

## **PAIA AND POPIA MANUAL OF THERMOPAK**

in terms of Section 51 of the Promotion of Access to Information Act No. 2 of 2000 as amended  
("PAIA")

and

Section 55 of the Protection of Personal Information Act No. 4 of 2013 as amended ("POPI Act")

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## 1. SCOPE

The purpose of this document is to serve as the Manual for Batis Properties 2 cc registration number 2004/120849/23 trading as Thermopak as required in terms of Section 51 of the Promotion of Access to Information Act 2 of 2000 (“PAIA”) in order to promote the right of access to information, giving effect to the constitutional right in terms of section 32 of the Constitution of the Republic of South Africa Act 108 of 1996 (“the Constitution”).

Thermopak is a specialist in the Heating, Ventilation, Air Conditioning and Refrigeration (HVAC&R) industry. Thermopak custom designs and purpose builds air handling and package units for commercial and industrial applications

Section 9 of PAIA limits the right to access information. Justifiable limitations include commercial confidentiality, good governance and the protection of personal information as prescribed by the Protection of Personal Information Act 4 of 2013 (“POPIA”).

This Manual sets out the responsibilities of the Thermopak-appointed Information Officer who will take up the duties mandated in PAIA and POPIA, to ensure compliance with PAIA and POPIA.

This Manual provides a reference to the records held by Thermopak and the procedures that need to be followed to request access to such records.

Thermopak respects the privacy of personal information. For reference, see the Privacy Policy of Thermopak.

## 2. CONTACT DETAILS OF THERMOPAK in terms of Section 51(1)(a)

The contact person below is authorised to ensure that the Act is complied with:

Contact person: David Kloot

Designation:

Physical Address:

Postal Address:

Telephone:

Email address: [contact@thermopak.co.za](mailto:contact@thermopak.co.za)

Website address: [www.thermopak.co.za](http://www.thermopak.co.za)

### 3. PAIA: SECTION 51(1)(b)

PAIA grants a requester access to records of a private body, if the record is required for the exercise or protection of any rights. If a public body lodges a request, the public body must be acting in the public interest.

For purposes of PAIA, Thermopak is a private body.

Requests in terms of PAIA should be made in accordance with the prescribed procedures, at the rates provided. The forms and tariffs are dealt with in this Manual.

Section 23 of POPIA (read with sections 18 and 53 of PAIA), grants a data subject (a customer, employee or third party) a right to request confirmation of records containing their personal information being held by Thermopak, which confirmation shall be provided free of charge.

The requester can subsequently request a copy of the record or a description of the personal information contained within the record, subject to the fees prescribed by PAIA.

Requesters are referred to the Guide in terms of Section 10 of PAIA which has been compiled by the South African Human Rights Commission ("SAHRC"), which contains information for the purposes of exercising Constitutional Rights.

The Guide is available from the SAHRC or at their website at <http://www.sahrc.org.za/>

The contact details of the SAHRC are:

Physical Address:	The South African Human Rights Commission Braampark Forum 3 33 Hoofd Street Braamfontein Johannesburg
Postal Address:	Private Bag X2700 Houghton 2041
Telephone:	+27 11 877 3600
Website address:	<a href="http://www.sahrc.org.za">www.sahrc.org.za</a>

#### 4. APPLICABLE LEGISLATION: SECTION 51(1)(c)

Records are available in accordance with current South African legislation, any amendments of legislation and regulations which support the legislation, only to the extent that the relevant Act is applicable, and which therefore makes disclosure of records compulsory.

#### 5. SCHEDULE OF RECORDS AVAILABLE: SECTION 51(1)(d)

Records are subject to the Record Policies, Procedures and Processes of Thermopak, and will be access-controlled depending on the classification.

