

INFORMATION MANUAL OF: LINUX BASED SYSTEM DESIGN SA (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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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 of PAIA 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 and also “PAIA”;
- 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” of, or in relation to, a–**

1.9.1 public body, means an information officer or deputy information officer as contemplated in terms of section 1 or 17 of POPIA; or

1.9.2 private body, means the head of a private body as contemplated in section 1 of PAIA;

1.10 **“Information Regulator”** means the Information Regulator established in terms of Section 39 of POPIA;

1.11 **“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.

1.12 **“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 of the Private Body as defined in the Act.

1.13 **“PAIA”** means the **“Act”**

1.13 **“Person”** means a natural Person or a juristic Person.

1.14 **“Personal information”** means information relating to an identifiable, living, natural person and, where applicable, an identifiable, existing juristic person, including, but not limited to —

1.14.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;

- 1.14.2 information relating to the education or the medical, financial, criminal or employment history of the person;
- 1.14.3 any identification number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- 1.14.4 the biometric information of the person;
- 1.14.5 the personal opinions, views or preferences of the person;
- 1.14.6 correspondence sent by the person which is implicitly or explicitly of a private or confidential nature, or further correspondence that would reveal the contents of the original correspondence;
- 1.14.7 the views or opinions of another individual about the person; and
- 1.14.8 the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person;
- 1.15 **“Personal Requester”** means a Requester seeking access to a Record containing Personal Information about the Requester himself/herself.
- 1.16 **“POAJA”** means the Promotion of Administrative Justice Act (Act No. 20 of 2000) as amended;
- 1.17 **“POPI” or “POPIA”** means the Protection of Personal Information Act (Act No. 4 of 2013);
- 1.18 **“Private Body”** means –
 - 1.18.1 a natural Person who conducts or has conducted on any trade, business or profession, but only in such capacity;
 - 1.18.2 a partnership which conducts or has conducted any trade, business or profession; or
 - 1.18.3 any former or existing juristic Person but excluding a Public Body.
- 1.19 **“Processing”** means any operational activity or any set of operations, whether or not by automatic means, concerning personal information, including –
 - 1.19.1 the collection, receipt, recording, storage, updating or modification, retrieval; or

- 1.19.2 dissemination by means of transmission, distribution or disclosure in any other form; or
- 1.19.3 merging, linking as well as restriction, erasure or destruction of information;
- 1.20 **“Public Body”** means –
 - 1.20.1 any department of state or administration in the national or provincial sphere of government or any municipality in the local sphere of government; or
 - 1.20.2 any other functionary or institution when-
 - 1.20.2.1 exercising a power or performing a duty in terms of the Constitution or a provincial Constitution; or
 - 1.20.2.2 exercising a public power or performing a public function in terms of any legislation.
- 1.21 **“Record”** means any recorded information, regardless of form or medium, including written, 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;.
- 1.22 **“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.
- 1.24 **“SAHRC”** means the South African Human Rights Commission.
- 1.25 **“The Company”** means **LINUX BASED SYSTEMS DESIGN SA (PTY) LTD**, a private company (**reg. no. 2005/032930/07**) 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;
- 1.29.4 "**person**" apart from the statutory definition¹ 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.

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- 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.
- 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. POPIA, on the other hand explicitly protects Personal Information. 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
- ensure that mandatory protection of information provided by PAIA is complied with in conjunction with the peremptory provisions of POPIA to protect Personal Information.

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 Personal 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.
- 3.3 The Act and this Manual do not apply to Personal Information requested for criminal or civil proceedings.
- 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.

- 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 POPIA shall be applied. If other legislation provides for more extensive conditions for processing Personal Information, such other legislation shall prevail.
- 3.9 No provision in this Manual creates a right, interest or legitimate expectation to be provided with any Record or Personal Information. Each Request for access shall be considered on merit and shall not be refused without good reason.
- 3.10 By publishing this Manual and making it available as contemplated below, the Manual is placed in the public domain and becomes a public document.

