

CAPE HEAT EXCHANGE (PTY) LTD POPIA COMPLIANCE POLICY

JUNE 2021



CAPE HEAT EXCHANGE (PTY) LTD

(REGISTRATION NUMBER: 1995/001371/07)

(Hereinafter referred to as “Cape Heat Exchange”)

MANUAL IN TERMS OF THE PROTECTION OF PERSONAL

INFORMATION ACT NO. 4 OF 2013

(hereinafter referred to as “The Act”)

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PURPOSE OF THIS DOCUMENT:

CAPE HEAT EXCHANGE is committed to protecting the privacy of Staff, Suppliers and Clients and will adhere to strict compliance with the Act.

This manual sets out the privacy policy of Cape Heat Exchange and provides user friendly guidelines.

1. Contact Details

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1 INTERPRETATION

1.1 Interpretation

In this document the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this document;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings
- (e) the words “such as”, “including”, “particularly” and similar expressions are not used as, nor are intended to be interpreted as, words of limitation
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation, trust or other body corporate
 - (ii) a party includes its agents, successors and permitted assigns
 - (iii) a document includes all amendments or supplements to that document

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- (iv) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this document;
- (v) this document includes all schedules and attachments to it
- (vi) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced
- (vii) a statute includes any regulation, ordinance, by-law or other subordinate legislation made under it
- (viii) an agreement other than this document includes an undertaking, or legally enforceable arrangement or understanding whether or not in writing
- (g) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it
- (h) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day
- (i) in determining the time of day where relevant to this document, the relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located
 - (ii) for any other purpose under this [deed/agreement], the time of day in the place where the party required to perform an obligation is located

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- (j) a day is the period of time commencing at midnight and ending immediately before the next midnight is to occur;
 - (i) if a period of time is calculated from a particular day, act or event (such as the giving of a notice), it is to be calculated exclusive of that day, or the day of that act or event

- (k) If there is any conflict between the body of this document and its schedules and/or attachments the terms of the main body of this document will prevail.

2. The Purpose of Processing Personal Information

The purpose of the Act is:

- to promote the protection of personal information processed by public and private bodies;
- to introduce certain conditions so as to establish minimum requirements for the processing of personal information;
- to provide for the establishment of an Information Regulator to exercise certain powers and to perform certain duties and functions in terms of this Act and the Promotion of Access to Information Act;
- to provide for the issuing of codes of conduct;
- to provide for the rights of persons regarding unsolicited electronic communications and automated decision making;
- to regulate the flow of personal information across the borders of the Republic;
- and to provide for matters connected herewith.

"Processing" means:

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- Any operation or activity whether or not by automatic means concerning personal information including the collection, receipt, recording, organisation, collation, storage, updating or modification, retrieval, alteration, consultation or use.
- Dissemination by means of transmission, distribution or making available in any other form.
- Merging, linking as well as restriction, degradation, erasure or destruction of information.

Cape Heat Exchange will utilise the Personal Information in its care in the following ways:

- To draft and negotiate the terms of the agreement between Cape Heat Exchange and the Data Subject;
- Obtaining the Data Subject's consent should any personal information be distributed to Third Parties;
- To protect the legitimate interests of Cape Heat Exchange and a Third Party to whom such information was supplied;
- To determine whether the Data Subject should make payment on delivery or whether such payment may be postponed;
- To determine whether a suretyship is required;

3. Application and Interpretation of the Act

This Act applies to the processing of personal information by Cape Heat Exchange which is entered in a record, such as hard copy files, by making use of non-automated means and therefore forms party of a filing system.

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This Act applies to the exclusion of any provision of any other legislation that regulates the processing of personal information and that is materially inconsistent with an object, or a specific provision, of this Act. If any other legislation provides for conditions that are more extensive, the extensive provisions will prevail.

4. Categories of Data Subjects and their Personal Information collected by Cape Heat Exchange

A “data subject” is defined by the Act as the person to whom personal information relates. Cape Heat Exchange may process records relating to its Staff, Consumers and Shareholders (hereinafter referred to as “Data Subjects”).

