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2010/010818/07
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**PREPARED IN TERMS OF THE PROTECTION OF
PERSONAL INFORMATION ACT, 4 OF 2013**

Company registration number: 2010/010818/07

PHYSICAL/DOMICILLIUM ADDRESS:

Unit 15 Garsfontein Office Park, 645 Jacqueline drive, Garsfontein, Pretoria

POPIA INFORMATION OFFICER:

Alma Darlington (CEO of Excel Recovery Services)

POLICY AND MANUAL COMMENCEMENT DATE:

1 JULY 2021

TERMS AND DEFINITIONS USED IN THE PROTECTION OF PERSONAL INFORMATION ACT

- (a) **data subject:** the person to whom the personal information relates, this may be in respect of a staff member or a third party or witness involved in an accident or incident on a file handed over by one of our clients to do a recovery on or negotiate a liability settlement with;
- (b) **information officer:** is the CEO or appointed person to act on behalf of the company;
- (c) **operator:** this is the person or business that processes information for and on behalf of the company;
- (d) **personal information:** information relating to a person, which may include an identity number or passport number, email address/es physical address/es telephone/cellular phone number/s, banking details, biometric information and private correspondence from and to persons;
- (e) **processing:** activities such as the collecting, collating, retrieving and disseminating personal information; and
- (f) **responsible person:** the party who processes the personal information, which is the employee and/or the company.

PURPOSE OF THE PROTECTION OF PERSONAL INFORMATION ACT

Section 2 of the Protection of Personal Information Act, 4 of 2013 (POPIA), provides for the purpose of the Act, which in this case is to *give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible person*, in this case **Excel Recovery Services**.

POPIA is legislated to protect the personal information of staff and third party info obtained in accordance to instructions received from clients. This means that the personal information can only be processed or used in accordance with POPIA, and the eight conditions set out in the Act. The eight conditions referred to in POPIA are accountability, processing limitations, purpose specification, further processing limitations, information quality, openness, security safeguards and data subject participation.

These parties, referred to as *data subjects*, have the right to be informed when their personal information is processed or acquired by an unauthorized person/s. Data subjects may also object to the processing of their information and request that their information be deleted (when possible).

INFORMATION THAT THE COMPANY MAY PROCESS

In this regard the information must be collected for a specific, explicitly defined and lawful purpose.¹

PROCESSING OF INFORMATION BY THE COMPANY

In terms of Service Level Agreements with various clients, consisting of Fleet Owners, Insurance companies, Underwriting Managers and private individuals, the company will collect information on an implicated third party involved in an incident/accident with one of our clients. As these subjects are not aware yet of the action to be taken, we cannot obtain prior permission to obtain this information.

All data processing is necessary for pursuing the legitimate interest of the responsible party or of the third party to whom the information is supplied.

PROCESSIONG INFORMATION IN TERMS OF POPIA

In terms of Section 38 Exemption in respect of certain functions, the company may obtain and process data to fulfil the instruction received from our clients.

Section 38 Exemption in respect of certain functions

1. Personal information processed for the purpose of discharging a relevant function is exempt from sections [11\(3\)](#) and (4), [12](#), [15](#) and [18](#) in any case to the extent to which the application of those provisions to the personal information would be likely to prejudice the proper discharge of that function.
 2. “**Relevant function**” for purposes of subsection (1), means any function—
 1. of a public body; or
 2. conferred on any [person](#) in terms of the law,
 3. which is performed with the view to protecting members of the public against
 1. financial loss due to dishonesty, malpractice or other seriously improper conduct by, or the unfitness or incompetence of, persons concerned in the provision of banking, insurance, investment or other financial services or in the management of bodies corporate; or
- dishonesty, malpractice or other seriously improper conduct by, or the unfitness or incompetence of, persons authorised to carry on any profession or other activity.

OBLIGATIONS IN TERMS OF POPIA

PART 1

The Company is required to process personal information in accordance with the eight conditions determined in Chapter 3 of POPIA.

Condition 1: Accountability – The Company must ensure that it complies with these at all times.²

Condition 2: Processing Information – personal information must be processed lawfully in a manner that does not infringe on the data subject's right to privacy and in a manner that is adequate, relevant and not excessive and complies with sections 11 and 12 of POPIA.³

Condition 3: Purpose specific – personal information must be collected only for a specific explicitly defined and lawful purpose related to the function and/or activity of the Company.⁴

Condition 4: Limitation on further processing – the further processing of the personal information by the Company must be compatible with the original purpose of collection.

