

# **VAN HUYSSTEENS COMMERCIAL ATTORNEYS**

## **PRIVACY POLICY**

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**TABLE OF CONTENTS**

<b>1</b>	<b>DEFINITIONS</b>	<b>3</b>
<b>2</b>	<b>INTRODUCTION</b>	<b>4</b>
<b>3</b>	<b>COLLECTING AND PROCESSING OF PERSONAL INFORMATION</b>	<b>4</b>
<b>4</b>	<b>PERSONAL INFORMATION FOR DIRECT MARKETING PURPOSES</b>	<b>6</b>
<b>5</b>	<b>STORAGE AND RETENTION OF PERSONAL INFORMATION</b>	<b>7</b>
<b>6</b>	<b>SAFEGUARDING OF PERSONAL INFORMATION</b>	<b>7</b>
<b>7</b>	<b>ACCESS TO PERSONAL INFORMATION</b>	<b>8</b>
<b>8</b>	<b>COMPLAINTS TO THE INFORMATION REGULATOR</b>	<b>8</b>
<b>9</b>	<b>AMENDMENTS TO THIS POLICY</b>	<b>8</b>

## 1 DEFINITIONS

In this **Policy**, unless the context clearly indicates a country intention, the following terms shall have the meanings assigned to them in this **Policy** and **POPIA** –

- 1.1 “**Client**” – means any natural person or juristic person, who has enlisted the legal services rendered by **VHS**;
- 1.2 “**Consent**” – means any voluntary, specific and informed expression of will in terms of which permission is given for the **Processing of Personal Information**;
- 1.3 “**Data Subject**” – means the person to whom **Personal Information** relates;
- 1.4 “**Personal Information**” – shall have the same meaning as given in terms of section 1 of **POPIA**;
- 1.5 “**Policy**” – means this Privacy Policy;
- 1.6 “**POPIA**” – means the Protection of Personal Information Act, Act 4 of 2013 (as amended from time to time);
- 1.7 “**Processing**” – means any operation or activity or any set of operations, whether or not by automatic means, concerning **Personal Information**, including –
  - 1.7.1 the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use;
  - 1.7.2 dissemination by means of transmission, distribution or making available in any form; or
  - 1.7.3 merging, linking, as well as restricting, degradation, erasure or destruction of information;

and “**Process**” / “**Processes**” / “**Processed**” shall bear a corresponding meaning;
- 1.8 “**Regulator**” – means the Information Regulator established in terms of section 39 of **POPIA**;
- 1.9 “**Special Personal Information**” – means **Personal Information** as referred to in section 26 of **POPIA**;
- 1.10 “**Third-Party**” – means any employee, independent contractor, agent, consultant, sub-contractor, user of **VHS’s Website** or any other authorised representative of **VHS**;

- 1.11 “**VHS**” – means Van Huyssteens Commercial Attorneys, a firm of attorneys duly registered with the Legal Practice Council with Practice Number: F6685; and
- 1.12 “**Website**” – means the **Website** of **VHS** with URL [www.vanhuyssteens.co.za](http://www.vanhuyssteens.co.za).

## 2 INTRODUCTION

- 2.1 This **Policy** regulates the **Processing** of **Personal Information** and other confidential information by **VHS** and sets forth the requirements with which **VHS** undertakes to comply when **Processing Personal Information** and other confidential information in rendering services to its **Clients**.
- 2.2 **VHS** is obliged to **Process Personal Information** in accordance with the provisions of **POPIA**. This **Policy** declares **VHS’s** commitment to comply with **POPIA** when **Processing Personal Information** and **Special Personal Information**.
- 2.3 When a **Data Subject** or third party engages **VHS**, whether it be physically or via any digital, electronic interface such as the **Website** of **VHS**, the **Data Subject** or third party acknowledge their voluntary acceptance of this **Policy**. Should the **Data Subject** or third party express their objection to the **Processing** of their **Personal Information**, the **Data Subject** and / or third party should note that **VHS** requires the **Data Subject** or third party’s acceptance to enable it to effectively fulfil its obligations towards the **Data Subject** and / or third party and comply with other applicable laws.