4. AVAILABILITY OF THIS MANUAL:

This Manual shall be available:

- 4.1 on the Company's website (www.lbsd.net), 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 from the Information Officer of the Company (contact details as per **Schedule B**):

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

- 5.1 The Human Rights Commission has initially 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
E-mail: paia@sahrc.org.za

- 5.3 The Information Regulator is also in the process of issuing guides and codes. Once available, the guides and codes can be obtained from the Information Regulator at:

Postal address: PO BOX 31533
BRAAMFONTEIN
2017

Physical address: 33 HOOFD STREET
FORUM III
3RD FLOOR
BRAAMPARK
JOHANNESBURG
2017

Website: www.justice.gov.za
E-mail: infoereg@justice.gov.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 officers² and top senior management are provided in **Schedule C**.
- 6.5 The Company has appointed an Information Officer as per **Schedule B** to fulfil the obligations in terms of POPIA.

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 this 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 Information Technology industry and provides IT solutions and wholesale internet. 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:

- Media, Information and Communication Technologies SETA (MICT SETA)
- Independent Communications Authority of South Africa (ICASA)
- Internet Service Providers' Association (ISPA)

9. CONSTITUTING OF THE COMPANY:

- 9.1 The Company's MOI (Memorandum of Incorporation) is available from the CIPC.
- 9.2 The Company utilises the standard MOI provided by CIPC.
- 9.3 The Company has not adopted any additional rules to the MOI.

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, as per **Schedule F**.
- 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 Information Officer as per **Schedule B** 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 G**.
- 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 route³.

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 Information Officer specified in **Schedule B**. Only the Information Officer 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 Information Officer mentioned in **Schedule B**.

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- 12.2 The Information Officer receiving a Request may refer the Request back to the Requester and insist that the prescribed form in terms of paragraph 12.1 above be used or that any additional information be provided such as the Information Officer 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 above 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 above 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;
 - 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 Information Officer to whom a Request has been addressed may once extend the period of 30 days referred to in paragraph 12.5 above (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 above, 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 above 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 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 above shall apply.

13. PRESCRIBED FEES

- 13.1 The Information Officer 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 the Company 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 Information Officer concerned, would require more than the hours prescribed for this purpose, the Information Officer 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 above 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 above, or tender or payment of a deposit in terms of paragraph 13.2 above, as the case may be.
- 13.4 If a deposit has been paid in respect of a Request for access which is refused, the Information Officer concerned must repay the deposit to the Requester.
- 13.5 The Information Officer 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 above 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 Minister⁴ 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 Company's possession but cannot be found; or
 - 14.1.2.2 does not exist
 - 14.1.3 the Information Officer 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 above 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 Information Officer. For purposes of this Manual, the notice in terms of paragraph 14.1 above 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 above, 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.

15. REFUSAL OR DEEMED REFUSAL OF REQUEST:

- 15.1 If an Information Officer fail 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 above, 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 Information Officer 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 Information Officer must inform a Third Party in terms of paragraph 16.1.1 above

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.

16.1.3 When informing a Third Party in terms of paragraph 16.1.1 above, 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 rules apply, describe those provisions in terms of the Act specifying which of the circumstances in the opinion of the Information Officer 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 Information Officer why the Request for access should be refused;

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

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

16.2 Representation and consent by Third Parties:

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

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

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

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 above may:

16.2.2.1 make written or oral representations to the Information Officer 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 Information Officer; or

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

16.3 Decision on representation for refusal and notice thereof:

16.3.1 The Information Officer 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 above:

16.3.1.1 decide, after due regard to any representations made by a Third Party in terms of paragraph 16.2 above, 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 above but which made representations in terms of paragraph 16.2 above 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 above, 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 above 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 remedy⁵ is utilised within that period.

16.3.4 If the Information Officer decides in terms of paragraph 16.3.1 above 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 Data Subjects:**

16.4.1 A Data Subject has the right to have his, her or its Personal Information processed in accordance with the conditions for the lawful processing of Personal Information as referred to in Chapter 3 of POPIA, including the right -

16.4.1.1 to be notified that -

16.4.1.1.1 personal Information about him, her or it is being collected as provided for in terms of section 18 of POPIA; or

16.4.1.1.2 his, her or its Personal Information has been accessed or required by an unauthorised person as provided for in terms of section 22 of POPIA;

