

# Cliffe Dekker Hofmeyr Incorporated

(A Private Body)

CLIFFE DEKKER HOFMEYR INCORPORATED  
(A PRIVATE BODY)

MANUAL PREPARED IN ACCORDANCE WITH SECTION 51 OF THE PROMOTION  
OF ACCESS TO INFORMATION ACT NO. 2 OF 2000 IN RESPECT OF CLIFFE  
DEKKER HOFMEYR INCORPORATED

Manual prepared in accordance with  
section 51 of the Promotion of Access to  
Information Act No. 2 of 2000 in respect  
of Cliffe Dekker Hofmeyr Incorporated



INCORPORATING  
**KIETI LAW LLP, KENYA**

## TABLE OF CONTENTS

1	INTRODUCTION.....	1
2	DEFINITIONS.....	1
3	SCOPE OF THE MANUAL.....	3
4	HOW TO USE PAIA TO ACCESS INFORMATION.....	3
5	OVERVIEW OF THE STRUCTURE AND FUNCTIONS OF CDH.....	3
6	CDH'S CONTACT DETAILS.....	4
7	CDH'S PROCESSING OF PERSONAL INFORMATION IN TERMS OF POPIA.....	1
8	INFORMATION HELD BY CDH IN TERMS OF PAIA.....	3
9	INFORMATION KEPT BY CDH IN ACCORDANCE WITH OTHER LEGISLATION.....	1
10	REQUEST PROCEDURES.....	3
11	TIMELINES FOR CONSIDERATION OF A REQUEST.....	5
12	GROUND FOR REFUSAL OF ACCESS TO RECORDS.....	6
13	REMEDIES AVAILABLE TO A REQUESTOR ON REFUSAL OF ACCESS.....	7
14	OTHER INFORMATION HELD BY CDH AS PRESCRIBED.....	7
15	AVAILABILITY OF THE MANUAL.....	7
16	PRESCRIBED FORMS AND FEE STRUCTURE.....	8

### ANNEXURES

ANNEXURE "A" – FORM 2– PRESCRIBED FORM TO MAKE REQUEST FOR ACCESS TO RECORD

ANNEXURE "B" – FORM 3 – OUTCOME OF REQUEST AND OF FEES PAYABLE

ANNEXURE "C" – LIST OF ENTITIES COMPRISING THE CDH-ASSOCIATED AFFILIATES

## 1 INTRODUCTION

- 1.1 This Manual has been prepared in accordance with section 51 of the Promotion of Access to Information Act No.2 of 2000 ("**PAIA**").
- 1.2 The aim of the Manual is to assist potential Requesters to request access to information (documents, records and/or Personal Information) from CDH and all CDH Associated Affiliates as contemplated under PAIA.
- 1.3 The Manual may be amended from time to time and as soon as any amendments have been affected, the latest version of the Manual will be published and distributed in accordance with PAIA.
- 1.4 A Requester is invited to contact the Deputy Information Officers should he or she require any assistance in respect of the use or content of this Manual.
- 1.5 The definitions provided in this Manual are solely for the purpose of this Manual and are not to be taken as applicable to PAIA.

## 2 DEFINITIONS

The following words or expressions will bear the following meanings in this Manual –

- 2.1 "**CDH**" means Cliffe Dekker Hofmeyr Incorporated (registration number 2008/018923/21), a professional company which renders legal services including legal advice and legal representation to individual clients, businesses and organisations and includes the CDH Associated Affiliates;
- 2.2 "**CDH Associated Affiliate**" means each of the CDH entities listed in Annexure "**C**" to this Manual;
- 2.3 "**Client**" means a natural or juristic person who or which receives services and/or products from CDH;
- 2.4 "**Correspondence**" means any written and/or electronic communication exchanged between two or more parties;
- 2.5 "**Data Subject**" means the natural or juristic person to whom Personal Information relates provided that, in any Kenyan Circumstances, only an identified or identifiable natural person shall be deemed to constitute a Data Subject;
- 2.6 "**Deputy Information Officer**" means any or all of CDH's designated deputy information officers described in paragraph 6 of this Manual;

