

## MANUAL

of

## Regarding Capital Management (Pty) Ltd

(created December 2011)

(revised December 2015)

Prepared in accordance with Section 51 of the Promotion of Access to Information Act, No 2 of 2000 for Regarding Capital Management (Pty) Ltd

(Private Body)

## INDEX

1. INTRODUCTION
  2. CONTACT DETAILS
  3. THE ACT AND SECTION 10 GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION
  4. RECORDS HELD BY THE PRIVATE BODY
  5. ACCESS TO RECORDS HELD BY THE PRIVATE BODY
  6. REQUEST PROCEDURE
  7. GROUNDS FOR REFUSAL OF ACCESS TO RECORDS
  8. REMEDIES AVAILABLE WHEN A PRIVATE BODY REFUSES A REQUEST FOR INFORMATION
  9. FEES
  10. DECISION
  11. AVAILABILITY OF THE MANUAL
- Appendix 1 – PRESCRIBED FORM TO BE COMPLETED BY A REQUESTER (FORM C)
- Appendix 2 – REPRODUCTION FEES

## 1. INTRODUCTION

1.1 The Promotion of Access to Information Act, No 2 of 2000 (“**the Act**”) was enacted on 3 February 2000, giving effect to the constitutional right of access to any information held by the State and any information that is held by another person and that is required for the exercise or protection of any rights. Where a request is made in terms of the Act, the body to whom the request is made is obliged to release the information, **except where the Act expressly provides that the information may or must not be released**. The Act sets out the requisite procedural issues attached to such request.

### 1.2 PURPOSE OF THE MANUAL:

In order to promote effective governance of private bodies, it is necessary to ensure that everyone is empowered and educated to understand their rights in terms of the Act in order for them to exercise their rights in relation to public and private bodies.

Section 9 of the Act however recognises that such right to access to information cannot be unlimited and should be subject to justifiable limitations, including, but not limited to:

- Limitations aimed at the reasonable protection of privacy;
- Commercial confidentiality; and
- Effective, efficient and good governance;

and in a manner which balances that right with any other rights, including such rights contained in the Bill of Rights in the Constitution.

Wherever reference is made to “*Private Body*” in this manual, it will refer to Regarding Capital Management (Pty) Ltd, an investment manager and authorised Financial Service Provider.

Wherever reference is made to a “document” or “record”, it shall include such documents or records that are stored on a computer or in any form of electronic format (precedent included).

## PART I

### 2 CONTACT DETAILS

#### 2.1 Information Officer: **The Public Officer**

Postal address: P O Box 45040, Claremont, 7735

Registered / Physical address: 8th Floor, Claremont Central, 8 Vineyard Road Claremont, Cape Town, 7700

Tel: (021) 657 3440

Fax: (021) 674 1085

Email address: info@recm.co.za

#### 2.2 GENERAL INFORMATION

2.2.1 Private Body: Regarding Capital Management (Pty) Ltd

2.2.2 Head of Body: Johannes Cornelis van Niekerk

2.2.3 Postal Address: P O Box 45040, Claremont, 7735

2.2.4 Physical Address (or main place of business): 8<sup>th</sup> Floor, Claremont Central, 8 Vineyard Road, Claremont, Cape Town, 7700

2.2.5 Telephone Number: (021) 657 3440

2.2.6 Facsimile number: (021) 674 1085

2.2.7 E-mail address: jan.vanniekerk@recm.co.za

## PART II

### 3 THE ACT AND SECTION 10 GUIDE OF SOUTH AFRICAN HUMAN RIGHTS COMMISSION

- a. The Act grants a requestor 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.
- b. Requests in terms of the Act shall be made in accordance with the prescribed procedures at the rates provided. The forms and tariff are dealt with in paragraphs 6 and 7 of the Act.
- c. Requesters are referred to the Guide in terms of Section 10 which has been compiled by the South African Human Rights Commission, which will contain information for the purposes of exercising Constitutional Rights. The Guide is available from the SAHRC. The contact details of the Commission are:

***Private Bag 2700, HOUGHTON, 2041***

***Telephone Number: +27- 11 - 877 3600***

***Fax Number: +27- 11- 403 0625***

***Website: [www.sahrc.org.za](http://www.sahrc.org.za)***

## PART III

### 4. RECORDS HELD BY THE PRIVATE BODY

- a. This clause serves as a reference to the records that the Private Body holds, in order to facilitate a request in terms of the Act.
- b. The information is classified and grouped according to records relating to the subject and categories that follow.
- c. It is recorded that the accessibility of the documents listed herein below, may be subject to the grounds of refusal set out hereinafter or as provided for in the Act.
- d. The head of the private body may, in addition and on a voluntary basis, also publish notices in terms of Section 52(2) of the Act regarding categories of records, which are available without a person having to request access in terms of the Act.