⁵ Paragraphs 21-23: other than criminal proceedings

- 16.4.1.2 to established whether a Responsible Party holds Personal Information of that Data Subject and to request access to his, her or its Personal Information as provided for in terms of section 23 of POPIA;
- 16.4.1.3 to request, where necessary, the correction, destruction or deletion of his, her or its Personal Information as provided for in terms of section 24 of POPIA;
- 16.4.1.4 to object, on reasonable grounds relating to his, her or its particular situation to the processing of his, her or its Personal Information as provided for in terms of section 11(3)(a) of POPIA;
- 16.4.1.5 to object to the processing of his, her or its Personal Information –
 - 16.4.1.5.1 at any time for purposes of direct marketing in terms of section 11(3)(b) of POPIA; or
 - 16.4.1.5.2 in terms of section 69(3)(c) of POPIA
- 16.4.1.6 not to have his, her or its Personal Information processed for purposes of direct marketing by means of unsolicited electronic communications except as referred to in section 69(1) of POPIA;
- 16.4.1.7 not to be subject, under certain circumstances, to a decision which is based solely on the basis of the automated processing of his, her or its Personal Information intended to provide a profile of such personal as provided for in terms of section 71 of POPIA;
- 16.4.1.8 to submit a complaint to the Regulator regarding the alleged interference with the Protection of Personal Information of any data subject or to submit a complaint to the Information Regulator in respect of a determination of an adjudicator as provided for in terms of section 74 of POPIA; and
- 16.4.1.9 to institute civil proceedings regarding the alleged interference with the protection of his, her, or its Personal Information as provided for in section 99 of POPIA.

17. GRANTING OF ACCESS TO A RECORD IN GENERAL

17.1 A Request for Personal Information shall only be processed in terms of the Act and POPIA 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;
- 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 Information Regulator grants any exemptions or authorisations in terms of Section 37 or 57 of POPIA;
- 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; 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 investigation conducted for the purpose of developing methods of testing or other investigation.

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 POPIA;
- 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 above is provided for in any other legislation.
- 18.4 The Company may refuse a Request for access to a Record which is in its possession without the consent of a Data Subject.
- 18.5 The processing of any Personal Information will have to be stopped or suspended in the event of an enforcement notice issued by the Information Regulator.
- 18.6 A Request for access will also be refused should the Requester not be able to establish *locus standi* in terms of the Act or convince the Company of the right the Requester wants to protect or exercise.
- 18.7 Should the Requester be a Public Body, it is only required to prove that it acts in the public interest.

19. RECORDS HELD BY CONTRACTORS

19.1 A Record in the possession or under the control of the Company and forwarded or provided to any independent provider of goods and services (referred to as “operators”) is regarded as being a Record of the Company. The Company engages the following contractors/operators:

19.1.1 Company Attorneys

19.1.2 Labour consultants

19.1.3 Accountants

19.1.4 Auditors

19.1.5 BEE Consultants

19.1.6 IT consultants

19.2 A Request for access of any of the Company’s Records in the possession of the above-mentioned Operators must be directed to the Information stipulated in **Schedule B** or dealt with in terms of Supply Agreements concluded between the Company and such Operators.

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 POPIA. 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 juristic persons such as 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.</p> <p>Includes information about a deceased individual⁶</p> | Race | See Schedule H | <ul style="list-style-type: none">• Section 63 of the Act• Section 26 of POPIA |
| | 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 ⁷ | | |
| | ID number | | |

⁶

⁷

| | | | |
|--|--|--|--|
| | 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. | | |

| A. NATURAL PEOPLE (continued) | | |
|------------------------------------|-----------------------|-------------------------------|
| 2. SPECIAL PERSONAL INFORMATION | | |
| Types of information | Records | Special provisions |
| Religious or philosophical beliefs | See Schedule H | Section 28 of POPIA |
| Race or ethnic origin | | Section 29 of POPIA |
| Trade union membership | | Section 30 of POPIA |
| Political persuasion | | Section 31 of POPIA |
| Health and sex life | | Section 32 of POPI A |
| | | Section 61 of the Act |
| | | Section 63 (2) (d) of the Act |
| Criminal behaviour | | Section 33 of POPIA |
| Biometrics | | Section 33 of POPIA |

