

**YUDELOWITZ SHANNON & ASSOCIATES
(PTY) LIMITED
("YSA")**

(Company Registration Number: **2000/016350/07**)



**COMPLIANCE MANUAL
FOR THE IMPLEMENTATION OF THE
PROTECTION OF PERSONAL INFORMATION ACT OF 2013
(POPI)**

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A. INTRODUCTION

YSA (Pty) Ltd is a Leadership Development and Management Consultancy founded back in 2000 by Brad Shannon and Jonathan Yudelowitz. YSA is the sole proprietor of the Life Path Insight (LifePi) intellectual property, system and technique as well as other leadership and managerial skills developments, analyses programs and training systems and techniques.

The Protection of Personal Information Act (POPI) is intended to balance the interests of:

1. Clientele's constitutional rights to privacy (which require personal information to be protected); and
2. the needs of society to have access to and to process personal information for legitimate purposes, including that of doing business.

This Compliance Manual sets out the framework for YSA's compliance with POPI.

Where reference is made to the "processing" of personal information, this includes any activity in which the information is worked with, from the time that the information is received, up to the time that the information is destroyed.

B. YSA's COMMITMENTS TO CLIENTELE:

1. YSA commits to abide POPI at all relevant times and to process personal information lawfully and reasonably and so as not to infringe the privacy of its clientele.
2. YSA commits to process information only for the purpose for which it is intended, i.e., in YSA rendering services at the behest and request of its clientele.
3. The personal information that YSA may accumulate and use in the course and scope of its business is:
 - 3.1 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 client;

- 3.2 information relating to the education, medical, financial, criminal or employment history of the client;
 - 3.3 any identifying number, symbol, email address, physical address, telephone number, location information, online identifier or other particulars specifically assigned to the client;
 - 3.4 the personal opinions, views or preferences of the client;
 - 3.5 correspondence sent by the client that is of a private and/or confidential nature; and
 - 3.6 the views and opinions of consultants, analysts and supervisors employed by YSA authorized to collect and process information relating to clientele; and
4. Whenever necessary, YSA shall obtain consent to process personal information received by it from its clientele.
 5. in circumstances where YSA does not seek prior consent in the accumulation and processing of our client's personal information YSA commits in respecting the personal standing of such information received and retaining confidentiality thereof.
 5. YSA shall stop processing personal information where the required consent is withdrawn, or where a legitimate objection is raised thereto.
 6. YSA shall collect personal information directly from the client whose information YSA requires, unless:
 - 6.1 the information is of public record;
 - 6.2 the client has consented to the collection of personal information from another source;
 - 6.3 the collection of the information from another source does not prejudice the client;
 - 6.4 the information to be collected is necessary for the maintenance of law and order or national security;
 - 6.5 the information is being collected in compliance with a legal obligation, including; at the direction and request of the South African Revenue Services;

- 6.6 the information collected is required for the conduct of proceedings in any court or tribunal, where these proceedings have commenced or are reasonably contemplated;
 - 6.7 the information is required in the maintenance of YSA's legitimate interests;
 - 6.8 where requesting consent would prejudice the purpose for the collection of the information in the first place; or
 - 6.9 where requesting consent is not reasonably practical in the circumstances.
7. YSA shall advise its clientele of the purpose for the collection of the personal information and upon it so doing.
 8. YSA shall retain records of the personal information it has collected for the minimum period as required by in terms of the mandate provided by the client to YSA and unless the client has furnished its consent or instructed YSA to retain the records for a longer period.
 9. YSA shall destroy or delete records of the personal information (so as to de-identify the client) as soon as reasonably possible upon the final termination of the mandate between the client and YSA. YSA undertakes to delete LifePi files, reports and related documentation from electronic devices upon the lapse of three (3) months from completion of the LifePi analyses conducted on clients.
 10. YSA shall suspend the processing of personal information:
 - 10.1 Where the accuracy of the information is in issue and for a period sufficient to enable YSA to verify the accuracy of the information;
 - 10.2 where the purpose for which the personal information was collected has been achieved and where the personal information is being retained only for the purposes of proof;
 - 10.3 where the client requests that the personal information is not destroyed or deleted, but rather retained; or
 - 10.4 where the client requests that the personal information be transmitted to another automated data processing system.