## 3 COLLECTING AND PROCESSING OF PERSONAL INFORMATION

- 3.1 Whenever any **Data Subject** contacts **VHS** electronically or telephonically, **VHS** will in effect be **Processing** the **Data Subjects’ Personal Information**.
- 3.2 It may be that **VHS** collects a **Data Subject’s Personal Information** from other sources. In such an event, **VHS** will not be responsible for any loss suffered by the **Data Subject**, their dependents, beneficiaries, spouse, or employees (as the case may be), since the **Data Subject** shared their **Personal Information** with such third party.
- 3.3 **VHS Processes Personal Information** in order to enable it to deliver exceptional services to its **Clients**, create a legally compliant environment [including, but not limited to, compliance with the Financial Intelligence Centre Act, At 38 of 2001 (“**FICA**”) requirements], as well as to safeguard such **Personal Information**.

- 3.4 **VHS** will **Process Personal Information** for the following purposes:
- 3.4.1 to provide or manage any information and services requested by the **Data Subject**;
  - 3.4.2 to establish the **Data Subject's** needs in relation to specific instructions to **VHS**;
  - 3.4.3 to identify the identity of the **Data Subject**;
  - 3.4.4 to facilitate the delivery of services to **Clients**;
  - 3.4.5 to maintain records of the **Data Subject**, with specific reference to **Client** records;
  - 3.4.6 to maintain **Third-Party** records;
  - 3.4.7 to process applications for employment purposes;
  - 3.4.8 to send newsletters;
  - 3.4.9 to comply with **FICA** and Legal Practice Council requirements;
  - 3.4.10 to detect and prevent money laundering;
  - 3.4.11 for general administration purposes;
  - 3.4.12 for legal and / or contractual purposes;
  - 3.4.13 to enter into negotiations and / or transact with third parties; and
  - 3.4.14 to carry out analysis and **Client** profiling, including but not limited to identifying the full names, identity number, physical and postal addresses, contact numbers and e-mail address of natural persons, and in the case of juristic persons, to identify the registration number, directors, shareholders, physical and postal addresses, contact numbers and e-mail address of such juristic person, its directors and / shareholders.
- 3.5 In the event that **VHS** collects **Personal Information**, **VHS** shall comply with the notification requirements set out in section 18 of **POPIA** and shall further comply with the conditions of **Processing Personal Information** as set out in **POPIA**.

- 3.6 **VHS** shall not **Process** the **Personal Information** of a **Data Subject** for any other purpose than set out in this **Policy** unless **VHS** is permitted or obliged to do so in terms of any applicable laws.
- 3.7 **VHS** shall further not share a **Data Subject's Personal Information** without such **Data Subject's Consent**, provided that in certain circumstances:
- 3.7.1 **VHS** must share **Personal Information** with **Third-Parties** as part of its legal services rendered to its **Clients**;
- 3.7.2 **VHS** have to obtain **Personal Information** regarding **Clients** and other third parties or entities as part of its legal services rendered to its **Clients**;
- 3.7.3 to release **Personal Information** when it is appropriate to comply with relevant laws, to enforce **VHS's** engagement package, and to protect the rights, property (including, but not limited to intellectual property), or safety of **VHS** and its **Clients**;
- 3.7.4 **VHS** may need to transfer **Personal Information** to another country for **Processing** when it is required by virtue of the legal services render to the **Client**; and
- 3.7.5 relevant laws allow for the disclosure of **Personal Information** to law enforcement or other agencies (provided that **VHS** will exercise due consideration prior to disclosing such **Personal Information**);
- 3.8 When disclosing **Personal Information** as contemplated in clauses 3.7.1 to 3.7.4 above, **VHS** will in all instances provide due notice to the **Data Subject** of such disclosure.

#### **4 PERSONAL INFORMATION FOR DIRECT MARKETING PURPOSES**

- 4.1 **VHS** acknowledges that it may only use **Personal Information** to contact **Data Subjects** for purposes of direct marketing if **VHS** has complied with the provisions of **POPIA**.
- 4.2 **VHS** will ensure that a reasonable opportunity exists for any and all **Data Subjects** to object to the use of their **Personal Information** for marketing purposes when collecting the **Personal Information** and every time a communication which has a marketing purpose is sent.

