

Revised: May 2021



**POPIA MANUAL PREPARED IN ACCORDANCE WITH SECTION  
14 & 51 OF THE PROTECTION OF PERSONAL INFORMATION  
ACT, 4 OF 2013**

**AYLETT & COMPANY (PTY) LTD  
("AYLETT & CO")**

**(REGISTRATION NUMBER: 2004/034008/07)**

## 1. INTRODUCTION

The Protection of Personal Information Act, 4 of 2013 (“POPIA”) provides for protection principles that Aylett & Co must comply with to protect the Personal Information of all Data Subjects. Should a person require access to these Personal Information, then access is allowed in terms of the Promotion of Access to Information Act, 2 of 2000 (“PAIA”).

PAIA gives effect to section 32 of the Constitution, that provides for access to these Personal Information if a person wants to exercise a right or to protect a right, subject to the procedural requirements laid down by PAIA.

Section 10 of POPIA provides that Aylett & Co must implement a Manual that must comply with section 14 and 51 of PAIA that should be made available to persons who want to access Aylett & Co’s Personal Information.

This POPIA Manual is available for inspection by contacting Aylett & Co and the SAHRC at the contact details provided below.

## 2. PURPOSE

### 2.1. This purpose of the Manual is to:

- provide details on records and information of Aylett & Co that are available and accessible once the requirements for access have been met; and
- sets out the procedures to be followed by a person that wants access to the Personal Information that are subject to protection and non-disclosure in terms of POPIA, if such person wants to exercise or to protect a right.

### 2.2. The Manual is available for inspection at Aylett & Co’s offices at no cost and also on the website [www.aylett.co.za](http://www.aylett.co.za).

## 3. AVAILABLE INFORMATION

The information provided below is regarded as available information, however currently no notice has been published in terms of section 52(2) on the categories of records that will automatically be available without following the required processes as provided for in terms of this POPIA Manual.

Please note that the inclusion of any subject or category of records in this POPIA Manual does not mean that information or records falling within those subjects and/or categories will automatically be made available. Certain grounds of refusal may apply to a request for such record.

<b>Company Name</b>	Aylett & Company (Pty) Ltd		
<b>Registration no</b>	2004/034008/07	<b>FSP no</b>	20513
<b>CEO</b>	Walter Aylett	<b>Key Individual</b>	Walter Aylett/Dagon Sachs

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<b>Structure</b>	Aylett & Co does not form part of a group of companies and employs approximately 11 people. Aylett and Co operates out of a single office in the Western Cape.		
<b>Functions</b>	Aylett & Co provides Financial services to South African clients and is an authorised Financial Services Provider for Category I (Advice and Intermediary Services all product categories) and Category II (Discretionary financial services.) in terms of the Financial Advisory and Intermediary Services Act of 2002.		
<b>Postal address</b>	P O Box 44414, Claremont, 7735		
<b>Business/ Street Address</b>	5 <sup>th</sup> Floor Mariendahl House, Newlands on Main, Main Road, Newlands, 7700		
<b>Phone Number</b>	(021) 673 1460	<b>Website</b>	www.aylett.co.za
<b>Information Officer</b>	Albert Ellmann	<b>Email address</b>	bert@aylett.co.za
<b>Deputy Information Officer/s</b>	NA	<b>Email address</b>	NA
<b>SA Human Rights Commission (SAHRC) Guide</b>	The SAHRC Guide can be obtained from the SA Human Rights Commission at no cost: <u>Address:</u> PAIA Unit, The Research & Document Dept, Private Bag x2700, Houghton, 2041 <u>Tel:</u> +27 11 877 3600; <u>Facsimile:</u> +27 11 403 0625; <u>Website:</u> <a href="http://www.sahrc.org.za">www.sahrc.org.za</a>		
<b>APPLICABLE LEGISLATION</b>			
Aylett & Co's operations and information is available in accordance with the following legislation, including but not limited to:			
<ul style="list-style-type: none"> <li>• Basic Conditions of Employment Act 75 of 1997</li> <li>• The Companies Act 71 of 2008</li> <li>• Consumer Protection Act 68 of 2008</li> <li>• Collective Investment Schemes Control Act 45 of 2002</li> <li>• Credit Rating Services Act 24 of 2012</li> <li>• Employment Equity Act 55 of 1998</li> <li>• Financial Advisory and Intermediaries Services Act 37 of 2002</li> <li>• Financial Institutions (Protection of Funds) Act 28 of 2001</li> <li>• Financial Intelligence Centre Act 38 of 2001</li> <li>• Financial Markets Act 19 of 2012</li> <li>• Financial Sector Regulation Act 9 of 2017</li> <li>• Financial Services Board Act 97 of 1990</li> <li>• Financial Services Ombud Schemes Act 37 of 2004</li> <li>• Financial Supervision of the Road Accident Fund Act 8 of 1993</li> <li>• Friendly Societies Act 25 of 1956</li> <li>• Income Tax Act 95 of 1967</li> <li>• Insurance Act 18 of 2017</li> <li>• Labour Relations Act 66 of 1995</li> <li>• Long-term Insurance Act 52 of 1998</li> <li>• Occupational Health and Safety Act 85 of 1993</li> <li>• Pension Funds Act 24 of 1956</li> <li>• Protection of Personal Information Act 4 of 2013</li> <li>• Short-term Insurance Act 53 of 1998</li> <li>• Skills Development Act 97 of 1998</li> <li>• Skills Development Levies Act 9 of 1999</li> <li>• Unemployment Contributions Act 63 of 2001</li> <li>• Value Added Tax Act 89 of 1991</li> </ul>			

