

Standard Contract for Outbound Transfer of Personal Information

Formulated by the Cyberspace Administration of China

In order to ensure that the activity of processing Personal Information by the Foreign Recipient meets the standards of Personal Information protection stipulated by the Relevant Laws and Regulations of the People's Republic of China, and to specify the rights and obligations of the Personal Information Handler and the Foreign Recipient, the Parties hereby enter into this Contract upon negotiation.

Personal Information Handler: _____

Address: _____

Contact Information: _____

Contact person: _____ Position: _____

Foreign Recipient: _____

Address: _____

Contact Information: _____

Contact person: _____ Position: _____

The Personal Information Handler and the Foreign Recipient will carry out the activities concerning the outbound transfer of Personal Information in accordance with this Contract. The Parties [have entered into] / [agreed to enter into] a commercial contract to further the commercial acts related to such activities, namely [description of commercial contract] on [MM/DD/YY].

The major body of this Contract is drafted in accordance with the requirements of the Measures on the Standard Contract for Outbound Transfer of Personal Information. Other agreements between the parties, if any, may be specified in Appendix II. The Appendix forms an integrated part of this Contract.

Article 1

Definitions

In this Contract, unless the context otherwise requires:

1. "Personal Information Handler" refers to any organization or individual that independently decides the purpose and method of the Personal Information processing activities and transfers Personal Information outside the territory of the People's Republic of China.
2. "Foreign Recipient" refers to an organization or individual outside the territory of the People's Republic of China that receives Personal Information from the Personal Information Handler.
3. Personal Information Handler or Foreign Recipient are referred to individually as a "Party", and collectively as the "Parties".
4. "Personal Information Subject" refers to a natural person identified by or associated with the Personal Information.
5. "Personal Information" refers to all kinds of information related to identified or identifiable natural persons that are electronically or otherwise recorded, excluding information that has been anonymized.
6. "Sensitive Personal Information" refers to the Personal Information that , once leaked or illegally used, is likely to result in damage to the personal dignity of any natural person or damage to his or her personal or property safety, including biometric recognition, religious belief, specific identity, medical health, financial account, personal whereabouts, and the Personal Information of minors under the age of 14.
7. "Regulatory Authority" refers to the Cyberspace Administration of the People's Republic of China at the provincial level or above.
8. "Relevant Laws and Regulations" refer to the laws and regulations of the People's Republic of China, such as 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, Civil Procedure Law of the People's Republic of China, and Measures on the Standard Contract for Outbound Transfer of Personal Information.
9. The meanings of other terms not defined in the Contract are in line with those stipulated in the Relevant Laws and Regulations.

Article 2

Obligations of the Personal Information Handler

The Personal Information Handler shall perform the following obligations:

1. Process Personal Information in accordance with the Relevant Laws and Regulations. The Personal Information to be transferred abroad shall be limited to the minimum scope required for the purpose of processing.
2. Inform the Personal Information Subject of matters such as the name and contact information of the Foreign Recipient, the purpose of processing, method of processing, type of Personal Information, retention periods, and the methods and procedures for the Personal Information Subject to exercise his/her rights specified in Appendix I “*Description of the Outbound Transfer of Personal Information*”. Where Sensitive Personal Information is transferred abroad, the Personal Information Subject shall be informed of the necessity of the outbound transfer of Sensitive Personal Information and the impact on the rights and interests of the Personal Information Subject, unless otherwise provided in the laws and administrative regulations that such notification is not require
3. If Personal Information is transferred abroad based on the consent of the individual, the separate consent of the Personal Information Subject shall be obtained. Where the Personal Information involves that of a minor under the age of 14, the separate consent of the minor's parent or any other guardian, shall be obtained. Where written consent is required by laws and administrative regulations, the written consent shall be obtained.
4. Inform the Personal Information Subject that the Personal Information Handler and the Foreign Recipient have agreed that the Personal Information Subject is a third-party beneficiary under this Contract, and if the Personal Information Subject fails to raise an express rejection within thirty days, the Personal Information Subject shall be entitled to act as a third-party beneficiary in accordance with the Contract.
5. Make reasonable efforts to ensure that the Foreign Recipient has taken the following technical and organizational measures to perform its obligations under this Contract (taking into account potential Personal Information security risks that may be caused by the purpose of Personal Information processing, the type, scale, scope and sensitivity of the Personal Information, the scale and frequency of the transfer, the period of the outbound transfer of Personal Information, the period of retention by the Foreign Recipient, and other matters that may lead to a Personal Information security risk): (such as encryption, anonymization, de-identification, access control or other technical and organizational measures)
6. Provide copies of Relevant Laws and Regulations and technical standards to the Foreign Recipient upon request.
7. Reply to inquiries from the Regulatory Authority about the Foreign Recipient's processing activities.
8. Carry out a Personal Information Protection Impact Assessment in accordance with the Relevant Laws and Regulations regarding the proposed transfer of Personal Information to the Foreign Recipient. The assessment shall focus on the following matters:

- (1) the legality, legitimacy and necessity of the purpose, scope and method of processing Personal Information by the Personal Information Handler and Foreign Recipient;
- (2) the scale, scope, type, and sensitivity of Personal Information to be transferred overseas, and the risks to Personal Information that may be caused by the outbound transfer of Personal Information;
- (3) the obligations that the Foreign Recipient promises to undertake, and whether the organizational and technical measures and capabilities to perform the obligations can guarantee the security of the Personal Information to be transferred abroad;
- (4) risk of Personal Information being tampered with, destroyed, leaked, lost, illegally used, etc. after the outbound transfer, and whether there are channels for individuals to smoothly exercise Personal Information rights and interests etc.;
- (5) in accordance with Article 4 hereof, to evaluate whether the performance of this Contract will be affected by the local policies and regulations with respect to protection of Personal Information; and
- (6) other matters that may affect the security of outbound transfer of Personal Information.

The Personal Information Protection Impact Assessment Report shall be kept for at least three years.

9. Provide a copy of this Contract to the Personal Information Subject upon the Personal Information Subject 's request. If trade secrets or confidential business information are involved, the relevant contents of the copy of this Contract may be appropriately redacted, provided that such redaction will not affect the understanding of the Personal Information Subject.
10. Assume a burden of proof for the performance of obligations under this Contract.
11. In accordance with Relevant Laws and Regulations, provide the Regulatory Authority with all information as described in Article 3.11, including all compliance audit results.

Article 3

Obligations of the Foreign Recipient

The Foreign Recipient shall perform the following obligations:

1. Process the Personal Information in accordance with Appendix I “*Description of the Outbound Transfer of Personal Information*”. Where the Foreign Recipient processes the Personal Information in a way beyond the purpose and method of the Personal Information processing, and types of the Personal Information as agreed, it shall obtain the separate consent of the Personal Information Subject in advance if the processing of Personal Information is based on the consent of the Personal Information Subject; where the Personal Information of a minor under the age of 14 is involved, the separate consent of the minor’s parent, or any other guardian, shall be obtained.
2. Where the Foreign Recipient is contracted by the Personal Information Handler to process Personal Information, the Foreign Recipient shall process the Personal Information in accordance with the agreement with the Personal Information Handler and shall not process the Personal Information in a way beyond the purpose or method of the Personal Information processing.
3. Provide a copy of this Contract to the Personal Information Subject upon the Personal Information Subject’s request. If trade secrets or other confidential business information are involved, relevant parts of this Contract may be appropriately redacted, provided that such redaction will not affect the understanding of the Personal Information Subject.
4. Process the Personal Information in a manner that has the least impact on the rights and interests of the Personal Information Subject.
5. The retention period of Personal Information shall be the minimum period necessary for achieving the purpose of processing. Upon expiry of the retention period, the Personal Information (including all back-up copies) shall be deleted. Where the processing of Personal Information is contracted by the Personal Information Handler, and the personal information processing agreement fails to become effective, becomes null and void, or is cancelled or terminated, the Personal Information being processed shall be returned to the Personal Information Handler or deleted, and a written statement shall be provided to the Personal Information Handler. If it is technically difficult to delete the Personal Information, the processing of the Personal Information, other than the storage and any necessary measures taken for security protection, shall be ceased.
6. Ensure the security of Personal Information processing in the following ways:
 - (1) take technical and organizational measures including but not limited to those listed in Article 2.5 of this Contract and carry out regular inspections to ensure the security of Personal Information; and
 - (2) ensure that the personnel authorized to process Personal Information perform their confidentiality obligations and establish access control permissions of minimum authorization.
7. In the event that Personal information is or may be tampered with, destroyed, leaked, lost, illegally used, provided or accessed without authorization, the Foreign Recipient shall:
 - (1) promptly take appropriate measures to mitigate the adverse impact on the Personal Information Subject;
 - (2) immediately notify the Personal Information Handler and report to the Regulatory Authority in accordance with the Relevant Laws and Regulations. The notice shall

