or acquired by an unauthorised Person;
- 16.4.1.3 to be notified, if systems have been hacked;
- 16.4.1.4 to establish whether a responsible Party holds Personal Information and Request access to it;
- 16.4.1.5 to request the correction, destruction or deletion of their Personal Information;
- 16.4.1.6 to object, at any time, on reasonable grounds, to the processing of their Personal Information, in which case the Company may not process the Personal Information.

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<sup>16</sup> Paragraphs 21-23: other than criminal proceedings

16.4.2 The Company shall restrict processing of Personal Information if its accuracy is contested by the Data Subject until the accuracy is verified.

16.5 COLLECTION OF RECORDS FROM A SOURCE OTHER THAN A THIRD PARTY:

16.5.1 Collection of a Record from a source other than a Data Subject or Third Party, may be necessary-

16.5.1.1 to maintain law and order;

16.5.1.2 to enforce legislation concerning the collection of revenue;

16.5.1.3 to conduct of Court or tribunal proceedings;

16.5.1.4 in the interests of national security;

16.5.1.5 to protect the legitimate interests of the responsible Party.

16.5.1.6 under the circumstances provided for in paragraph 17.7.

**17. GRANTING OF ACCESS TO A RECORD IN GENERAL**

17.1 A Request for Personal Information shall only be processed if-

17.1.1 the Data Subject consents to such processing;

17.1.2 processing is necessary for the conclusion or execution of a contract to which the Data Subject is a Party;

17.1.3 there is a legal obligation to proceed with processing;

17.1.4 processing is required to protect the legitimate interests of the Data Subject;

17.1.5 processing is necessary for a Public Body to perform a public law duty;  
or

17.1.6 processing is necessary for the pursuit of legitimate interests of the Company<sup>17</sup>;

17.1.7 for a purely personal or household activity;

17.1.8 by or on behalf of a Public Body if:

17.1.8.1 national security is involved; or

17.1.8.2 the purpose is to prevent, detect or investigate offences or to obtain proof of offences.

17.1.9 Solely for the purpose of literary or artistic expression, to the extent that the right to privacy is balanced with the right to freedom of expression;

17.1.10 By Cabinet, its committees and the Executive Council of provinces;

17.1.11 When the Regulator grants any exemptions;

17.1.12 Mandatory disclosure is in the public interest, such as the following:

17.1.12.1 The disclosure of the Record would reveal evidence of –

17.1.12.1.1 a substantial contravention of, or failure to comply with, the law; or

17.1.12.1.2 imminent and serious public safety or environmental risk<sup>18</sup>; and

17.1.12.1.3 the public interest in the disclosure of the Record clearly outweighing the harm contemplated in the provision in question.

17.2 A Request for access to a Record may not be refused in terms of the Act insofar as it consists of information about the results of any product or environmental testing or other investigation supplied by, carried out by or on behalf of the Company, and when its disclosure would pose a serious public safety or environmental risk. The results of any product or environmental testing or other investigation do not include the results or preliminary testing or other

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<sup>17</sup> Company bears the burden of proof

<sup>18</sup> Section 68(2) of the Act

investigation conducted for the purpose of developing methods of testing or other investigation.

17.3 Personal Information must be obtained directly from the Third Party except-:

17.3.1 under the circumstances provided for in paragraph 16.5.

17.3.2 if the information is contained in a public Record or has deliberately been made public by the Third Party;

17.3.3 if the Third Party has consented to disclosure thereof by another source;

17.3.4 if obtaining such information from another source would not prejudice a legitimate interest of the Data Subject;

17.4 In considering a Request, the Company would be reasonably justified not to comply with legislation regulating information compliance if it:

17.4.1 would prejudice a lawful purpose of the disclosure; or

17.4.2 is not reasonably practicable in the circumstances of the particular case.

**18. REFUSAL OF REQUEST FOR ACCESS TO A RECORD IN TERMS OF OTHER LEGISLATION IN GENERAL:**

18.1 Certain information may be protected subject to an obligation of confidentiality by virtue of office, employment, profession or legal provision, or established by a written agreement;

18.2 A Request may be refused in the circumstances provided for in other legislation or as contemplated in POPI;

18.3 The Act does not apply to a Record of a Public Body or Private Body if-

18.3.1 that Record is requested for the purpose of criminal or civil proceedings;

18.3.2 requested after the commencement of such criminal or civil proceedings, as the case may be; and

18.3.3 the production of or access to that Record for the purpose referred to in paragraph 18.3.1 is provided for in any other legislation.