<b>SUBJECTS AND CATEGORIES OF RECORDS HELD BY AYLETT &amp; CO</b>	
<b>Statutory Company Information</b>	<ul style="list-style-type: none"> <li>- The Memorandum and Articles of Association</li> <li>- Memorandum of Incorporation</li> <li>- Certificate of Incorporation</li> <li>- Records of all subsidiary companies</li> <li>- The shares register.</li> <li>- Shareholders' agreements.</li> <li>- Minutes of general meetings of the shareholders.</li> <li>- Register or list of directors.</li> <li>- Minute books and internal resolutions.</li> <li>- Power of attorney agreements and a list of persons authorized to bind the Aylett &amp; Co.</li> <li>- Statutory registers, including a register of bonds and pledges, and a register of directors' interests in contracts.</li> </ul>
<b>Financial and Tax Records</b>	<ul style="list-style-type: none"> <li>- Accounting records, books and documents.</li> <li>- Interim and annual financial reports.</li> <li>- Auditor's details.</li> <li>- External auditors' reports.</li> <li>- Details of actuaries of the pension scheme of Aylett &amp; Co.</li> <li>- Tax returns.</li> <li>- PAYE records</li> <li>- Skills Development Levies records</li> <li>- Other documents and agreements relating to taxation.</li> </ul>
<b>Banking Details</b>	<ul style="list-style-type: none"> <li>- Bank facilities and account details.</li> <li>- Bank statements.</li> <li>- Guarantees given by, or in respect of, Aylett &amp; Co.</li> </ul>
<b>Human Resources / Employment Records</b>	<ul style="list-style-type: none"> <li>- List of employees and/or contractors.</li> <li>- Contracts of employment with directors, officers and employees.</li> <li>- Services agreements with independent contractors and outsource partners.</li> <li>- Expenditure or reimbursement agreements with directors.</li> <li>- Documents relating to employee benefits.</li> <li>- Compensation or redundancy payments.</li> <li>- Documents and information in respect of share incentive schemes or trust.</li> <li>- Personnel files.</li> <li>- Employee code of conduct.</li> <li>- Employment equity plan.</li> <li>- Procedural agreements and policies.</li> <li>- Disciplinary records and documentation pertaining to disciplinary proceedings.</li> <li>- CCMA records.</li> <li>- Training manuals.</li> <li>- Other information relating to employees of Aylett &amp; Co.</li> <li>- Confidentiality agreements</li> </ul>
<b>Intellectual Property</b>	<ul style="list-style-type: none"> <li>- Trademarks, patents, copyrights and designs held by Aylett &amp; Co.</li> <li>- Licenses relating to intellectual property rights.</li> <li>- Other agreements relating to intellectual property rights.</li> </ul>