- 2.7 "**Employee**" means any person who works for, or provides services to, or on behalf of CDH, and receives or is entitled to receive remuneration;
- 2.8 "**Information Officer**" means CDH's designated information officer described in paragraph 6 of this Manual;
- 2.9 "**Kenyan Circumstances**" means any circumstances involving the processing of information relating to an identified or identifiable natural person by:
- 2.9.1 any person that is established or ordinarily resident in Kenya and that processes such information while in Kenya; or
- 2.9.2 any person not established or ordinarily resident in Kenya but that processes such information in relation to any Data Subject who is located in Kenya;
- 2.10 "**Manual**" means this manual, together with all annexures thereto as amended and made available on the website of CDH and at the offices of CDH from time to time;
- 2.11 "**PAIA**" means the Promotion of Access to Information Act No. 2 of 2000, together with any regulations published thereunder;
- 2.12 "**POPIA**" means the Protection of Personal Information Act No. 4 of 2013, together with any regulations published thereunder;
- 2.13 "**Personal Information**" has the meaning ascribed thereto under POPIA, provided that, for any Kenyan Circumstances, Personal Information shall be deemed to mean any information relating to an identified or identifiable natural person;
- 2.14 "**Processing**" means any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including –
- 2.14.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- 2.14.2 dissemination by means of transmission, distribution or making available in any other form by electronic communications or other means; or
- 2.14.3 merging, linking, blocking, degradation, erasure or destruction. For the purposes of this definition, "**Process**" has a corresponding meaning;
- 2.15 "**Requester**" means any person or entity (including any Data Subject) requesting access to a record that is under the control of CDH; and
- 2.16 "**Third-Party**" means any independent contractor, agent, consultant, sub-contractor or other representative of CDH.

### 3 SCOPE OF THE MANUAL

This Manual has been prepared in respect of, and applies to, CDH and where applicable, the CDH Associated Affiliates. Any reference to CDH under this Manual shall specifically include, where applicable, the CDH Associated Affiliates.

### 4 HOW TO USE PAIA TO ACCESS INFORMATION

*(Information provided in terms of section 51(1) of PAIA)*

- 4.1 PAIA grants a Requester access to records of a private body if the record is required for the exercise or protection of any rights. If a public body lodges a request in terms of PAIA, the public body must be acting in the public interest.
- 4.2 Requests in terms of PAIA shall be made in accordance with the prescribed procedures, and at the prescribed fees.
- 4.3 A guide on how to use PAIA is required to be compiled by the Information Regulator and when same is available, will be accessible (in various official languages) on the Information Regulator's website and on our website or you may request a copy of the guide from us by contacting our Information Officer. All queries should be directed to:

The Information Regulator of South Africa

**Physical Address:** JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001

**Postal Address:** P.O Box 31533, Braamfontein, Johannesburg, 2017

**E-mail:** [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za) / [complaints.IR@justice.gov.za](mailto:complaints.IR@justice.gov.za)

**Website:** <https://www.justice.gov.za/inforeg/index.html>

**Tel:** 012 406 4818

**Fax:** 086 500 3351

### 5 OVERVIEW OF THE STRUCTURE AND FUNCTIONS OF CDH

- 5.1 CDH is incorporated and registered in the Republic of South Africa under registration number 2008/018923/21.
- 5.2 Cliffe Dekker Hofmeyr is one of the largest business law firms in South Africa with more than 100 directors, more than 150 lawyers and more than 500 employees in total. We are a national firm with offices in South Africa's main commercial centres, Johannesburg (Sandton) and Cape Town.
- 5.3 We offer a full complement of corporate and commercial legal services in core practice areas: Corporate and Commercial; Competition/Antitrust; Dispute Resolution: Litigation, Arbitration and Mediation; Employment; Environmental; Finance and Banking; Pro Bono

and Human Rights; Projects and Infrastructure; Tax; Technology, Media and Telecommunications; Real Estate and Trusts and Estates.

5.4 Our clients include local, national and international companies across a broad range of sectors, ranging from emerging businesses to multinationals, as well as public sector organisations.

## 6 CDH'S CONTACT DETAILS

*(Information required under section 51(1)(a) of PAIA)*

<b>Name of Body:</b>	Cliffe Dekker Hofmeyr Incorporated
<b>Physical &amp; Postal Addresses:</b>	<p><b>Johannesburg Office:</b>  <b>Physical:</b> 1 Protea Place, Sandown, Sandton, 2146  <b>Postal:</b> Private Bag X7, Benmore, 2010</p> <p><b>Cape Town Office:</b>  <b>Physical:</b> 11 Buitengracht Street, Cape Town, 8001 South Africa  <b>Postal:</b> PO Box 695, Cape Town 8000 South Africa</p>
<b>Head of Body</b>	<p><b>Name:</b> Mr Brent Williams  <b>E:</b> <a href="mailto:brent.williams@cdhlegal.com">brent.williams@cdhlegal.com</a>  <b>T:</b> +27 (0)11 562 1167  <b>F:</b> +27 (0)11 562 1567</p>
<b>Information Officer</b>	<p><b>Name:</b> Mr Francis Newham  <b>E:</b> <a href="mailto:francis.newham@cdhlegal.com">francis.newham@cdhlegal.com</a></p>
<b>Deputy Information Officers</b>	<p><b>Name:</b> Mrs Tamara Levin  <b>E:</b> <a href="mailto:tammy.levin@cdhlegal.com">tammy.levin@cdhlegal.com</a>  <b>T:</b> +27 (0)11 562 1755</p>