- 18.4 Any Record obtained in a manner that contravenes paragraph 18.3 is not admissible as evidence in the criminal or civil proceedings referred to in that paragraph unless the exclusion of such Record by the Court in question would, in its opinion, be detrimental to the interests of justice.
- 18.5 The Act and this Manual provide for the exclusion of any provision of other legislation that prohibits or restricts the disclosure of a Record of the Company and is materially inconsistent with the object or provision of the Act or this Manual.
- 18.6 The Company may refuse a Request for access to a Record which is in its possession without the consent of a Third Party.
- 18.7 A Third Party may consent provisionally on a condition that the Requester can prove compliance with POPI to protect the Personal Information requested.
- 18.8 The provisions of paragraph 18.7 may also apply in the event of access requested by a foreign country or in the event of cross-border information exchange.
- 18.9 The processing of any Personal Information will have to be stopped or suspended in the event of an enforcement notice issued by the Regulator.
- 18.10 A Request for access will also be refused should the Requester not be able to establish *locus standi*<sup>19</sup> in terms of the Act or convince the Company of the right the Requester wants to protect or exercise.
- 18.11 Should the Requester be a Public Body, it is only required to prove that it acts in the public interest<sup>20</sup>.

## **19. RECORDS HELD BY CONTRACTORS**

- 19.1 A Record in the possession or under the control of the Company or an independent contractor engaged by the Company in that capacity is regarded as being a Record of the Company<sup>21</sup>. The Company engages the following contractors:
- 19.1.1 Auditors
  - 19.1.2 BEE consultants / verification agents
  - 19.1.3 IT consultants
  - 19.1.4 Labour consultants
  - 19.1.5 Company Attorneys

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<sup>19</sup> See Section 1 “individuals next of kin” and Section 63(d)(2) of the Act

<sup>20</sup> Section 50(2) of the Act

<sup>21</sup> Section 4 of the Act

19.2 A Request for access of any of the Company's Records in the possession of the above-mentioned Persons must be directed to the Officials stipulated in Schedule B.

## **20. CLASSIFICATION AND CATEGORIES OF SENSITIVE AND PROTECTED RECORDS**

20.1 The following categories of Records are by virtue of their sensitivity protected by the Act and POPI. Special rules apply and various other laws also apply to these Records. For expedience and clarity, these Records are categorised under two main groups, namely those related to natural people and those related to Private Bodies:

### **20.1.1 NATURAL PEOPLE**

- Personal Information in general.
- Special Personal Information.

### **20.1.2 PRIVATE BODIES**

- Research
- Sensitive commercial Records relating to trade secrets, etc.
- Sensitive commercial Records relating to trade secrets, etc. of other Private Bodies (Third Parties or Data Subjects)
- Records relating to the safety of individuals and protection of property
- Information protected subject to an obligation of confidentiality by virtue of office, employment, profession and privileged information or by agreement.

**A. NATURAL PEOPLE**

**1. PERSONAL INFORMATION**

Definition	Types of information	Records	Special provisions
<p>Relates to an identifiable living, natural Person and, where applicable, an identifiable existing juristic Person. Includes information about a deceased individual<sup>22</sup></p>	<p>Race                      Gender                      Sex                      Pregnancy                      Marital status                      National or ethnic origin                      Colour                      Sexual orientation                      Age                      Physical or mental health                      Disability                      Religion                      Conscience                      Belief                      Culture                      Language                      Birth or death                      Education                      Medical history                      Financial history                      Criminal history                      Employment history                      Biometric info<sup>23</sup>                      ID number                      Symbol                      E-mail address                      Physical address                      Telephone number                      Private or confidential correspondence                      Personal views, opinions or preferences                      A name, if it appears together with other Personal Information or if disclosure of the name itself would reveal Personal Information about the Person.                      Views or opinions of another individual about a Person.</p>	<p>See  <u>Schedule H</u></p>	<ul style="list-style-type: none"> <li>• Section 63 of the Act</li> <li>• POPI</li> </ul>

<sup>22</sup> Section 63(1) of the Act and paragraph 1.13

<sup>23</sup> See paragraph 1.4

**A. NATURAL PEOPLE (continued)**

**2. SPECIAL PERSONAL INFORMATION**

<b>Types of information</b>	<b>Records</b>	<b>Special provisions</b>
Religious or philosophical beliefs	<i>See <u>Schedule H</u></i>	Section 28 of POPI
Race or ethnic origin		Section 29 of POPI
Trade union membership		Section 30 of POPI
Political persuasion		Section 31 of POPI
Health and sex life		Section 32 of POPI
Criminal behaviour		Section 61 of the Act
Biometrics		Section 63 (2) (d) of the Act
		Section 33 of POPI
	Section 34 & 35 of POPI	



