

Guidelines for Filing of Standard Contract for the Export of Personal Information Has Been Implemented

June 2023

Background

On February 22, 2023, the Cyberspace Administration of China ("CAC") issued the *Measures for Standard Contract for the Export of Personal Information* ("**Measures**"), which took effect on June 1, 2023. On the eve of the implementation of the Measures, the CAC issued the *Guidelines for the Filing of Standard Contract for the Export of Personal Information (First Edition)* ("**Guidelines**") on May 30, 2023, providing detailed guidance and advice for carrying out the filing under the Measures. The full text of the Guidelines is translated as attached.

We summarize the key points of the filing requirements in the Guidelines to assist enterprises intending to export personal information by entering into a standard contract for the export of personal information ("**Standard Contract**") to quickly understand the new requirements of the CAC and effectively carry out the signing and filing of the Standard Contract.

Key Points of the Guidelines

Applicable Entities The Guidelines reiterate the provisions of the Measures on the applicable entities, that is, to export personal information by signing the Standard Contract, personal information processors shall meet all of the following requirements: (a) they are non-critical information infrastructure operators; (b) they process personal information of fewer than 1 million individuals; (c) they have exported personal information of fewer than 100,000 individuals cumulatively since January 1 of the previous year; and (d) they have exported sensitive personal information of fewer than 10,000 individuals cumulatively since January 1 of the previous year. Therefore, if the nature, quantity, etc. of personal information domestically processed and exported by them are not up to the mandatory security assessment thresholds stipulated in Article 4 of the *Measures for Data Export Security Assessment*, they shall initiate the filing of Standard Contract in due course.

The Guidelines also reiterate the prohibition in the Measures on personal information processors to adopt means such as quantity splitting to circumvent the data export security assessment, and re-emphasize that personal information is exported where: **(a) personal information processors transfer and store personal information collected and generated in their domestic operations to any country/region outside China; and (b) overseas institutions, organizations, or individuals may access, retrieve, download, and export the personal information collected and generated by personal information processors and stored in China.**

Filing Materials Article 3.1 of the Guidelines lists the materials to be submitted for the filing, and the annexes provide a more detailed list of material requirements and templates:

1. Unified Social Credit Code Certificate
2. Legal representative's proof of identity
3. Authorized Contact's proof of identity
4. Power of Attorney for the Authorized Contact
5. Letter of Undertaking
6. **Standard Contract for the Export of Personal Information**
7. **Personal Information Protection Impact Assessment ("PIPIA") Report**

In addition, Article 3.3 of the Guidelines requires the personal information processors to be responsible for the authenticity of the materials to be submitted, and those who submit false materials will be regarded as a failure in filing and will be held legally liable accordingly. Therefore, we suggest that enterprises carefully verify and review the full set of materials with their respective departments before submitting the materials.

Filing Method Article 2 of the Guidelines provides that the filing method is "within 10 working days from the effective date

of the Standard Contract, personal information processors shall deliver the written and electronic materials" to the local provincial-level Cyberspace Administration ("Provincial CAC") for the filing. Currently we are not sure if the CAC will require personal information processors to submit filing via the online platform, but we will keep in touch with the CAC and inform the enterprises planning to submit a filing in time if there is any update.

Filing Process Article 3 of the Guidelines clarifies that the filing process includes material submission, material review and feedback of the filing results, supplementation or re-filing, etc., for which personal information processors shall focus on the following three important time points:

- Reviewing materials and feeding back filing results: 15 working days;
- Submitting supplementary materials: 10 working days;
- Reviewing the supplementary or re-filing materials: 15 working days.

According to our experience in data export security assessment, in practice, the period that the CAC reviews materials and requests enterprises to supplement materials may be considerably longer than the above periods.

Filing Results Article 3.2 of the Guidelines classifies the filing results as passed and failed. If a personal information processor passes the filing, the Provincial CAC will issue a filing number to the personal information processor; if a personal information processor fails in the filing, it will receive a notice of failed filing and the reasons for it, and if the personal information processor is required to supplement and improve the materials, it shall supplement and improve the materials and re-submit them within 10 working days.

According to Article 6 of the Measures, enterprises may export personal information after implementing PIPIA and after the Standard Contract takes effect. Therefore, it remains to be seen whether failure to pass the filing means that data export cannot be carried out, or even affects the validity of the Standard Contract. Some enterprises may worry that after applying for data export security assessment or submitting materials for filing, there will be a possibility that the CAC will not approve their application or that they will receive a negative result, so their personal information export will be immediately terminated and their business continuity will be adversely affected. We believe that the CAC is inclined to require personal

information processors to rectify non-compliance first, rather than directly terminate the data export.

Standard Contract Annex 4 of the Guidelines provides a template of the Standard Contract, which is not a new thing introduced in the Guidelines, and is consistent with the Standard Contract for the Export of Personal Information annexed to the Measures. We recommend personal information processors sign the Standard Contract as it is with the overseas recipient. If additional terms and conditions are to be agreed with the overseas recipient, personal information processors and overseas recipients may agree in "Appendix II Other Terms and Conditions Agreed by Both Parties" on the basis of the Standard Contract, but these additional terms and conditions shall not conflict with the content of the Standard Contract.