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<b>Licenses and authorisations</b>	<ul style="list-style-type: none"> <li>- Regulatory authorisations, other authorisations, licenses, material permits, consents, approvals, and certificates.</li> <li>- Applications for licenses and permits.</li> <li>- Registrations and declarations of permits.</li> </ul>
<b>Insurance</b>	<ul style="list-style-type: none"> <li>- Insurance policies taken out for the benefit of Aylett &amp; Co and its employees.</li> <li>- Claims records</li> </ul>
<b>Immovable and movable property</b>	<ul style="list-style-type: none"> <li>- Title deeds of land owned by Aylett &amp; Co.</li> <li>- Agreements for the lease or sale of land and/or other immovable property by Aylett &amp; Co.</li> <li>- Agreements for the lease or sale of movable property by Aylett &amp; Co.</li> <li>- Mortgage bonds, liens, notarial bonds or security interests on property.</li> <li>- Other agreements for the purchase, ordinary sale, conditional sale, or hire of assets.</li> </ul>
<b>Information Technology</b>	<ul style="list-style-type: none"> <li>- Computer software support and maintenance agreements.</li> <li>- Web site development, support and maintenance agreements.</li> <li>- Computer software licence agreements.</li> <li>- Agreements in respect of computer hardware used by Aylett &amp; Co.</li> <li>- Agreements with Internet Service Providers and other telecommunications entities.</li> <li>- Leased line agreements.</li> <li>- Other documentation pertaining to computer systems and computer programs held by Aylett &amp; Co.</li> <li>- Individual contracts in respect of usage of cellular telephones.</li> <li>- SITA agreements.</li> </ul>
<b>Specific Agreements Relating to the Business Activities</b>	<ul style="list-style-type: none"> <li>- Indemnity, confidentiality and non-disclosure agreements.</li> <li>- Regulatory agreements.</li> <li>- Agreements relating to transactions.</li> <li>- Presentations to clients.</li> </ul>
<b>Miscellaneous agreements</b>	<ul style="list-style-type: none"> <li>- Loans from third parties (including banks).</li> <li>- Loans to third parties.</li> <li>- Suretyship agreements.</li> <li>- Agreements restricting the trading activities of Aylett &amp; Co.</li> <li>- Agency, management and distribution agreements.</li> <li>- Royalty agreements.</li> <li>- Agreements in terms of which Aylett &amp; Co is a member of a joint venture, consortium, partnership, incorporated or unincorporated association, and shareholders' agreements of another entity which Aylett &amp; Co is a party to.</li> <li>- Any other agreements.</li> </ul>
<b>Policy documents</b>	<ul style="list-style-type: none"> <li>- Code of Conduct and Ethics Policy</li> <li>- Treating Customers Fairly Policy.</li> <li>- Privacy and Data Protection Policy.</li> <li>- Conflict of Interest Policy.</li> <li>- Proxy Voting Policy.</li> <li>- Complaints Policy.</li> <li>- Responsible Investment Policy.</li> </ul>

	<ul style="list-style-type: none"> <li>- Any other policy.</li> </ul>
<b>Procedures</b>	<ul style="list-style-type: none"> <li>- Standard operating procedures.</li> <li>- Disciplinary procedures.</li> <li>- Debarment procedures.</li> </ul>
<b>Correspondence</b>	Correspondence including internal and external memoranda.
<b>Legal proceedings</b>	<ul style="list-style-type: none"> <li>- Records relating to legal proceedings.</li> <li>- Records relating to arbitration matters.</li> </ul>
<b>Overseas Interests and Investments</b>	<ul style="list-style-type: none"> <li>- Agreements with foreign entities.</li> </ul>
<b>Clients</b>	<ul style="list-style-type: none"> <li>- Agreements with clients .</li> <li>- Service Level Agreements.</li> <li>- Broker Agreements.</li> <li>- Business strategies.</li> <li>- Advice records.</li> <li>- Financial Needs Analysis.</li> <li>- Client Mandate.</li> <li>- Discretionary Mandate.</li> <li>- Applications.</li> <li>- Investment Risk Profiles.</li> <li>- Claims records.</li> <li>- Complaints and outcomes.</li> <li>- Assets under management records.</li> <li>- Financial records.</li> <li>- FICA documentation.</li> <li>- Contact lists.</li> <li>- Agenda's and minutes of meetings.</li> <li>- Product brochures.</li> <li>- Marketing plans.</li> <li>- Letters/sheets.</li> <li>- Client briefs.</li> <li>- Client E-mails.</li> <li>- Telephone recordings.</li> <li>- Registers.</li> <li>- Any other documents relating to our clients.</li> </ul>

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## 4. PROCEDURES TO FOLLOW TO ACCESS INFORMATION

### 4.1. REQUESTER

#### 4.1.1. Personal Requester:

A Personal Requester is a requester who is seeking access to a record containing Personal Information about the Requester itself. Access will be granted by the Aylett and Co subject to applicable legislation.