contain the following contents:

- i. the type of Personal Information to which the tampering with, destruction, leakage, loss, illegal use, unauthorized provision or access occurs or may occur, the cause of such event or potential event, and the potential harm;
 - ii. remedial measures that have been taken;
 - iii. measures that can be taken by the Personal Information Subject to mitigate harm; and
 - iv. contact information of the person, or team, in charge of handling the situation.
 - (3) where the Relevant Laws and Regulations require the notification of the Personal Information Subject, the content of the notice shall include the foregoing contents in Article 3.7. (2) above; where the processing of Personal Information is contracted by the Personal Information Handler, the Personal Information Handler shall notify the Personal Information Subject;
 - (4) record and retain all the situations thereof relating to the occurrence or potential occurrence of tampering, destruction, leakage, loss, illegal use, unauthorized provision or access, including all remedial measures taken.
8. The Foreign Recipient may provide Personal Information to the third party located outside the territory of the People's Republic of China only, if all of the following requirements are met:
- (1) there is a necessity from the business perspective;
 - (2) the Personal Information Subject has been informed of such third party's name, contact information, the purpose of processing, method of processing, type of Personal Information, retention periods, and the methods and procedures for the Personal Information Subject to exercise his/her rights. Where Sensitive Personal Information is provided to such third party, the Personal Information Subject should also be informed of the necessity of the outbound transfer of Sensitive Personal Information and the impact on the rights and interests of the Personal Information Subject. However, unless otherwise provided by laws and administrative regulations that such notification is not required;
 - (3) Where the processing of Personal Information is based on the consent of the Personal Information Subject, the separate consent of the Personal Information Subject shall be obtained; where the Personal Information of a minor under the age of 14 is involved, the separate consent of the minor's parent, or any other guardian, shall be obtained. Where written consent is required by laws and administrative regulations, such written consent shall be obtained;
 - (4) enter into a written agreement with the third party to ensure that the processing of Personal Information by the third party meets the standards for protection of Personal Information required by the Relevant Laws and Regulations of the People's Republic of China, and the Foreign Recipient will assume the liability for the infringement of Personal Information Subject's rights due to the provision of Personal Information to the third party located outside the territory of the People's Republic of China;
 - (5) provide a copy of the above agreement to the Personal Information Subject upon the Personal Information Subject's request. If trade secrets or other confidential business information are involved, relevant parts of the agreement may be appropriately redacted provided that such redaction will not affect the

understanding of the Personal Information Subject.