PIPIA Report **The main content of the PIPIA Report (for personal information export) provided in the Guidelines is basically the same as the main points of the Data Export Risk Self-Assessment Report in the previous Guidelines for Data Export Security Assessment Application (First Edition). Therefore, the regulatory authorities' requirements on the granularity and accuracy of the PIPIA Report (for personal information export) and the level of the rectification requirements in this regard may be similar to those set forth in the Data Export Security Assessment.** Considering the strict review attitude of the regulatory authorities towards data export security assessment (for example, there are only a few cases in which data processors have successfully passed the data export security assessment as disclosed by the Provincial CACs), we believe that it will still be a considerable challenge for enterprises planning to file Standard Contract, despite opting for exporting personal information by filing the Standard Contract instead of applying for data export security assessment.

Conclusion

Considering that the Standard Contract will be the first choice of most enterprises with personal information export needs, in order to ensure the continuity and compliance of personal information export, we suggest that enterprises develop and implement a plan for filing the Standard Contract as soon as possible, including but not limited to performing data mapping, conducting internal rectification, PIPIA, and signing Standard Contract. In this way, they may successfully submit the filing materials within the six-month period stipulated in the Measures (i.e., by November 30, 2023).

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Gayle Li (Legal Assistant) also makes contributions to this newsletter.

Guidelines for Filing of Standard Contract for the Export of Personal Information (1st Edition)

The Measures for Standard Contract for the Export of Personal Information ("**Measures**") became effective on June 1, 2023. These Filing Guidelines for Standard Contract for the Export of Personal Information (1st Edition) are hereby enacted to guide and help personal information processors to standardize and properly file their Standard Contract for the Export of Personal Information ("**Standard Contract**").

I. Applicable Scope

Where a personal information processor transfers personal information to countries outside China via signing the Standard Contract, it shall satisfy all of the following circumstances:

- (i) it is not a critical information infrastructure operator;
- (ii) it has processed personal information of fewer than 1,000,000 individuals;
- (iii) it has exported personal information of fewer than 100,000 individuals cumulatively since January 1 of the preceding year; and
- (iv) it has exported sensitive personal information of fewer than 10,000 individuals cumulatively since January 1 of the preceding year.

Where laws, administrative regulations, or the Cyberspace Administration of China ("**CAC**") provide otherwise, those provisions shall prevail.

Personal information processors, which shall apply for the data export security assessment as required by law, shall not adopt such means as quantity splitting to transfer personal information outside of China by entering into the Standard Contract.

Personal information shall be deemed to be transferred outside of China under any of the following circumstances:

- i) personal information processors transfers and stores outside of China the personal information collected and generated in their domestic operation;
- ii) overseas institutions, organizations, or individuals may access, retrieve, download, and export the personal information collected and generated by the personal information processor and stored in China;
- iii) other export of personal information as stipulated by the CAC.

II. Filing Method

Personal information processors shall submit the written and electronic materials to the local provincial-level cyberspace administrations ("**Provincial CAC**") for filing within 10 working days the Standard Contract becomes effective.

III. Filing Process

The process of filing the Standard Contract includes submitting materials, reviewing materials and providing filing results, submitting supplemental materials or refileing, etc.

1. Submitting Materials by Personal Information Processors

To file the Standard Contract, personal information processors shall submit the following materials (see Annex 1):

- (i) photocopy of the Unified Social Credit Code Certificate;

- (ii) photocopy of the legal representative's proof of identity;
- (iii) photocopy of the Authorized Contact's proof of identity;
- (iv) Power of Attorney for the Authorized Contact (see Annex 2 for the template);
- (v) Letter of Undertaking (see Annex 3 for the template);
- (vii) Standard Contract (see Annex 4 for the template); and
- (viii) Personal Information Protection Impact Assessment Report (see Annex 5 for the template).

2. Reviewing Submitted Materials and Providing Filing Results and Feedback by the Provincial CAC

The Provincial CAC will finish reviewing the submitted materials and notify the personal information processors of the filing results within 15 working days of receiving the materials.

The filing results will be passed or failed. The Provincial CAC will issue filing numbers to the personal information processors if they pass the filing. Personal information processors failing to pass the filing will receive the notification of a failed result and the reasons therefor, and where they are required to submit additional or supplemental materials, they shall do so within 10 working days.

3. Submitting Supplemental Materials or Re-filing by Personal Information Processors

Under any of the following circumstances arising during the term of the Standard Contract, the personal information processors shall re-conduct the personal information protection impact assessment, supplement or re-sign the Standard Contract, and perform the corresponding filing procedures:

- i) the purpose, scope, category, level of sensitivity, method, storage location of personal information provided outside China or the use and method of personal information processed by the overseas recipient change, or the overseas retention period of personal information is extended;
- ii) changes in the personal information protection policies and regulations of the country or region where the overseas recipient is located may affect the rights and interests of personal information; or
- iii) there are any other circumstances that may affect the rights and interests of personal information.

If required to supplement the Standard Contract during the term of Standard Contract, personal information processors shall file supplementary materials to the Provincial CAC; if required to re-sign the Standard Contract, personal information processors shall re-file the new Standard Contract. The period for reviewing supplemented or re-filed materials is 15 working days.

Personal information processors shall be responsible for the authenticity of the materials submitted. Submission of false materials will be regarded as they have achieved a fail result, and they will be investigated for corresponding legal responsibility.