B. PRIVATE BODIES

| Definition | Types of information | Records | Special provisions |
|---|--|------------|-----------------------|
| Research (Category 1) | <ul style="list-style-type: none">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- | Schedule I | Section 69 of the Act |
| | <ul style="list-style-type: none">the Third Party; | | |
| | <ul style="list-style-type: none">a Person who is or will be carrying out the research on behalf of the Third Party; | | |
| | <ul style="list-style-type: none">the subject matter of the research. | | |
| Sensitive commercial Records of the Company (Category 2) | <ul style="list-style-type: none">Contains trade secrets of the Company | Schedule I | Section 68 of the Act |
| | <ul style="list-style-type: none">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 | | |
| | <ul style="list-style-type: none">Contains information, the disclosure of which could reasonably be expected- | | |
| | <ul style="list-style-type: none">- to put the Company at a disadvantage in contractual or other negotiations; or | | |
| | <ul style="list-style-type: none">- to prejudice the Company in commercial competition; or | | |
| | <ul style="list-style-type: none">Is a computer program, as defined in section I(I) 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. | | |

B. PRIVATE BODIES**(continued)**

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

| | | | |
|--|-------------------|--|--|
| | terms of the Act. | | |
|--|-------------------|--|--|

| 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 (Category 5) | <ul style="list-style-type: none"> Privileged information After commencement of criminal/civil proceedings | Schedule I | 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.
- 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, 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 below shall not detract in any way from an aggrieved Party's right to lodge an application as contemplated in the Act.

22. EXPERT OPINION:

- 22.1 An Information Officer 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 Information Officer 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 Information Officer, 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;
 - 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 act as a guideline.
- 22.3 The period of 30 days shall apply irrespective of the use of an expert in terms of this paragraph.

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 above, 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 paragraph 23 above, 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 Information Officer 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 the Information Regulator who has extensive powers in terms of PAIA and POPIA to investigate and, amongst others, issue compliance notices, etc.
- 25.2 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**.
- 25.3 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 Information Regulator or the South African Police Service or both.

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

NIGEL ROBIN ATHOL KUKARD

FULL NAMES OF OFFICIAL

DIRECTOR
DESIGNATION AND/OR POSITION

SCHEDULE A

DETAILS OF PRIVATE BODY (COMPANY)

REGISTERED NAME : **LINUX BASED SYSTEM DESIGN SA (PTY)
LTD**

MAIN PLACE OF BUSINESS : 1st Floor
Foyer 3
The Colosseum
Century City
CAPETOWN
7441

TELEPHONE NUMBER : +27 86 152 7301

E-MAIL ADDRESS : legal@lbd.net

OTHER OFFICES:

CAPE TOWN : Suite 202
Library Square
Claremont
7708
CAPE TOWN

WEBSITE ADDRESS : www.lbsd.net

SCHEDULE B

HEAD OF THE PRIVATE BODY (COMPANY)

NAME : Nigel Robin Athol Kukard

POSITION : Director

PHYSICAL ADDRESS : 1st Floor, Foyer 3
Suite 202
Library Square
Claremont
7708
CAPETOWN

POSTAL ADDRESS : Private Bag X27
Constantia
7848

TELEPHONE NUMBER : +27 82 333 3723

E-MAIL : nkukard@lbd.net

INFORMATION OFFICER:

NAME : Nigel Kukard

POSITION : Director

PHYSICAL ADDRESS : 1st Floor, Foyer 3
Suite 202
Library Square
Claremont
7708
CAPETOWN

POSTAL ADDRESS : Private Bag X27
Constantia
7848

TELEPHONE NUMBER : +27 82 333 3723

E-MAIL : nkukard@lbsd.net

Is Information Officer also appointed as such officer in terms of POPIA? **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)

DIRECTOR : Raymond Andrew Oliver
TELEPHONE NUMBER : +27 60 989 5050
E-MAIL ADDRESS : roliver@lbsd.net

ACCOUNTS MANAGER : Natalie Kukard
TELEPHONE NUMBER : +27 82 333 3724
E-MAIL ADDRESS : natalie@lbsd.net

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]

THE PRIVATE BODY (COMPANY)

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

SCHEDULE E

BUSINESS ACTIVITIES OF THE PRIVATE BODY (COMPANY)

INFORMATION TECHNOLOGY INDUSTRY

Linux Based Systems Designs SA (PTY) Ltd provides IT solutions and wholesale internet.