#### 4.1.2. Other Requester:

If a person other than the Personal Requester is seeking access to a record containing Personal Information, then Aylett & Co is not obliged to grant access to such record, unless such person fulfils the requirements for access as provided for in terms of PAIA.

### 4.2. FEES PAYABLE

The applicable fees are prescribed in terms of the Regulations promulgated under PAIA:

**4.2.1. Request fee:** This does not apply if the request is for personal records of the person requesting – in this instance no fee is payable A non-refundable request fee of R50 (excluding VAT) is payable upon submission of any request for access to any record.

**4.2.2. Access fee:** An access fee is payable prior to being granted access to the records in the form required. These fees are prescribed in Part III of Annexure A as defined in Government Gazette Notice No. 187, Regulation 11.

### 4.3. REQUEST PROCEDURES

- Access to records with Personal Information is subject to the procedural requirements contained in PAIA.
- A Requester must complete the prescribed form enclosed herewith in Appendix 1 and payment of the required fee (only if it is an Other Requester) must be made.
- The completed and signed Appendix 1 form together with proof of payment must either posted, submitted per hand or be emailed to the Information Officer at the email address stated above.
- If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally to the Information Officer.
- If a request is made on behalf of another person, the Requester must then submit proof of the capacity in which the Requester is making the request on behalf of the other person to the satisfaction of the Information Officer.
- All required information must be provided on the Appendix 1 form and the information must be true complete and correct with enough particularity to enable the Information Officer to identify:
  - the Requester's identity;
  - contact details of the Requester;
  - the requested record/s, and

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- the form of access required by the Requester.
- A Requester may only request access to a record in order to exercise or protect a right, and must clearly state what the nature of the right is so to be exercised or protected. The requester is further required to provide an explanation of why the requested record is required for the exercise or protection of that right.
- Aylett & Co will process a request to access a record within 30 (thirty) days of receipt of the completed Appendix 1 form together with proof of payment, if applicable, unless the Requestor has stated exceptional reasons and circumstances together with proof, if applicable, that would satisfy the Information Officer that the time period not be complied with.
- Aylett & co shall inform the Requester in writing whether access has been granted or denied together with reasons thereof.
- If the Requester requires access to the records in another manner, the Requester must state the manner and the particulars so required.

#### 4.4. GROUNDS FOR REFUSAL

PAIA provides several grounds on which a request for access to information must be refused and a complete list of the grounds for refusal is available in Chapter 4 of PAIA.

These grounds mainly concern instances that may include where:

- the privacy and interests of other individuals are protected;
- such records are already otherwise publicly available;
- public interests are not served;
- the mandatory protection of commercial information of a third party;
- the mandatory protection of certain confidential information of a third party.

#### 4.5. THE PROTECTION OF PERSONAL INFORMATION ACT (POPIA) GUIDE

##### 4.5.1. DEFINITIONS

The following definitions has the meanings as defined in terms of section 1 of POPIA and are detailed below:

- Data Subject: means the person to whom the personal information relates.
- Responsible Party: The entity which determines the purpose of and means for processing personal information.
- Operator: The company or a person who processes personal information for a responsible party in terms of a contract or mandate, without coming under the direct authority of the responsible party.
- Personal Information: means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:

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- 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;
- information relating to the education or the medical, financial, criminal or employment history of the person;
- any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person;
- the biometric information of the person;
- the personal opinions, views or preferences of the person;
- correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence;
- the views or opinions of another individual about the person; and
- 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.
- Special Personal Information includes:
  - religious or political beliefs
  - race or ethnic origin
  - trade union membership
  - political opinions
  - health, sexual life
  - criminal behaviour.
- Processing: means any operation or activity or any set of operations, whether or not by automatic means, concerning personal information, including:
  - the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
  - dissemination by means of transmission, distribution or making available in any other form; or
  - merging, linking, as well as restriction, degradation, erasure or destruction of information.
- Direct Marketing: means the use of personal information for the purposes of direct marketing by means of any form of electronic communication.