**B. PRIVATE BODIES**

Definition	Types of information	Records	Special provisions
<p>Research <b>(Category 1)</b></p>	<ul style="list-style-type: none"> <li>• A Record containing information about research being or to be carried out by or on behalf of a Third Party or the Company and the disclosure of which would be likely to expose and serious disadvantage-</li> <li>• the Third Party;</li> <li>• a Person who is or will be carrying out the research on behalf of the Third Party;</li> <li>• the subject matter of the research.</li> </ul>	<p><u>Schedule I</u></p>	<p>Section 69 of the Act</p>
<p>Sensitive commercial Records of the Company <b>(Category 2)</b></p>	<ul style="list-style-type: none"> <li>• Contains trade secrets of the Company</li> <li>• Contains financial, commercial, scientific or technical information, other than trade secrets, of the Company, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Company</li> <li>• Contains information, the disclosure of which could reasonably be expected-               <ul style="list-style-type: none"> <li>- to put the Company at a disadvantage in contractual or other negotiations; or</li> <li>- to prejudice the Company in commercial competition; or</li> </ul> </li> <li>• Is a computer program, as defined in section 1(l) of the Copyright Act 1978 (Act No. 98 of 1978), owned by the Company, except insofar as it is required to give access to a Record to which access is granted in terms of this Act.</li> </ul>	<p><u>Schedule I</u></p>	<p>Section 68 of the Act</p>

**B. PRIVATE BODIES**

*(continued)*

Definition	Types of information	Records	Special provisions
<p>Sensitive commercial Records relating to other Private Bodies <b>(Category 3)</b></p>	<ul style="list-style-type: none"> <li>• Trade secrets of a Third Party or Data Subject;</li> <li>• Financial, commercial, scientific or technical information, other than trade secrets, of a Third Party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that Third Party; or</li> <li>• Information supplied in confidence by a Third Party, the disclosure of which could reasonably be expected-                             <ul style="list-style-type: none"> <li>- to put that Third Party at a disadvantage in contractual or other negotiations; or</li> <li>- To prejudice that Third Party in commercial competition.</li> </ul> </li> </ul>	<p><u>Schedule I</u></p>	<p>Section 64 of the Act</p>
<p>Records relating to the safety of individuals an protection of property <b>(Category 4)</b></p>	<ul style="list-style-type: none"> <li>• Records of the Company if its disclosure could reasonably be expected to endanger the life or physical safety of an individual.</li> <li>• A Record of the Company if its disclosure would be likely to prejudice or impair the security of-                             <ul style="list-style-type: none"> <li>- a building, structure or system, including, but not limited to, a computer or communication system;</li> <li>- a means of transport; or</li> <li>- any other property; or</li> <li>- methods, systems, plans or procedures for the protection of-                                     <ul style="list-style-type: none"> <li>- an individual in accordance with a witness protection scheme;</li> <li>- the safety of the public, or any part of the public; or</li> <li>- the security of property contemplated in terms of the Act.</li> </ul> </li> </ul> </li> </ul>	<p><u>Schedule I</u></p>	<p>Section 66 of the Act</p>

**B. PRIVATE BODIES**

**(continued)**

Definition	Types of information	Records	Special provisions
Information protected subject to an obligation of confidentiality by virtue of office, employment, profession and privileged information or by agreement <b>(Category 5)</b>	<ul style="list-style-type: none"><li>• Privileged information</li><li>• After commencement of criminal/civil proceedings</li></ul>	<u>Schedule I</u>	Section 67 of the Act  Sections 5, 6 and 7 of the Act Contractual law  Common law Attorney/client Companies Act  POPI

## **21. FAIRNESS AND PREVENTION OF DISPUTES:**

- 21.1 The Act does not provide for an appeal procedure for Private Bodies in the event of refusal of access or any remedy for an aggrieved Requester other than an application to a Court<sup>24</sup>.
- 21.2 Due to the time delay when approaching a Court and to adhere to the principles and values of the Constitution and the Act and the purpose of this Manual and POAJ, the Company adopted the following mechanisms as an alternative to Court proceedings in order to expedite access and to avoid unnecessary disputes.
- 21.3 Any alternative to Court proceedings introduced in paragraphs 22 and 23 shall not detract in any way from an aggrieved Party's right to lodge an application as contemplated in the Act<sup>25</sup>.

## **22. EXPERT OPINION:**

- 22.1 An Official stipulated in Schedule B may refer any Request in terms of the Act and this Manual to an expert to-
  - 22.1.1 consider the matter as provided for below and express an opinion and give advice to the Official concerned;
  - 22.1.2 make a final determination if the Official considers himself/herself compromised or not in a position to consider the matter objectively and fairly; or
  - 22.1.3 act as an appeals authority in the event of refusal by the Official, and if an aggrieved Party has expressed dissatisfaction or lodged an application for reconsideration of the Request.
- 22.2 Whenever any Person is required to act "*as an expert and not as an arbitrator*" in terms of this Manual, then-
  - 22.2.1 the determination of the expert shall be final insofar as any internal remedies of an administrative nature are concerned;

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<sup>24</sup> Chapter 2, Section 70 of the Act

<sup>25</sup> Chapter 2, Section 70 of the Act

22.2.2 subject to any express provision to the contrary, the expert shall determine the liability for his or its charges, which shall be paid by the Company;

22.2.3 the expert shall be entitled to determine such methods and processes as he or it may, in his or its sole discretion, deem appropriate in the circumstances, provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;

22.2.4 the expert shall consult with the relevant parties (provided that the extent of the expert's consultation shall be in his or its sole discretion) prior to rendering a determination; and

22.2.5 having regard to the sensitivity of any confidential information, the expert shall be entitled to take advice from any Person considered by him or it to have expert knowledge with reference to the matter in question.

