

PRIVACY POLICY

THIS IS AN IMPORTANT LEGAL DOCUMENT. PLEASE READ IT CAREFULLY.

- (a) This privacy policy (“**Policy**”) applies to how the Company (hereinafter, “**we**”, “**us**”, “**our**” or the “**Company**”) and our Associates collect, use and Process your Personal Information supplied to, or collected by, us;
- (b) We conduct the business of a commercial law firm and provide legal advice, and services, to clients; and
- (c) The effective date of this Policy is: 1 July 2021.

1. INTERPRETATION

1.1 In this Policy, the words and expressions set out hereunder will, unless otherwise stated or clearly inconsistent with the context in which they appear, bear the meanings specified hereunder, and other cognate words and expressions will bear corresponding meanings:

- 1.1.1 “**Associates**” - the Company, its holding company, subsidiaries, directors, employees, advisors, agents and consultants, and any service providers engaged by us in the course of our business;
- 1.1.2 “**Company**” - Schalkwyks Attorneys Inc. (Registration Number: 2019/354867/21);
- 1.1.3 “**Information Regulator**” - the information regulator established in terms of section 39 of POPIA;
- 1.1.4 “**PAIA**” - the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- 1.1.5 “**PAIA Manual**” - the PAIA manual of the Company from time to time;
- 1.1.6 “**Personal Information**” - information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to:
 - 1.1.6.1 information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person;
 - 1.1.6.2 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 the person;
- 1.1.6.5 the personal opinions, views or preferences of the person;
- 1.1.6.6 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;
- 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 information about the person;
- 1.1.7 **“Policy”** - has the meaning specified in paragraph (a) above;
- 1.1.8 **“POPIA”** - the Protection of Personal Information Act, 2013 (Act No. 4 of 2013);
- 1.1.9 **“Processing”** - any operation or activity or any set of operations, whether or not by automatic means, concerning Personal Information, including:
- 1.1.9.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
- 1.1.9.2 dissemination by means of transmission, distribution or making available in any other form; or
- 1.1.9.3 merging, linking, as well as restriction, degradation, erasure or destruction of information;
- and **“Process”** shall have a corresponding meaning;
- 1.1.10 **“Special Personal Information”** - Personal Information concerning religious or philosophical beliefs, race or ethnic origin, trade union membership, political persuasion, health or sex life, biometric information or criminal behaviour;

1.1.11 “**South Africa**” - the Republic of South Africa; and

1.1.12 “**Website**” - the website of the Company from time to time, accessible at: www.schalkwyks.com.

2. INTRODUCTION

2.1 The purpose of this Policy is to inform you, and describe, how we treat your Personal Information.

2.2 We respect, and are committed to protecting, your privacy and your Personal Information, whether provided to us by you, or collected by us through any other means during our engagement or interaction with you, the provision of any products or services by, or to, us, or by you accessing the Website.

2.3 We will only collect, use and Process your Personal Information provided to, or collected by, us in accordance with this Policy, and will endeavour to protect your Personal Information, in our possession, from unauthorized access, disclosure, use, alteration, loss or destruction.

3. APPLICATION

3.1 This Policy applies to all persons (natural or juristic) in respect of any Personal Information provided to, or collected by, us in connection with any engagement with us, or provision of products or services by, or to, us during the course of our business, and therefore applies to your Personal Information.

4. LAWFUL PROCESSING OF PERSONAL INFORMATION

4.1 We will Process your Personal Information lawfully, in a reasonable manner, and for a purpose which is adequate, relevant and not excessive.

5. CONSENT TO PROCESSING OF PERSONAL INFORMATION

5.1 By providing us with your Personal Information, and/or engaging with us, you agree to this Policy, and authorise us and our Associates to collect, use and Process your Personal Information, as provided for herein. We may also, if permitted or required in terms of the applicable laws, Process your Personal Information without your knowledge or permission, subject to the terms of this Policy.