#### 4.5.2. EXCLUSIONS

POPIA protection does not apply to the following information:

- The processing of personal information:
  - in the course of a purely personal or household activity;
  - that has been de-identified to the extent that it cannot be re-identified again;
  - by or on behalf of a public body —
    - which involves national security, including activities that are aimed at assisting in the identification of the financing of terrorist and related activities, defense or public safety; or
    - the purpose of which is the prevention, detection, including assistance in the identification of the proceeds of unlawful activities and the combating of money laundering activities, investigation or proof of offences, the prosecution of offenders or the execution of sentences or security measures, to the extent that adequate safeguards have been established in legislation for the protection of such personal information;
  - by the Cabinet and its committees or the Executive Council of a province; or

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- relating to the judicial functions of a court referred to in section 166 of the Constitution of the Republic of South Africa, 1996.
- “Terrorist and related activities”, for purposes of subsection (1)(c), means those activities referred to in section 4 of the Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004 (Act No. 33 of 2004).
- The Data subject consent is required, but not if it would prejudice a lawful purpose, or the information is publicly available.

#### 4.5.3. PROCESSING OF PERSONAL INFORMATION WITHIN AYLETT & CO

Aylett & Co is Processing the Personal Information of its Data Subjects as follows:

<b>Purpose of processing:</b>	<ul style="list-style-type: none"> <li>- Rendering of financial services to clients</li> <li>- Provision of value added services</li> <li>- Maintain accounts and records</li> <li>- Support and manage employees</li> <li>- Use of CCTV systems to prevent and detect crime</li> <li>- Assessment and processing of claims</li> <li>- Fraud prevention &amp; detection</li> <li>- Market research and statistical analysis</li> <li>- Compliance with legal and regulatory requirements</li> <li>- Verifying identity</li> </ul>
<b>Data subject categories:</b>	<ul style="list-style-type: none"> <li>- Shareholders</li> <li>- Board members</li> <li>- Directors</li> <li>- Employees</li> <li>- Consultants</li> <li>- Complainants &amp; enquirers</li> <li>- Trustees</li> <li>- Employers and employees of other organisations</li> <li>- Subsidiary companies</li> <li>- External companies / contractors</li> <li>- Suppliers and service providers</li> <li>- Clients and their members / policyholders / subscribers</li> <li>- Individuals captured by CCTV images / video</li> <li>- Individuals who have indicated an interest in our products / services</li> </ul>
<b>Types/ classes of information processed</b>	<ul style="list-style-type: none"> <li>- Personal details</li> <li>- Business activities</li> <li>- Products / services provided</li> <li>- Personal views / preferences</li> <li>- Family details</li> <li>- Education &amp; employment details</li> <li>- Visual images of individuals captured on CCTV</li> <li>- Financial details</li> <li>- Racial / ethnic origin</li> <li>- Trade union membership</li> </ul>

	<ul style="list-style-type: none"> <li>- Offences / alleged offences</li> <li>- Religious or other beliefs</li> <li>- Physical / mental health details</li> <li>- Criminal proceedings, outcomes &amp; sentences</li> </ul>
<p><b>Who the information may be shared with</b></p>	<p>Its sometimes necessary to share Personal Information with individuals and/or with other organisations. Where this is necessary, Aylett &amp; Co is required to comply with all aspects of POPIA. The following are types of organisations Aylett &amp; Co may need to share some of the Personal Information it processes. Only where it is necessary or required Personal Information may be shared with:</p> <ul style="list-style-type: none"> <li>- Family, associates and representatives of the person whose Personal Information we are processing</li> <li>- Employment and recruitment agencies</li> <li>- Financial organisations</li> <li>- Credit reference agencies</li> <li>- Healthcare, social and welfare organisations</li> <li>- Healthcare professionals</li> <li>- Regulatory authorities</li> <li>- Central government</li> <li>- Police / courts where necessary</li> <li>- Business associates</li> <li>- Claimants / beneficiaries</li> <li>- Persons making an enquiry / complaint</li> <li>- Private investigators</li> <li>- Educators and examining bodies</li> <li>- Claims investigators</li> <li>- Suppliers and service providers</li> <li>- Industry bodies</li> <li>- Ombudsman</li> <li>- Legal Advisors, Compliance Officers, advocates or attorneys</li> <li>- Auditors</li> <li>- Tax Consultants</li> <li>- IT Services Providers</li> <li>- Debt collection and tracing agencies</li> <li>- Pension fund administrators</li> <li>- Trade unions</li> <li>- Security organisations</li> <li>-</li> </ul>
<p><b>Cross border flows of Personal Information</b></p>	<p>It may be necessary to share Personal Information of Data Subjects with third parties in other countries subject to compliance with POPIA. This will only be done if one of the following requirements are met:</p> <ul style="list-style-type: none"> <li>- the third party who is the recipient of the information is subject to a law, binding corporate rules or binding agreement which provide an adequate level of protection that—             <ul style="list-style-type: none"> <li>• effectively upholds principles for reasonable processing of the information that are substantially similar to the conditions for the lawful processing of personal information relating to a data subject who is a natural person and, where applicable, a juristic person, as set out in the Protection of Personal Information Act; and</li> <li>• includes provisions, that are substantially similar to this section, relating to the further transfer of personal information from the recipient to third parties who</li> </ul> </li> </ul>