## 7 CDH'S PROCESSING OF PERSONAL INFORMATION IN TERMS OF POPIA

*(Information required under section 51(1)(c) of PAIA)*

### 7.1 Purpose of CDH's Processing of Personal Information

- 7.1.1 CDH will only Process a Data Subject's Personal Information for a specific, lawful and clear purpose (or for specific, lawful and clear purposes) and will ensure that it makes the Data Subject aware of such purpose(s) as far as possible.
- 7.1.2 It will ensure that there is a legal basis for the Processing of any Personal Information. Further, CDH will ensure that Processing will relate only to the purpose for and of which the Data Subject has been made aware (and where relevant, consented to) and will not Process any Personal Information for any other purpose(s).
- 7.1.3 CDH will process Personal Information only in ways that are for, or compatible with, the business purposes for which the data was collected or that are subsequently authorised by the relevant Data Subject.
- 7.1.4 CDH will retain Personal Information only for as long as is necessary to accomplish CDH's legitimate business purposes or for as long as may be permitted or required by applicable law.
- 7.1.5 CDH uses Personal Information for one or more of the following non-exhaustive purposes –
- 7.1.5.1 For the purposes of providing its services to the Data Subject from time to time;
- 7.1.5.2 Personal Information is processed as part of the "Know Your Customer" / "KYC" process as per the requirements of the Financial Intelligence Centre Act No. 38 of 2001;
- 7.1.5.3 Personal Information is processed in order to conduct due diligence processes on CDH Clients;
- 7.1.5.4 Personal Information is processed in order to comply with obligations imposed on the CDH under the Based Black Economic Empowerment Act No. 53 of 2003 ("**BEE Act**") read together with the Department of Trade and Industry's Codes of Good Practice on Broad-Based Black Economic Empowerment published in terms of Government Gazette No. 36928 on 11 October 2013 under section 9(1) of the BEE Act, as amended or reissued from time to time;

- 7.1.5.5 Personal Information is processed for the purposes of performing general information technology-related functions for all business functions within the CDH;
- 7.1.5.6 for purposes of interacting with you on our website and generally monitoring your use our website, including for purposes of improving same;
- 7.1.5.7 Personal Information is processed in connection with internal audit purposes (i.e. ensuring that the appropriate internal controls are in place in order to mitigate the relevant risks, as well as to carry out any investigations where this is required);
- 7.1.5.8 Personal Information is processed for employment-related purposes such as administering payroll, assessing credit and criminal history, and determining Employment Equity Act No. 55 of 1998 statistics;
- 7.1.5.9 To respond to any correspondence that the Data Subject may send to CDH, including via email, CDH's site(s) or by telephone;
- 7.1.5.10 In connection with the execution of payment processing functions, including payment of CDH's suppliers' invoices;
- 7.1.5.11 To contact the Data Subject for direct marketing purposes subject to the provisions of clause 7.1 below;
- 7.1.5.12 For such other purposes to which the Data Subject may consent from time to time; and
- 7.1.5.13 For such other purposes as authorised in terms of applicable law.



## 7.2 **Categories of Data Subjects and of the Personal Information relating thereto**

7.2.1 CDH collects Personal Information directly from the Data Subject and/or from Third Parties, and where CDH obtains Personal Information from Third Parties, CDH will ensure that it obtains the consent of the Data Subject to do so or will only Process the Personal Information without the Data Subject's consent where CDH is permitted to do so in terms of the applicable laws.

7.2.2 Data Subjects in respect of which Personal Information is Processed include Clients of CDH, employees and candidates, and service providers.

7.2.3 Examples of Third Parties from whom Personal Information is collected include other CDH Associated Affiliates; our Clients when CDH handles Personal Information on their behalf; regulatory bodies; credit reference agencies (such as, for example, Experian, TransUnion, Compuscan and XDS); other companies providing services to CDH (such as, for example, Lexis Nexis and other legal information services) and where CDH makes use of publicly available sources of information.

## 7.3 **Recipients or categories of recipients to whom Personal Information may be supplied**

7.3.1 CDH may share your Personal Information the CDH Associated Affiliates, third parties engaged by us, or our business partners, to assist us to provide our services to you. Such third parties or business partners may include –

7.3.1.1 hosting, data storage or archiving service providers and payment processing;

7.3.1.2 professional advisors; and

7.3.1.3 marketing, research and advertising agencies.

7.3.2 CDH may be required to disclose Personal Information in response to a court order, subpoena, civil discovery request, other legal process, or as otherwise required by law as per statutory authorities and/or the lawful order of any Court or Tribunal. We may disclose Personal Information when we believe disclosure is necessary to comply with the law or to protect the rights, property, or safety of CDH, our Clients, or others.

7.3.3 CDH will comply with POPIA and in any Kenyan Circumstances, the DPA, before transferring Personal Information to a Third-Party who is not a contractor of CDH. Before transferring Personal Information to a Third-Party contractor, such as an authorised service provider, CDH will obtain assurances from the Third-Party that it will process Personal Information in a manner consistent with POPIA and in any Kenyan Circumstances, the DPA. Where CDH learns that a Third-Party contractor is using or disclosing Personal Information in a manner contrary to POPIA or in any Kenyan Circumstances, the DPA, CDH will take reasonable steps to prevent such use or disclosure.