9. Where the Foreign Recipient is contracted by the Personal Information Handler to process Personal Information, and the Foreign Recipient intends to sub-contract the processing to a third party, the Foreign Recipient shall obtain the consent of the Personal Information Handler in advance and shall ensure that the sub-contractor will not process Personal Information in a way beyond the purpose and method of the processing as specified in Appendix I “*Description of the Outbound Transfer of Personal Information*”, and shall monitor the Personal Information processing activities of the third party.
10. When making use of Personal Information for automated decision-making, the Foreign Recipient shall ensure the transparency of decision-making and fair and impartial results, and shall not carry out unreasonable or differential treatment of the Personal Information Subject in terms of transaction conditions, such as transaction price. Where automated decision-making is used for pushing information and commercial marketing to the Personal Information Subject, the Foreign Recipient shall also provide the Personal Information Subject with options that are not specific to the individuals’ characteristics, or a convenient way for the Personal Information Subject to reject the automated decision-making.
11. Undertake to provide the Personal Information Handler with all necessary information required to comply with the obligations under this Contract, provide the Personal Information Handler access to review the necessary data documents, and files, or conduct a compliance audit of the processing activities under this Contract, and the Foreign Recipient shall facilitate the compliance audit conducted by the Personal Information Handler.
12. Maintain an accurate record of the Personal Information processing activities carried out for at least 3 years and provide the relevant records and documents to the Regulatory Authority directly or through the Personal Information Handler, as required by the Relevant Laws and Regulations.
13. Agree to be subject to supervision by the Regulatory Authority during an enforcement procedure related to supervising the implementation of this Contract, including but not limited to responding to inquiries and inspections by the Regulatory Authority, following the actions taken or decisions made by the Regulatory Authority, and providing written confirmation that necessary measures have been taken etc.

Article 4

The Impact of Personal Information Protection Policies and Regulations in the Foreign Recipient's Country or Region on the Performance of this Contract

1. The Parties warrant that they have exercised reasonable care when entering into this Contract and are not aware of Personal Information protection polices and regulations in the Foreign Recipient's country or region (including any requirements on providing Personal Information or authorizing public authorities to access Personal Information) that would have an impact on the Foreign Recipient's performance of its obligations under this Contract.
2. The Parties declare that, when making the warranties in Article 4.1, they have conducted the assessment in conjunction with the following circumstances:
 - (1) the specific circumstances of outbound transfer, including the purpose of processing the Personal Information, the types, scale, scope and sensitivity of the Personal Information transferred, the scale and frequency of transfer, the period of the outbound transfer of Personal Information and the retention period of the Foreign Recipient, the previous experience of the Foreign Recipient with respect to outbound transfer and processing of similar Personal Information, whether any Personal Information security incident had occurred to the Foreign Recipient and whether such incident was timely and effectively handled, whether the Foreign Recipient has received any request to provide Personal Information to the public authority of the country or region where it is located and how the Foreign Recipient has responded to such request;
 - (2) the Personal Information protection policies and regulations of the country or region where the Foreign Recipient is located, including the following elements:
 - i. the existing Personal Information protection laws, regulations and generally applicable standards of the country or region;
 - ii. the regional or global organizations of Personal Information protection that the country or region accedes to, and binding international commitments made by the country or region; and
 - iii. the mechanisms for Personal Information protection implemented in the country or region, such as whether there are supervision and enforcement authorities and relevant judicial authorities responsible for protecting Personal Information.
 - (3) the Foreign Recipient's security management system and technical capabilities.
3. The Foreign Recipient warrants that it has used its best efforts to provide the Personal Information Handler with the necessary relevant information for the assessment under Article 4.2.
4. The Parties shall keep a record of any such assessment carried out under Article 4.2 as well as the assessment results.
5. Where the Foreign Recipient is unable to perform this Contract due to any change in the policies and regulations on Personal Information protection of the country or region where the Foreign Recipient is located (including any change of laws or mandatory measures in the country or region where the Foreign Recipient is located), the Foreign Recipient shall notify the Personal Information Handler immediately after being aware of the aforesaid change.

6. If the Foreign Recipient receives a request for provision of Personal Information under this Contract from a governmental authority or judicial authority in the country or region where the Foreign Recipient is located, it shall promptly notify the Personal Information Handler.

Article 5

Rights of the Personal Information Subject

The Parties agree that the Personal Information Subject shall be entitled to the following rights as a third-party beneficiary under this Contract.