22.2.6 the provisions of POAJ shall be adhered to.

22.3 The period of 30 days shall apply irrespective of the use of an expert in terms of this clause.

### **23. ARBITRATION:**

23.1 Without detracting from the statutory right of a Requester to lodge a Court application, the Company and the Requester or any other aggrieved Party may, besides the procedure provided for in terms of paragraph 22, agree to resolve the dispute by means of arbitration.

23.2 Any dispute arising from or in connection with this Manual or the subject matter of this Manual, including, without limitation, any dispute concerning the following may be resolved by alternative means:

23.2.1 The interpretation and effect of the Act, legislation and this Manual;

23.2.2 The Parties' respective rights or obligations under the Act or this Manual.

### 23.3 APPOINTMENT OF ARBITRATOR

23.3.1 The Parties shall agree on the arbitrator who shall be an attorney or advocate on the panel of arbitrators of the Arbitration Foundation of Southern Africa (**AFSA**). If agreement is not reached within 15 business days after any Party calls in writing for such agreement, the arbitrator shall in the interim be an attorney or advocate nominated by the Registrar of AFSA.

23.3.2 The Request to nominate an arbitrator shall be made in writing, outlining the claim and any counterclaim of which the Party concerned is aware and, if desired, suggesting suitable nominees for appointment as arbitrator. A copy shall be furnished to the other Party who may, within 10 days, submit written comments on the Request to the addressee of the Request, with a copy to the first Party.

### 23.4 VENUE AND PERIOD FOR COMPLETION OF ARBITRATION

The arbitration shall be held in the town or city or the magisterial district of the main place of business of the Company, and the Parties shall endeavour to ensure that such arbitration is completed within 60 days after notice requiring the claim to be referred to arbitration is given.

### 23.5 ARBITRATION ACT – RULES

The arbitration shall be governed by the Arbitration Act, 1965, or any replacement Act, and shall take place in accordance with the Commercial Arbitration Rules of AFSA.

### 23.6 APPLICATION TO COURT FOR URGENT INTERIM RELIEF

Nothing contained in this clause 23 shall prohibit a Party from approaching any Court for urgent interim relief pending resolution of the dispute by arbitration.

## **24. APPLICATIONS TO COURT:**

- 24.1 In terms of the Act, a Requester or a Third party which is aggrieved by a decision of an Official in relation to any matter relating to a Request for access, may:
- 24.2 by way of an application;
- 24.3 within 30 days;
- 24.4 apply to a Court for appropriate relief; and
- 24.5 for the purpose of receiving and being served with any Court notices, the Company nominates the persons as per Schedule B as the authorised Officials of the Company, and the physical address appearing in either Schedule A or B as the *domicilia citandi et executandi* for giving notice in terms of this paragraph.

## **25. OTHER REMEDIES:**

An aggrieved Party can also resort to the following remedies in an attempt to have a grievance addressed:

- 25.1 Report the matter to South African Human Rights Commission (SAHRC), the details of which appear in paragraph 5.2 of this Manual. The SAHRC has a duty and responsibility in terms of the Act to assist with access to information.
- 25.2 Report the matter to the Regulator who has extensive powers in terms of PAIA and POPI to investigate and, amongst others, issue compliance notices, etc.
- 25.3 If the matter falls within the ambit of the Consumer Protection Act, report the matter to the National Consumer Tribunal whose details are available at **[www.thenct.org.za](http://www.thenct.org.za)**.
- 25.4 If any offence has been committed in terms of destroying, damaging, altering, concealing or falsifying of Records in terms of Section 90 of the Act or any contravention of Regulation 9 of the Regulations relating to the Manual or neglecting regular updates, or any other offences in terms of POPI, the matter may be reported to the Regulator or the South African Police Service or both.

