



## **POLICY ON THE PROTECTION OF PERSONAL INFORMATION ACT NO. 4 OF 2013**

**(“PRIVACY POLICY”)**

**for**

**MXUNYELWA ATTORNEYS INCORPORATED**

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## 1. DEFINITIONS

1.1 In this Policy, the following words and expressions will bear the following meanings –

- 1.1.1 “**Child**” means any natural person under the age of 18 (eighteen) years, if the child is in the Republic of South Africa; or where the child is in the European Union, any person under the age of 16 (sixteen) years;
- 1.1.2 “**Data Breach**” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Information under the control of or in the possession of MA Inc.;
- 1.1.3 “**Data Subject**” means an individual or legal entity to whom Personal Information relates and who can be identified or is identifiable from the Personal Information;
- 1.1.4 “**Employee**” means any person employed by, or who provides services to or on behalf of MA Inc. and receives or is entitled to receive remuneration from MA Inc. in respect of those services;
- 1.1.5 “**GDPR**” means the General Data Protection Regulation, being the EU Regulation 2016/679 of the European Parliament passed in April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of that data, and which repealed the 1995 Directive 95/46/EC (General Data Protection Regulation);
  - 1.1.5.1 “**Operator**” means a person who processes Personal Information for a Responsible Party in terms of a contract or mandate, without coming under the direct authority of that party;
- 1.1.6 “**Personal Information**” means information relating to an identifiable, living natural person and where applicable, an identifiable existing juristic person, including but not limited to -
  - 1.1.6.1 information relating to race, gender, sex, pregnancy, marital status, national, social and ethnic origin, color, sexual orientation, age, physical or mental health, wellbeing, disability, religion, conscience, belief, culture, language and birth of a person;
  - 1.1.6.2 information relating to the education or the medical, financial, criminal or employment history of the person;
  - 1.1.6.3 any identifying number, symbol, email address, physical address, telephone number, location information, online identifier, or other particular assignment to the person;
  - 1.1.6.4 the biometric information of a person;
  - 1.1.6.5 the personal opinions, views or preferences of a person;

- 1.1.6.6 correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondences that would reveal the contents of the original correspondence;
- 1.1.6.7 the views or opinions of another individual about the person; and
- 1.1.6.8 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 the information about the person.
- 1.1.7 **“Policy”** means this Privacy Policy;
- 1.1.8 **“POPIA”** means the Protection of Personal Information Act No. 4 of 2013, together with any regulations published thereunder, as may be amended from time to time;
- 1.1.9 **“Process”** and **“Processing”** means any activity or set of activities which involve Personal Information including collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or making available, alignment or combination, restriction, erasure, or destruction;
- 1.1.10 **“Requester”** means any person or entity (including a Data Subject) requesting access to a record that is in the possession of MA Inc.;
- 1.1.11 **“Responsible Party”** means a public or private body or any other person, which alone or in conjunction with others, determines the purpose of and means for Processing Personal Information;
- 1.1.12 **“Third Party”** means any independent contractor, agent, consultant, sub-contractor, or other representative of MA Inc.; and
- 1.1.13 **“Website”** means MA Inc.’s website located at [www.mxunyelwainc.co.za](http://www.mxunyelwainc.co.za).

## 2. INTRODUCTION

- 2.1 Mxunyelwa Attorneys Incorporated (**“MA Inc.”** or herein also referred to as **“We”**) respects your privacy and the protection of your Personal Information. This Policy applies to all visitors of our Website.
- 2.2 Recognition of the right to privacy, including the right to protection against the unlawful collection, retention, dissemination, Processing, and use of Personal Information is our commitment to our clients, visitors, and users (the **“User”**) of our Website.

- 2.3 To ensure a high level of transparency and security, our Privacy policy as set forth below, will inform you about the nature, scope, and purpose of any collection, use and Processing of Personal Information transmitted to us via our Website, or recorded by us.
- 2.4 Our Privacy Policy is aligned to the principles of POPIA. Your Personal Information is protected by POPIA and will be Processed in line with the provisions of POPIA and as set out in this Policy.

### **3. PURPOSE OF THIS POLICY**

The purpose of this Privacy Policy, read together with our [PAIA Manual](#), is to outline the manner in which we treat your Personal Information.