1. The Personal Information Subject, in accordance with Relevant Laws and Regulations, has the right to know and to make decisions on the processing of the Personal Information, the right to restrict or refuse processing of the Personal Information Subject's Personal Information by others, the right to request access to, copy, correct, supplement or delete the Personal Information, and the right to request others to explain the rules for the processing of the Personal Information Subject's Personal Information.
2. When the Personal Information Subject requests to exercise the above-mentioned rights regarding their Personal Information that has been transferred abroad, the Personal Information Subject may request the Personal Information Handler to take appropriate measures for the realization of those rights, or directly make the request to the Foreign Recipient. If the Personal Information Handler is unable to realize those rights, it shall notify the Foreign Recipient and request the Foreign Recipient to assist in the realization.
3. The Foreign Recipient shall, as notified by the Personal Information Handler or requested by the Personal Information Subject, realize the rights that the Personal Information Subject is entitled to within a reasonable period and in accordance with the Relevant Laws and Regulations.

The Foreign Recipient shall inform the Personal Information Subject about the relevant information which shall be true, accurate and complete, in an obvious way and using clear and understandable language.

4. If the Foreign Recipient intends to refuse the request of the Personal Information Subject, it shall inform the Personal Information Subject the reasons of the refusal, as well as the channels for the Personal Information Subject to raise complaints with the relevant Regulatory Authority and seek judicial remedies.
5. The Personal Information Subject, as a third-party beneficiary to this Contract, has the right to claim against one or both of the Personal Information Handler and the Foreign Recipient in accordance with this Contract and require them to perform the following clauses under this Contract relating to the rights of the Personal Information Subject:
 - (1) Article 2, except for Articles 2.5, 2.6 and 2.7;
 - (2) Article 3, except for Articles 3.7(2) and 3.7(4), 3.9, 3.11, 3.12 and 3.13;
 - (3) Article 4, except for Articles 4.5 and 4.6;
 - (4) Article 5;
 - (5) Article 6;
 - (6) Article 8.2 and 8.3; and
 - (7) Article 9.5.

The above agreement shall not affect the rights and interests of the Personal Information Subject in accordance with the Personal Information Protection Law of the People's Republic of China.

Article 6

Remedies

1. The Foreign Recipient shall identify a contact person who is authorized to respond to enquiries or complaints concerning the processing of Personal Information, and it shall promptly deal with any enquiries or complaints from the Personal Information Subject. The Foreign Recipient shall notify the Personal Information Handler of the contact information and shall inform the Personal Information Subject of the contact information in a manner which is easy to understand, by separate notice or announcement on its website. To be specific: Contact person and contact information (office phone number or email address).
2. If a dispute arises between either Party and the Personal Information Subject with respect to the performance of this Contract, such Party shall notify the other Party and the Parties shall cooperate to resolve the dispute.
3. If the dispute cannot be resolved amicably and the Personal Information Subject exercises the rights as a third-party beneficiary in accordance with Article 5, the Foreign Recipient shall accept that the Personal Information Subject may safeguard his/her rights through either of the following means:
 - (1) lodging a complaint with the Regulatory Authority; and
 - (2) bringing a lawsuit to the court specified in Article 6.5.
4. The Parties agree that when the Personal Information Subject exercises the rights as a third-party beneficiary with respect to a dispute under this Contract, if the Personal Information Subject chooses to apply the Relevant Laws and Regulations of the People's Republic of China, such choice shall prevail.
5. The parties agree that if the Personal Information Subject exercises the rights as a third-party beneficiary with respect to a dispute under this Contract, the Personal Information Subject may file a lawsuit with a competent court in accordance with the Civil Procedure Law of the People's Republic of China.
6. The Parties agrees that the choices made by the Personal Information Subject to safeguard his/her rights will not impair the rights of the Personal Information Subject to seek remedies in accordance with other laws and regulations.