IV. Contact Information for Consultation and Reporting

Email: bzht@cac.gov.cn

Tele: 010-55627565

Annexes:

- i) Required Materials for Filing the Standard Contract for the Export of Personal Information
- ii) Power of Attorney for the Authorized Contact (Template)
- iii) Letter of Undertaking (Template)

- iv) Standard Contract (template)
- v) Personal Information Protection Impact Assessment Report (Template)

Annex 1

**Required Materials for Filing the
Standard Contract for the Export of Personal Information**

No.	Name of Materials	Requirements
1	Unified Social Credit Code Certificate	Photocopy affixed with the official seal
2	Legal Representative's proof of identity	Photocopy affixed with the official seal
3	Authorized Contact's proof of identity	Photocopy affixed with the official seal
4	Power of Attorney for the Authorized Contact	Original copy
5	Letter of Undertaking	Original copy
6	Standard Contract for the Export of Personal Information	Original copy
7	Personal Information Protection Impact Assessment Report	Original copy

Annex 2

Power of Attorney for the Authorized Contact (Template)

I, [Insert Name] (ID Card No.: [●]), the legal representative of [Insert Personal information processor's Name], hereby authorize [Name of Authorized Contact] (ID Card No.: [●]) (“**Authorized Contact**”) to be responsible for the filing of the Standard Contract for the Export of Personal Information. We hereby acknowledge all the acts committed (including the materials signed and uploaded) by the Authorized Contact on our behalf during the process of filing of the Standard Contract for the Export of Personal Information and will be legally liable therefor.

Period of Authorization: [●] to [●]

The Authorized Contact may not delegate any of his/her powers hereunder to another individual.

Name of Personal Information Processor (Seal):

Legal Representative (Signature):

Authorized Contact (Signature):

Date: [●]

Annex 3

Letter of Commitment (Template)


We hereby commit that:

1. Our collection and use of the personal information applied for outbound transfer is in compliance with applicable laws and regulations of the People's Republic of China;
2. All the materials submitted for filing the Standard Contract are true, complete, accurate and valid;
3. We have not taken such means as quantity splitting to provide the personal information, for which we shall apply for data export security assessment according to law, to the foreign country by entering into the Standard Contract;
4. We will provide necessary cooperation and support for the filing of Standard Contract organized and carried out by the CAC in respect of cross-border personal information transfer;
5. Our personal information protection impact assessment has been completed three (3) months prior to the date of filing, and no major change has occurred as at the date of filing.

We acknowledge and fully understand the commitments made above. If any of the commitments is false or broken, we are willing to be held legally liable therefor.

Legal Representative (Signature):

Personal Information Processor (Seal):

Date: 

Annex 4

A.

Standard Contract for the Export of Personal Information

Formulated by the Cyberspace Administration of China

In order to ensure that the processing of Personal Information by Overseas Recipient meets the Personal Information protection standards stipulated by Applicable Laws and Regulations of the People's Republic of China and clarify the Personal Information protection rights and obligations of Personal Information Processor and Overseas Recipient, the Parties hereby enter into this Contract through consultations.

Personal Information Processor: _____

Address: _____

Contact Information: _____

Contact: _____ Title: _____

Overseas Recipient: _____

Address: _____

Contact Information: _____

Contact: _____ Title: _____

Personal Information Processor and Overseas Recipient shall carry out the activities related to the export of Personal Information in accordance with the provisions of this Contract and with respect to the business activities related to this activity, the Parties [have entered into]/[agree to enter into] to a commercial contract (if any) on [Date].

The body of this Contract is drawn up as per the requirements of the *Measures for Personal Information Export Standard Contract*. If there are any other agreements between the Parties, and they do not conflict with the contents of the body of this Contract, they can be detailed in Exhibit 2. All exhibits hereto shall constitute an integral part of this Contract.

Article 1 Definitions

In this Contract, unless the context otherwise provides:

- 1.1 “**Personal Information Processor**” refers to the organization or individual that decides on its own the purpose and method of processing the personal information and provides personal information outside the territory of the People's Republic of China.
- 1.2 “**Overseas Recipient**” refers to the organization or individual located outside the People's Republic of China that receives personal information from Personal Information Processor.
- 1.3 Personal Information Processor and Overseas Recipient are hereinafter referred to individually as a “**Party**” and collectively as “**Parties**”.
- 1.4 “**Personal Information Subjects**” shall mean the natural persons identified by or associated with Personal Information.
- 1.5 “**Personal Information**” refers to all kinds of information related to identified or identifiable natural persons recorded by electronic or other means, excluding anonymized information.
- 1.6 “**Sensitive Personal Information**” refers to personal information that, if leaked or used illegally, may easily lead to the violation of a natural person's human dignity or endanger the safety of his or her body or property, including biometric information, religious beliefs, specific identity, medical health, financial accounts, whereabouts and other information, as well as the personal information of minors under 14 years of age.
- 1.7 “**Regulatory Authority**” shall mean the cyberspace administration above the provincial level of the People's Republic of China.
- 1.8 “**Applicable Laws and Regulations**” shall mean the *Cybersecurity Law of the People's Republic of China*, the *Data Security Law of the People's Republic of China*, the *Personal Information Protection Law of the People's Republic of China*, the *Civil Code of the People's Republic of China*, the *Civil Procedure Law of the People's Republic of China*, the *Measures for Personal Information Export Standard Contract*, and other laws and regulations of the People's Republic of China.
- 1.9 The meanings of other undefined terms used herein shall be consistent with those as ascribed thereto in Applicable Laws and Regulations.

