



**The Protection of Personal Information Act No. 4 of 2013
("POPIA"/"POPI")**

MIET Africa

CROSS-BORDER DATA TRANSFER POLICY

Guidance given by the Act

Section 72 of the POPI Act provides the following:

(1) A responsible party in the Republic may not transfer personal information about a data subject to a third party who is in a foreign country unless any ONE of the following conditions/considerations exist -

- a) the third party who is the recipient of the information is subject to a law, binding corporate rules or binding agreement which provide an adequate level of protection that reflect the principles of POPI
- b) the data subject consents to the transfer;
- c) the transfer is necessary for the performance of a contract between the data subject and the responsible party;
- d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject; or
- e) the transfer is for the benefit of the data subject.

How we manage Cross-Border Data Transfer of personal information

Conditions for cross-border flow of information:

- **Adequate legal protection:** The recipient of the personal information must be subject to a law, binding corporate rules or binding agreement which provide an adequate level of protection that effectively upholds the principles for reasonable processing, and that include provisions that are substantially similar to the conditions for the lawful processing of personal information and for the further transfer of personal information.
- **Consent:** The data subject consents to the transfer.
- **Necessary for the performance of a contract:** The transfer is necessary for the performance of a contract between the data subject and the responsible party, or for the implementation of pre-contractual measures taken in response to the data subject's request.
- **Interests of the data subject:** The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the responsible party and a third party.
- **Benefit of the data subject:** The transfer is for the benefit of the data subject in circumstances where it is not reasonably practicable to obtain the consent of the data subject for the transfer, and the data subject would be likely to give consent had it been obtained.

Consent:

Data subject will give consent prior to transferring any personal data across the South African border. The consent paragraphs for cross-border data transfers of personal information in consent forms:

<i>Cross border transfer:</i>	Where necessary, the information may be shared with a third party who may be located outside of the South African boarder, who subscribes to similar data protection laws.
<i>Storage and Retention and Destruction of Information:</i>	Where data is stored electronically outside the borders of South Africa, such is done only in countries that have similar privacy laws to our own or where such facilities are bound contractually to no lesser regulations than those imposed by POPI.
<i>Sharing of information:</i>	Where necessary, the information may be shared with a third party who may be located outside of the South African boarder, who subscribes to similar data protection laws.