

# PROMOTION OF ACCESS TO INFORMATION MANUAL

(hereinafter referred to as the “Manual”)

for



**iThemba Governance and Statutory Solutions (Pty) Ltd**

with Registration Number 2008/008745/07

(hereinafter referred to as the “Company”)

prepared in accordance with section 51 of the **Promotion of Access to Information Act, No. 2 of 2000** (hereinafter referred to as the “Act”).

The purpose of this Manual is, *inter alia*, to assist a requester with the process of requesting access to information held by the Company.

## **INTRODUCTION**

This Manual is published in terms of Section 51 of the Act.

The Act gives effect to the provisions of Section 32 of the Constitution, which provides for the right of access to information. This is information held by the State but also information held by any another person. A person that is entitled to exercise a right or who need information for the protection of any right, is entitled to access that information, subject to certain restraints.

Section 51 of the Act creates a general legal obligation on all citizens and juristic persons to provide information. There is no other duty to provide information unless an individual, for example, contracts to provide information or a specific act, such as the Companies Act, creates an obligations to provide information.

## **PURPOSE**

The purpose of this manual is to facilitate requests for access to information of the Company.

This manual does not comprehensively deal with every procedure provided for in the Act.

Requesters are advised to familiarise themselves with the provisions of the Act before making any requests to the Company in terms of the Act.

The Company makes no representation and gives no undertaking or warranty that the information in this manual or any information provided by it to a requester is complete or accurate, or that such information is fit for any purpose. All users of such information shall use such information entirely at their own risk, and the Company shall not be liable for any loss, expense, liability or claims, howsoever arising, resulting from the use of this manual or of any information provided by the Company or from or any error therein.

All users and requesters irrevocably agree to submit to the law of the Republic of South Africa and to the exclusive jurisdiction of the Courts of South Africa in respect of any dispute arising out of the use of this manual or any information provided by the Company.

## **INFORMATION REQUIRED UNDER SECTION 51(1)(a) OF THE ACT**

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<b>Phone number</b>	086 111 1010; 083 264 0328
<b>Fax number</b>	086 604 1315
<b>Website</b>	<a href="http://www.ithembaonline.co.za">www.ithembaonline.co.za</a>

## **COMPANY OVERVIEW**

The Company believes in the precepts of transparency, accountability, integrity and excellence and the Company's goal is to raise the level of corporate governance within their client companies through the Company's strong knowledge base and experience in the field. By providing a support structure to the directors of their clients, the Company aims to assist them by taking the stress out

of keeping abreast of rapid legislative changes and managing what is viewed by most as a complex, high risk environment.

#### **DESCRIPTION OF GUIDE REFERRED TO IN SECTION 10: SECTION 51(1)(b)**

The guide described in section 10 of the Act was published in August 2003 and contains the information as prescribed in the Act. Any enquiries regarding this guide should be directed to the:

The South African Human Rights Commission:  
PAIA Unit

The Research and Documentation Department

Postal address: Private Bag 2700  
Houghton  
2041

Telephone: +27 11 484-8300

Fax: +27 11 484-0582

Website: [www.sahrc.org.za](http://www.sahrc.org.za)

E-mail: [paia@sahrc.org.za](mailto:paia@sahrc.org.za)

#### **NOTICE IN TERMS OF SECTION 52(2) OF THE ACT:**

At this stage no notice has been published on the categories of records that are automatically available without a person having to request access in terms of the Act.

#### **RECORDS AVAILABLE IN TERMS OF OTHER LEGISLATION: SECTION 51(1)(d)**

The following legislation creates the obligation to keep certain records:

- Basic conditions of Employment No. 75 of 1997
- Broad Based Black Economic Empowerment Act No. 53 of 2003
- Companies Act No. 71 of 2008
- Compensation for Occupational Injuries and Health Diseases Act No. 130 of 1993
- Consumer Protection Act No. 68 of 2008
- Employment Equity Act No. 55 of 1998
- Financial Intelligence Centre Act No. 38 of 2001
- Income Tax Act No. 95 of 1967
- Labour Relations Act No. 66 of 1955
- National Credit Act No. 34 of 2005
- Occupational Health and Safety Act No. 85 of 1993
- Skills Development Act No. 97 of 1998
- Unemployment Insurance Act No. 63 of 2001
- Value Added Tax Act No. 89 of 1991

#### **SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE COMPANY: SECTION 51(1)(e)**

The Act requires that sufficient detail be provided to facilitate a request for access to a record of the Company. A description of the subjects on which the Company holds records and the categories of the records held by each subject can be found in **Annexure "A"** of this manual. This list of subjects and categories of records that can be found in **Annexure "A"** forms an integral part of this manual.