5.2 If you have any reservations or concerns in respect of this Policy, insofar as it relates to your Personal Information, then you must not provide us with your Personal Information or engage with us.

6. CATEGORIES OF DATA SUBJECTS AND INFORMATION RELATING THERETO

- 6.1 We Process Personal Information in respect of the following categories of data subjects, which include individual and juristic persons: (i) clients; (ii) employees; (iii) service providers; and (iv) other third parties.
- 6.2 We may Process the following types of Personal Information about you:
- 6.2.1 **Identification Information:** Name, surname, photograph, identification or registration number, title, occupation, nationality, marital status, date of birth, race, language, qualifications and interests;
- 6.2.2 **Contact Information:** Email, physical and postal address, phone number and social media profiles;
- 6.2.3 **Financial Information:** Bank account details, invoicing and payment records, financial statements, tax numbers, certificates, directives and submissions, and insurance or policy information;
- 6.2.4 **Instruction Information:** Details of interaction with, or instructions to or by, us and generally associated therewith, and which includes, information obtained in communication, recorded in correspondence, documents, records and the relevant employer and/or organization details;
- 6.2.5 **Technical Information:** Information and data relating to usage and access of the Website, our applications, platforms, social media accounts or any third party content linked thereto, including IP addresses, plug-ins, login data, time, location and geographical data, browser data, device details, and other technical information;
- 6.2.6 **Consent Information:** Details of any consents, including the date, time, type, means given, and other related information;
- 6.2.7 **Marketing Information:** Marketing, advertising and communications preferences, interactions, data, records and consents in connection thereto; and
- 6.2.8 **Other Information:** Any other Personal Information required by us for understanding or meeting your requirements, providing or receiving the relevant products or services, fulfilling our obligations or exercising or rights, or which we are otherwise permitted, or obligated, to collect by law.

7. SPECIAL PERSONAL INFORMATION

7.1 We generally do not Process any Special Personal Information, and if we need to Process your Special Personal Information, it will be done in the ordinary course of our business, for a legitimate purpose, and in accordance with the applicable laws.

8. COLLECTION OF PERSONAL INFORMATION

8.1 We may collect or obtain your Personal Information, as follows:

8.1.1 directly from you;

8.1.2 in the course our relationship with you, and the provision of any products and services in respect thereof to, or by, us;

8.1.3 through any active or passive engagement or interaction, when you: (i) communicate with us; (ii) visit our offices or attend any events affiliated with us; (iii) contract with us; (iv) access the Website, our applications, platforms, social media accounts or any third party content linked thereto; (v) subscribe to any marketing communications, publications or materials; (vi) are required to provide information to us by law, to facilitate any form of access, or for us to perform any obligations, or exercise any rights; and

8.1.4 from third parties (i.e. regulators, authorities, financial institutions, recruitment or background vetting agencies, and other public sources).

9. PURPOSE OF PROCESSING PERSONAL INFORMATION

9.1 We will only Process your Personal Information for a specific, lawful and clear purpose. This will generally include, but will not be limited to, Processing your Personal Information for the following purposes:

9.1.1 in the ordinary course of conducting our business;

9.1.2 conducting on-boarding, background checks or due diligence investigations;

9.1.3 the provision of products and services to, or by, us, and any requirements in connection therewith;

- 9.1.4 the collection, analysis, review, preparation, submission, and transfer of information in connection with our relationship with you, and any products or services associated therewith, which shall include the transfer of information to our Associates or other third parties;
 - 9.1.5 complying with the applicable laws, monitoring for criminal activity, internal compliance, management, audits, investigations, safety and security, or legal advice;
 - 9.1.6 relationship management, marketing, communication, statistical analysis, or Website access;
 - 9.1.7 such other purpose which you may consent to from time to time; and
 - 9.1.8 any other activity or purpose which is permissible by law or relevant to our business.
- 9.2 We will use your Personal Information primarily for the purpose for which it was originally collected, and any secondary Processing thereof by us will only occur, if there is a legitimate interest and it is closely related to the original purpose for which it was collected.
- 9.3 Your name, surname and contact information constitute compulsory Personal Information, and depending on the type of engagement with us, or the nature of the relationship, additional Personal Information may be required. If you do not consent to the Processing of your optional Personal Information, then you must inform us, and we may then limit our relationship and/or any engagement with you.