Article 2 Obligations of Personal Information Processor

Personal Information Processor shall perform the following obligations:

- 2.1 The Personal Information shall be processed in accordance with Applicable Laws and Regulations, and the Personal Information shall be exported to the minimum extent required to achieve the purpose of processing.
- 2.2 It has informed Personal Information Subjects of Overseas Recipient's name, contact information, the purposes and methods of processing, types and retention period of Personal Information, and the methods and procedures for exercising their rights as a Personal Information Subject and other matters in Exhibit 1 (*Description of the Export of Personal Information*). It shall inform Personal Information Subjects of the necessity of transferring Sensitive Personal Information and the impact of such transfer on their rights and interests if Sensitive Personal Information is involved, except where the laws and administrative regulations provide that no such notification is required.
- 2.3 It shall obtain the separate consent from Personal Information Subjects if it exports the Personal Information based on their consent. It shall obtain the separate consent from the parents or other guardians of minors, if Personal Information of minors under 14 years of age is involved. If written consent is required under the laws and administrative regulations, it shall obtain such written consent.
- 2.4 It informs Personal Information Subjects that it and Overseas Recipient have agreed that Personal Information Subjects are third-party beneficiaries through this Contract. If a Personal Information Subject does not expressly raise any objection within thirty (30) days, he/she may be entitled to the rights as a third-party beneficiary under this Contract.
- 2.5 It makes reasonable efforts to ensure that Overseas Recipient will take the following technical and management measures (taking into full account the Personal Information security risks that may be brought by the purpose of processing, type, scale, scope and sensitivity of Personal Information, the quantity and frequency of transfer, the Personal Information transfer, and the retention period of Overseas Recipient, among others), to perform the obligations agreed in this Contract:
(such as encryption, anonymization, de-identification, access control, and other technical and management measures)
- 2.6 It will provide Overseas Recipient with the copies of relevant legal provisions and technical standards at the request of Overseas Recipient.
- 2.7 It will respond to inquiries from Regulatory Authority regarding the Personal Information processing activities of Overseas Recipient.
- 2.8 It will carry out the Personal Information protection impact assessment in accordance with Applicable Laws and Regulations on the proposed provision of Personal Information to Overseas Recipient. The assessment shall focus on:
 - 2.8.1 The legality, legitimacy, and necessity of the purpose, scope, and method of Personal Information processing by Personal Information Processor and

Overseas Recipient;

- 2.8.2 The scale, scope, type, and sensitivity of exported Personal Information, and the risks that export of Personal Information may bring to Personal Information related rights and interests;
- 2.8.3 The obligations that Overseas Recipient undertakes to assume, and whether the organizational and technical measures, capabilities, etc. for fulfilling its obligations can guarantee the security of exported Personal Information;
- 2.8.4 Risks of tampering, destruction, leakage, loss, illegal utilization, etc. of Personal Information after it is transferred overseas, and whether the channels for individuals to safeguard their Personal Information rights and interests are unobstructed, etc.;
- 2.8.5 The impact of local Personal Information protection policies and regulations on performing this Contract to be assessed in accordance with Article 4 hereof; and
- 2.8.6 Other matters that may affect the security of the export of Personal Information.

The Personal Information protection impact assessment report shall be kept for at least three (3) years.

- 2.9 It will provide a copy of this Contract to Personal Information Subjects at the request of Personal Information Subjects. To the extent necessary to protect trade secrets or other confidential business information, without affecting the understanding of Personal Information Subjects, it may make proper adjustments to the relevant contents of such copy.
- 2.10 It will bear the burden of proof to prove the performance of the obligations under this Contract.
- 2.11 It will provide the information referred to in Article 3(11) of this Contract (including all compliance audit results) to Regulatory Authority as required by Applicable Laws and Regulations.

Article 3 Obligations of Overseas Recipient

Overseas Recipient shall perform the following obligations:

- 3.1 It will process Personal Information in accordance with the provisions of Exhibit 1 (*Description of the Export of Personal Information*). If any Personal Information of a Personal Information Subject is processed based on his/her consent, and where being processed beyond the agreed purpose and method of processing, and the type of processed Personal Information, it shall obtain separate consent of the Personal Information Subject in advance; if Personal Information of minors under the age of fourteen is involved, it shall obtain separate consent from the parents or other guardians of the minors.
- 3.2 If Personal Information is processed by the entrustment of Personal Information Processor, it shall process Personal Information in accordance with the agreements with such processor, without exceeding the purpose and method of processing, etc.