**ACCEPTANCE BY THE COMPANY BY VIRTUE OF THE FOLLOWING DULY  
AUTHORISED OFFICIAL:**

JOHANNES JACOBUS FOUCHE

DIRECTOR

30 MAY 2018



## SCHEDULE A

### DETAILS OF PRIVATE BODY (COMPANY)

# ***MBT PETROLEUM (PTY) LTD***

**REGISTERED NAME** : *MBT PETROLEUM (PTY) LTD*

**TRADING AS** : *MBT PETROLEUM*

**MAIN PLACE OF BUSINESS** : 107 Haymeadow Street  
Boardwalk Office Park  
Block F  
Faerie Glen

**TELEPHONE NUMBER** : +27 12 991 3093

**FAX NUMBER** : +27 12 991 4306

**E-MAIL ADDRESS** : [info@mbtpetroleum.co.za](mailto:info@mbtpetroleum.co.za)

**OTHER OFFICES** : N/A

**WEBSITE ADDRESS** : [www.mbtpetroleum.co.za](http://www.mbtpetroleum.co.za)

**SCHEDULE B****HEAD OF THE PRIVATE BODY (COMPANY)*****MBT PETROLEUM (PTY) LTD***

<b>NAME</b>	:	Johannes Jacobus Fouche
<b>POSITION</b>	:	Chief Executive Officer
<b>PHYSICAL ADDRESS</b>	:	107 Haymeadow Street Boardwalk Office Park Block F Faerie Glen
<b>POSTAL ADDRESS</b>	:	Po Box 39077 Faerie Glen 0043
<b>TELEPHONE NUMBER</b>	:	+27 12 991 3093
<b>FAX NUMBER</b>	:	+27 12 991 4306
<b>E-MAIL ADDRESS</b>	:	<a href="mailto:joan@mbtpetroleum.co.za">joan@mbtpetroleum.co.za</a>

**INFORMATION OFFICER:**

<b>NAME</b>	:	Michele De Waal
<b>POSITION</b>	:	Director
<b>PHYSICAL ADDRESS</b>	:	107 Haymeadow Street Boardwalk Office Park Block F Faerie Glen
<b>POSTAL ADDRESS</b>	:	Po Box 39077 Faerie Glen 0043
<b>TELEPHONE NUMBER</b>	:	+27 12 991 3093
<b>FAX NUMBER</b>	:	+27 12 991 4306
<b>E-MAIL ADDRESS</b>	:	<a href="mailto:michele@rohrrein.co.za">michele@rohrrein.co.za</a>

Is Information Officer also appointed as such officer in terms of POPI? **YES**

Is Information Officer also the designated appointee in terms of Consumer Protection Act? **YES**

## **SCHEDULE C**

**OTHER DIRECTORS AND PRESCRIBED OFFICERS OF THE PRIVATE  
BODY (COMPANY)**

***MBT PETROLEUM (PTY) LTD***

**No other Member or Officers**

# SCHEDULE D

## AUTOMATICALLY AVAILABLE RECORDS AND ACCESS TO SUCH RECORDS: (Section 52 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000)) [Regulation 9A]

### MBT PETROLEUM (PTY) LTD

DESCRIPTION OF CATEGORY OF RECORDS AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 52 (1) (a) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000	MANNER OF ACCESS TO RECORDS (e.g. website) (SECTION 52 (1) (b))
<b>FOR INSPECTION IN TERMS OF SECTION 52 (1)(a)(iii):</b>	
<ul style="list-style-type: none"> <li>• Labour Contracts of Employment</li> </ul>	<ul style="list-style-type: none"> <li>• Inspection by Labour Inspector</li> </ul>
<ul style="list-style-type: none"> <li>• Letters of Employment</li> </ul>	<ul style="list-style-type: none"> <li>• Inspection by Bargaining Council Agents</li> </ul>
<ul style="list-style-type: none"> <li>• Pay slips</li> </ul>	
<ul style="list-style-type: none"> <li>• Occupational Health &amp; Safety Assessments &amp; Reports</li> </ul>	<ul style="list-style-type: none"> <li>• Inspection by Public Health Inspectors</li> </ul>
<b>FOR PURCHASING IN TERMS OF SECTION 52 (1)(a)(ii):</b>	
<b>FOR COPYING IN TERMS OF SECTION 52 (1)(a)(ii):</b>	
<b>AVAILABLE FREE OF CHARGE IN TERMS OF SECTION 52 (1)(a)(iii):</b>	
<ul style="list-style-type: none"> <li>• Business Cards</li> </ul>	
<ul style="list-style-type: none"> <li>• Business Profile – Facebook</li> </ul>	
<ul style="list-style-type: none"> <li>• Client General Newsletters</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic by means of e-mail Request, website</li> </ul>
<ul style="list-style-type: none"> <li>• Company Profile</li> </ul>	
<ul style="list-style-type: none"> <li>• Leaflets - Marketing</li> </ul>	
<ul style="list-style-type: none"> <li>• Newspaper Adverts</li> </ul>	
<ul style="list-style-type: none"> <li>• Newspaper Articles and Columns</li> </ul>	
<ul style="list-style-type: none"> <li>• Product Brochures</li> </ul>	<ul style="list-style-type: none"> <li>• Hard copies from employees, marketing staff</li> </ul>
<ul style="list-style-type: none"> <li>• Product Pamphlets</li> </ul>	
<ul style="list-style-type: none"> <li>• Quotations</li> </ul>	
<ul style="list-style-type: none"> <li>• Website</li> </ul>	