10. DISCLOSURE OF PERSONAL INFORMATION

- 10.1 We may disclose your Personal Information, as follows:
- 10.1.1 to our Associates who have agreed to this Policy (or terms offering similar protection), for any legitimate purpose, and in accordance with the applicable laws;
 - 10.1.2 to give effect to, or comply with, any obligations, or to enforce any rights, in connection with any engagement, agreement or relationship between you and us, and for legal advice;
 - 10.1.3 to any regulatory authority or body on any suspected or actual breach of any applicable law or regulation, and to any party for investigation, monitoring and prosecution of criminal activity;

- 10.1.4 to third party data operators in respect of the Website, any information technology systems, software, applications, platforms and hosting services, which are necessary during the course of our engagement or relationship with you;
- 10.1.5 to protect the rights, property or safety of the general public, the Company and our Associates;
- 10.1.6 to any person in connection with the actual or prospective sale, transfer or encumbrance of our business or any rights in respect thereof (or any portion thereof);
- 10.1.7 for any purpose for which it was collected, or otherwise provided for in this Policy; or
- 10.1.8 if permissible, or required, by law.

11. RECIPIENTS OR CATEGORIES OF RECIPIENTS OF PERSONAL INFORMATION

- 11.1 The recipients or categories of recipients of your Personal Information will include, but not be limited to, the following: (i) Our Associates; (ii) regulatory, governmental, juristic or other public bodies; or (iii) any other third parties to whom disclosure is permissible, or required, by law or in terms of this Policy.

12. PLANNED TRANSBORDER FLOWS OF PERSONAL INFORMATION

- 12.1 We may transfer your Personal Information to other jurisdictions, subject to POPIA. Some of these jurisdictions may not have substantially similar data protection laws, and if any transfer to such jurisdiction is required, then we will reasonably endeavour to impose protection principles which are similar to those specified in this Policy, on any such recipient, and seek your consent to the extent required by law. We will comply with the applicable provisions of POPIA in respect of any transborder information flows.

13. STORAGE OF PERSONAL INFORMATION

- 13.1 We may store and retain your Personal Information in physical, electronic or any other data format on our servers, the servers of third parties, in the cloud, or via any other technological storage means. If your Personal Information is stored or retained on the systems or infrastructure of any third parties, we will take reasonably appropriate measures to secure your Personal Information.

14. INFORMATION SECURITY MEASURES

- 14.1 We will take reasonable, appropriate, technical organizational measures to secure the integrity of your Personal Information, and to protect same from any unauthorized access, disclosure, use, alteration, loss or destruction. Some of the information security measures which may be implemented, include:

- 14.1.1 **Access:** Restricting access to Personal Information on a need-to-know basis;
 - 14.1.2 **Retention:** Keeping Personal Information secure, and regularly backing-up data records;
 - 14.1.3 **Data Security:** Passwords, anti-virus and malware protection, and other data protocols; and
 - 14.1.4 **Other:** Personal Information training, policies, and regular review of information security measures.
- 14.2 Despite our reasonable efforts, we cannot guarantee the absolute protection, security and integrity of your Personal Information. To the fullest extent permissible by law, we will not be liable for any claims, damages or losses arising from, or in connection with, any unauthorized access, disclosure, use, alteration, loss or destruction of your Personal Information.

15. RETENTION OF PERSONAL INFORMATION

- 15.1 We will retain your Personal Information for so long as required to fulfill the purpose for which the Personal Information was collected, to give effect to any legitimate interest, or to comply with the applicable laws, and for any longer periods which you may consent to. Depending on the purpose, nature and other relevant criteria and requirements associated with your Personal Information, the retention periods will vary.