- agreed with such processor.
- 3.3 It will provide a copy of this Contract to a Personal Information Subject at his/her request. To the extent necessary to protect trade secrets or confidential business information, without affecting the understanding of Personal Information Subjects, it may make proper adjustments to the relevant contents of such copy.
- 3.4 It will process Personal Information in a manner that has the least impact on individual rights and interests.
- 3.5 It will store Personal Information for the shortest period necessary to achieve the purpose of processing and shall delete Personal Information (including all backups) after the retention period expires. When it is entrusted by Personal Information Processor to process Personal Information, but the entrustment contract is ineffective, invalid, revoked or terminated, it shall return Personal Information to such processor or delete Personal Information and provide a written statement to such processor. If deleting Personal Information is technically unfeasible, it shall stop processing the Personal Information other than storing and taking necessary security protection measures.
- 3.6 It will safeguard the processing of Personal Information in the following ways:
- 3.6.1 Taking technical and management measures (including but not limited to those listed in Paragraph 5 of Article 2 of this Contract) and conducting regular inspections to ensure the safety of Personal Information; and
- 3.6.2. Ensuring that its personnel authorized to process Personal Information fulfill their confidentiality obligations and establishing an access control permission of minimum authorization.
- 3.7 In the event of any occurrence or possible occurrence of tampering, destruction, leakage, loss, illegal utilization, unauthorized provision of or access to the processed Personal Information, it shall:
- 3.7.1. Take appropriate remedial actions in a timely manner to mitigate adverse effects on Personal Information Subjects;
- 3.7.2 Immediately notify Personal Information Processor and report to Regulatory Authority as required by Applicable Laws and Regulations. The notification shall contain:
- 3.7.2.1 The type of Personal Information that is or may be subject to tampering, destruction, leakage, loss, illegal utilization, unauthorized provision or access, and the causes and possible harm thereof;
- 3.7.2.2 The remedial actions taken;
- 3.7.2.3 The measures that Personal Information Subjects can take to mitigate the damage; and
- 3.7.2.4 The contact details of the person or team responsible for handling the relevant circumstances.
- 3.7.3 If Applicable Laws and Regulations require notification to Personal Information Subjects, the content of the notification shall include the content of Item (ii) above. If Personal Information Processor entrusts it to process

- Personal Information, such processor shall notify Personal Information Subjects; and
- 3.7.4 Document and retain all relevant circumstances of tampering, destruction, leakage, loss, illegal utilization, unauthorized provision or access, including all remedial actions taken.
- 3.8 It will not provide Personal Information to any third party located outside the People's Republic of China unless all of the following requirements are met:
- 3.8.1 There is a real business need;
- 3.8.2 It has informed Personal Information Subjects of the name, contact information, processing purpose, and processing method of such third party, type of Personal Information, retention period, and methods and procedures for exercising their rights as Personal Information Subjects and other matters. If Sensitive Personal Information is provided to the third party, it shall inform Personal Information Subjects of the necessity of providing Sensitive Personal Information and the impact of such transfer on their rights and interests, except that the laws and administrative regulations provide that no notification is required.
- 3.8.3 It shall obtain the separate consent from Personal Information Subjects if it processes the Personal Information based on their consent. It shall obtain the separate consent from the parents or other guardians of minors, if Personal Information of minors under 14 years of age is involved. If written consent is required under the laws and administrative regulations, it shall obtain such written consent.
- 3.8.4 It will reach a written agreement with the third party to ensure that the third party's level of processing Personal Information reaches the Personal Information protection standards specified by Applicable Laws and Regulations of the People's Republic of China, and assume legal liabilities for any infringement on the rights available to Personal Information Subjects caused by providing Personal Information to the third party located outside the People's Republic of China; and
- 3.8.5 It will provide Personal Information Subjects with a copy of such agreement with the third party at the request of Personal Information Subjects. To the extent necessary to protect trade secrets or other confidential business information, without affecting the understanding of Personal Information Subjects, it may make proper adjustments to the relevant contents of such copy.
- 3.9 When entrusted by Personal Information Processor to process Personal Information, and when sub-entrusting it to a third party for processing, it shall obtain the consent of such processor in advance and shall require the entrusted third party not to process Personal Information beyond the processing purpose and methods set forth in Exhibit 1 hereto (*Description of the Export of Personal Information*), and supervise the third party's Personal Information processing activities.
- 3.10 When it uses Personal Information for automated decision-making, it shall ensure the transparency of decision-making and the fairness and impartiality of the results thereof,

and will not implement unreasonable differential treatment of Personal Information Subjects in terms of transaction prices and other transaction conditions. When it pushes information and commercial marketing to Personal Information Subjects through automated decision-making, it will also provide options that are not tailored to their personal characteristics or provide convenient ways for them to say no.

- 3.11 It undertakes to provide Personal Information Processor with all information necessary for performing the obligations under this Contract to allow Personal Information Processor to inspect necessary data files and documents, or audit the compliance of processing activities covered by this Contract and provide convenience for Personal Information Processor to conduct compliance audits.
- 3.12 It will objectively make records of the Personal Information processing activities carried out, and keep the records for at least three (3) years; it will provide relevant records and documents to Regulatory Authority directly or through Personal Information Processor as required by Applicable Laws and Regulations.
- 3.13 It agrees to accept the supervision and administration of Regulatory Authority in the relevant procedures for supervising the implementation of this Contract, including but not limited to answering Regulatory Authority's inquiries, cooperating with Regulatory Authority's inspection, obeying the measures taken or decisions made by Regulatory Authority, and providing written evidence proving that necessary actions have been taken.