Thermopak has in its possession the following categories of records on the subject matters referred to hereunder and for which a request for access needs to be made in terms of PAIA or the POPI Act:

Category	Records
Client records	<ul style="list-style-type: none"><li>• Client business information</li><li>• Client correspondence</li><li>• Client contracts</li><li>• Client statutory records</li><li>• Legal documents</li><li>• Research material</li></ul>
Corporate Governance	<ul style="list-style-type: none"><li>• General correspondence</li><li>• Internal reports and communications</li><li>• Minutes and resolutions</li><li>• Records relating to appointment of contractors</li><li>• Relevant contracts and agreements</li><li>• Statutory records</li></ul>
All other	<ul style="list-style-type: none"><li>• Administration records</li><li>• Communications and marketing records</li><li>• Finance records</li><li>• Information management and technology records</li><li>• Internal reports and communications</li><li>• Legal agreements</li><li>• Meeting minutes, records and resolutions</li><li>• Operational records</li><li>• Relevant contracts and agreements</li><li>• Research records</li><li>• Risk and compliance records</li><li>• Tax administration records</li><li>• Training and education records</li></ul>

A person (customer, employee or third party) has the right to request access in terms of section 23 of POPIA:

Category	Records
Personal information	<p>Any recorded piece of information relevant to a data subject, including but not limited to the following, which can be in either hard copy or electronic format:</p> <ul style="list-style-type: none"> <li>• race, gender, sex, pregnancy, marital status, nationality, ethnicity, or social origin; colour; sexual orientation; age; physical or mental health and well-being</li> <li>• belief, religion, conscience, culture, language and birth, education, medical information, financial information, criminal or employment history</li> <li>• an identifying number or symbol</li> <li>• disability, personal opinions, blood type, biometric information</li> <li>• views or preferences of a person, correspondence of private or confidential nature, views, or opinions of another person</li> <li>• name of a person if it appears with other personal information</li> <li>• consumer or purchasing pattern</li> <li>• e-mail address and physical address, location information or online identifier and telephone number and mobile number</li> </ul>
Special personal information	<p>A special category of personal information is religious or philosophical beliefs, race or ethnic origin, trade union membership, political opinions, health, sex life, criminal behaviour and biometric information. Where personal information is referenced, it will automatically include special personal information unless otherwise indicated.</p>

**6. FORM OF REQUEST: PAIA SECTION 18 AND 53 (1) (ALSO APPLICABLE TO POPI ACT SECTION 23)**

To help us process your request, kindly:

- Use the prescribed form (Form C – when a request is made to a private body or business), available on the website of the South African Human Rights Commission (SAHRC) at [www.sahrc.org.za](http://www.sahrc.org.za)
- Address your request to the Information Officer.
- Provide sufficient details to enable Thermopak to identify:
  - The record(s) requested;
  - The requester (and if an agent is lodging the request, proof of capacity);
  - The form of access required:
    - The postal address, email address or fax number of the requester in the Republic;
    - If the requester wishes to be informed of the decision in any manner (in addition to written) and the manner and particulars thereof;
- The right which the requester is seeking to exercise or protect with an explanation of the reason the record is required to exercise or protect the right.

Any request for access to records should be submitted on the prescribed form C (a copy of which is included below) which should be sent to Thermopak Information Officer whose name and address details appear above.

## **7. PRESCRIBED FEES AND PROCEDURE: SECTION 54**

The following applies to requests:

- A requester is required to pay the prescribed fees (R50.00) before a request will be processed.
- If the preparation of the record requested requires more than the prescribed hours (six), a deposit should be paid (of not more than one-third of the access fee which would be payable if the request were granted).
- A requester may lodge an application with a court against the tender/payment of the request fee and/or deposit.
- Records may be withheld until the fees have been paid.
- The fee structure is available on the website of the South African Human Rights Commission (SAHRC) at [www.sahrc.org.za](http://www.sahrc.org.za).

Please note that the correct completion and submission of a Request for Access form does not automatically entitle or allow the requester access to the requested record.

An application for access to a record is subject to certain limitations if the requested record falls within a category as specified in section 23 (4)(a) of the POPIA read with Part 3 Chapter 4 of PAIA.

Please further note that if it is reasonably suspected that a requester has obtained access to a record based on the submission of materially incorrect, false or misleading information, legal proceedings may be instituted against such requester.