#### **DETAIL ON HOW TO MAKE A REQUEST FOR ACCESS – SECTION 51(e)**

## 1. Introduction

Access to information held by the Company is not automatic and can be refused by the Company on any of the grounds for refusal contemplated in Chapter 4 of Part 3 of the Act.

In order to request access to information held by the Company, the person requesting access to such information (hereinafter referred to as the "requester") must not only identify the right it is seeking to exercise or protect and explain why the record requested is required for the exercise or protection of that right but must also comply with all the procedural requirements set out in the Act.

If the requester requests information on behalf of a **public body** (i.e. state), the requester must identify that the request for information is in the public's interest by stipulating adequate reasons.

## 2. Procedural Requirements

- In order to facilitate such a request for access to information, the requester needs to complete the *prescribed access form* attached hereto as **Annexure "B"**. Please note that the prescribed access form must be completed in full. If not, the process may be delayed until such additional information has been provided.
- *Proof of identity* is required to authenticate the request and the requester. Therefore in addition to the prescribed access form, requestors will be required to supply a certified copy of their identification document or any other legally acceptable form of identification.
- The request must be made to the Information Officer at her address, facsimile number or e-mail address.
- The requester must provide sufficient detail on the request form to enable the Information Officer to identify the record requested and the requester. When completing a request on the prescribed form, the requester should also indicate:
  - the preferred language;
  - whether the requester wishes to be informed of the decision in another manner in addition to a written reply; and
  - a facsimile number and postal address.
- If a request is made on behalf of another person, then the requester must show, to the reasonable satisfaction of the Information Officer, that he or she is duly authorised to make such application.
- If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request verbally.
- The form must be adequately completed, with sufficient information particularly so that the official of the company can identify:
  - From where and from whom the request is made;
  - what record is requested;

- what the access fee will be, should access be granted.
- A request will not be processed until the *request fee* and a deposit of the access fee (if applicable) have been paid. The request fee is an administration fee that must be paid before the request is considered and is not refundable. However, a requester requesting information containing personal information about the requester is excluded from paying the request fee.
- The *access fee* is intended to reimburse the Company for the costs involved in searching and preparing the record requested for delivery and is payable once access to the record requested is granted. Should this request for access to information be about a person other than the requester and the Company is of the opinion that the preparation of the required record will take more than six hours, a deposit (which is 1/3) of the access fee is payable before the request will be processed by the Company.
- A *reproduction fee* is payable by the requester, in case of the reproduction of a record requested.

### 3. **Notification**

Requestors will be informed within 30 days if the Company's decision is to refuse access to the information requested based on any of the grounds for refusal as contemplated in Chapter 4 of Part 3 of the Act. Take note that the 30 day period may be extended for a further 30 day period should more time be required to gather the requested information. The requester will, however, be notified if the initial 30 day notice period is to be extended for a further 30 days.

### **FEES**

There are two basic types of fees applicable in terms of the Act – “request” and “access” fees. The non-refundable request fee is payable on submission of the request for access to a record (unless the request is for personal information in which event there is no applicable fee) and the access fee is payable prior to the actual gaining of access to the records in the required form. The applicable fees are prescribed in terms of Part III of Annexure A as identified in Government Notice Number 187, Regulation 11.

### **AVAILABILITY OF MANUAL**

The Manual is available for inspection, free of charge, at the offices of the Company, as set out in page 2 of this manual, as well as the Company's website at [www.ithembaonline.co.za](http://www.ithembaonline.co.za).

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Information Officer

## **ANNEXURE "A"**

### **SUBJECTS AND CATEGORIES OF RECORDS HELD BY THE COMPANY: SECTION 51(1)(e)**

#### **1. Companies Act Records**

- Black Economic Empowerment Certificate
- Codes of Conduct
- Documents of Incorporation
- Legal Compliance Records
- Memorandum of Incorporation
- Minutes of Board of Directors Meetings
- Policies
- Records relating to the appointment of directors/ auditors/ secretary/ public office and other officers
- Share Register and other Statutory Registers
- Shareholders Agreements

#### **2. Financial Records**

- Accounting Records
- Annual Financial Statements
- Asset Register
- Auditors' Report
- Bank Statements
- Banking Records
- Detail of Auditors
- Electronic Banking Records
- Invoices
- Rental Agreements
- Tax Returns

#### **3. Income Tax Records**

- Documents issued to employees for income tax purposes
- PAYE Records
- Records of payments made to SARS on behalf of employees
- Value Added Tax Clearance Certificate
- All other statutory compliances:
  - Value Added Tax
  - Regional Services Levies
  - Skills Development Levies
  - Unemployment Insurance Fund
  - Workmen's Compensation