## 5 STORAGE AND RETENTION OF PERSONAL INFORMATION

- 5.1 **VHS** will retain **Personal Information** it has **Processed** in an electronic and / or hardcopy file format, either through **Third-Party** service providers or by itself. Should **VHS** make use of a **Third-Party** service provider, it is expressly recorded that **VHS** will need to disclose **Personal Information** to such **Third-Party** service provider where necessary to ensure that the purpose for which the **Personal Information** was collected, is achieved. It is further recorded that **VHS** will enter into written agreements with such **Third-Party** service provider to ensure compliance with all applicable laws, with specific reference to **POPIA**.
- 5.2 **Personal Information** will be retained by **VHS** for as long as necessary to fulfil the purpose for which the **Personal Information** was collected, taking into consideration that such retention shall be for a minimum period of 7 (seven) years from the date of last entry as prescribed by applicable laws.

## 6 SAFEGUARDING OF PERSONAL INFORMATION

- 6.1 **VHS** is required to take reasonable measures to adequately protect all **Personal Information** held by it and to avoid unauthorised access and use of such **Personal Information**. In order to comply with this requirement, **VHS** maintain reasonably industry-standard physical, technological and procedural safeguards to secure the integrity and confidentiality of **Personal Information**.
- 6.2 In further compliance with **POPIA**, **VHS** will take steps to notify the **Regulator** and any affected **Data Subject** of a security breach within a reasonable time after becoming aware of such security breach.
- 6.3 It must be noted and should be acknowledged that the transmission of **Personal Information**, whether physical or through the internet (including, but not limited to e-mail) is not completely secure. Therefore, **VHS** in no way guarantee that the safeguards implemented is completely secure.
- 6.4 Any transmission of **Personal Information** will therefore be at the sole risk of the **Data Subject**.
- 6.5 The **Data Subject**, whether it be a **Client** or third party, by accepting the terms and conditions of this **Policy**, indemnify and hold **VHS** harmless for any security breaches which may potentially occur in relation to the **Data Subject's Personal Information**.

## 7 ACCESS TO PERSONAL INFORMATION

- 7.1 Should a **Data Subject** want access to the **Personal Information** held by **VHS**, such **Data Subject** must make a written request to the Information Officer designated by **VHS** from time to time. Such request may be sent to [commercial@vanhuyssteens.co.za](mailto:commercial@vanhuyssteens.co.za).
- 7.2 **VHS** will, upon request of a **Data Subject** (and subject to all applicable laws, including but not limited to the Promotion of Access to Information Act, Act 2 of 2000) provide the **Data Subject** with his / her / its **Personal Information**.
- 7.3 Should a **Data Subject** request the amendment, correction or destruction of **Personal Information**, such request may also be sent to [commercial@vanhuyssteens.co.za](mailto:commercial@vanhuyssteens.co.za). **VHS** will, in terms of all applicable laws, respond to such request within a reasonable time.
- 7.4 It must be noted that **VHS** may charge a prescribed fee to be paid for copies of a **Data Subject's Personal Information**.

## 8 COMPLAINTS TO THE INFORMATION REGULATOR

- 8.1 In the event that any **Data Subject** or third party is of the view or belief that **VHS** has **Processed** their **Personal Information** in a manner or for a purpose which is contrary to the provisions of this **Policy**, the **Data Subject** should first attempt to resolve such matter directly with **VHS**. Should the matter not be resolved, the **Data Subject** or third party shall have the right to lodge a complaint with the **Regulator** under the provisions of **POPIA**.
- 8.2 The contact details of the **Regulator** are the following:  
The Information Regulator (South Africa)  
Physical Address: JD House, 27 Stiemens Street, Braamfontein, Johannesburg, 2001  
Postal Address: P.O. Box 31533, Braamfontein, Johannesburg, 2017  
Complaint e-mail address: [complaints.IR@justice.gov.za](mailto:complaints.IR@justice.gov.za)  
General Enquiry e-mail address: [inforeg@justice.gov.za](mailto:inforeg@justice.gov.za)

## 9 AMENDMENTS TO THIS POLICY

**VHS** may amend this **Policy** from time to time. Amendments will be communicated and will appear of the **Website**.