TYPE OF DATA SUBJECT	PERSONAL INFORMATION PROCESSED
Shareholders	Physical and postal addresses; contact details; financial information such as account details, credit reports, asset and liabilities statement, bank statements etc; tax related information.
Staff of Cape Heat Exchange	Gender; pregnancy; marital status; age; education information; criminal record, financial information such as account details, credit reports, etc; employment history; ID number; physical and postal addresses; contact details.
Consumers	Physical and postal addresses; contact details; financial information such as account details, credit reports, asset and liabilities statement, bank statements, credit references etc; registration number or ID number; tax related information, correspondence, email address, the aforementioned information of their directors and shareholders.

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Suppliers	Physical and postal addresses; contact details; financial information such as account details, credit reports, asset and liabilities statement, references etc; registration number or ID number; tax related information, correspondence, email address.
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In the event of a Consumer, Cape Heat Exchange collects the information mentioned above in order to set up a profile for that juristic or natural person. This is done with the sole purpose of conducting business with that juristic or natural person in the form of rendering services to them.

5. Lawful Processing of Personal Information

The responsibilities of Cape Heat Exchange are to adhere to the 8 (eight) conditions for the lawful processing of personal information that the Act sets out and entails the following:

5.1 Accountability

- 5.1.1 This condition entails that Cape Heat Exchange ensures that the Act is given effect in its day-to-day business operations.
- 5.1.2 Cape Heat Exchange confirms that it will be held liable if it breaches any of the applicable sections in this Act and that Consumers have the right to notify the Information Regulator if any misconduct is evident.

5.2 Processing Limitation

- 5.2.1 Cape Heat Exchange acknowledges that, as will be seen later in the manual, they have limitations in place to ensure that the processing of a Data Subject's information is lawful and limited.
- 5.2.2 The processing of personal information is lawful as a Data Subject is always made aware of any personal information that is being collected

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and that it is done in a reasonable manner that does not infringe the privacy of the Data Subject.

- 5.2.3 A Data Subject is made aware that their consent for the processing of personal information can at any time be withdrawn. Furthermore, a Data Subject is notified that they may object to the processing of such personal information, but may not if legislation allows for its processing.

5.3 Purpose Specification

- 5.3.1 Cape Heat Exchange notifies the Data Subjects (Consumers, Staff and Shareholders) of the purpose of collecting the personal information.
- 5.3.2 The personal information of a Data Subject is destroyed after the purpose for which it was collected has been completed or has ended.
- 5.3.3 Cape Heat Exchange indicates to its Data Subjects that their information will only further be kept for statistical, historical and research purposes provided there are proper safeguards in place to protect the personal information.

5.4 Further Processing Limitation

- 5.4.1 Cape Heat Exchange warrants that personal information will not be processed in a manner that is incompatible with its original purpose.
- 5.4.2 The further processing of personal information is not incompatible with the purpose of its collection if the Data Subject has consented to the further processing of such information.
- 5.4.3 Cape Heat Exchange ensures that personal information will not be published in an identifiable form and that further processing is in line with the exemptions in terms of section 37.

5.5 Information Quality

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5.5.1 Cape Heat Exchange takes reasonably practicable steps to ensure that the personal information is complete, accurate, not misleading and updated where necessary.

5.6 Openness

5.6.1 Cape Heat Exchange has a PAIA Manual with a request form which the Data Subjects can complete in order to determine what personal information is being held.

5.6.2 This condition is adhered to in that a Data Subject is always informed of the personal information that is being collected, and the purpose for its collection. This condition is dealt with under point 7 below.

5.7 Security Safeguards

5.7.1 Cape Heat Exchange applies appropriate, reasonable, technical, and organisational steps as is envisaged section 19 of the Act.

5.7.2 As mentioned in point number 10 hereunder, Cape Heat Exchange has the necessary safeguards in place for the protection of the personal information.

6. Data Subject Participation (Sections 23 and 25)

6.1 The Data Subject may require access to any personal information, and/or its correction or deletion. This may occur at a prescribed fee, and a copy of the information that Cape Heat Exchange have in their possession. The information must be provided in a reasonable format and in a manner that is understandable. The Data Subject may contact the Information or Deputy Information Officer appointed herein for such information.

6.2 The Data Subject may request that outdated or incorrect information be updated, or may request its deletion if, for instance, Cape Heat Exchange is not authorized to process it. Cape Heat Exchange must investigate and follow

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the Data Subject's instruction relating to its update or deletion, unless there are legal grounds indicating otherwise. The deletion or amendment and/or refusal will be provided in writing within 7 (seven) days of written request.