Article 7

Termination of the Contract

1. If the Foreign Recipient breaches the obligations specified in this Contract or the Foreign Recipient is unable to perform this Contract due to a change in the policies and regulations on Personal Information protection in the Foreign Recipient's country or region (including amendment to the laws or adoption of compulsory measures in the Foreign Recipient's country or region), the Personal Information Handler may suspend the provision of Personal Information to the Foreign Recipient until the breach is corrected or the Contract is terminated.
2. In case of any of the following circumstances, the Personal Information Handler shall be entitled to terminate this Contract and notify the Regulatory Authority where necessary:
 - (1) where the Personal Information Handler has suspended the provision of Personal Information to the Foreign Recipient for more than one month in accordance with Article 7.1;
 - (2) the Foreign Recipient's compliance with this Contract will violate the laws and regulations of its own country or region;
 - (3) the Foreign Recipient seriously or persistently breaches the obligations under this Contract;
 - (4) the Foreign Recipient or the Personal Information Handler have breached this Contract pursuant to a final decision of a competent court or the regulatory body supervising the Foreign Recipient; and

The Foreign Recipient may also terminate this Contract in case of sub-paragraph (1), (2) or (4) of above.
3. The Contract may be terminated upon mutual agreement by the Parties, provided that such termination shall not exempt the Parties from the obligations of protecting Personal Information during the processing of the Personal Information.
4. If the Contract is terminated, the Foreign Recipient shall promptly return or delete the Personal Information (including all back-up copies) received hereunder and provide the Personal Information Handler with a written statement. If it is technically difficult to delete the Personal Information, any processing of the Personal Information, other than the storage and taking necessary security protection measures, shall be ceased.

Article 8

Liability for Breach of the Contract

1. Each Party shall be liable to the other Party for any damage as a result of its breach of this Contract.
2. Each Party shall bear civil liabilities to the Personal Information Subject if its breach of this Contract infringes the rights of the Personal Information Subject, without prejudice to the administrative, criminal or other legal liabilities that shall be assumed by the Personal Information Handler under the Relevant Laws and Regulations.
3. The Parties shall assume joint and several liability in accordance with the law. The Personal Information Subject shall have the right to request each Party or the Parties to assume liability. When the liability assumed by one Party exceeds the liability such Party shall be assumed, it shall have the right to claim against the other Party accordingly.

Article 9

Miscellaneous

1. If this Contract conflicts with any other legal documents existing between the Parties, the provisions of this Contract shall prevail.
2. The formation, validity, performance and interpretation of this Contract and any dispute between the Parties arising from this Contract shall be governed by the Relevant Laws and Regulations of the People's Republic of China.
3. All notices shall be promptly transmitted or posted by electronic mail, cable, telex, facsimile (confirmation copy sent by airmail), or registered airmail to (specify address _____ or such other address as may be substituted for such address by written notice). Receipt of any notice under this Contract shall be deemed to have been received _____ days after its postmark-date in the case of registered airmail and _____ working days after dispatch in the case of e-mail, cable, telex or facsimile transmission.
4. Any dispute arising from this Contract between the Parties, the Personal Information Handler and the Foreign Recipient, as well as a claim by either Party against the other for recovery of compensation already paid to the Personal Information Subject, shall be resolved by the Parties through negotiation; if such negotiation fails, either Party may adopt any of the following methods to resolve the dispute (check the box for the chosen arbitration institution, if arbitration is required):
 - (1) Arbitration. The dispute shall be submitted to:
 - China International Economic and Trade Arbitration Commission
 - China Maritime Arbitration Commission
 - Beijing Arbitration Commission (Beijing International Arbitration Center)
 - Shanghai International Arbitration Center
 - Other arbitration institutions that are members of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards

The arbitration shall be conducted in _____ (the place of arbitration) in accordance with its arbitration rules then in force.
 - (2) Litigation. Submit the dispute to a Chinese court with jurisdiction in accordance with the applicable laws.
5. This Contract shall be interpreted in accordance with Relevant Laws and Regulations and shall not be interpreted in a manner inconsistent with the rights and obligations set forth in Relevant Laws and Regulations.
6. This Contract shall be executed in _____ originals, and the Parties, the Personal Information Handler and the Foreign Recipient, shall each hold _____ original(s), with equal legal effect. This contract is signed at (place).

This Contract is made and entered into by and between the Personal Information Handler and the Foreign Recipient at _____.