11. The further processing of personal information may be undertaken:
 - 11.1 If the personal information falls within the criteria set out in paragraphs 3; 6.1; 6.4; 6.5 or 6.6 above;
 - 11.2 this processing is necessary and given the threat of public health, health epidemics breaking out, for the purpose of public safety, in preserving life or health of the client, or a third party;
 - 11.3 the information is used for historical, statistical or research purposes and the identity of the client will not be disclosed; or
 - 11.4 where this is required by the Information Regulator appointed in terms of POPI.
12. YSA commits in ensuring that personal information it accumulates and processes is complete, accurate, not misleading and current.
13. YSA undertakes to retain the physical file and the electronic data related to the processing of the personal information and subject to clause 8 and 9 above.
15. A copy of this manual shall be sent to every new client when accepting a mandate to advise them of YSA's duty to them in terms of POPI.

C. CLIENT RIGHTS

1. In cases where the client's consent is required to process their personal information, this consent may be withdrawn by the client.
2. In cases where YSA processes personal information without consent and to protect a legitimate interest, comply with the law in the pursuance or protection of YSA's legitimate interests, the client has the right to object to such processing.
3. All Clientele may lodge complaints regarding YSA's application of POPI with the Information Regulator.

D. SECURITY SAFEGUARDS

1. Securing the integrity and confidentiality of the personal information in YSA's possession, and to protect it against loss or damage or unauthorized access, YSA requires to implement the following security safeguards:
 - 1.1 YSA's business premises where records are kept will be subject to access control, burglar alarms and armed response.
 - 1.2 YSA's Archived files will be stored behind locked doors and access control to these storage facilities will be in place.
 - 1.3 All the user terminals on YSA's internal computer network and servers will be subject to protected passwords which will be changed on a regular basis.
 - 1.4 YSA's email infrastructure will comply with industry standard security safeguards, and meet the General Data Protection Regulation (GDPR), which is standard in the European Union.
 - 1.5 Vulnerability assessments will be carried out on YSA's digital infrastructure at least on an annual basis, to identify weaknesses in YSA systems and in ensuring that YSA has adequate security in place.
 - 1.6 YSA will use an internationally recognised Firewall to protect the data on its local servers, and YSA must run antivirus protection at least every hour to ensure that its electronic data systems are kept updated with the latest patches. The security of this system will be on par with the GDPR of the European Union.
 - 1.7 YSA staff will be trained to carry out their duties in compliance with POPI, and this training will remain ongoing.
 - 1.8 The processing of the personal information of YSA members will take place in accordance with the rules contained in the relevant labour legislation.
 - 1.9 The digital work profiles and privileges of staff who have left YSA employ will be terminated or securely transferred to substitute employees of YSA.
 - 1.10 The personal information of clients and staff will be destroyed timeously in a manner that de-identifies the person.

2. The above security safeguards will be verified on a regular basis to ensure effective implementation and these safeguards will be continually updated in response to new identified risks or deficiencies.

E. SECURITY BREACHES

1. Should it appear in the course and scope of YSA rendering professional services, that the personal information of a client of YSA has been accessed or acquired by an unauthorized person, YSA will notify the Information Regulator and the relevant client/s hereof, are no longer able to identify the client/s. This notification must take place as soon as reasonably possible.
2. Such notification must be given to the Information Regulator first as it is possible that the Information Regulation, or another public body might require the notification to the client/s to be withheld or delayed.
3. The notification to the client must be communicated in writing in one of the following ways, with a view to ensuring that the notification reaches the client:
 - 3.1 by mail to the client's last known physical or postal address;
 - 3.2 by email to the client's last known email address;
 - 3.3 by publication on YSA's website or in the news media; or
 - 3.4 as directed by the Information Regulator.
4. This notification to the client must give sufficient information to enable the client to inform itself of the potential consequences of the security breach and take steps to protect itself accordingly, and must include:
 - 4.1 A description of the possible consequences of the breach;
 - 4.2 details of the measures that YSA intend to take or have taken to address the breach;
 - 4.3 recommendations of what the client may do to mitigate the adverse effects of the breach; and
 - 4.4 if known, the identity of the person who may have accessed, or acquired the personal information.