	<p>are in a foreign country;</p> <ul style="list-style-type: none"> <li>- the data subject consents to the transfer;</li> <li>- the transfer is necessary for the performance of a contract between the data subject and the company in question, or for the implementation of pre-contractual measures taken in response to the data subject’s request;</li> <li>- the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the company in question and a third party; or</li> <li>- the transfer is for the benefit of the data subject, and—             <ul style="list-style-type: none"> <li>• it is not reasonably practicable to obtain the consent of the data subject to that transfer; and</li> <li>• if it were reasonably practicable to obtain such consent, the data subject would be likely to give it.</li> </ul> </li> </ul>
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**4.5.4. PERSONAL INFORMATION PROTECTION PRINCIPLES FOR RESPONSIBLE PARTIES**

Aylett & Co has comprehensive Data Protection Policies and procedures in place in order to comply with principles of POPIA and ensure that the best efforts are employed to ensure the protection of Personal Information. Aylett & Co implemented the required controls and employs up to date technology to ensure the protection, confidentiality, integrity and availability of the Personal Information that it processes.

**1. Accountability:**

The Responsible Party must ensure compliance. The Responsible Party is required to audit the processes used to collect, record, store, disseminate and destroy personal information: in particular, ensure the integrity and safekeeping of personal information in your possession or under your control. The Responsible Party must take steps to prevent the information being lost or damaged, or unlawfully accessed.

**2. Purpose Specification:**

The Responsible Party must define the purpose of the information gathering and processing: personal information must be collected for a specific, explicitly defined and lawful purpose that is related to a function or activity of the company concerned.

**3. Processing Limitation:**

The Responsible Party must ensure processing is lawful and:

- done in a reasonable manner that does not infringe the privacy of the Data Subject.
- adequate, relevant and not excessive given the purpose.
- must have obtained consent or it must be necessary. If consent obtained then it must be voluntary, specific and informed.

**4. Take steps to notify the Data Subject:**

The individual whose information is being processed has the right to know this is being done and why. The Data Subject must be informed about:

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- the name and address of the company processing their information,
- he or she must be informed as to whether the provision of the information is voluntary or mandatory.

#### 5. Further Processing limitation:

- Assess whether further processing is permitted, one must ask the following questions:
  - Is there a valid relationship between the purposes?
  - What is the nature of information?
  - What are the consequences for data subject?
  - The manner in which information was collected?
  - Are there any contractual rights between the parties?
- Review the rationale for any further processing, asking the following:
  - If information is received via a third party for further processing, this further processing must be compatible with the purpose for which the data was *initially* collected.
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#### 6. Information quality:

- The Responsible Party must take reasonably practicable steps to ensure that the information is complete, accurate, not misleading; and updated where necessary.
- The Responsible Party must notify Information Regulator once POPIA is enacted and Register with the Information Regulator.
- The Responsible Party must take reasonable steps to notify the Data Subject of:
  - Information being collected
  - Purpose for which information is collected
  - Whether the supply of information is voluntary or mandatory
  - The consequences of failure to provide information
  - Any particular law that applies

#### 7. Accommodating Data Subject requests:

POPIA allows for Data Subjects to make certain requests, *free of charge*, to organisations that holds their Personal Information. An example is where the Data Subject has the right to know the identity of all third parties that have had access to their information. A Data Subject may also ask for a record of the Personal Information concerned.