If a request for access is successful, an access fee will be payable for the search, reproduction and/or preparation of records and which will be calculated based on the fee prescribed under PAIA, an extract of the details of which is attached at the end of this Manual.

### **7.1. COMPLETION OF REQUEST FOR ACCESS FORM**

All requesters should take note of the following guidelines when completing the attached Request for Access to Record of a Private Body (refer to Annexure: Form C):

- The form must be completed by filling in all lines and spaces.
- Proof of identity, in the form of a copy of the requester's identity document, is required to be submitted with the application.
- If the requester is a body corporate, the authority of the person submitting the application on behalf of such body corporate must be proven on the basis of a written authority to be attached.
- Type or print in a clear eligible manner. If a question does not apply, indicate so by inserting N/A in response to that question, and if there is nothing to disclose in response to a particular question write NIL in response.
- If there is insufficient space in the form, add additional pages on which the additional information is provided, clearly indicating to which question this relates.

Requests for information will be evaluated and the requester will be notified within 30 days after receipt of the request in the prescribed format.

## **7.2. NOTIFICATION OF EXTENSION PERIOD (IF REQUIRED)**

Requesters must take note that in terms of PAIA, the 30 days period mentioned above may be extended for a further period of not more than 30 days under certain circumstances (details will be provided together with the notification of such extension).

## **7.3. THE ACCESS FEES AND/OR DEPOSIT**

The requester will be informed of the access fee or deposit (if any) which is payable for having access to the records and for the search, reproduction and/or preparation work involved, the account details, and the methods in which payment may be made. In addition, a deposit may be requested which is fully refundable if the application is ultimately refused.

## **7.4. DECISION ON REQUEST**

The requester will be informed whether or not the application for access has been denied, or granted.

In the event that the application is refused, the requester will be given adequate reasons for the refusal and will be informed that the requester may lodge an application with a Court (if a PAIA request) or the Information Regulator (if a POPIA request) against the refusal of the application, as well as the procedure (including the period) for lodging such application.

## **7.5. GROUNDS FOR REFUSAL**

Thermopak may legitimately refuse to grant access to a requested record that falls within a certain category. Grounds on which Thermopak may refuse include:

- Protecting personal information that Thermopak holds about a third person (who is a natural person), including a deceased person, from unreasonable disclosure
- Protecting commercial information that Thermopak holds about a third party or Thermopak (for example trade secrets, financial, commercial, scientific or technical information that may harm the commercial or financial interests of Thermopak or the third party)
- If disclosure of the record would result in a breach of a duty of confidence owed to a third party in terms of an agreement
- If disclosure of the record would endanger the life or physical safety of an individual
- If disclosure of the record would prejudice or impair the security of property or means of transport
- If disclosure of the record would prejudice or impair the protection of a person in accordance with a witness protection scheme
- If disclosure of the record would prejudice or impair the protection of the safety of the public
- The record is privileged from production in legal proceedings, unless the legal privilege has been waived
- Disclosure of the record (containing trade secrets, financial, commercial, scientific, or technical information) would harm the commercial or financial interests of Thermopak
- Disclosure of the record would put Thermopak at a disadvantage in contractual or other negotiations or prejudice it in commercial competition
- The record is a computer programme which is owned by Thermopak and protected by Copyright law
- The record contains information about research being carried out or about to be carried out on behalf of a third party of Thermopak and/or



- Information not yet in the public domain.

#### **7.6. RECORDS THAT CANNOT BE FOUND OR DO NOT EXIST**

If Thermopak has searched for a record and it is believed that the record either does not exist or cannot be found, the requester will be notified by way of an affidavit or affirmation. This will include the steps that were taken to try to locate the record.

#### **8. THIRD PARTY INFORMATION**

If access is requested to a record that contains information about a third party, Thermopak is obliged to attempt to contact this third party to inform them of the request. This enables the third party the opportunity of responding by either consenting to the access or by providing reasons why the access should be denied. In the event of the third party furnishing reasons for the support or denial of access, the Thermopak Information Officer will consider these reasons in determining whether access should be granted, or not.

**Annexure A:**

**PAIA Form C: Request for access to record of private body**

Please use the PAIA Form C saved separately on our website.