**SCHEDULE E**  
**BUSINESS ACTIVITIES OF THE PRIVATE BODY (COMPANY)**  
***MBT PETROLEUM (PTY) LTD***

## Wholesale and Retail

- Wholesale of Petroleum products and services
- MBT Petroleum has secured contracts with various refineries for the supply of petroleum products. MBT provides the following products and services to the public:

Asset Finance

Securities

On-Line Ordering and Account Management

Projected Monthly Price Movements

Site and Retail License Applications

Environmental Impact Assessments (EIA)

Traffic Impact Studies

Retail Site Development

Truck Stop Development

Fuel Management Systems

Pump and Tank In-House Maintenance

Pump and Tank Installations

Own Fleet Delivery

Related Supplier Interaction – Merchandising

Innovative Retail Branding

## SCHEDULE F

### GROUP STRUCTURE(S) AND CONNECTED COMPANIES OF THE PRIVATE BODY (COMPANY)

#### ***MBT PETROLEUM (PTY) LTD***

- MBT PETROLEUM (PTY) LTD is not involved in any holding / subsidiary relationship.
- No other Cross directors / shareholding existing in any relation

## **SCHEDULE G**

### **LEGISLATION APPLICABLE TO THE PRIVATE BODY (COMPANY)**

#### ***MBT PETROLEUM (PTY) LTD***

1. Basic Conditions of Employment Act 75 of 1997
2. Broad Based Black Economic Empowerment Act of 2003 and amendment Act of 2013 & BBBEE Codes
3. Companies Act 61 of 2008
4. Compensation for Occupational Injuries and Health Diseases Act 130 of 1993
5. Consumer Protection Act 68 of 2008
6. Electronic Communications and Transaction Act 25 of 2002
7. Employment Equity Act 55 of 1998

8. Income Tax Act 58 of 1962
9. Labour Relations Act 66 of 1995
10. Mineral and Petroleum Resource Development Act 28 of 2002
11. National Credit Act 34 of 2005
12. Occupational Health & Safety Act 85 of 1993
13. Promotion of Access to Information Act 2 of 2000
14. Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
15. Protection of Personal Information Act 4 of 2013
16. Skills Development Act 97 of 1998



17. Unemployment Contributions Act 4 of 2002
18. Unemployment Insurance Act 30 of 1996
19. Value Added Tax Act 89 of 1991

## SCHEDULE H

### LIST OF RECORDS OF NATURAL PEOPLE OF THE PRIVATE BODY (COMPANY)

## ***MBT PETROLEUM (PTY) LTD***

PERSONAL INFORMATION	SPECIAL PERSONAL INFORMATION
Attendance Register	
Disciplinary Records	Disciplinary Records
Employee Information Records	Employee Information Records
Employee Loans	Employee Loans
Employment Applications	Employment Applications
Employment Contracts	Employment Contracts
Employment Equity Plans and Reports	Employment Equity Plans and Reports
IRP 5 and IT 3 Certificates	
Letters of Appointment	Letters of Appointment
Leave Applications	Leave Applications
Maternity Leave Policy	Maternity Leave Policy
Payroll	Payroll
Personnel Files	Personnel Files
Recruitment and Appointments	Recruitment and Appointments
Salary and Wage Registers	Salary and Wage Registers
Salary Slips and Wage Records	Salary Slips and Wage Records
Scholarships and Bursaries	Scholarships and Bursaries
Staff Records after Employment	Staff Records after Employment
Training and Development	Training and Development
UIF, PAYE and SDL Returns	
Workmen's Compensation Documentation	
Employee Past Medical Records	Employee Past Medical Records

# SCHEDULE I

## CLASSIFICATION AND CATEGORIES FOR PROTECTION OF THE PRIVATE BODY (COMPANY) – Paragraph 20

### ***MBT PETROLEUM (PTY) LTD***

	AA	PERSONAL INFO	SPECIAL PERSONAL INFO	CAT 1	CAT 2	CAT 3	CAT 4	CAT 5
<b>Accounting/ Financial Records:</b>								
Annual financial statements and working papers					✓			
General ledger					✓			
Subsidiary ledgers (receivables, payables etc.)					✓			
Bank statements,					✓			
Cheque books & cheques					✓			
Customer and suppliers statements					✓	✓		
Invoices (general)					✓			
Deposit slips					✓			
Cash books					✓			
Petty cash books					✓			
Fixed asset register					✓			
Tax returns and assessments						✓		
VAT returns					✓			
Lease or installments sale agreements					✓			
Budgets plans					✓			