6.3 Cape Heat Exchange must inform the Data Subject of its actions taken, and if a dispute arises the parties must reach an agreement, failing which either party may refer the matter to the Information Regulator.

6.4 All data subjects affected due to a change in information, must be informed.

7. Prior to Collection of Personal Information

Cape Heat Exchange must inform the Data Subjects of the:

- 7.1 Purpose of the collection of information;
- 7.2 Information required in order to manufacturing of radiators, intercoolers, oil-coolers, tube and shell coolers, after-coolers and marine coolers;
- 7.3 Information which is voluntary (consent) and information which is mandatory (justification or authorization);
- 7.4 Source of collection by the Data Subject or Third Party;
- 7.5 Consequences of a failure to provide the information;
- 7.6 Recipients of such information;
- 7.7 Category of information;

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- 7.8 Credit and reference checks being done;
- 7.9 Name and address of Cape Heat Exchange;
- 7.10 Transfer of information to another country and the security provided pertaining to such information, if any;
- 7.11 Right of access to information (PAIA);
- 7.12 Right to object to the processing of certain information;
- 7.13 Right to complain to the Information Officer or Deputy Information Officer regarding any breach or malpractice in terms of the Act.

8. Information that may not be collected by Cape Heat Exchange

8.1 In accordance with Sections 26 and 27 of the Act, the following information will not be processed:

- 8.1.1 Religious or philosophical beliefs of the Data Subject;
- 8.1.2 Race or ethnic origin of the Data Subject;
- 8.1.3 Trade union membership;
- 8.1.4 Political persuasion;
- 8.1.5 Health or sex life;
- 8.1.6 Biometric information;

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8.1.7 Alleged criminal offences.

8.2 The abovementioned list will not apply if:

8.2.1 Consent is given by the Data Subject;

8.2.2 It is justified in terms of law or is required for the protection of a right;

8.2.3 Processing is for historical, statistical or research purposes as there is a public interest, or consent cannot be obtained, and safeguards are provided to prevent a breach of the right to privacy;

8.2.4 Information has become public knowledge due to the intention of the Data Subject;

8.2.5 The Information Officer has authorized the process; or

8.2.6 Sections 28 and 33 have been complied with (the specific authorization provisions).

9. Trans-border flows of Personal Information

Section 72 regulates transborder transfers of Personal Information. However, Cape Heat Exchange does not provide Personal Information of Data Subjects to Third Parties in a foreign country as Cape Heat Exchange is based in South Africa.

10. Security Measures

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Cape Heat Exchange utilises Sage Evolution as their financial accounting software and has put the following security measures in place, in order to protect information obtained:

- Firewalls;
- Virus protection software and updated protocols;
- Logical and physical access control;
- Security system in office;
- Locked cabinet doors containing clients' files;
- Regularly updating the financial accounting software;
- All staff members that have access to personal information of Data Subjects ensures that their PCs are logged off or "locked" when left unattended for any period of time;
- Cape Heat Exchange shreds all discarded paper records that contain confidential information;
- Fax machines are not used for transmitting documents containing personal data.

11. Security Breach

In the event of a security breach as mentioned by section 12 of the Act, Cape Heat Exchange will report to the Information Regulator that:

- 11.1 a data breach of personal information has occurred; or

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- 11.2 a reasonable belief exists that this has occurred, or
- 11.3 an unauthorised person has acquired or assessed personal information regarding the Data Subject.

In the event that a security breach does occur, Cape Heat Exchange will indicate same to the Information Regulator within a reasonable period after a reasonable discovery of the compromise.

Cape Heat Exchange places emphasis on the importance of security measures when processing personal information by notifying Data Subjects that personal information may not be collected and processed without their consent. Furthermore, that such information will not be distributed to any Third Party, unless the necessary consent is given.

12. Remedies Available if Request for Personal Information is Refused

Should a request for access to personal information be refused:

- 12.1 Within 10 days of receipt of rejection of such notice, the Requester may apply to the Information Office to review such decision.
- 12.2 The request should clearly state the grounds for such review.
- 12.3 Should the Information Officer fail to provide the documents as envisioned, the Requester may report the matter to the Regulator at info@che.co.za.