SCHEDULE F

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

- LINUX BASED SYSTEMES DESIGN SA (PTY) Ltd is not involved in any holding / subsidiary relationship.
- Cross directors / shareholding existing in relation to:

Company name : **XLNS FOUNDATION NPC**
Director : **RAYMOND ANDREW OLIVER**

Company name : **XLNS FOUNDATION NPC**
Director : **NIGEL ROBIN ATHOL KUKARD**

SCHEDULE G

LEGISLATION APPLICABLE TO THE PRIVATE BODY (COMPANY)

1. Apart from POPIA and PAIA, the following legislation also applies to the company in respect of the protection of Personal Information and Records:
 - 1.1 Auditing Professions Act 26 of 2005
 - 1.2 Basic Conditions of Employment Act 75 of 1997
 - 1.3 Companies Act 71 of 2008
 - 1.4 Consumer Protection Act 68 of 2008
 - 1.5 Electronic Communications and Transaction Act 25 of 2002
 - 1.6 Employment Equity Act 55 of 1998
 - 1.7 Financial Advisory and Intermediary Services Act 37 of 2002
 - 1.8 Financial Institutions (Protection of Funds) Act 28 of 2001
 - 1.9 Financial Intelligence Centre Act 38 of 2001 as amended in 2008
 - 1.10 Financial Services Ombud Schemes Act 37 of 2004
 - 1.11 Income Tax Act 58 of 1962
 - 1.12 Labour Relations Act 66 of 1995
 - 1.13 National Credit Act 34 of 2005
 - 1.14 Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000
 - 1.15 Stock Exchanges Control Act 1 of 1985 and the rules and listings, requirements of the JSE Securities Exchange authorised in terms thereof

SCHEDULE H

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

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

| | |
|--|------------------------------------|
| Workmen's Compensation Documentation | |
| Annual Training Reports | |
| Workplace Skills Plan | |
| CCMA/Labour Court/Bargaining Council Awards/Disputes | |
| Medical Records | Medical Records |
| Safety Incident Reports | |
| Confidentiality Agreements | |
| Resignation Letters | |
| Temporary Employment Records | |
| Training Needs | |
| Training Modules | |
| Training Minutes | |
| Employee Confidentiality agreements | |
| Customer Confidentiality Agreements | |
| Agreements with clients/providers | |
| Religious or philosophical beliefs | Religious or philosophical beliefs |
| Race or Ethnic origin | Race or Ethnic origin |
| Trade Union Membership | Trade Union Membership |
| Political persuasion | Political persuasion |
| Health | Health |
| Sex life | Sex life |
| Criminal behavior | Criminal behavior |
| Biometrics | Biometrics |
| Directors Agreements | |
| Share Certificates | |
| Directors Resolutions | |
| Shareholders Agreements | |

SCHEDULE I

CLASSIFICATION AND CATEGORIES FOR PROTECTION OF THE PRIVATE BODY (COMPANY)

– Paragraph 20

1. AA – Automatically Available:

Records available in the public domain or intended to be placed in the public domain.

2. Personal Information: means an identifiable, living or deceased, natural person, and where applicable, an identifiable, existing juristic Person including, but not limited to pregnancy, age etc.

3. Special Personal Information: means Religious or Philosophical beliefs, Race or Ethnic origin, Trade Union Membership, Political persuasion, Health and sex life, Criminal Behavior

4. Category 1: A Record containing information about research being or to be carried out by or on behalf of a Third Party or the Company.

5. Category 2: Sensitive commercial Records of the Company, Contains trade secrets of the Company etc.

6. Category 3: Sensitive commercial Records relating to other Private Bodies. Trade secrets of a Third Party or Data Subject.