Article 4 Impact of Local Personal Information Protection Policies and Regulations in the Country or Region Where Overseas Recipient is Located on the Performance of this Contract

- 4.1 Each of Parties shall warrant that it has exerted reasonable duty of care when signing this Contract and it is not aware of the Personal Information protection policies and regulations of the country or region where Overseas Recipient is located (including any requests to provide Personal Information or any provisions authorizing public authorities to access Personal Information) that will impact Overseas Recipient's performance of its obligations hereunder.
- 4.2 Parties represent that, in providing the warranties set forth in Paragraph 1 of this Article, they have conducted the assessment by considering the following:
 - 4.2.1 The specific circumstances of the outbound transfer, including the purpose of processing Personal Information, the type, scale, scope, and sensitivity of the Personal Information to be transferred, the size and frequency of the transfer, the Personal Information transfer and Overseas Recipient's retention period, Overseas Recipient's previous experience related to cross-border transfer and processing of similar Personal Information, whether any Personal Information security-related incidents have occurred in Overseas Recipient and whether they have been dealt with in a timely and effective manner, whether Overseas Recipient has received any request for Personal Information from the public authorities in the country or region where it is located and Overseas Recipient's response to such request.

- 4.2.2 The Personal Information protection policies and regulations of the country or region where Overseas Recipient is located, including:
 - 4.2.2.1 The current Personal Information protection laws and regulations and generally applicable standards of the country or region;
 - 4.2.2.2 The regional or global Personal Information protection organizations that the country or region has joined, and the binding international commitments it has made; and
 - 4.2.2.3 The country or region's mechanism for implementation of Personal Information protection, such as whether there is a regulatory law enforcement agency and relevant judicial agency for Personal Information protection.
- 4.2.3 Overseas Recipient's security management system and technical means for guaranteeing security capability.
- 4.3 Overseas Recipient undertakes that it has done its best to provide Personal Information Processor with the necessary relevant information when conducting the assessment in accordance with Paragraph 2 of this Article.
- 4.4 Parties shall document the process and results of the assessment conducted in accordance with Paragraph 2 of this Article.
- 4.5 If Overseas Recipient is unable to perform this Contract due to any change in the Personal Information protection policies and regulations of the country or region where Overseas Recipient is located (including any change in laws or any compulsory measures taken in the country or region where Overseas Recipient is located), Overseas Recipient shall notify Personal Information Processor immediately after becoming aware of such a change.
- 4.6 If Overseas Recipient receives a request from the governmental department or judicial agency of the country or region in which it is located to provide the personal information under this Contract, it shall immediately notify Personal Information Processor.

Article 5 Rights of Personal Information Subjects

Parties agree that, Personal Information Subjects as third-party beneficiaries hereunder may have the following rights:

- 5.1 In accordance with Applicable Laws and Regulations, Personal Information Subjects shall have the right to know, the right to decide, the right to restrict or reject the processing of their Personal Information by others, the right of access, the right to copy, the right to correct, the right to supplement, the right to delete their Personal Information, and the right to request an interpretation and explanation of its Personal Information processing rules.
- 5.2 When a Personal Information Subject requests to exercise any of the foregoing rights with respect to the exported Personal Information, the Personal Information Subject may request Personal Information Processor to take appropriate measures to achieve this, or directly make a request to Overseas Recipient. If Personal Information

Processor cannot do so, it shall notify and request Overseas Recipient to assist in doing so.

- 5.3 According to the notification of Personal Information Processor or the request of a Personal Information Subject, Overseas Recipient shall ensure that the Personal Information Subject exercise such right in accordance with Applicable Laws and Regulations within a reasonable time limit.

Overseas Recipient shall truthfully, accurately, and completely inform the Personal Information Subject of relevant information in a conspicuous manner and in clear and understandable language.

- 5.4 If Overseas Recipient refuses a Personal Information Subject's request, it shall inform the Personal Information Subject of the reasons for the refusal and the ways for the Personal Information Subject to lodge a complaint with the relevant regulators or seek judicial relief.

- 5.5 As the third-party beneficiary hereunder, a Personal Information Subject shall have the right to claim and demand the performance of the following clauses of this Contract related to the rights of the Personal Information Subject to either or both of Personal Information Processor or Overseas Recipient according to the provisions of this Contract:

5.5.1 Article 2, with the exception of Paragraphs 5, 6, 7, and 11 of Article 2;

5.5.2 Article 3, with the exception of Items (ii) and (iv) of Paragraph 7, and Paragraphs 9, 11, 12 and 13 of Article 3;

5.5.3 Article 4, with the exception of Paragraphs 5 and 6 of Article 4;

5.5.4 Article 5;

5.5.5 Article 6;

5.5.6 Paragraphs 2 and 3 of Article 8;

5.5.7 Paragraph 5 of Article 9.

The foregoing provisions shall not affect the rights and interests available to Personal Information Subjects under the *Personal Information Protection Law of the People's Republic of China*.