#### 4.1 SCHEDULE OF PRIVATE BODY DOCUMENTS AND RECORDS

##### 4.1.1 INCORPORATION DOCUMENTS AND RECORDS

- 4.1.1.1 Documents of Incorporation including company secretarial documentation and statutory documentation
- 4.1.1.2 Constitution of the business
- 4.1.1.3 Memorandum of Incorporation
- 4.1.1.4 Records of Board of Directors meetings
- 4.1.1.5 Records of Shareholder resolutions

##### 4.1.2 FINANCIAL DOCUMENTS AND RECORDS

- 4.1.2.1 VAT records
- 4.1.2.2 Tax records
- 4.1.2.3 PAYE records
- 4.1.2.4 UIF records
- 4.1.2.5 Asset inventory
- 4.1.2.6 Accounting records and statements
- 4.1.2.7 Bank records and statements
- 4.1.2.8 Financial reports
- 4.1.2.9 General financial documentation

## 4.1.3 OPERATIONAL DOCUMENTS AND RECORDS

- 4.1.3.1 Legal and insurance records and correspondence
- 4.1.3.2 Promotional records
- 4.1.3.3 Business plan records
- 4.1.3.4 Designs, patents or trademarks registration records
- 4.1.3.5 Records regarding written service specifications
- 4.1.3.6 Permits, licences, consents, approvals, authorisations, applications and registrations
- 4.1.3.7 Strategy records

These records include, but are not limited to records which pertain to the Private Body's own affairs.

## 4.1.4 HUMAN RESOURCES DOCUMENTS AND RECORDS

Personal records provided by employees and other records including but not limited to:

- 4.1.4.1 Employment contracts / Letter of Appointment
- 4.1.4.2 Salary advice slips
- 4.1.4.3 Curriculum Vitae
- 4.1.4.4 Unemployment Insurance records
- 4.1.4.5 Medical aid records

*"Employee"* refers to any person who works for, or provides services to or on behalf of the Private Body, and receives or is entitled to receive remuneration and any other person who assists in carrying out or conducting the business of the Private Body. This includes, without limitation, directors, permanent and limited duration employees as well as contract and/or seasonal workers.

## 4.1.5 INFORMATION TECHNOLOGY RECORDS

- 4.1.5.1 Client database
- 4.1.5.2 Customer database

## 4.1.6 RECORDS REQUIRED IN TERMS OF APPLICABLE LEGISLATION

4.1.6.1 A list of certain legislation (as amended or substituted from time to time) setting out a description of applicable records of the Private Body which are available in accordance with such legislation, is as follows:-

- 4.1.6.1.1 Basic Conditions of Employment Act 75 of 1997
- 4.1.6.1.2 Companies Act 71 of 2008
- 4.1.6.1.3 Compensation for Occupational Injuries and Diseases Act 130 of 1993
- 4.1.6.1.4 Constitution of SA Act 108 of 1996
- 4.1.6.1.5 Electronic Communications and Transactions Act 25 of 2002
- 4.1.6.1.6 Employment Equity Act 55 of 1998
- 4.1.6.1.7 Financial Advisory and Intermediary Services Act 37 of 2002
- 4.1.6.1.8 Financial Intelligence Centre Act 38 of 2001
- 4.1.6.1.9 Income Tax Act 58 of 1962
- 4.1.6.1.10 Financial Markets Act 19 of 2012
- 4.1.6.1.11 Inspection of Financial Institutions Act 18 of 1998
- 4.1.6.1.12 Labour Relations Act 66 of 1995
- 4.1.6.1.13 Skills Development Act 9 of 1999
- 4.1.6.1.14 Unemployment Insurance Act 63 of 2001
- 4.1.6.1.15 Value Added Tax Act 89 of 1991

Reference to the above-mentioned legislation shall include subsequent amendments to such legislation and all relevant sections within such legislation in terms of which the private body holds records.