7. Category 4: Records relating to the safety of individuals an protection of property

8. Category 5: Information protected subject to an obligation of confidentiality by virtue of office, employment, profession and privileged information or by agreement

| | AA | PERSONAL INFO | SPECIAL PERSONAL INFO | CAT 1 | CAT 2 | CAT 3 | CAT 4 | CAT 5 |
|---|----|---------------|-----------------------|-------|-------|-------|-------|-------|
| ACCOUNTING/FINANCIAL RECORDS: | | | | | | | | |
| Annual financial statements | | | | | X | | | |
| General ledger | | | | | X | | | |
| Subsidiary ledgers (receivables, payables etc.) | | | | | X | X | | |
| Bank statements, | | | | | X | | | |
| Cheque books & cheques | | | | | X | X | | |
| Customer and supplier statements | | | | | X | X | | |
| Invoices (general) | X | | | | X | X | | |
| Deposit slips | X | | | | X | | | |
| Cash books | | | | | X | | | |
| Petty cash books | | | | | X | | | |
| Fixed asset register | | | | | X | | | |
| Tax returns and assessments | | | | | X | | | |
| VAT returns | | | | | X | | | |
| Lease or installments sale agreements | | | | | X | | | |
| Budgets plans | | | | | X | | | |
| Business plans | | | | | X | | | |
| Insurance records | | | | | X | | | |
| Credit agreements | | | | | X | | | |
| Capital expenditure | | | | | X | | | |
| Invoices with T & C's | X | | | | X | X | | |

| | | | | | | | | |
|---------------------------------|----------|----------|----------|---|----------|----------|---|----------|
| Quotations | X | | | | X | X | | |
| Receipts | | | | | X | X | | |
| Confirmation of Banking details | | | | | X | | | |
| Cash Flow Projections | | | | | X | | | |
| Other | - | - | - | - | - | - | - | - |
| STAFF/EMPLOYEE RECORDS: | | | | | | | | |
| Training manuals | | | | | | X | | |
| Salary scales | | | | | X | | | |
| Employment Equity Plans | | X | | | X | | | |
| Attendance Register | | X | | | | | | |
| Disciplinary Records | | X | | | | | | |
| Employee Information Records | | X | X | | | | | X |
| Employee Loans | | X | | | | | | |
| Employment Applications | | X | | | | | | |
| Employment Contracts | | X | | | | | | X |
| Employment Equity Reports | | X | | | X | | | |
| Group Life | | - | - | - | - | - | - | - |
| IRP 5 and IT 3 Certificates | | X | | | X | | | |
| Letters of Appointment | | X | | | | | | X |
| Leave Applications | | X | | | | | | |
| Maternity Leave Policy | | X | | | | | | |
| Payroll | | X | | | | | | X |
| Personnel Files | | X | X | | | | | X |

| | | | | | | | | |
|--|--|----------|----------|---|----------|----------|----------|----------|
| Policies and Procedures | | | | | | | X | |
| Recruitment and Appointments | | X | | | | X | | |
| Salary and Wage Registers | | X | | | | | | X |
| Salary Slips and Wage Records | | X | | | | | | X |
| Scholarships and Bursaries | | X | | | | | | |
| Staff Records after Employment | | X | X | | | | | X |
| Study Assistance Schemes | | - | - | - | - | - | - | - |
| Time Records | | X | | | | | | |
| Labour Inspection Reports | | - | - | - | - | - | - | - |
| Training and Development | | X | | | | | | |
| UIF, PAYE and SDL Returns | | X | | | X | | | X |
| Workmen's Compensation Documentation | | X | | | X | | | |
| OHS Reports | | | | | X | | X | |
| OHS Assessments | | | | | X | | X | |
| OHS Minutes | | | | | X | | X | |
| Annual Training Reports | | X | | | | | | |
| Workplace Skills Plan | | X | | | X | | | |
| CCMA/Labour Court/Bargaining Council Awards/Disputes | | X | | | X | | | |
| Medical Records | | X | X | | | | | X |
| Safety Incident Reports | | X | | | | | X | |

| | | | | | | | | |
|--|--|----------|--|--|----------|----------|--|----------|
| Confidentiality Agreements | | X | | | X | | | X |
| Resignation Letters | | X | | | | | | |
| Temporary Employment Records | | X | | | | | | |
| Other | | | | | | | | |
| INSURANCE RECORDS: | | | | | | | | |
| Claim records | | | | | X | | | |
| Details of coverage, limits and insurers | | | | | X | | | |
| Insurance policies | | | | | X | | | |
| Other | | | | | | | | |
| INTELLECTUAL PROPERTY: | | | | | | | | |
| License agreements | | | | | X | | | |
| Secrecy agreements | | | | | X | | | |
| Research and development agreements | | | | | X | | | |
| Consulting agreements | | | | | X | | | |
| Use agreements | | | | | X | | | |
| Joint venture agreements | | | | | X | X | | |
| Join development agreements | | | | | X | X | | |
| Royalty agreements | | | | | X | | | |
| Franchise agreements | | | | | X | | | |
| Warranties | | | | | X | | | |
| Settlement Agreements | | | | | X | | | |
| Litigation Records | | | | | X | | | |
| Service Agreements | | | | | X | | | |