Article 6 Remedies

- 6.1 Overseas Recipient shall designate a contact and authorize him/her to respond to inquiries or complaints about Personal Information processing, and shall promptly handle inquiries or complaints from Personal Information Subjects. Overseas Recipient shall inform Personal Information Processor of the contact's contact information, and inform Personal Information Subjects of the contact's information in a simple and easy-to-understand manner, through separate notices or announcements on its website, specifically:

Contact and his/her contact information (office phone number or email address)

- 6.2 If there is a dispute between a Personal Information Subject and either of Parties as a result of the performance of this Contract, such Party shall notify the other Party and Parties shall cooperate to resolve the dispute.
- 6.3 If the dispute cannot be resolved amicably, and the Personal Information Subject exercises his/her rights as a third-party beneficiary in accordance with Article 5, Overseas Recipient shall accept that the Personal Information may excise and protect his/her rights in the following ways:
- 6.3.1 Lodging a complaint with Regulatory Authority; and/or
- 6.3.2 Filing an action in the court specified in Paragraph 5 of this Article.
- 6.4 Parties agree that in exercising his/her rights as a third-party beneficiary in the event of a dispute arising out of this Contract, the Personal Information Subject may subject such dispute to Applicable Laws and Regulations of the People's Republic of China.
- 6.5 Parties agree that if the Personal Information Subject exercises the rights of a third-party beneficiary in relation to a dispute under this Contract, the Personal Information Subject may file a lawsuit with the people's court with jurisdiction in accordance with the *Civil Procedure Law of the People's Republic of China*.
- 6.6 Parties agree that the rights protection choices made by a Personal Information Subject will be without prejudice to any rights of the Personal Information Subject to seek relief under other laws and regulations.

Article 7 Termination

- 7.1 If Overseas Recipient breaches any of its obligations hereunder, or if there are changes in the Personal Information protection policies and regulations in the country or region where Overseas Recipient is located (including changes in laws or mandatory measures in the country or region where Overseas Recipient is located), which makes it impossible for Overseas Recipient to perform this Contract, Personal Information Processor may suspend the provision of Personal Information to Overseas Recipient until the breach is corrected or this Contract is terminated.
- 7.2 Under any of the following circumstances, Personal Information Processor shall have the right to terminate this Contract, and notify Regulatory Authority when necessary:
- 7.2.1 Personal Information Processor suspends the transmission of Personal Information to Overseas Recipient for more than one (1) month in accordance with Paragraph 1 of this Article;
- 7.2.2 Overseas Recipient's compliance with this Contract will violate the laws and regulations of the country or region where it is located;
- 7.2.3 Overseas Recipient materially or continuously breaches any its obligations hereunder; or
- 7.2.4 According to a final decision made by a competent court or a regulator supervising Overseas Recipient, Overseas Recipient or Personal Information Processor has violated any of its obligations hereunder.
- In the case of Items (i), (ii) or (iv) above, Overseas Recipient may also terminate this Contract.

- 7.3 Where this Contract is terminated by mutual agreement by the Parties, provided such termination shall not exempt them from their Personal Information protection obligations in processing Personal Information.
- 7.4 When this Contract is terminated, Overseas Recipient shall promptly return or delete received Personal Information (including all backups thereof) under this Contract and provide a written statement to Personal Information Processor. If deleting Personal Information is technically unfeasible, it shall stop any processing other than storing and taking necessary security protection measures for such Personal Information.

Article 8 Liability for Breach of Contract

- 8.1 Each Party shall be liable for any damages caused to the other Party as a result of its breach of this Contract.
- 8.2 Either Party that violates this Contract and infringes upon the rights of a Personal Information Subject shall be liable to the Personal Information Subject for civil responsibilities, which shall not relieve the Personal Information Processor of its administrative, criminal or other legal liabilities that the Personal Information Processor shall take under Applicable Laws and Regulations.
- 8.3 Parties shall be jointly and severally liable in accordance with the law, the Personal Information Subject may request either Party or both Parties to assume responsibility. If a Party assumes liability in excess of its share of liability, it may recover the excess part from the other Party.

Article 9 Miscellaneous

- 9.1 In the event of a conflict between this Contract and any other agreement between Parties, the terms of this Contract shall prevail.
- 9.2 The establishment, validity, performance, interpretation of and any dispute between Parties arising out of this Contract shall be governed by Applicable Laws and Regulations of the People's Republic of China.
- 9.3 All notices given shall be delivered or sent by e-mail, telegram, telex, facsimile (confirmed copy by airmail) or registered airmail to (specific address) or such another address notified in writing. If a notice hereunder is sent by registered airmail, it shall be deemed to be duly given on the day after the postmark date; if sent by e-mail, telegram, telex, or facsimile, it shall be deemed to be duly given on the working days after it is sent.
- 9.4 The disputes arising from this Contract between Parties and either Party's recovery from the other Party for first compensating Personal Information Subjects' damages shall be resolved by Parties through consultations, failing which, either Party may use the method described in Item to solve it (if you choose arbitration, please tick the arbitration institution):
- 9.4.1 Arbitration. Submitting the dispute to
- ☐ China International Economic and Trade Arbitration Commission
 - ☐ China Maritime Arbitration Commission
 - ☐ Beijing Arbitration Commission (Beijing International Arbitration Center)

- ☐ Shanghai International Arbitration Center
- ☐ _____(Name of other arbitration institution that is a member of the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*) for arbitration at ____ (place of arbitration) in accordance with its then-current arbitration rules;

9.4.2. Litigation. Filing a lawsuit in a people's court with jurisdiction in the People's Republic of China in accordance with the law.

9.5 This Contract shall be interpreted in accordance with Applicable Laws and Regulations and shall not be interpreted in a way that contradicts the rights and obligations stipulated by Applicable Laws and Regulations.

9.6 This Contract is made in original copies of equal legal effect, and Parties shall each retain copy(ies).

This Contract shall be executed in _____.