#### **4. Personnel Documents And Records**

- Attendance Registers
- Disciplinary Code
- Disciplinary Records
- Employment Contracts
- Employment Equity Plan
- Leave Records
- Particulars of Personnel
- Record of time worked by employees

- Records containing all employees' names and occupation
- Salary Records
- Sector Education and Training Authority Records
- Training Manuals
- Training Records

#### 5. **Supplier Records**

- The name of the supplier
- The name and identity number of the natural person representing the supplier
- The address of the supplier
- A description of the goods
- The quantity or volume of the goods
- Proof of date of payment
- All goods and services supplied by or to the vendor showing the goods and services, the rate of tax applicable to the supply and the suppliers or their agents, in sufficient detail to enable the goods and services, the rate of tax, the suppliers or the agents to be readily identified, and all invoices, tax invoices, credit notes, debit notes, bank statements, deposit slips, stock lists and paid cheques relating thereto
- The charts and codes of account, the accounting instruction manuals and the system and programme documentation which describes the accounting system used in each tax period in the supply of goods and services
- Documentary proof of the vendor's entitlement to the deduction at the time a return in respect of the deduction is furnished
- Lists of debtors and creditors in relation to the vendor's enterprise showing the amounts owing by such debtors and the amounts owing to such creditors

#### 6. **Financial Intelligence Centre Records**

- The identity of the client
- The identity of the person on whose behalf the client is acting
- The client's authority to act on behalf of that other person
- The identity of that other person to act on behalf of the client
- That other person's authority to act on behalf of the client
- The manner in which the identity of the person was established
- The nature of that business relationship or transaction
- The amount of the transaction
- Accounts that are involved in transactions concluded by that accountable institution in the course of that business relationship
- Accounts that are involved in that single transaction
- The name of the person who obtained the information on behalf of the accountable institution

#### 7. **Immovable and Movable Property Records**

- Agreements for the lease of movable property
- Other agreements for the purchase, ordinary sale, conditional sale, or hire of assets

#### 8. **Miscellaneous Records**

- Suretyship agreements

**ANNEXURE "B"****FORM C**

Request for access to record of private body  
(Section 53(1) of the Promotion of Access to Information Act, 2000 (Act 2 of 2000))  
[Regulation 10]

**A Particulars of private body**

The Head:

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**B Particulars of person requesting access to the record**

- (a) The particulars of the person who requests access to the record must be given below.  
(b) The address and/or fax number in the Republic to which the information is to be sent must be given.  
(c) Proof of the capacity in which the request is made, if applicable, must be attached.

Full names and surname:

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Identity number:

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Postal address:

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Fax number:

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Telephone number:

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E-mail address:

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Capacity in which request is made, when made on behalf of another person:

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### C Particulars of person on whose behalf request is made

This section must be completed ONLY if a request for information is made on behalf of another person.

Full names and surname:

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Identity number:

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### D Particulars of record

(a) 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.  
 (b) If the provided space is inadequate, please continue on a separate folio and attach it to this form. The requester must sign all the additional folios.

1 Description of record or relevant part of the record:

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2 Reference number, if available:

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3 Any further particulars of record:

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### E Fees

(a) A request for access to a record, other than a record containing personal information about yourself, will be processed only after a request fee has been paid.  
 (b) You will be notified of the amount required to be paid as the request fee.  
 (c) The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.  
 (d) If you qualify for exemption of the payment of any fee, please state the reason for exemption.

Reason for exemption from payment of fees:


## F Form of access to record

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability:	Form in which record is required:

Mark the appropriate box with an X.

### NOTES:

- (a) Compliance with your request in the specified form may depend on the form in which the record is available.
- (b) Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.
- (c) The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.

1 If the record is in written or printed form:			
	copy of record*		inspection of record
2 If record consists of visual images (this includes photographs, slides, video recordings, computer-generated images, sketches, etc.):			
	view the images		Copy the images* transcription of the images*
3 If record consists of recorded words or information which can be reproduced in sound:			
	listen to the soundtrack (audio cassette)		transcription of soundtrack* (written or printed document)
4 If record is held on computer or in an electronic or machine-readable form:			
	printed copy of record*		printed copy of information derived from the record* copy in computer readable form* (stiffy or compact disc)

## G Particulars of right to be exercised or protected

If the provided space is inadequate, please continue on a separate folio and attach it to this

form. The requester must sign all the additional folios.

1 Indicate which right is to be exercised or protected:

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

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#### **H Notice of decision regarding request for access**

You will be notified in writing whether your request has been approved/denied. If you wish to be informed in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

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

\_\_\_\_\_  
Signature of requester/person on whose  
behalf request is made