#### 8. Security:

- The Responsible Party is required to *secure the integrity of personal information* by taking appropriate, reasonable technical and organisational measures to prevent:
  - Loss, damage or unauthorised access
  - Unlawful access to or processing of personal information
- The Responsible Party must take all reasonable measures to:
  - Identify all reasonably foreseeable internal and external risks
  - Establish and maintain appropriate safeguards against the risks

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- Regularly verify that the safeguards are adequately implemented
- Ensure the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards
- The Responsible Party must oversee an Operator who processes data on his/her behalf. Responsible Party must be aware of the following:
  - The Operator must treat information confidentially
  - The Responsible Party must ensure that the operator establishes and maintains appropriate security safeguards
  - ALL processing by an operator must be governed by a written contract
  - In the event of security breaches, the Responsible Party must notify the Regulator and the data subject

#### **9. Retain records for required periods:**

- Personal information must be destroyed, deleted or 'de-identified' as soon as the purpose for collecting the information has been achieved.
- However, a record of the information must be retained if an organisation has used it to make a decision about the data subject. The record must be kept for a period long enough for the data subject to request access to it.
- This requirement is subject to other legislation e.g. FAIS and FICA which provide for a period of 5 year to keep records.

#### **10. Cross Border Data Transfer:**

- There are restrictions on the sending of personal information out of South Africa as well as on the transfer of personal information back into South Africa.
- The applicable restrictions will depend on the laws of the country to whom the data is transferred or from where the data is returned, as the case may be.
- The Responsible Party must assess the applicable laws and institute a written protocol to cover these requirements.

### **4.5.5. ROLES AND RESPONSIBILITIES OF THE OPERATOR**

#### **1. Duties of an Operator:**

All Information processed by an operator must be treated in the following manner:

- The Responsible party must be aware of the Operators processing.
- The Operator must treat information confidentially.
- The Responsible party must ensure that the Operator establishes and maintains appropriate security safeguards.
- In the event of security breaches, the Operator via the Responsible party must notify the Regulator and the data subject.
- The processing by an operator must be governed by a written contract between the Responsible party and the Operator.

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## 2. Contents of the Contract:

The Contract between Operator and Responsible Party must detail at least the following:

- the legitimate grounds for collecting and using personal data collected,
- the lawful purpose for which data are being collected,
- the limit of processing and prohibiting of further processing,
- the extent of information that is required to prevent any excessive information collection,
- the information retention periods and requirements applicable together with destruction processes and procedures,
- The right of individuals to request such information and query the use thereof,
- The security measures required to prevent the unauthorised or unlawful processing of personal data or access to personal data, including accidental loss or destruction or damage to personal data.

### 4.5.6. DEALING WITH SPECIAL PERSONAL INFORMATION

Note: If an objection is received from a Data Subject to process the Special Information, then this information may not be supplied to 3rd parties without the Data Subject's consent.

1. **Religious or Philosophical Beliefs** processing may take place by Spiritual or religious organisations & institutions, provided that the information concerns data subjects belonging to such organisations; if it is necessary to achieve their aims and principles; or to protect the spiritual welfare of the data subjects.
2. **Race** processing may be carried out to Identify data subjects when this is essential and to Comply with laws or measures designed to protect or advance persons disadvantaged by unfair discrimination
3. **Trade Union Membership** processing may take place by a trade union to which the data subject belongs, or the trade union federation to which the trade union belongs, if the processing is necessary to achieve the aims of the trade union/trade union federation.
4. **Political Persuasion** processing may take place by an institution founded on political principles if such processing is necessary to achieve the aims or principles of the institution.
5. **Health or Sexual Life** processing must be confidential and may take place by:
  - Medical practitioners, healthcare institutions
  - Insurance companies, medical aid scheme providers
  - Schools
  - Institutions of probation, child protection or guardianship
  - Pension funds and employers if processing is necessary for:
    - Implementation of laws/pension regulations
    - Re-integration/support for workers or persons entitled to benefit in connection with sickness/work incapacity
6. **Criminal behaviour** processing may take place by:
  - Bodies charged by law with applying criminal law
  - Responsible parties who have obtained the information in accordance with the law

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- Responsible parties who process the information for their own lawful purposes to; o assess an application by a data subject in order to take a decision about or provide a service to that data subject to protect their legitimate interests in relation to criminal offences.

## 7. General Exemptions

The Regulator may authorise processing of any information, which will not be in breach of POPIA, if the public interest includes:

- the legitimate interests of State security
- the prevention, detection and prosecution of offences
- important economic and financial interests of the State or a public body
- historical, statistical or research activity.