Condition 5: Information quality – the Company must as far as possible, take reasonable steps to ensure that the personal information is complete, accurate, not misleading, and updated when necessary.⁵

Condition 6: Openness – the Company must maintain the documentation of the processing operations, which includes the activity to collect the personal information including receipt, recording, organization, cancellation, storage and use as well as transmission, re-formatting, merging and destruction.⁶

Condition 7: Security safeguards – the Company must secure the integrity and confidentiality of the personal information by taking reasonable technical and organizational measures to prevent loss, damage unauthorized destruction as well as unlawful access.⁷

Condition 8: Data subject participation – the data subject has the right to request the Company to advise whether they not hold personal information of the data subject. Such request may be made free of charge.

² Section 8 of the Protection of Personal Information Act, 4 of 2013

³ Sections 9-12 of the Protection of Personal Information Act, 4 of 2013

⁴ Section 13-14 of the Protection of Personal Information Act, 4 of 2013

⁵ Section. 16 of the Protection of Personal Information Act, 4 of 2013

⁶ Sections 17 – 18 of the Protection of Personal Information Act, 4 of 2013

⁷ Section 19 – 22 of the Protection of Personal Information Act, 4 of 2013

The data subject may, subject to payment of the prescribe fee, request a copy of their personal information held by the Company, and it shall be provided within a reasonable time.⁸

PART 2

One of the main obligations of the Company is to secure the integrity and confidentiality of the personal information by taking reasonable technical and organizational measures.

The Company is required to give effect to having security measures in place in respect of integrity and confidentiality of personal information and must take reasonable steps to:

- (a) identify all reasonably foreseeable internal and external risks to the personal information in its possession;
- (b) establish and maintain safeguards against identified risks;
- (c) regularly verify that the safeguards are effectively implemented;
- (d) ensure that the safeguards are continually updated in response to new risks or deficiencies in implemented safeguards

The Company must have due regard to generally accepted security practices and procedures which apply to it and the industry.

PART 3

Other key obligations of the Company are contained in section 20 and 21 of the POPIA.

- (a) In terms of section 20 of POPIA

“The Company must treat such personal information as confidential and can only disclose it where such is reasonably required to perform their duties.”

- (b) In terms of section 21 of POPIA:

“The contract between the Company and the Clients has been amended to ensure that the Company establishes and maintains security measures required in terms of section 19 of POPIA and the client has the right to request details of such security measures if need be.”

- (c) In terms of section 22 of POPIA:

⁸ Sections 23 -24 of the Protection of Personal Information Act, 4 of 2013

“The Company is required to notify the Information Regulator where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by an unauthorized person.”

PART 4

The Company must be able to furnish a data subject with details of each party who has had access to their personal information. The Company therefore needs to track and record this information. A data subject may request the Company to furnish details of each party who has had access to their personal information. Such request to the Company may include:

- (a) Advice whether the Company holds the data subject’s personal information;
- (b) Provide the record or a description of the personal information;
- (c) Provide information of the identity if third parties who have access to the personal information;
- (d) The data subject making the request in terms of (a) and (b) above, will be required to pay a prescribed fee to the Body Corporate, at the rate determined by the Promotion of Access of Information Act, 2 of 2000.

ADDITIONAL RIGHTS OF DATA SUBJECTS

The data subject can request that Company to correct or delete certain personal information, which is inaccurate, irrelevant, excessive, out of date, incomplete, misleading or obtained unlawfully, or to destroy/delete the record of personal information about the data subject that the Company is no longer authorized to retain. The data subject shall make use of **Form 2** of the *Regulations relating to the protection of personal information*.⁹

BIOMETRICS

Biometrics information is classified as special personal information and constitutes a case where the Company must get the data subjects written consent to process his biometric information¹⁰. A Biometrics Consent Form is provided as **Annexure E** to this Manual. A biometrics consent form tracking register should be maintained by the Company as per the example provided in **Annexure F** to this manual.

POPIA CONDUCT RULE BY THE COMPANY

⁹ (GNR1383, published on 14 December 2018) published under the Protection of Personal Information Act, 4 of 2013.

¹⁰ Section 26 and 27 of the Protection of Personal Information Act, 4 of 2013

The Company has adopted a POPIA Conduct Rule, which rule should include that the POPIA Manual and its content are binding upon the employees of **Excel Recovery Services**.

POPIA OFFICER FOR THE EXCEL RECOVERY SERVICES¹¹

The POPIA Officer appointed in terms of this Protection of Personal Information Act, 4 of 2013 and this Manual is the CEO of **Excel Recovery Services**, as elected from time. At the time of incorporation of this manual the POPIA Officer is:

Alma Darlington

alma@excelrs.co.za

The POPIA Officer shall oversee the fulfilment of the POPIA and the Promotion of Access to Information Act, 2 of 2000 by the **Excel Recovery Services**.