Personal Information Processor: _____ (Seal)

(Date YY/MM/DD)

Overseas Recipient: _____ (Seal)

(Date YY/MM/DD)

Exhibit 1

Description of the Export of Personal Information

The details regarding the export of Personal Information in accordance with this Contract are as follows:

- (1) Purpose of processing:
- (2) Method of processing:
- (3) The scale of exported Personal Information:
- (4) Categories of exported Personal Information (please refer to GB/T 35273 - *Information Security Technology - Personal Information Security Specifications* and related standards):
- (5) Categories of exported Sensitive Personal Information (if applicable, please refer to GB/T 35273 *Information Security Technology - Personal Information Security Specifications* and related standards):
- (6) Overseas Recipient may only provide Personal Information to the following third parties outside the People's Republic of China (if applicable):
- (7) Method of transfer:
- (8) Retention period after export:
[DD/MM/YY to DD/MM/YY]
- (9) Storage location after export:
- (10) Other matters (fill in as appropriate)

Exhibit 2

Other Provisions Agreed by Parties (If Needed)

Annex 5

Personal Information Protection Impact Assessment Report (Template)
(for Export of Personal Information)

Name of Personal Information Processor (Seal): [●]

Date: [●]

I. Brief Description of Assessment

Please briefly describe the assessment, including its start date and completion date, organization, process, method, etc. If any third-party organization participates in the assessment, the assessment report shall contain the basic information about the third party and its participation in the assessment, with its official seal being affixed onto the pages containing such information.

II. Overall Information about the Proposed Export of Personal Information

Please provide in detail the basic information about the personal information processor, as well as its business and information systems related to the export of personal information; the information about the personal information to be transferred; the information about the security safeguarding capability of the personal information processor; the information about the overseas recipient; whether to provide personal information to third parties and how to ensure the implementation of the terms of Standard Contract, etc., including but not limited to:

(i) Basic information about the personal information processor

- (a) Basic information about the organization or individual;
- (b) Information about its shareholding structure and actual controller;
- (c) Information about its organizational structure;
- (d) Information about its personal information protection body;
- (e) Information about its overall business and personal information; and
- (f) Information about its investments inside and outside PRC.

(ii) Information about business and information systems involved in the Export of Personal Information

- (a) Basic information about its business involved in the export of personal information;
- (b) Information about the collection and use of personal information related to the business involved in the export of personal information;
- (c) Information about the information systems related to its business involved in the export of personal information;
- (d) Information about the data centers (including cloud services) involved in the export of personal information; and
- (e) Information about links used for the export of personal information.

(iii) Information about the personal information to be transferred

- (a) The purpose, scope and method of processing the personal information by personal information processors and overseas recipients, as well as the legality, legitimacy, and necessity thereof;
- (b) The size, scope, category and level of sensitivity of the personal information to be transferred, and the processing of sensitive personal information and the use of personal information for automated decision-making;
- (c) Information about the systems/platforms, data centers, etc. for storing inside China the personal information to be transferred, and the proposed systems/platforms, data centers, etc. for storing the transferred personal information outside China; and
- (d) Information relating to further provision of the personal information to other overseas recipients after the personal information is transferred.

(iv) Personal information security safeguarding capability of the personal information processor

- (a) Information about its personal information security management capabilities, including its management body's system and system building, the whole process management, emergency response, protection for rights and interests of personal information, and other systems and their implementation;
- (b) Its technical capabilities related to personal information security, including the technical security measures to be taken throughout the process of personal information collection, storage, usage, processing, transfer, provision, public disclosure, deletion, etc.
- (c) The proof of effectiveness for personal information security safeguarding measures, such as the implemented personal information protection certification, personal information protection compliance audits, multi-level protection scheme (MLPS), etc.; and
- (d) Compliance with relevant personal information protection laws and regulations.

(v) Information about the overseas recipient

- (a) Basic information about the overseas recipient;
- (b) The purpose, method, etc. of its personal information processing;
- (c) Its personal information security safeguarding capability;
- (d) The personal information protection policies and regulations in the country or region where it is located; and
- (e) The description of the whole process of its personal information processing.

(vi) Other information to be provided by the personal information processor as it deems necessary

III. Impact Assessment of the Proposed Export of Personal Information

Please describe the assessment per the following items one by one, with emphasis on the issues and potential risks identified during the assessment, the corresponding rectification measures to be taken and their effectiveness.

- (i) The legality, legitimacy and necessity of the purpose, scope and method of the outbound personal information transfer and the personal information processing by the overseas recipient;
- (ii) The size, scope, type and level of sensitivity of the personal information to be transferred; the possible risks that may be caused by the export of personal information to the legitimate rights and interests of individuals;
- (iii) The obligations that the overseas recipient undertakes to assume; whether the management and technical measures and capabilities to fulfill its obligations are sufficient to ensure the security of the personal information to be transferred;
- (iv) The risks of tampering, destruction, leakage, loss, illegal use, etc. after the export of personal information; whether the channels for safeguarding the personal information related rights and interests are kept unobstructed, etc.;
- (v) The impact of the personal information protection policies and regulations of the country or region where the Overseas Recipient is located on the performance of the Standard Contract; and
- (vi) Other issues that may affect the security of the export of personal information.

IV. Conclusion of the Impact Assessment of the Proposed Export of Personal Information

Please draw an objective conclusion on the impact assessment of the proposed export of personal information and fully explain the reasons and grounds for the conclusion based on the assessment described above and the effectiveness of the corresponding rectification measures.