Personal Information Handler: _____ (Seal)

Legal Representative/Proxy: _____ (Signature or Seal)

Date: _____

Foreign Recipient: _____ (Seal)

Legal Representative/Proxy: _____ (Signature or Seal)

Date: _____

Appendix I

Description of the Outbound Transfer of Personal Information

The details of the outbound transfer of Personal Information under this Contract are as follows:

1. Purpose of processing:
2. Method of processing:
3. The scale of Personal Information to be transferred abroad:
4. Type of Personal Information to be transferred abroad (see the types in the Information Security Technologies - Personal Information Security Specifications (GB/T 35273) and relevant standards):
5. Type of Sensitive Personal Information to be transferred abroad (where applicable, see the types in the Information Security Technologies - Personal Information Security Specifications of GB/T 35273 and relevant standards):
6. The Foreign Recipient transfers Personal Information only to the following third parties outside the People's Republic of China (if applicable):
7. Method of transfer:
8. Retention period after the cross-border transfer:
From [MM/DD/YY] to [MM/DD/YY]
9. Storage location after the outbound transfer:
10. Other matters (to be filled in as appropriate):

Appendix II

Other Terms as Agreed by the Parties (If Necessary).

Note: this translation work is presented by Shihui Partners, translated by Jing Lu, Jeanette Wang and Raymond Wang and reviewed by Ian Read.

附件：个人信息出境标准合同

国家互联网信息办公室 制定

1 为了确保境外接收方处理个人信息的活动达到中华人民共和国相关法律法规规定的个人信息保护标准，明确个人信息处理者和境外接收方个人信息保护的权利和义务，经双方协商一致，订立本合同。个人信息处理者：地址：联系方式：联系人：职务：境外接收方：地址：联系方式：联系人：职务：2 个人信息处理者与境外接收方依据本合同约定开展个人信息出境活动，与此活动相关的商业行为，双方【已】/【约定】于年月日订立（商业合同，如有）。本合同正文根据《个人信息出境标准合同办法》的要求拟定，在不与本合同正文内容相冲突的前提下，双方如有其他约定可在附录二中详述，附录构成本合同的组成部分。第一条 定义 在本合同中，除上下文另有规定外：（一）“个人信息处理者”是指在个人信息处理活动中自主决定处理目的、处理方式的，向中华人民共和国境外提供个人信息的组织、个人。

(二)“境外接收方”是指在中华人民共和国境外自个人信息处理者处接收个人信息的组织、个人。(三)个人信息处理者或者境外接收方单称“一方”，合称“双方”。(四)“个人信息主体”是指个人信息所识别或者关联的自然人。(五)“个人信息”是指以电子或者其他方式记录的与已识别或者可识别的自然人有关的各种信息，不包括匿名化处理后的信息。(六)“敏感个人信息”是指一旦泄露或者非法使用，容易导致自然人的人格尊严受到侵害或者人身、财产安全受到危害的个人信息，包括生物识别、宗教信仰、特定身份、医疗健康、金融账户、行踪轨迹等信息，以及不满十四周岁未成年人的个人信息。(七)“监管机构”是指中华人民共和国省级以上网信部门。(八)“相关法律法规”是指《中华人民共和国网络安全法》《中华人民共和国数据安全法》《中华人民共和国个人信息保护法》《中华人民共和国民法典》《中华人民共和国民事诉讼法》《个人信息出境标准合同办法》等中华人民共和国法律法规。(九)本合同其他未定义术语的含义与相关法律法规规定的含义一致。

第二条 个人信息处理者的义务 个人信息处理者应当履行下列义务：

(一)按照相关法律法规规定处理个人信息，向境外提供的个人信息仅限于实现处理目的所需的最小范围。(二)向个人信息主体告知境外接收方的名称或者姓名、联系方式、附录一“个人信息出境说明”中处理目的、处理方式、个人信息的种类、保存期限，以及行使个人信息主体权利的方式和程序等事项。向境外提供敏感个人信息的，还应当向个人信息主体告知提供敏感个人信息的必要性以及对个人权益的影响。但是法律、行政法规规定不需要告知的除外。(三)基于个人同意向境外提供个人信息的，应当取得个人信息主体的单独同意。涉及不满十四周岁未成年人个人信息的，应当取得未成年人的父母或者其他监护人的单独同意。法律、行政法规规定应当取得书面同意的，应当取得书面同意。