	AA	PERSONAL INFO	SPECIAL PERSONAL INFO	CAT 1	CAT 2	CAT 3	CAT 4	CAT 5
Business plans					✓			
Insurance records					✓			
Credit agreements					✓			
Capital expenditure					✓			
Invoices with T & C's	✓				✓	✓		
Quotations					✓	✓		
Receipts					✓	✓		
Confirmation of Banking details					✓			
Cash Flow Projections					✓			
<b>Staff:</b>								
Training manuals						✓		
Salary scales		✓	✓		✓			
EE plans and reports		✓	✓		✓			
Attendance Register		✓						
Disciplinary Records		✓	✓					✓
Employee Information Records		✓	✓					✓
Employee Loans		✓	✓					
Employment Applications	✓	✓	✓					
Employment Contracts		✓	✓					✓
Employment Equity Plan		✓	✓		✓			

	AA	PERSONAL INFO	SPECIAL PERSONAL INFO	CAT 1	CAT 2	CAT 3	CAT 4	CAT 5
Group Life	-	-	-	-	-	-	-	
IRP 5 and IT 3 Certificates		✓						
Letters of Appointment		✓	✓					
Leave Applications		✓	✓					✓
Maternity Leave Policy		✓	✓					✓
Payroll		✓	✓					✓
Personnel Files		✓	✓					✓
Policies and Procedures					✓		✓	
Recruitment and Appointments		✓	✓		✓			
Salary and Wage Registers		✓	✓					✓
Salary Slips and Wage Records		✓	✓					✓
Scholarships and Bursaries		✓	✓					✓
Staff Records after Employment		✓	✓					✓
Study Assistance Schemes	-	-	-	-	-	-	-	-
Time Records					✓			
Training and Development		✓	✓		✓			
UIF, PAYE and SDL Returns		✓						
Workmen's Compensation Documentation		✓						
Attendance Register		✓						

	AA	PERSONAL INFO	SPECIAL PERSONAL INFO	CAT 1	CAT 2	CAT 3	CAT 4	CAT 5
OHS Reports					✓			
OHS Assessments					✓			
OHS Minutes					✓			
<b>Insurance Records:</b>								
Claim records					✓			
Details of coverage, limits and insurers					✓			
Insurance policies					✓			
<b>Corporate Governance:</b>								
Shareholder agreements		✓			✓			
Director agreements		✓			✓			
Share Register		✓			✓			
Share Certificates		✓			✓			
Resolutions		✓			✓			
MOI		✓			✓			
Letter of Authority (only trust)		✓						
<b>Intellectual Property:</b>								
License agreements					✓	✓		
Secrecy agreements					✓	✓		
Research and development agreements	-	-	-	-	-	-	-	-
Consulting agreements					✓	✓		

	AA	PERSONAL INFO	SPECIAL PERSONAL INFO	CAT 1	CAT 2	CAT 3	CAT 4	CAT 5
Use agreements					✓	✓		
Joint venture agreements					✓	✓		
Join development agreements					✓	✓		
Royalty agreements					✓	✓		
Franchise agreements					✓	✓		
Warranties					✓	✓		
<b>Marketing:</b>								
Business Cards	✓	✓						
Business Profile – World Wide Web	✓							
Client General Newsletters	✓							
Company Profile	✓							
Leaflets	✓							
News Paper Adverts	✓							
News Paper Articles and Columns	✓							
Product Brochures	✓							
Product Pamphlets	✓							
Vouchers	✓							
Promotional Competitions	✓							
Labeling	✓							
Mail Shots	✓							

	AA	PERSONAL INFO	SPECIAL PERSONAL INFO	CAT 1	CAT 2	CAT 3	CAT 4	CAT 5
<b>CUSTOMER/ CLIENT:</b>								
Settlement Agreements					✓	✓		
Patient Medical Records		✓	✓					✓
Service Agreement					✓	✓		
Delivery Notes					✓	✓		
Supplier Agreements					✓	✓		
Litigation Records						✓		



# ANNEXURE 1

## REQUEST FOR ACCESS TO RECORD OF PRIVATE BODY (COMPANY)

*[Section 53(1) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)]*

*[Regulation 10]*

### ***MBT PETROLEUM (PTY) LTD***

#### **A. Particulars of Private Body**

The Head:

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#### **B. Particulars of Person requesting access to the Record**

- (a) The particulars of the Person who Requests access to the Record must be given below.
- (b) The address and/or fax number or e-mail address in the Republic to which the information is to be sent must be given.
- (c) Proof of the capacity in which the Request is made, if applicable, must be attached.