| | | | | | | | | |
|--|----------|----------|--|--|----------|--|--|--|
| Supplier Agreements | | | | | X | | | |
| Merchant Agreements | | | | | X | | | |
| Export Agreements | | | | | X | | | |
| Import Agreements | | | | | X | | | |
| Other | | | | | | | | |
| MARKETING RECORDS: | | | | | | | | |
| Business Cards | X | | | | | | | |
| Business Profile – Facebook/World Wide Web | X | | | | | | | |
| Client General Newsletters | X | | | | | | | |
| Company Profile | X | | | | | | | |
| Leaflets | X | | | | | | | |
| News Paper Adverts | X | | | | | | | |
| News Paper Articles and Columns | X | | | | | | | |
| Product Brochures | X | | | | | | | |
| Product Pamphlets | X | | | | | | | |
| Vouchers | X | | | | | | | |
| Promotional Competitions | X | | | | | | | |
| Labeling | X | | | | | | | |
| Mail Shots | X | | | | | | | |
| Prospectus | X | | | | | | | |
| Other | | | | | | | | |
| TRADE SECRETS: | | | | | | | | |
| Training Needs | | X | | | | | | |

| | | | | | | | | |
|---|--|----------|----------|----------|----------|--|--|----------|
| Training Modules | | X | | | X | | | |
| Training Minutes | | X | | | | | | |
| Price Schedules | | | | | X | | | |
| Quality Controls | | | | | X | | | |
| Product specification | | | | | X | | | |
| Employee Confidentiality agreements | | X | | | X | | | X |
| Customer Confidentiality Agreements | | X | | | X | | | |
| Agreements with clients/providers | | X | | | X | | | |
| Remuneration Tables/Schedules | | | | | X | | | |
| Unique procedures | | | | | X | | | |
| Research records obtained or generated itself | | | | X | | | | |
| Other | | | | | | | | |
| RECORDS REFLECTING SPECIAL PERSONAL INFORMATION: | | | | | | | | |
| Religious or philosophical beliefs | | | X | | | | | |
| Race or Ethnic origin | | | X | | | | | |
| Trade Union Membership | | | X | | | | | |
| Political persuasion | | | X | | | | | |
| Health | | | X | | | | | |
| Sex life | | | X | | | | | |
| Criminal behavior | | | X | | | | | |
| Biometrics | | | X | | | | | |
| Other | | | | | | | | |

| CORPORATE GOVERNANCE RECORDS: | | | | | | | | |
|--------------------------------------|--|----------|---|---|----------|---|---|---|
| Directors Agreements | | X | | | X | | | |
| Share Certificates | | X | | | | | | |
| Directors Resolutions | | X | | | | | | |
| Minutes of Directors meetings | | - | - | - | - | - | - | - |
| Shareholder Agreements | | X | | | X | | | |
| Standard MOI | | X | | | X | | | |
| Special drafted MOI | | - | - | - | - | - | - | - |

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]

A. Particulars of Private Body

The Head:

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: _____

_____ 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

| | | | | | | |
|--|---|--|--|--|--|-----------|
| 1. If the Record is in written or printed form: | | | | | | |
| | Copy of Record* | | | Inspection of Record | | |
| 2. If the Record consists of visual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.): | | | | | | |
| | View the images | | Copy of the images* | | Transcription of the images* | |
| 3. If the Record consists of recorded words or information which can be reproduced in sound: | | | | | | |
| | Listen to the soundtrack (audio cassette) | | | Transcription of soundtrack* (written or printed document) | | |
| 4. If the Record is held on computer or in an electronic of machine-readable format: | | | | | | |
| | 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? Postage is payable | | | | | YES | NO |

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)

| | | | |
|---|--|---|-------|
| 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. | | |

ALL The above amounts exclude VAT