7.3.4 We reserve the right to disclose and transfer a Data Subject's information, including their Personal Information in connection with a corporate merger, consolidation, the sale of substantially all of our membership interests and/or assets or other corporate change, including to any prospective purchasers.

#### 7.4 **Planned Transborder Flows of Personal Information**

In carrying out any cross-border transfers, CDH shall adhere to the provisions of POPIA or, in any Kenyan Circumstances, the provisions of the DPA.

#### 7.5 **Information Security Measures**

7.5.1 The security and confidentiality of Personal Information is important to CDH. We have implemented reasonable technical, administrative, and physical security measures to protect Personal Information from unauthorised access or disclosure and improper use.

7.5.2 We are committed to ensuring that our security measures which protect your Personal Information are continuously reviewed and updated where necessary.

7.5.3 In Processing any Personal Information, CDH shall comply with the following minimum technical and organisational security requirements –

7.5.3.1 **Physical Access** – Access to Personal Information is restricted in our offices and only to those Employees who need the Personal Information to perform a specific job / task.

7.5.3.2 **Employee Training** – All Employees with access to Personal Information are kept up to date on our security and privacy practices. After a new policy is added, these Employees are notified and/or reminded about the importance we place on privacy, and what they can do to enhance protection for the Personal Information of all Data Subjects.

- 7.5.3.3 **Unique User Identification** – Employees each have a unique user ID assigned to them, subject to strict confidentiality undertakings in terms of CDH's password and confidentiality policy.
- 7.5.3.4 **Passwords** – CDH shall ensure that there are passwords required for any access to Personal Information in line with its password policy.
- 7.5.3.5 **Physical access and privileges** – CDH ensures that access to Personal Information is limited to Employees on a "need to know" basis, and CDH Employees are required to strictly utilise their unique user ID and applicable passwords to access same.
- 7.5.3.6 **Back-ups** – CDH ensures that all Personal Information is backed-up regularly, based on operational or legal requirements, and that back up testing is conducted regularly in order to ensure that Personal Information can be recovered in the event that such Personal Information is lost, damaged or destroyed.
- 7.5.3.7 **Malware protection** – CDH ensures that its environment has comprehensive malware protection software employed, which software is specifically designed to protect CDH from the most recent malware infections.
- 7.5.3.8 **Vulnerability scanning** – CDH frequently conducts vulnerability scanning in order to assess whether Personal Information is adequately protected from external threats.
- 7.5.3.9 **Systems Review** – CDH conducts regular reviews of its technical and organisational security measure system in order to ensure that all of the above security measures are functioning effectively and applied consistently.

## 8 INFORMATION HELD BY CDH IN TERMS OF PAIA

*(Information required under section 51(1)(e) of PAIA)*

- 8.1 This section of the Manual sets out the categories and descriptions of records held by CDH. The inclusion of any category of records should not be taken to mean that records falling within that category will be made available under PAIA. In particular, certain grounds of refusal as set out in PAIA may be applicable to a request for such records.

### 8.2 Financial / accounting records

- 8.2.1 Annual financial statements
- 8.2.2 Tax returns

- 8.2.3 Audit reports conducted for CDH
- 8.2.4 Invoices in respect of creditors and debtors of CDH
- 8.2.5 Fidelity Fund certificates
- 8.2.6 Bank facilities and account details
- 8.2.7 Details of accounting officer or auditors
- 8.2.8 Formal books of account and other financial statements
- 8.2.9 Source documents
- 8.2.10 Banking records
- 8.2.11 Management reports
- 8.3 **Company records**
  - 8.3.1 Company name documents
  - 8.3.2 Company registration documents
  - 8.3.3 Founding statement or Memorandum of Incorporation
  - 8.3.4 Share register and other statutory registers
  - 8.3.5 Minutes of meetings
- 8.4 **Human Resources records**
  - 8.4.1 List of employees
  - 8.4.2 Contracts of employment with employees of CDH
  - 8.4.3 Personnel records of each employee of CDH
  - 8.4.4 Disciplinary records
  - 8.4.5 Compensation or redundancy payments
  - 8.4.6 Records relating to conditions of employment
  - 8.4.7 Employment Equity Plan of CDH
  - 8.4.8 Pension and provident fund records
  - 8.4.9 Employee tax information