## 4.1.7 OTHER PARTY RECORDS

4.1.7.1 Employee, customer or Private Body records which are held by another party (e.g. accountant or independent contractor), as opposed to the records held by the Private Body itself;

4.1.7.2 Records held by the Private Body pertaining to other parties, including without limitation, financial records, correspondence, contractual and

transactional records, records provided by the other party, and records third parties have provided.

## PART IV

### 5. ACCESS TO RECORDS HELD BY THE PRIVATE BODY

5.1 Records held by the Private Body may be accessed by requests only once the prerequisite requirements for access have been met.

5.2 A requester is any person making a request for access to a record of the Private Body. There are two types of requesters:

#### 5.2.1 PERSONAL REQUESTER

5.2.1.1 A personal requester is a requester who is seeking access to a record containing personal information about the requester.

5.2.1.2 The Private Body will voluntarily provide the requested information, or give access to any record with regard to the requester's personal information. The prescribed fee for reproduction of the information requested will be charged.

#### 5.2.2 OTHER REQUESTER

5.2.2.1 This requester (other than a personal requester) is entitled to request access to information on third parties. However, the Private Body is not obliged to voluntarily grant access. The requester must fulfil the prerequisite requirements for access in terms of the Act, including the payment of a request and access fee.

### 6. REQUEST PROCEDURE

6.1 The requester must comply with all the procedural requirements contained in the Act relating to the request for access to a record.

6.2 The requester must complete the prescribed form enclosed herewith in **Appendix 1**, and submit same as well as payment of a request fee and a deposit, if applicable to the Information Officer at the postal or physical address, fax number or electronic mail address as stated in 2.1 or 2.2 above.

6.3 The prescribed form must be filled in with enough particularity to at least enable the Information Officer to identify –

6.3.1 The record or records requested;

6.3.2 The identity of the requester,

6.3.3 Which form of access is required, if the request is granted;

6.3.4 The postal address or fax number of the requester.

6.4 The requester must state that he/she requires the information in order to exercise or protect a right, and clearly state what the nature of the right is so to be exercised or protected. In addition, the requester must clearly specify why the record is necessary to exercise or protect such a right.

- 6.5 The Private Body will process the request within 30 days, unless the requester has stated special reasons which would satisfy the Information officer that circumstances dictate that the above time periods not be complied with.
- 6.6 The requester shall be informed whether access granted or denied. If, in addition, the requester requires the reasons for the decision in any other manner, he/she must state the manner and the particulars so required.
- 6.7 If a request is made on behalf of another person, then the requester must submit proof of the capacity in which the requester is making the request to the reasonable satisfaction of the information officer.
- 6.8 If an individual is unable to complete the prescribed form because of illiteracy or disability, such a person may make the request orally.
- 6.9 The requester must pay the prescribed fee, before any further processing can take place.

## 7 GROUNDS FOR REFUSAL OF ACCESS TO RECORDS

The main grounds for the Private Body to refuse a request for information relates to the -

- 7.1 mandatory protection of the privacy of a third party who is a natural person, which would involve the unreasonable disclosure of personal information of that natural person;
- 7.2 mandatory protection of the commercial information of a third party, if the record contains –
- 7.2.1 trade secrets of that third party;
- 7.2.2 financial, commercial, scientific or technical information which disclosure could likely cause harm to the financial or commercial interests of that third party;
- 7.2.3 information disclosed in confidence by a third party to the Private Body, if the disclosure could put that third party at a disadvantage in negotiations or commercial competition;
- 7.3 mandatory protection of confidential information of third parties if it is protected in terms of any agreement;
- 7.4 mandatory protection of the safety of individuals and the protection of property;
- 7.5 mandatory protection of records which would be regarded as privileged in legal proceedings;
- 7.6 the commercial activities of the Private Body, which may include –
- 7.6.1 trade secrets of the Private Body;
- 7.6.2 financial, commercial, scientific or technical information which disclosure of could likely cause harm to the financial or commercial interests of the Private Body;
- 7.6.3 information which, if disclosed could put the Private Body at a disadvantage in negotiations or commercial competition;
- 7.6.4 a computer program which is owned by the Private Body, and which is protected by copyright.

- 7.7 the research information of the Private Body or a third party, if its disclosure would disclose the identity of the Private Body, the researcher or the subject matter of the research and would place the research at a serious disadvantage;
- 7.8 Requests for information that are clearly frivolous or vexatious, or which involve an unreasonable diversion of resources shall be refused.