F. CLIENTS REQUESTING RECORDS

1. On production of proof of identity, any person is entitled to request that YSA confirm, free of charge, whether or not YSA possesses any personal information about that person in YSA's records.
2. If YSA hold such personal information, on request, and upon payment of a fee of **R500.00** YSA shall provide the requester with the record, or a description of the personal information; including information about the identity of all third parties or categories of third parties who have or have had access to the information. YSA shall do this within a reasonable period of time, in a reasonable manner and in an understandable format.
3. A client requesting such personal information must be advised of their right to request to having any identified errors in the personal information corrected and which request shall be made in writing to YSA.
4. In certain circumstances, YSA will be obliged to refuse to disclose the record containing personal information of and to the client. In other circumstances, YSA will have discretion as to whether or not to do so.
5. In all cases where the disclosure of a record will entail the disclosure of information that is additional to the personal information of the person requesting the record, the written consent of the Information Officer (or his delegate) will be required, and that person shall make a decision or making such disclosure having due regard to the provisions of Chapter 4 of Part 3 of the Promotion of Access to Information Act.
6. If a request for personal information is made and part of the requested information may, or must be refused, the remainder of the information unaffected by the above, will be provided to the client.

G. THE CORRECTION OF PERSONAL INFORMATION

1. A client is entitled to require YSA to correct or delete personal information in YSA's possession and which is inaccurate, irrelevant, excessive, out of date, incomplete, misleading, or which has been obtained unlawfully.

2. A client is also entitled to require YSA to destroy or delete records of personal information about the client and that YSA is no longer authorised to retain.
3. Any such request must be made in writing.
4. Upon receipt of such a lawful request, YSA must comply as soon as reasonably practicable with and in giving effect to the request.
5. In the event of a dispute arising regarding the client's rights to have information corrected and in the event that the client so requires, YSA will require to attach to the information is issue and in a way that it will be read with the information, a reference to the correction of the information has been requested but which has not then in the circumstances been effected.
6. YSA requires to notify the client making a request for personal information to be corrected or deleted on the steps taken by YSA in re such request.

H. SPECIAL PERSONAL INFORMATION

1. Special rules apply to the collection and use of information relating to a person's 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 client, their trade union membership, their political persuasion, their biometric information, or their criminal behaviour. YSA shall not process any of this Special Personal Information without the client's consent, unless this is necessary for the establishment, exercise or defense of a right or an obligation in law and in which instance YSA will in writing notify the client accordingly.

I. INFORMATION OFFICER

1. YSA's Information Officer is **Daphne Swanevelder** is duly authorised by our Managing Director/s in writing. YSA's Information Officer's responsibilities include:
 - 1.1 Ensuring compliance with POPI.
 - 1.2 Dealing with requests which YSA receive in terms of POPI.
 - 1.3 Working with the Information Regulator in relation to investigations.

2. YSA's Information Officer - Daphne Swanevelder may be contacted as follows:

Contact Details:

Postal Address: PO Box 87219

Houghton

2041

South Africa

Physical Address: 2 Ash Street

Upper Houghton

2198

Telephone Number: +27 (0)11 648 3674

Emails: info@ysa.co.za and Daphne@ysa.co.za

3. YSA's Information Officer will be registered with the Information Regulator prior to taking up her duties.
4. In carrying out these duties, the above Information Officer must ensure that:
- 4.1 YSA's Compliance Manual is implemented;
 - 4.2 a Personal Information Impact Assessment is done to ensure that adequate measures and standards exist for compliance purposes with the conditions associated with the lawful processing of personal information;
 - 4.3 that this Compliance Manual is developed, monitored, maintained, updated and made available for inspection;
 - 4.4 that internal measures are put in place within YSA together with adequate systems to process requests for information or access to information;
 - 4.5 that internal awareness sessions are conducted within YSA regarding the provisions of POPI, related Regulations, codes of conduct or information are obtained from the Information Regulator; and

- 4.6 copies of this manual are provided to persons at their request, hard copies to be provided upon payment of a fee (to be determined by the Information Regulator).
5. Guidance notes on Information Officers have been published by the Information Regulator (on 1 April 2021) and YSA's Information Officer must familiarize himself/herself with the content of these notes.