### **4. COOKIE NOTICE**

- 4.1 Our Website uses cookies, which are small text files sent by a web browser to store information on a web browser. We use these cookies to ensure that our Website functions properly, stores user preferences and collects anonymous statistics on the usage of our Website. We may use various technologies to collect and store information when you interact with us via our Website.
- 4.2 You may accept or decline use of cookies by activating the settings on your browser; however, declining the use of cookies may limit your access to certain features of the Website. If you accept a cookie or fail to decline the use of a cookie, you agree that we may use your Personal Information collected using cookies, subject to the provisions of the Policy.

### **5. LAWFUL PROCESSING OF PERSONAL INFORMATION**

- 5.1 Where we are the Responsible Party, we will only Process a Data Subject's Personal Information (other than Special Personal Information) where –
- 5.1.1 consent of the Data Subject (or a competent person where the Data Subject is a Child), is obtained;
  - 5.1.2 processing is necessary to carry out the actions for conclusion of a contract to which the Data Subject is a Party;
  - 5.1.3 processing complies with an obligation imposed on MA Inc. by law;
  - 5.1.4 processing is intended to protect a legitimate interest of a Data Subject;
  - 5.1.5 processing is necessary for pursuing MA Inc.'s legitimate interests or interests of a Third Party to whom the information is supplied; and / or;

- 5.1.6 processing is necessary for the performance of a task carried out in the public interests or in the exercise of official authority vested on MA Inc.
- 5.2 We will make clear to the Data Subject, the manner and the reason for Processing of Personal Information.
- 5.3 Where we are relying on the Data Subject's consent as the legal basis for Processing of Personal Information, the Data Subject may withdraw her/his/its consent or may object to our Processing of the Personal Information at any time. This subsequent withdrawal or objection shall however not affect the Processing already carried out prior to the withdrawal of consent.
- 5.4 Where the consent has been withdrawn, or there is otherwise a justified objection against the use or Processing of Personal Information, MA Inc. will ensure that the Personal Information is no longer Processed.

## **6. PURPOSE OF PROCESSING PERSONAL INFORMATION**

- 6.1 MA Inc. will only Process a Data Subject's Personal Information for a specific, lawful, and clear purpose and will, as far as possible, ensure that the Data Subject is made aware of such purpose(s).
- 6.2 We will further ensure that there is a legal basis for the Processing of Personal Information and that the Personal Information is Processed only for the purpose communicated to the Data Subject and to which the Data Subject consented, and for no other purpose.
- 6.3 We will generally use Personal Information for purposes required to operate and manage our business operations, including but not limited to –
- 6.3.1 conducting customer verification processes in relation to our clients and potential clients, as required in terms of the Financial Intelligence Centre Act No. 38 of 2001;
  - 6.3.2 providing our services to the Data Subject from time to time;
  - 6.3.3 conducting due diligence processes on our clients as well as our internal audit processes for ensuring that appropriate internal controls are in place for our risk management processes;
  - 6.3.4 proposing services that may be of interest to Data Subjects; provided that Data Subjects have previously consented to us doing so, or they have previously requested a service from us, and the further communication is relevant or related to that prior request;
  - 6.3.5 proposing services that may be of interest to Data Subjects;

- 6.3.6 responding to queries or comments made via our Website, email and telephonic correspondences;
- 6.3.7 monitoring your use of the Website, as well as improving performance of our Website;
- 6.3.8 administration of payroll for Employees and execution of payments to creditors and suppliers' invoices; and
- 6.3.9 for any other purpose which the Data Subject may consent to from time to time.

## **7. ACCURACY OF PERSONAL INFORMATION**

We shall take reasonable steps to ensure that all Personal Information is kept as accurate, complete and up to date as reasonably possible, depending on the purpose for which the Personal Information is collected or further Processed. We also expect the Data Subject to notify us from time to time in writing, if there are any updates to the Personal Information held by us.

## **8. STORAGE OF PERSONAL INFORMATION**

- 8.1 We may store your Personal Information in various formats, including hardcopy formats and/or electronic formats including backup systems and cloud-based systems via Third Parties contracted with us.
- 8.2 Third Party service providers, including data storage and processing providers, may therefore from time to time have access to your Personal Information in connection to the purpose for which it was collected.
- 8.3 We will ensure that Third Parties who have access to your Personal Information, Process the Personal Information in accordance with the relevant internal policies and procedures, POPIA and, where relevant the GDPR provisions. Where appropriate, we shall ensure that Personal Information in the possession of Third Parties is protected through amongst others, contractual arrangements, to ensure that irrespective of its location, it remains protected in line with the applicable law.