**Annexure B**

**POPIA Form 1: Objection to the processing of personal information**

<p><b>FORM 1</b></p> <p><b>OBJECTION TO THE PROCESSING OF PERSONAL INFORMATION IN TERMS OF SECTION 11(3) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO. 4 OF 2013) REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2017 [Regulation 2(1)]</b></p> <p>Note:</p> <ol style="list-style-type: none"><li>1. Affidavits or other documentary evidence in support of the objection must be attached.</li><li>2. If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.</li></ol> <p style="text-align: right;">Reference Number: _____</p> <p><b>SECTION A: DETAILS OF DATA SUBJECT</b></p> <p>Name and surname of data subject: _____</p> <p>Residential, postal or business address: _____</p> <p>Postal Code _____</p> <p>Contact number(s): _____</p> <p>Fax number: _____</p> <p>E-mail address: _____</p> <p><b>SECTION B: DETAILS OF RESPONSIBLE PARTY</b></p> <p>Name and surname of responsible party (if the responsible party is a natural): _____</p> <p>Residential, postal or business address: _____</p>
---

Postal Code \_\_\_\_\_

Contact number(s): \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Name of public or private body (if the responsible party is not a natural person): \_\_\_\_\_

\_\_\_\_\_

Business address: \_\_\_\_\_

Postal Code: \_\_\_\_\_

Contact number(s): \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**SECTION C: REASONS FOR OBJECTION (Please provide detailed reasons for the objection)**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed at ..... this ..... day of .....20.....

Signature of data subject (applicant)

**Annexure C**

**POPIA Form 2: Request for correction or deletion of personal information**

**FORM 2**

**REQUEST FOR CORRECTION OR DELETION OF PERSONAL INFORMATION OR DESTROYING OR DELETION OF RECORD OF PERSONAL INFORMATION IN TERMS OF SECTION 24(1) OF THE PROTECTION OF PERSONAL INFORMATION ACT, 2013 (ACT NO. 4 OF 2013) REGULATIONS RELATING TO THE PROTECTION OF PERSONAL INFORMATION, 2017 [Regulation 3(2)]**

Note:

1. Affidavits or other documentary evidence in support of the request must be attached.
2. If the space provided for in this Form is inadequate, submit information as an Annexure to this Form and sign each page.

Reference Number: \_\_\_\_\_

Mark the appropriate box with an "x".

Request for:

- Correction or deletion of the personal information about the data subject which is in possession or under the control of the responsible party.
- Destroying or deletion of a record of personal information about the data subject which is in possession or under the control of the responsible party and who is no longer authorised to retain the record of information.

**SECTION A: DETAILS OF DATA SUBJECT**

Name and surname of data subject:

\_\_\_\_\_

Residential, postal or business address:

\_\_\_\_\_

Postal Code \_\_\_\_\_

Contact number(s): \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**SECTION B: DETAILS OF RESPONSIBLE PARTY**

Name and surname of responsible party (if the responsible party is a natural): \_\_\_\_\_

\_\_\_\_\_

Residential, postal or business address: \_\_\_\_\_

\_\_\_\_\_

Postal Code \_\_\_\_\_

Contact number(s): \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Name of public or private body (if the responsible party is not a natural person): \_\_\_\_\_

\_\_\_\_\_

Business address: \_\_\_\_\_

Postal Code: \_\_\_\_\_

Contact number(s): \_\_\_\_\_

Fax number: \_\_\_\_\_

E-mail address: \_\_\_\_\_

**SECTION C: REASONS FOR**

**\* CORRECTION OR DELETION OF THE PERSONAL INFORMATION ABOUT THE DATA SUBJECT/  
\* DESTRUCTION OR DELETION OF A RECORD OF PERSONAL INFORMATION ABOUT THE DATA  
SUBJECT WHICH IS IN POSSESSION OR UNDER THE CONTROL OF THE RESPONSIBLE PARTY.**

**(Please provide detailed reasons for the request)**

*\* Delete whichever is not applicable*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed at ..... this ..... day of .....20.....

Signature of data subject (applicant)