- 8.4.10 Training schedules and manuals
- 8.4.11 Agreements with clients of CDH
- 8.4.12 Files relating to client matters
- 8.4.13 Payroll records
- 8.4.14 Internal policies and procedures
- 8.5 **Client records**
  - 8.5.1 Client documentation in terms of Financial Intelligence Centre Act No. 38 of 2001
  - 8.5.2 Correspondence with clients
  - 8.5.3 Correspondence with third parties
  - 8.5.4 Records regarding legal proceedings involving clients at CDH
  - 8.5.5 Research conducted on behalf of clients of CDH
  - 8.5.6 Other information relating to, or held on behalf of CDH clients
- 8.6 **Intellectual property**
  - 8.6.1 Trade-marks, copyrights and designs held by Cliffe Dekker Hofmeyr
  - 8.6.2 Software licences
  - 8.6.3 Records relating to domain names
- 8.7 **Immovable and movable property records**
  - 8.7.1 Agreements for the lease of immovable property by CDH
  - 8.7.2 Agreements for the lease or sale of movable property by CDH
  - 8.7.3 Records regarding insurance in respect of movable property
  - 8.7.4 Records regarding insurance in respect of immovable property
  - 8.7.5 Asset register
- 8.8 **Information technology**
  - 8.8.1 Records regarding computer systems and programmes held by CDH
  - 8.8.2 Precedent database

## 8.9 **Library information**

8.9.1 Electronic and hard copy publications of books, periodicals, circulars, and legislation

## 8.10 **Marketing**

8.10.1 Website - Cliffe Dekker Hofmeyr's website address is **www.cliffedekkerhofmeyr.com** and is accessible to anyone who has access to the Internet. The website contains various categories of information relating to the firm, including areas of expertise; legal services; specialist fields; editorials; literature; careers; directors' résumés and contact details. In addition, the graduate recruitment website is **www.apply4law.africa** and is accessible to anyone who has access to the Internet

8.10.2 Marketing materials

8.10.3 Marketing campaign history

8.10.4 Marketing agreements

## 8.11 **Miscellaneous**

8.11.1 Security agreements, guarantees and indemnities

8.11.2 Internal correspondence

8.11.3 Suretyship agreements

8.11.4 Correspondence with the Legal Practice Council

8.11.5 Agreements with suppliers of CDH

8.11.6 Correspondence of CDH, including internal and external memoranda

## 9 **INFORMATION KEPT BY CDH IN ACCORDANCE WITH OTHER LEGISLATION**

*(Information required under section 51(1)(b)(iii) of PAIA)*

9.1 Records are kept in accordance with legislation applicable to CDH, which includes but is not limited to, the following:

9.1.1 Administration of Estates Act No. 66 of 1965

9.1.2 Attorneys Act No. 53 of 1979

9.1.3 Basic Conditions of Employment Act No. 75 of 1997

- 9.1.4 Companies Act No. 61 of 1973 (repealed, save for chapter 14)
- 9.1.5 Companies Act No.71 of 2008
- 9.1.6 Compensation for Occupational Injuries and Diseases Act No. 130 of 1993
- 9.1.7 Competition Act No.89 of 1998
- 9.1.8 Constitution of the Republic of South Africa, 1996
- 9.1.9 Consumer Protection Act No.68 of 2008
- 9.1.10 Copyright Act No. 98 of 1978
- 9.1.11 Credit Agreements Act No. 75 of 1980 (repealed)
- 9.1.12 Currency and Exchanges Act No. 9 of 1933
- 9.1.13 Debt Collectors Act No. 114 of 1998
- 9.1.14 Electronic Communications and Transactions Act No.25 of 2002
- 9.1.15 Employment Equity Act No.55 of 1998
- 9.1.16 Financial Intelligence Centre Act No. 38 of 2001
- 9.1.17 Income Tax Act No.58 of 1962 (Section 75)
- 9.1.18 Insolvency Act No.24 of 1936
- 9.1.19 Labour Relations Act No.66 of 1995
- 9.1.20 Legal Practice Act No.28 of 2014
- 9.1.21 Medical Schemes Act No. 131 of 1998
- 9.1.22 National Credit Act No.34 of 2005
- 9.1.23 Occupational Health and Safety Act No.85 of 1993
- 9.1.24 Promotion of Access to Information Act No.2 of 2000
- 9.1.25 Pension Funds Act No.24 of 1956
- 9.1.26 Promotion of Access to Information Act No.2 of 2000
- 9.1.27 Protection of Personal Information Act No.4 of 2013

- 9.1.28 Regulation of Interception of Communications and Provision of Communication-Related Information Act No.70 of 2002
  - 9.1.29 Stamp Duties Act No. 77 of 1968 (repealed)
  - 9.1.30 Skills Development Act No.97 of 1998
  - 9.1.31 Skills Development Levies Act No. 9 of 1999
  - 9.1.32 Tax Administration Act No.28 of 2011
  - 9.1.33 Tax on Retirement Funds Act No.38 of 1996
  - 9.1.34 Trade Marks Act No.194 of 1993
  - 9.1.35 Trust Property Control Act No. 57 of 1988
  - 9.1.36 Unemployment Insurance Act No. 63 of 2001
  - 9.1.37 Unemployment Insurance Contributions Act No. 4 of 2002
  - 9.1.38 Value Added Tax Act No.89 of 1991
- 9.2 Records kept in terms of the above legislation may, in certain instances (and insofar as the information contained therein is of a public nature) be available for inspection without a person having to request access thereto in terms of PAIA.

