[Please insert your organisation’s document control format, including next revision date]

**[company name ] POPI Act Compliant Direct Marketing Policy**

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# Introduction to the policy

A Direct Marketing policy can be an important tool to ensure that all aspects of managing Direct Marketing, whether through electronic or non-electronic means, are conducted in compliance with the Protection of Personal Information (POPI) Act, # 4 of 2013. A policy is one of the top strategies to utilize when trying to reduce the risk of non-compliance with the POPI Act. Such a policy can also increase employee’s awareness about protecting Personal Information as defined in the POPI Act.

This policy supports compliance with the following relevant sections of the POPI Act:

* Definitions for “Direct Marketing” and “Electronic Communication”, chapter 1
* Lawful processing of information, section 4(6)
* Application and interpretation of the Act, section 5 (e) and (f)
* Condition 2 Consent justification and objection, section 11 (3)
* Chapter 8, “Direct marketing by means of unsolicited electronic communications”, section 69 (1 to 4)

This Direct Marketing Policy provides an opportunity for Combined Assurance of compliance with two additional items of South Africa legislation which legislate Direct Marketing practices:

* Electronic Communications and Transactions Act, # 25 of 2002 (sections 45, 50 and 51 are repealed by the POPI Act)
* Consumer Protection Act, # 68 of 2008 (chapter 2, section 11 and 32)

These three pieces of legislation combined (POPI Act, ECTA and CPA) regulate how individuals are contacted (in person, by mail or various electronic means) both for commercial and charitable donation purposes.

## Context for the policy

[these bullets should be expanded as required]

* Statutory and regulatory environment
* Reference to related standards and guidance
* Role of Direct Marketing in support the organisation’s objectives
* References to related policies

## Roles and Responsibilities for the policy

[identify who is accountable and responsible for the development and implementation of this policy. Position this policy as part of overall POPI governance]

# Purpose of the policy

The purpose for this policy is to establish the minimum requirements for Direct Marketing activities in support of compliance with the POPI Act and good governance and effective risk management thereof. This Direct Marketing policy is a cornerstone of effective management in [company name]. It:

* Demonstrates to employees and stakeholders that ethical and legally compliant Direct Marketing is important to the organisation
* Provides a statement of intentions that underpins a Direct Marketing programme
* Serves as a mandate for the activities of the Direct Marketing team
* Provides a framework for supporting documents such as procedures, business rules, campaigns etc.

# Scope of the policy

## Introduction

This policy applies to all [company name] employees and contractors.

* Direct Marketing is included under the scope of this policy whether
  + In person to an individual or a juristic entity
  + Via postal mail to an individual or a juristic entity
  + Via electronic means to an individual or a juristic entity, including but not limited to
    - Automated calling machines messages
    - Email messages
    - Fax messages
    - SMS messages
    - Phone call messages
    - Social media messages
    - Video image messages
    - Web sites messages

## Direct Marketing Life Cycle Management

[explain how this policy governs the following life cycle]

* Privacy impact assessment when developing the Direct Marketing concept
* Privacy impact assessment when developing the Direct Marketing method
* Privacy impact assessment when implementing the Direct Marketing method
* Privacy impact assessment when reviewing or revising the Direct Marketing method
* Privacy impact assessment when concluding the Direct Marketing concept

## Policy commitments

In conducting its Direct Marketing activities [company name] will ensure that all aspects of Direct Marketing are conducted as follows:

* Consent will be obtained for Direct Marketing activities to be continued (“opt-in” via appropriate means such as check boxes, buttons, various other types of verbal and written confirmation)
* The purpose of Direct Marketing will be specified in any communication
* The identity of the organisation conducting the Direct Marketing will be clearly stated
* Opportunity will always be provided to request Direct Marketing is discontinued
* Data subject access rights will be recorded and managed appropriately
* An appropriate Privacy Policy will be made available
* Specific consent will be requested where Personal Information (as defined in the POPI Act) is to be shared with third parties (other Responsible Parties)
* Maintain records of consent which has been obtained
* Maintain records of consent which has been denied or withdrawn
* When making contact for the first time, only request consent for the Direct Marketing to continue and not attempt to sell any product or service until such consent has been obtained
* Provide the web site address where further information including a Privacy Notice or Policy can be found
* Screen the [company name] “do not contact list” before sending any Direct Marketing communication message

Where required the above policy scope will be supported by:

* Operational procedures and systems
* Appropriate training
* Management oversight and reporting

## Purchasing Personal Information lists

[company name] will take appropriate steps to ensure where Personal Information lists are purchased, such Personal Information was compiled fairly and accurately reflects people's wishes. This includes the ability to check when and how consent was obtained; what the consent covers (e.g. purpose, sharing); that the list is accurate and current.

[company name] will use the contractual terms appropriate for such purchasing activities in a format approved by [company name] management.

## Direct Marketing Records Retention, Restriction and Destruction

[company name] will ensure that records of Personal Information will be retained, restricted and destroyed or deleted in compliance with the POPI Act (Condition 3, section 14). Such activities will be conducted in line with other relevant [company name] policies and procedures.

## Direct Marketing Records Security

[this should address the security measures in place for the protection of Direct Marketing records in compliance with the POI Act, condition 7]. Such activities will be conducted in line with other relevant [company name] policies and procedures.

## Policy Implementation

[company name] will ensure that this policy is:

* Appropriately developed and approved
* Made available to relevant stakeholders
* Supported by relevant and appropriate stakeholder training in its use and implementation
* Monitored for compliance
* Support by appropriate penalties for non-compliance
* Revised on an approved schedule

# Policy Compliance

## Compliance Measurement

The <Company Name> management team will verify compliance to this policy through various methods, including but not limited to, periodic inspections, business tool reports, internal and external audits, and feedback to the policy owner.

## Exceptions

Any exception to the policy must be approved by the <Company Name> management team in advance.

## Non-Compliance

An employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.

# Appendices

## Sources

This document is based on material available from several sources including:

* UK Information Commissioner’s Office [www.ico.org.uk](http://www.ico.org.uk)
* Direct Marketing Association of Southern Africa [www.dmasa.org](http://www.dmasa.org)
* Electronic Communications and Transactions Act, # 25 of 2002
* Consumer Protection Act, # 68 of 2008
* Protection of Personal Information (POPI) Act, # 4 of 2013