### 4.5.7. DIRECT MARKETING BY MEANS OF UNSOLICITED ELECTRONIC COMMUNICATIONS

- Direct marketing is prohibited unless you have consent, or the target is already a customer.
- You may only approach a person for consent once and if they have not previously withheld such consent.
- You may only use the information for the purpose it was obtained, for a customer.
- Any communication for the purpose of direct marketing must contain:
  - Details of the identity of the sender,
  - The address or other contact details to which the recipient may send a request to opt-out.

This Policy has been considered and approved by the Directors and Senior Management of Aylett & Co.

## APPENDIX 1 REQUEST FOR INFORMATION FORM

<b>1. PARTICULARS OF PERSON REQUESTING ACCESS TO INFORMATION</b>			
<b>Full Names &amp; Surname:</b>			
<b>Identification Number:</b>		<b>Cell phone no.</b>	
<b>Other contact no:</b>		<b>Fax no.</b>	
<b>Email address:</b>			
<b>Postal address:</b>		<b>Postal code</b>	
<b>2. PARTICULARS OF PERSON ON WHOSE BEHALF THE REQUEST IS MADE</b>			
*Only complete this section if a request for information is made on behalf of another person.			
<b>Full Names &amp; Surname/ Legal entity name:</b>			
<b>Identification/ Registration no.</b>			
<b>3. PARTICULARS OF REQUESTED INFORMATION</b>			
*Provide full particulars of the information to which access is requested. If the Provided space is not sufficient, please continue on a separate page and attach it to the form. Any additional pages submitted must be signed.			
<b>4. FORMAT IN WHICH INFORMATION IS REQUESTED</b>			
*Indicate the format in which the information requested is required. Please note that the request for access in the specified format may depend on the format in which the record is available and access in the requested format may be refused under certain circumstances.			
<b>5. RIGHT TO BE EXERCISED OR PROTECTED</b>			
*Indicate: 1. What right is to be exercised and/or protected and 2. Why the information is required to protect and/or to exercise this right.			
<b>What right is to be protected</b>			
<b>Why the information is required</b>			
<b>6. NOTICE OF APPROVAL / REJECTION OF REQUEST</b>			
Please note: You will be notified via e-mail and/or post whether your request has been approved or denied. If you wish to be informed in another manner, please specify the manner and provide the necessary details:			

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<b>7. PAYMENT DETAILS (Only applicable to Other Requesters)</b>	
Kindly make payment of the amount of R50 into the following bank account and attach proof of payment to this form.	
<b>Account name:</b> Aylett & Company (Pty) Ltd <b>Bank:</b> Investec Private Bank <b>Account no:</b> 10010962938 <b>Branch code:</b> 580105	
<b>8. SIGNATURE</b>	
Signed at: _____ on this _____ day of _____ 20__	
_____	_____
Name of person submitting the request	Signature of person submitting the request

## APPENDIX 2

### PROMOTION OF ACCESS TO INFORMATION ACT

#### FEES PAYABLE IN RESPECT OF PRIVATE BODIES

1.1. The fee for a copy of the manual as contemplated in regulation 9(2)(c) is R1,10 for every photocopy of an A4-size page or part thereof.

1.2. The fees for reproduction referred to in regulation 11(1) are as follows:

(a) For every photocopy of an A4-size page or part thereof	R1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in	R0,75
(c) For a copy in a computer-readable form on -	
(i) compact disc	R70,00
(d) For a transcription of visual images,	
(i) for an A4-size page or part thereof	R40,00
(ii) for a copy of visual images	R60,00
(e) For a transcription of an audio record,	
(i) for an A4-size page or part thereof	R20,00
(ii) for a copy of an audio record	R30,00

1.3. The request fee payable by a requester, other than a personal requester, referred to in regulation 11(2) is R50,00.

1.4. The access fees payable by a requester referred to in regulation 11(3) are as follows:

1.4.1. (a) For every photocopy of an A4-size page or part thereof	R1,10
(b) For every printed copy of an A4-size page or part thereof held on a computer or in	R1,10
(c) For a copy in a computer-readable form on -	
(i) compact disc	R70,00
(d) For a transcription of visual images,	
(i) for an A4-size page or part thereof	R40,00
(ii) for a copy of visual images	R60,00
(e) For a transcription of an audio record,	
(i) for an A4-size page or part thereof	R20,00
(ii) for a copy of an audio record	R30,00

1.4.2. 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.

1.4.3. The actual postage is payable when a copy of a record must be posted to a requester.