## **9. RETENTION OF PERSONAL INFORMATION**

- 9.1 Personal Information may be kept by us to the extent necessary to provide Data Subjects with our services but will not be retained for any period longer than it is necessary to achieve the purpose for which it was collected.
- 9.2 We will delete, destroy and de-identify the information as soon as is reasonably practicable upon achievement of the purpose for which it was collected, except where the retention of the record is

required or authorised by law; is required by a contract between parties thereto; or the Data Subject (or representative in the event that the Data Subject is a Child) has consented to such longer retention.

## **10. SAFE-KEEPING OF PERSONAL INFORMATION**

MA Inc. shall take appropriate and reasonable technical and organisational measures to protect your Personal Information from unauthorised access, disclosure, alteration, destruction, and loss. You may contact us for detailed information on our security measures and practices applied in respect of the protection of your Personal Information.

## **11. BREACHES RELATING TO PERSONAL INFORMATION**

- 11.1 Data Breaches can happen in the event of amongst others, loss or theft of data or equipment on which Personal Information is stored, inappropriate access controls allowing unauthorised use, equipment failure, human error, unforeseen circumstances such as floods or fire, deliberate and malicious attacks on systems such as hacking, viruses or phishing scams, or alteration of Personal Information without permission and loss of availability of Personal Information.
- 11.2 We shall address any Data Breach in accordance with the provisions of POPIA and where relevant, the GDPR, including notification of the Information Regulator and affected Data Subjects in writing, in the event of a Data Breach or a reasonable belief of a Data Breach, in respect of that Data Subject's Personal Information.
- 11.3 In the event of a Data Breach in relation to information where we act as the Operator, we shall notify the relevant Responsible Party immediately where there are reasonable grounds to believe that the Personal Information of relevant Data Subjects has been accessed or acquired by any unauthorised person.

## **12. DATA SUBJECTS' RIGHTS OF ACCESS TO PERSONAL INFORMATION**

- 12.1 Under POPIA and where applicable, the GDPR, a Data Subject has various rights in relation to her/his/its Personal Information, including the following –
  - 12.1.1 *Right of Access:* As a Data Subject, you have the right to establish whether your Personal Information is being held by a Responsible Party and furthermore, to request access to such Personal Information, as provided for in section 23 of POPIA;
  - 12.1.2 *Right to Request Correction or Deletion:* As a Data Subject, you have the right to request, where necessary, the correction, destruction or deletion of your Personal Information, as provided for in section 24 of POPIA; and



- 12.1.3 *Right to Withdraw Consent and to Object to Processing:* As a Data Subject, you have the right to object on reasonable grounds relating to a particular situation, to the Processing of your Personal Information, as provided for in section 11(3)(a) of POPIA. Furthermore, you have a right to withdraw your consent at any time, where consent was previously given for the Processing of your Personal Information. Such withdrawal shall however not affect the lawfulness of the Processing done prior to the withdrawal.
- 12.2 In order to exercise these rights and for any queries or complaints in relation to this Policy and/or the handling of your Personal Information, Data Subjects can contact the Information Officer on the contact details provided in paragraph 15 below.
- 12.3 MA Inc. shall respond to any requests in accordance with the provisions of POPIA and where applicable, the GDPR and to the extent required by law and the procedures set out in PAIA (Refer to our [PAIA Manual](#)).
- 12.4 Data Subjects also have a right to file complaints with the Information Regulator.

### 13. COSTS OF ACCESSING PERSONAL INFORMATION

The prescribed fees for copies of the Data Subject's Personal Information are available from the South African Human Rights Commission's website ([www.sahrc.org.za](http://www.sahrc.org.za)) and the Department of Justice and Constitutional Development's website ([www.doj.gov.za](http://www.doj.gov.za)).

### 14. CHANGES TO THE POLICY

MA Inc. will update this Policy at such intervals as may be required and the updated versions will be placed on our Website.

### 15. MA INC.'S CONTACT DETAILS

**Name of Private Body:** Mxunyelwa Attorneys Incorporated

**Head of Body / Information Officer:** Ms. Nozuko Mxunyelwa (Director)

**Email:** [nozuko@mxunyelwainc.co.za](mailto:nozuko@mxunyelwainc.co.za)

**Physical Address:** Spaces Design Quarter, Leslie Avenue, Fourways, 2191

**Postal Address:** PO Box 10098, Fourways East, 2191

**Phone number:** +27 11 549 5687