Full names and surname: \_\_\_\_\_

---

Identity number: \_\_\_\_\_

Postal address: \_\_\_\_\_

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\_\_\_\_\_ Fax number: \_\_\_\_\_

Telephone number: \_\_\_\_\_ E-mail address: \_\_\_\_\_

Capacity in which Request is made when made on behalf of another Person:

---

**C. Particulars of Person on whose behalf Request is made**

*This section must be completed ONLY if a Request for information is made on behalf of another Person.*

Full names and surname: \_\_\_\_\_  
\_\_\_\_\_

Identity number: \_\_\_\_\_

**D. Particulars of Record**

- (a) Provide full particulars of the Record to which access is requested, including the reference number if it is known to you, to enable the Record to be located.
- (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. **The Requester must sign all additional folios.**

1. Description of Record or relevant part of the Record: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Reference number, if available: \_\_\_\_\_

3. Any further particulars of Record: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**E. Fees**

- (a) A Request for access to a Record, other than a Record containing Personal Information about yourself, will be processed only after a **request fee** has been paid.
- (b) You will be notified of the amount required to be paid as the request fee.
- (c) The **fee payable for access** to a Record depends on the form in which access is required and the reasonable time required to search for and prepare a Record.
- (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**F. Form of access to Record**

*If you are prevented by a disability to read, view or listen to the Record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the Record is required.*

Disability: \_\_\_\_\_

Form in which Record is required: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTES:**

- a) Compliance with your Request in the specified form may depend on the form in which the Record is available.
- b) Access in the form requested may be refused in certain circumstances. In such cases you will be informed if access will be granted in another form.
- c) The fee payable for access to the Record, if any, will be determined partly by the form in which access is requested.

Mark the appropriate box with a X						
<b>1. If the Record is in written or printed form:</b>						
	Copy of Record*			Inspection of Record		
<b>2. If the Record consists of visual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):</b>						
	View the images		Copy of the images*		Transcription of the images*	
<b>3. If the Record consists of recorded words or information which can be reproduced in sound:</b>						
	Listen to the soundtrack (audio cassette)			Transcription of soundtrack* (written or printed document)		
<b>4. If the Record is held on computer or in an electronic or machine-readable format:</b>						
	Printed copy of Record*		Printed copy of information derived from the Record*		Copy in computer-readable form* (stiffy or compact disc)	
*	If you requested a copy or transcription of a Record (above), do you wish the copy or transcription to be posted to you? <b>Postage is payable</b>				<b>YES</b>	<b>NO</b>

### G. Particulars of right to be exercised or protected

*If the provided space is inadequate, please continue on a separate folio and attach it to this form. **The Requester must sign all the additional folios.***

1. Indicate which right is to be exercised or protected: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Explain why the Record requested is required for the exercise or protection of the aforementioned right: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**H. Notice of decision regarding Request for access**

*You will be notified in writing whether your Request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your Request.*

How would you prefer to be informed of the decision regarding your Request for access to the Record?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
SIGNATURE OF REQUESTER / PERSON  
ON WHO'S BEHALF REQUEST IS MADE

## ANNEXURE 2

### FEES FOR RECORDS OF PRIVATE BODY (COMPANY)

## ***MBT PETROLEUM (PTY) LTD***

The Request fee payable by a Requester, other than a Personal Requester, referred to in Section 54(1) of the Act is:		R 50-00
The fee for reproduction referred to in Section 52(3) of the Act, is as follows:		
(a)	For every photocopy of an A4-size page or part thereof	R 1-10
(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R 0-75
(c)	For a copy in a computer-readable form on -	
	(i) Stiffy disk	R 7-50
	(ii) Compact disk	R 70-00
(d)	(i) For a transcription of visual images, for an A4-size page or part thereof	R 40-00
	(ii) For a copy of visual images	R 60-00
(e)	(i) For transcription of an audio Record, for an A4-size page or part thereof	R 20-00
	(ii) For a copy of an audio Record	R 30-00
The Access fees payable by a Requester referred to in Section 54(7) of the Act, unless exempted under Section 54(8) of the Act, are as follows:		
(a)	For every photocopy of an A4-size page or part thereof	R 1-10
(b)	For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable for	R 0-75
(c)	For a copy in a computer-readable form on:	
	(i) Stiffy disc	R 7-50
	(ii) Compact disk	R 70-00
(d)	(i) For a transcription of visual images, for an A4-size page or part thereof	R 0-00
	(ii) For a copy of visual images	R 60-00
(e)	(i) For transcription of an audio Record, for an A4-size page or part thereof	R 20-00
	(ii) For a copy of an audio Record	R 30-00
(f)	To search for the Record for disclosure, R30-00 for each hour or part of an hour reasonably required for such search.	
The actual postal fee is payable when a copy of a Record must be posted to a Requester.		
For purposes of Section 54(2) of the Act the following applies:		
(a)	Six hours, as the hours to be exceeded before a deposit is payable; and	
(b)	One third of the Access fee is payable as a deposit by the Requester.	
<b><i>ALL The above amounts <u>exclude</u> VAT</i></b>		