J. CIRCUMSTANCES REQUIRING PRIOR AUTHORISATION

1. In the following circumstances, YSA will require prior authorisation from the Information Regulator before processing any personal information in circumstances where:
 - 1.1 YSA intends utilising any unique identifiers of clients (account numbers, file numbers or other numbers or codes allocated to clients for the purposes of identifying them in our business) for any purpose other than the original intention, or in linking the information with information held by others;
 - 1.2 YSA is processing information on criminal behaviour or unlawful or objectionable conduct of clientele;
 - 1.3 YSA is processing information for the purposes of credit reporting due to a failure of payment of YSA's invoices rendered.
 - 1.4 YSA is transferring special personal information or the personal information of children to a third party in a foreign country, that does not provide adequate protection of that personal information.
2. In this regard, the Information Regulator will be notified of YSA's intention to process personal information as set out in paragraph 1.1. Prior to any such processing on the part of YSA taking place YSA requires to obtain the approval of the Information Regulator so to do. The Information Regulator has 4 weeks to make a decision here and may decide that a more detailed investigation be initiated. In this event the decision must be made in a period as indicated by the Information Regulator, which must not exceed 13 weeks. Where the Information Regulator does revert within the above stipulated time periods, YSA may assume that the decision of the Information Regulator is favourable to YSA and its processing of this information.

K. DIRECT MARKETING

1. YSA may only carry out direct marketing (using any form of electronic communication) to clients if:
 - 1.1 They are given an opportunity to object to receiving direct marketing material by electronic communication at the time that their personal information was collected; and
 - 1.2 they did not object then or at any time after receiving any such direct marketing communications from YSA.
2. YSA may only approach clients using their personal information, where YSA has obtained the client's personal information in the context of providing services associated with YSA and to them and YSA may then only market its services to client.
3. YSA may only carry out direct marketing (using any form of electronic communication) to third parties where YSA have received their consent to do so.
4. YSA may approach a person to ask for their consent to receive direct marketing material only once, and YSA may not do so if they have previously refused consent.
5. A request for consent to receive direct marketing must be made in terms of Form 4.
6. All direct marketing communications must disclose YSA's identity and contain an address or other contact details to which the client may send a request that the communications cease.

L. TRANSBORDER INFORMATION FLOWS

1. YSA may not transfer a client's personal information to a third party in a foreign country, unless:
 - 1.1 the client consents to this, or requests it; or
 - 1.2 such third party is subject to a law, binding corporate rules or a binding agreement which protects the personal information in a manner similar to POPI, and such third party is governed by similar rules which prohibit the onward transfer of the personal information to a third party in another country; or

- 1.3 the transfer of the personal information is required for the performance of the contract between YSA and the client; or
- 1.4 the transfer is necessary for the conclusion or performance of a contract for the benefit of the client entered into between YSA and the third party; or
- 1.5 the transfer of the personal information is for the benefit of the client and it is not reasonably possible to obtain their consent prior hereto and that if it were possible, the client would provide such consent.

M. OFFENCES AND PENALTIES

1. POPI provides serious penalties for the contravention of its terms. For minor offences a guilty party can receive a fine or be imprisoned for up to 12 months. For serious offences the period of imprisonment rises to a maximum of 10 years. Administrative fines for the company can reach a maximum of R10 million.
2. Breaches of this Compliance Manual will also be viewed as a serious disciplinary offence.
3. It is therefore imperative that YSA comply strictly with the terms of this Compliance Manual and preserving its client's personal information.



YUDELOWITZ SHANNON & ASSOCIATES (PTY) LIMITED

Compiled with the assistance of Richard Meaden & Associates Inc Attorneys