## 8 REMEDIES AVAILABLE WHEN A PRIVATE BODY REFUSES A REQUEST FOR INFORMATION

### 8.1 INTERNAL REMEDIES

The Private Body does not have an internal appeal procedure. As such, the decision made by the information officer is final, and requesters will have to exercise such external remedies at their disposal if the request for information is refused, and the requester is not satisfied with the answer supplied by the information officer.

### 8.2 EXTERNAL REMEDIES

A requester that is dissatisfied with an information officer's refusal to disclose information, may within 30 days of notification of the decision, apply to a relevant Court for relief.

Likewise, a third party dissatisfied with an information officer's decision to grant a request for information, may within 30 days of notification of the decision, apply to a Court for relief. For purposes of the Act, the Courts that have jurisdiction over these applications are the Constitutional Court, the High Court or another court of similar status.

## 9 FEES

- 9.1 The Act provides for two types of fees, namely:
- 9.1.1 A request fee, which will be a standard fee; and
- 9.1.2 An access fee, which must be calculated by taking into account reproduction costs, search and preparation time and cost, as well as postal costs.
- 9.2 When the request is received by the Information Officer, such officer shall by notice require the requester, other than a personal requester, to pay the prescribed request fee (if any), before any further processing of the request.
- 9.3 If the search for the record has been made and the preparation of the record for disclosure, including arrangement to make it available in the requested form, requires more than the hours prescribed in the regulations for this purpose, the information officer shall notify the requester to pay as a deposit the prescribed portion of the Access fee which would be payable if the request is granted.
- 9.4 The information officer shall withhold a record until the requester has paid the fees as indicated in **Appendix 2**.
- 9.5 A requester whose request for access to a record has been granted, must pay an access fee for reproduction and for search and preparation, and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure including making arrangements to make it available in the request form.
- 9.6 If a deposit has been paid in respect of a request for access, which is refused, then the information officer concerned must repay the deposit to the requester.

## 10 DECISION

- 10.1** The Private Body will, within 30 days of receipt of the request, decide whether to grant or decline the request and give notice with reasons (if required) to that effect.
- 10.2** The 30 day period with which the Private Body has to decide whether to grant or refuse the request, may be extended for a further period of not more than thirty days if the request is for a large amount of information, or the request requires a search for information held at another office of the Private Body and the information cannot reasonably be obtained within the original 30 day period. The Private Body will notify the requester in writing should an extension be sought.

## 11 AVAILABILITY OF THE MANUAL

- 11.1** A copy of this manual is available at the offices of the Private Body or through the South African Human Rights Commission.

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JC van Niekerk

PREScribed FORM TO BE COMPLETED BY A REQUESTER

FORM C

REQUEST FOR ACCESS TO RECORDS OF PRIVATE BODY

(Section 53(1) of the Promotion of Access to Information Act, No 2 of 2000)

**(Regulation 10)**

**A. Particulars of Private Body**

The Head:

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**B. Particulars of Person requesting access to the record**

(a) *The particulars of the person who requests access to the records must be recorded below.*

(b) *Furnish an address and/or fax number in the Republic to which information must be sent.*

(c) *Proof of the capacity in which the request is made, if applicable, must be attached.*

Full Name and

Surname: \_\_\_\_\_

Identity

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

Postal

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail

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

Capacity in which request is made, when made on behalf of another person:

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**C. Particulars of person of whose behalf request is made:**

*This section must be completed only if a request for information is made on behalf of another person*

Full names and

Surname: \_\_\_\_\_

\_\_\_\_\_

Identity

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

**D. Particulars of Record:**

- (a) *Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located.*
- (b) *If the provided space is inadequate please continue on a separate folio and attach it to this form. **The requester must sign all the additional folios***

1. Description of the Record or relevant part of the record:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. Reference number, if available: \_\_\_\_\_

2. Any further particulars of the record:

\_\_\_\_\_

\_\_\_\_\_

**E. Fees:**

- (a) *A request for access to a record, other than a record containing personal information about yourself, will be processed only after a **request fee** has been paid.*
- (b) *You will be notified of the amount of the request fee.*
- (c) *The **fee payable for access** to a record depends on the form in which the access is required and the reasonable time required to search for and prepare a record.*
- (d) *If you qualify for exemption of the payment of any fee, please state the reason therefore.*

Reason for exemption of payment of the fee:

\_\_\_\_\_

\_\_\_\_\_

**F. Form of Access to the Record:**

If you are prevented by a disability to read, view or listen to the record in the form of access provided for in 1 to 4 hereunder, state your disability and indicate in which form the record is required.