## 10 REQUEST PROCEDURES

- 10.1 Records, whether specifically listed in this Manual or not, will only be made available subject to the provisions of PAIA.
- 10.2 **Form of request**
  - 10.2.1 The Requester must use the prescribed form to make the request for access to a record, which form is attached hereto as Annexure "A". This must be made to the Information Officer at the address or electronic mail address of the body concerned (*see s 53(1) of PAIA*).
  - 10.2.2 The Requester must provide sufficient detail on the request form to enable the Information Officer to identify the record and the Requester. The Requester should also indicate which form of access is required and specify a postal address, fax number in the Republic or email address. The Requester should also indicate if, in addition to a written reply, any other manner is to be used to inform the Requester and state the necessary particulars to be so informed (*see s 53(2)(a) and (b) and (c) and (e) of PAIA*).



10.2.3 The Requester must identify the right that is sought to be exercised or protected and provide an explanation of why the requested record is required for the exercise or protection of that right (see s 53(2)(d) of PAIA).

10.2.4 If a request is made on behalf of another person, the Requester must submit proof of the capacity in which the Requester is making the request to the satisfaction of the head of the private body (See s 53(2)(f) of PAIA).

### 10.3 Fees

#### 10.3.1 Request fees:

10.3.1.1 The Information Officer must by notice require the Requester to pay the prescribed request fee (if any) before further processing the request (see s 54(1) of PAIA).

10.3.1.2 The fee that the Requester must pay to a private body is R50. The Requester may lodge an application to the court against the tender or payment of the request fee (See section 54(3)(b) of PAIA).

#### 10.3.2 Access fees and fees for reproduction:

10.3.2.1 If access to a record/s is granted by CDH, the Requester may be required to pay an access fee for the search for and preparation of the records and for reproduction of the record/s. (See section 54(6) of PAIA)

10.3.2.2 The access fees which apply are set out below. CDH can refuse access until such access fees have been paid. (See section 54(5) of PAIA)

	<b>Reproduction</b>	<b>Fee (Rand)</b>
1.	Photocopy of an A4-size page or part thereof provided in hard copy or via scanned copy sent via email	R1.10 per page
2.	Printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form	R0.75 per page
3.	For a copy in a computer – readable form on:  (i) Flash drive	

	<ul style="list-style-type: none"> <li>• To be provided by the requestor</li> </ul>	R40.00
	(ii) Compact disc <ul style="list-style-type: none"> <li>• If provided by the requestor</li> <li>• If provided to the requestor</li> </ul>	R40.00 R60.00
4.	Transcription of visual images on an A4-size page or part thereof	R40.00 per page
5.	Copy of visual images	R60.00
6.	Transcription of an audio record, of A4 size	R24.00
7.	Copy of an audio record	
	(i) Flash drive <ul style="list-style-type: none"> <li>• To be provided by the requestor</li> </ul>	R40.00
	(ii) Compact disc <ul style="list-style-type: none"> <li>• If provided by the requestor</li> <li>• If provided to the requestor</li> </ul>	R60.00 R40.00
8,	Postage or any other electronic transfer	Actual Costs

6.		
7.		

#### 10.4 Decision on request

10.4.1 After the Information Officer has made a decision on the request, the Requester will be notified using the required form attached hereto as Annexure “B”. (See section 56(1)(b) of PAIA)

10.4.2 If the request is granted then a further access fee must be paid for reproduction and for search and preparation and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure (see s 54(6) of PAIA).

#### 11 TIMELINES FOR CONSIDERATION OF A REQUEST

(See section 56 and 57 of PAIA)

11.1 Requests for access by a Requestor will be processed within 30 days, unless the request contains considerations that are of such a nature that an extension of the 30-day time limit is necessary. Such considerations include –

11.1.1 where the request is for a large number of records or requires a search through a large number of records (including where records that have been archived electronically need to be restored);

11.1.2 where the request requires a search for records in, or collection of such records from, an office of CDH located far away from Johannesburg;

11.1.3 consultation among divisions of CDH or with another private body is necessary or desirable to decide upon the request that cannot reasonably be completed within the original 30-day period;

11.1.4 more than one of the circumstances contemplated in paragraphs 11.1.1, 11.1.2, 11.1.3, exist in respect of the request making compliance with the original period not reasonably possible; or

11.1.5 the Requester consents in writing to such extension.

11.2 If an extension is necessary, you will be notified with reasons for the extension. If the Information Officer fails to communicate a decision on a request, such a request is then

deemed to have been refused.