16. BREACH OF PERSONAL INFORMATION

- 16.1 If we reasonably suspect, or become aware, that there has been any unauthorized access, disclosure, use, alteration, loss or destruction of your Personal Information, then we will immediately inform the relevant regulator and you, unless we are directed by the regulator or any other authority not to inform you thereof on the basis that such disclosure may negatively affect, impede or frustrate any pending investigation or prosecution of criminal activity.

17. ACCURACY OF PERSONAL INFORMATION

- 17.1 Any Personal Information provided to us should be accurate, complete, not misleading and up to date, and you must immediately notify us in writing if that is no longer the case of your Personal Information, or if any update thereof is necessary.
- 17.2 If required by law, we will reasonably endeavour to ensure your Personal Information in our possession is accurate, complete, not misleading and up to date, depending on the purpose for which it was collected.

18. FAILURE TO PROVIDE PERSONAL INFORMATION

- 18.1 Any failure by you to provide your Personal Information to us, required in terms of the applicable laws, under an agreement or otherwise, may prevent us from providing the required products or services to you, performing our contractual obligations, and we may consequently cease any further engagement with you.

19. PERSONAL INFORMATION RIGHTS

- 19.1 In terms of the applicable laws, you may have certain rights in respect of your Personal Information, which may include, but not be limited to, the following rights:
- 19.1.1 **Confirmation or Access:** To request confirmation whether your Personal Information is retained, and/or to request access to your Personal Information;
- 19.1.2 **Correction or Deletion:** To request a correction or deletion of your Personal Information; and
- 19.1.3 **Objection, Restriction or Withdrawal:** To object to, or request a restriction on, the Processing of your Personal Information, or to withdraw of any consent in respect thereof.

20. DIRECT MARKETING

- 20.1 We may Process your Personal Information for the purpose of providing you with direct marketing in connection with our business subject to compliance with the applicable laws, provided that you may at any time object and opt-out from such marketing and communications.

21. USE OF COOKIES

- 21.1 We may use cookies on the Website to ensure the proper functioning thereof, and to monitor performance and analytics, to provide enhanced functionality, targeting and marketing content, to collect data, save preferences, and to improve your future visits and general usage experience. These cookies are downloaded on, and read from, your device.
- 21.2 You may refuse to accept cookies by changing your browser settings or otherwise denying cookie access, this may, however, prevent you from fully accessing the Website functionality. If you accept cookies on the Website and do not refuse or deny such cookies access, then you will be deemed to have consented to the collection of your Personal Information by means of cookies.

22. CHANGES TO POLICY

- 22.1 We reserve the right to amend this Policy from time to time, a copy of any such amended Policy will be published on the Website and we may also take reasonable steps to inform you of any updated Policy. The version of this Policy accessible on the Website from time to time will apply to you, and if you continue to engage with us or access the Website you will be deemed to have accepted such updated Policy.

23. CONTACT INFORMATION

- 23.1 Our appointed information officer will oversee any questions, complaints, notices or communication in connection with this Policy, and your Personal Information, and can be contacted at: info@schalkwyks.com.

24. PAIA MANUAL

- 24.1 Any requests for access to information in connection to this Policy will be subject to our PAIA Manual, a copy of which is available on the Website or on written request.

25. COMPLAINTS

- 25.1 If you are unsatisfied with how we have addressed any complaint by you in respect of your Personal Information, then you may contact the Information Regulator at: info@justice.gov.za.

26. GENERAL

- 26.1 This Policy will in all respects be governed by and construed in accordance with the laws of South Africa.
- 26.2 Any provision in this Policy, which is or may become illegal, invalid, or unenforceable shall be ineffective to the extent of such prohibition or unenforceability and shall be treated as having not been written and severed from the balance hereof, without invalidating the remaining provisions of this Policy.
- 26.3 In the event of any conflict or inconsistency in respect of your Personal Information, between this Policy or any agreement concluded between you and us, the provisions of this Policy will prevail to the extent of the conflict or inconsistency (unless, specifically agreed otherwise).