Document Title: South Africa’s Act No. 4 of 2013: Protection of Personal Information Act, 2013

Assented: 26 November 2013

**South Africa Protection of Personal Information Act**

**Short Title**

An Act 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, 2000; 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 therewith.

**Summary of Relevant Sections of the Act**

2. Purpose of Act.

The purpose of the Act is to—

(a) give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party, subject to justifiable limitations that are aimed at—

(i) balancing the right to privacy against other rights, particularly the right of access to information; and

(ii) protecting important interests, including the free flow of information within the [South Africa] and across international borders;

(b) regulate the manner in which personal information may be processed, by establishing conditions, in harmony with international standards, that prescribe the minimum threshold requirements for the lawful processing of personal information;

(c) provide persons with rights and remedies to protect their personal information from processing that is not in accordance with this Act; and

(d) establish voluntary and compulsory measures, including the establishment of an Information Regulator, to ensure respect for and to promote, enforce and fulfill the rights protected by this Act.

4. Conditions for lawful processing of data

There are eight conditions for the lawful processing of personal information by or for a responsible part. These are: accountability, processing limitation (including minimality), purpose specification (including limitations on retention), further processing limitation, information quality, openness, security safeguards and data subject participation.

5. Rights of data subjects

Data Subjects have the right for their data to be collected according to the eight conditions set out in section 4. In addition, they have the following rights: notification when their data is being sought, to be notified that data about them has been accessed, access to their information, correction, destruction, deletion of their information, object to processing of their information and to institute complaints among other rights.

The law in Chapter 3 Part B (Sections 27-33) deals with special personal information, publication of which is prohibited.

Chapter 7 deals with dispute resolution and the regulator may issue codes of conduct for players. Chapter 9 captures the issue of transborder information flows. Data from South Africa may only be exported to a third party with a legal framework for lawful processing of information.

Additional information:

This is an important law as most of the gTLDs in Africa are based in South Africa. Additionally, many African countries benchmark with South African law when making their laws.