## 12 GROUNDINGS FOR REFUSAL OF ACCESS TO RECORDS

*(See chapter 4 of Part 3 of PAIA)*

- 12.1 Subject to Clause 12.1.3, requests for access by a Requestor **must** be refused by the Information Officer if –
- 12.1.1 the disclosure would involve the unreasonable disclosure of personal information about a third party (natural person), including a deceased individual (see section 63 of PAIA);
  - 12.1.2 the record contains (a) trade secrets of a third party, (b) 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 (c) information supplied in confidence by a third party the disclosure of which could reasonably be expected to put that third party at a disadvantage in contractual or other negotiations; or to prejudice that third party in commercial competition (see section 64 of PAIA);
  - 12.1.3 the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement (see section 65 of PAIA);
  - 12.1.4 the disclosure could reasonably be expected to endanger the life or physical safety of an individual (see section 66(a) of PAIA);
  - 12.1.5 the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege (see section 67 of PAIA); or
  - 12.1.6 the record contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose: (a) the third party; (b) a person that is or will be carrying out the research on behalf of the third party; or (c) the subject matter of the research, to serious disadvantage (see section 69 of PAIA).
- 12.2 Requests for access by a Requestor may be refused by the Information Officer if –
- 12.2.1 the disclosure would be likely to prejudice or impair: (i) the security of: (aa) a building, structure or system, including, but not limited to, a computer or communication system; (bb) a means of transport; or (cc) any other property; or (ii) methods, systems, plans or procedures for the protection of: (aa) an individual in accordance with a witness protection scheme; (bb) the safety of the public, or any part of the

public; or (cc) the security of property contemplated in subparagraph (i) (aa), (bb) or (cc) (see section 66(b));

12.2.2 the record:

- (a) contains trade secrets of CDH;
- (b) contains financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of CDH;
- (c) contains information, the disclosure of which could reasonably be expected:
  - (i) to put CDH at a disadvantage in contractual or other negotiations; or
  - (ii) to prejudice CDH in commercial competition; or
- (d) is a computer program, as defined in section 1(1) of the Copyright Act No. 98 of 1978, owned by CDH, except insofar as it is required to give access to a record to which access is granted in terms of PAIA; or

12.2.3 the record contains information about research being or to be carried out by or on behalf of CDH, the disclosure of which would be likely to expose: (a) CDH; (b) a person that is or will be carrying out the research on behalf of CDH; or (c) the subject matter of the research, to serious disadvantage.

12.3 In any Kenyan Circumstances, a Data Subject's request to receive their personal data in a structured, commonly used and machine-readable format must be complied with at a reasonable cost and within 30 (thirty) days from the date of the request.

### 13 REMEDIES AVAILABLE TO A REQUESTOR ON REFUSAL OF ACCESS

13.1 CDH does not have any internal appeal procedures that may be followed once a request to access information has been refused.

13.2 The decision of the Information Officer or deputy information officer is final.

13.3 If you are not satisfied with the outcome of your request, you are entitled to a to a court of competent jurisdiction to take the matter further. (*See section 78 of PAIA*)

### 14 OTHER INFORMATION HELD BY CDH AS PRESCRIBED

*(Other information as may be prescribed under section 51(1)(a)(ii))*

The Minister of Justice and Constitutional Development has to date not made any regulations regarding disclosure of other information.

### 15 AVAILABILITY OF THE MANUAL

*(Availability of Manual under section 51(3))*

- 15.1 This Manual is available for inspection by the general public upon request, during office hours and free of charge, at the offices of CDH. Copies of the Manual may be made, subject to the prescribed fees.
- 15.2 Copies may also be requested from the South African Information Regulator.
- 15.3 The Manual is also posted on CDH's website referred to above.

## 16 **PRESCRIBED FORMS AND FEE STRUCTURE**

*(Prescribed forms and fee structure in respect of private bodies)*

The forms and fee structure prescribed under PAIA are available from the Government Gazette, or at the website of the Department of Justice and Constitutional Development ([www.doj.gov.za](http://www.doj.gov.za)), under the 'regulations' section as well as the SAHRC website ([www.sahrc.org.za](http://www.sahrc.org.za)).

ANNEXURE "A" – FORM 2 – PRESCRIBED FORM TO MAKE REQUEST FOR ACCESS

## FORM 2

### REQUEST FOR ACCESS TO RECORD

[Regulation 7]

**NOTE:**

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

TO: The Information Officer

(Address)

E-mail address:

Fax number:

Mark with an "X"

Request is made in my own name

Request is made on behalf of another person.