Disability: _____ _____ _____	Form in which record is required: _____ _____ _____
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Mark the appropriate box with an "X"

**NOTES:**

- (a) *Your indication as to the required form of access depends on the form in which the record is available.*
- (b) *Access in the form requested may be refused in certain circumstances. In such a case you will be informed if access will be granted in another form.*
- (c) *The fee payable for access to the record, if any, will be determined partly by the form in which access is requested.*

**1. If the record is in written or printed form:**

	Copy of record *		Inspection of record
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**2. If the record consists of visual images:**

(This includes photographs, slides, video recordings, computer-generated images, sketches, etc.)

	View the images		Copy of the images *		Transcription of the images*
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<b>3. If the record consists of recorded words or information which can be reproduced in sound:</b>			
	Listen to the soundtrack (audio cassette)		Transcription of soundtrack * (written or printed document)

<b>4. If the record is held on computer or in an electronic or machine-readable form:</b>					
	Printed copy of record		Printed copy of information derived from the record *		Copy in computer readable form * (stiffy or compact disc)

* If you requested a copy or transcription of a record (above), do you wish the copy or transcription to be posted to you? <b>A postal fee is payable.</b>	YES	NO
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**G. Particulars of right to be exercised or protected:**

If the provided space is inadequate, please continue on a separate folio and attach it to this form  
***The requester must sign all the additional folios***

Indicate which right is to be exercised or protected:

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1. Explain why the requested record is required for the exercising or protection of the aforementioned right:

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**H. Notice of decision regarding request for access:**

You will be notified in writing whether your request has been approved/denied. If you wish to be informed thereof in another manner, please specify the manner and provide the necessary particulars to enable compliance with your request.

How would you prefer to be informed of the decision regarding your request for access to the record?

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Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_

\_\_\_\_\_  
SIGNATURE OF REQUESTER/PERSON

ON WHOSE BEHALF REQUEST IS MADE

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## APPENDIX – 2

### REPRODUCTION FEES

Where requested document appear in the appendix 1 i.e. the Private Body has voluntarily provided the Minister with a list of categories of records that will automatically be made available to any person requesting access thereto, the only charge that may be levied for obtaining such records, will be a fee for reproduction of the record in question.

THE APPLICABLE FEES FOR REPRODUCTION AS REFERRED TO ABOVE ARE:

	R
• For every photocopy of an A4-size page or part thereof	1,10
• For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	0,75
• For a copy in a computer-readable form on	
- Stiffy disc	7,50
- Compact disc	70,00
• A transcription of visual images, for an A4-size page or part thereof	40,00
• For a copy of visual images	60,00
• A transcription of an audio record, for an A4-size page or part thereof	20,00
• For a copy of an audio record	30,00

#### Request fees:

Where a requester submits a request for access to information held by an Private Body on a person other than the requester himself/herself, a request fee in the amount of R50,00 is payable up-front before the Private Body will further process the request received.

#### Access fees:

An access fee is payable in all instances where a request for access to information is granted, except in those instances where payment of an access fee is specially excluded in terms of the Act or an exclusion is determined by the Minister in terms of Section 54 (8).

The applicable access fees which will be payable are:

	R
• For every photocopy of an A4-size page or part thereof	1,10
• For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine readable form	0,75
• For a copy in a computer-readable form on	
- Stiffy disc	7,50
- Compact disc	70,00
• A transcription of visual images, for an A4-size page or part thereof	40,00
• For a copy of visual images	60,00
• A transcription of an audio record, for an A4-size page or part thereof	20,00
• For a copy of an audio record	30,00
• To search for a record that must be disclosed (per hour or part of an hour reasonably required for such search)	30,00
• Where a copy of a record needs to be posted the actual postal fee is payable.	

**Deposits:**

Where the Private Body receives a request for access to information held on a person other than the requester himself/herself and the information officer upon receipt of the request is of the opinion that the preparation of the required record of disclosure will take more than 6 (six) hours, a deposit is payable by the requester.

The amount of the deposit is equal to  $\frac{1}{3}$  (one third) of the amount of the applicable access fee.

Note: Value Added Tax (VAT) must be added to all fees prescribed in terms of the Regulations.