PERSONAL INFORMATION		
Full Names		
Identity Number		
Capacity in which request is made <i>(when made on behalf of another person)</i>		
Postal Address		
Street Address		
E-mail Address		
Contact Numbers	Tel. (B):	
	Cellular:	
Full names of person on whose behalf request is made <i>(if applicable)</i> :		
Identity Number		
Postal Address		

Street Address			
E-mail Address			
Contact Numbers	Tel. (B)		Facsimile
	Cellular		
<b>PARTICULARS OF RECORD REQUESTED</b>			
<p><i>Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)</i></p>			
Description of record or relevant part of the record:			
Reference number, if available			
Any further particulars of record			
<b>TYPE OF RECORD</b>			
<i>(Mark the applicable box with an "X")</i>			
Record is in written or printed form			
Record comprises virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>			
Record consists of recorded words or information which can be reproduced in sound			
Record is held on a computer or in an electronic, or machine-readable form			



<b>FORM OF ACCESS</b> <i>(Mark the applicable box with an "X")</i>	
Printed copy of record <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of record on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of record on compact disc drive <i>(including virtual images and soundtracks)</i>	
Copy of record saved on cloud storage server	

<b>MANNER OF ACCESS</b> <i>(Mark the applicable box with an "X")</i>	
Personal inspection of record at registered address of public/private body <i>(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)</i>	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format <i>(including transcriptions)</i>	
E-mail of information <i>(including soundtracks if possible)</i>	
Cloud share/file transfer	
Preferred language <i>(Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)</i>	

<b>PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED</b>	
<i>If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.</i>	
Indicate which right is to be exercised or protected	

Explain why the record requested is required for the exercise or protection of the aforementioned right:	

FEES	
a)	A request fee must be paid before the request will be considered.
b)	You will be notified of the amount of the access fee to be paid.
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	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication (Please specify)

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_

Signature of Requester / person on whose behalf request is made

-----  
FOR OFFICIAL USE

Reference number:	
Request received by: (State Rank, Name And Surname of Information Officer)	
Date received:	
Access fees:	
Deposit (if any):	

\_\_\_\_\_

Signature of Information Officer

**ANNEXURE "B" – FORM 3 – OUTCOME OF REQUEST AND OF FEES PAYABLE**

**FORM 3**  
**OUTCOME OF REQUEST AND OF FEES PAYABLE**  
 [Regulation 8]

Note:

1. If your request is granted the—
  - (a) amount of the deposit, (if any), is payable before your request is processed; and
  - (b) requested record/portion of the record will only be released once proof of full payment is received.
2. Please use the reference number hereunder in all future correspondence.

Reference number: \_\_\_\_\_

TO: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Your request dated \_\_\_\_\_, refers.

**1. You requested:**

Personal inspection of information at registered address of public/private body (including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form) is free of charge. You are required to make an appointment for the inspection of the information and to bring this Form with you. If you then require any form of reproduction of the information, you will be liable for the fees prescribed in Annexure B.	
--	--

**OR**

**2. You requested:**

Printed copies of the information (including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)	
Written or printed transcription of virtual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc)	
Transcription of soundtrack (written or printed document)	
Copy of information on flash drive (including virtual images and soundtracks)	
Copy of information on compact disc drive (including virtual images and soundtracks)	
Copy of record saved on cloud storage server	

**3. To be submitted:**

Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format (including transcriptions)	
E-mail of information (including soundtracks if possible)	
Cloud share/file transfer	
Preferred language: (Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)	

Kindly note that your request has been:

Approved

Denied, for the following reasons:

--

**4. Fees payable with regards to your request:**

Item	Cost per A4-size page or part thereof/item	Number of pages/items	Total
Photocopy			
Printed copy			
For a copy in a computer-readable form on:			
(i) Flash drive	R40.00		
• To be provided by requestor			
(ii) Compact disc	R40.00		
• If provided by requestor	R60.00		
• If provided to the requestor			
For a transcription of visual images per A4-size page	Service to be outsourced. Will depend on the quotation of the service provider		
Copy of visual images			
Transcription of an audio record, per A4-size	R24.00		
Copy of an audio record			
(i) Flash drive	R40.00		
• To be provided by requestor			
(ii) Compact disc	R40.00		
• If provided by requestor	R60.00		
• If provided to the requestor			
Postage, e-mail or any other electronic transfer:	Actual costs		
<b>TOTAL:</b>			

**5. Deposit payable (if search exceeds six hours):**

Yes  No

Hours of search	Amount of deposit (calculated on one third of total amount per request)

The amount must be paid into the following Bank account:

Name of Bank: \_\_\_\_\_  
 Name of account holder: \_\_\_\_\_  
 Type of account: \_\_\_\_\_  
 Account number: \_\_\_\_\_  
 Branch Code: \_\_\_\_\_  
 Reference Nr: \_\_\_\_\_  
 Submit proof of payment to: \_\_\_\_\_

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Information officer

**ANNEXURE "C" – LIST OF ENTITIES COMPRISING THE CDH ASSOCIATED ENTITIES**

NAME OF CDH ASSOCIATED ENTITY	REGISTRATION NUMBER
Cliffe Dekker Hofmeyr Trustees (Proprietary) Limited	Registration Number 2001/013133/07
Cliffe Dekker Hofmeyr Tax (Proprietary) Limited	Registration Number 2005/010304/07
Praetor Management Services (Proprietary) Limited	Registration Number 1997/002011/07
Clidet No.887 (Proprietary) Limited	Registration Number 2008/024488/07
Praetor Management Services Kenya Limited	Registration number PVT-V7UYYQ37
Kieti Law LLP	Registration number LLP-YP17JK