4 (四)向个人信息主体告知其与境外接收方通过本合同约定个人信息主体为第三方受益人，如个人信息主体未在30日内明确拒绝，则可以依据本合同享有第三方受益人的权利。(五)尽合理地努力确保境外接收方采取如下技术和管理措施(综合考虑个人信息处理目的、个人信息的种类、规模、范围及敏感程度、传输的数量和频率、个人信息传输及境外接收方的保存期限等可能带来的个人信息安全风险)，以履行本合同约定的义务：(如加密、匿名化、去标识化、访问控制等技术和管理措施)(六)根据境外接收方的要求向境外接收方提供相关法律规定和技术标准的副本。(七)答复监管机构关于境外接收方的个人信息处理活动的询问。(八)按照相关法律法规对拟向境外接收方提供个人信息的活动开展个人信息保护影响评估。重点评估以下内容：1.个人信息处理者和境外接收方处理个人信息的目的、范围、方式等的合法性、正当性、必要性。2.出境个人信息的规模、范围、种类、敏感程度，个人信息出境可能对个人信息权益带来的风险。3.境外接收方承诺承担的义务，以及履行义务的管理和技术措施、能力等能否保障出境个人信息的安全。5 4.个人信息出境后遭到篡改、破坏、泄露、丢失、非法利用等的风险，个人信息权益维护的渠道是否通畅等。5.按照本合同第四条评估当地个人信息保护政策和法规对合同履行的影响。6.其他可能影响个人信息出境安全的事项。保存个人信息保护影响评估报告至少3年。(九)根据个人信息主体的要求向个人信息主体提供本合同的副本。如涉及商业秘密或者保密商务信息，在不影响个人信息主体理解的前提下，可对本合同副本相关内容进行适当处理。(十)对本合同义务的履行承担举证责任。(十一)根据相关法律法规要求，向监管机构提供本合同第三条第十一项所述的信息，包括所有合规审计结果。

第三条 境外接收方的义务 境外接收方应当履行下列义务：

(一)按照附录一“个人信息出境说明”所列约定处理个人信息。如超出约定的处理目的、处理方式和处理的个人信息种类，基于个人同意处理个人信息的，应当事先取得个人信息主体的单独同意；涉及不满十四周岁未成年人个人信息的，应当取得未成年人的父母或者其他监护人的单独同意。(二)受个人信息处理者委托处理个人信息的，应当按照与个人信息处理者的约定处理个人信息，不得超出与个人信息处理者约定的处理目的、处理方式等处理个人信息。

6 (三)根据个人信息主体的要求向个人信息主体提供本合同的副本。如涉及商业秘密或者保密商务信息，在不影响个人信息主体理解的前提下，可对本合同副本相关内容进行适当处理。(四)采取对个人权益影响最小的方式处理个人信息。(五)个人信息的保存期限为实现处理目的所必要的最短时间，保存期限届满的，应当删除个人信息(包括所有备份)。受个人信息处理者委托处理个人信息，委托合同未生效、无效、被撤销或者终止的，应当将个人信息返还个人信息处理者或者予以删除，并向个人信息处理者提供书面说明。删除个人信息从技术上难以实现的，应当停止除存储和采取必要的安全保护措施之外的处理。(六)按下列方式保障个人信息处理安全：1.采取包括但不限于本合同第二条第五

项的技术和管理措施，并 定期进行检查，确保个人信息安全。2.确保授权处理个人信息的人员履行保密义务，并建立最小授权 的访问控制权限。（七）如处理的个人信息发生或者可能发生篡改、破坏、泄露、丢失、非法利用、未经授权提供或者访问，应当开展下列工作：1.及时采取适当补救措施，减轻对个人信息主体造成的不利影 响。2.立即通知个人信息处理者，并根据相关法律法规要求报告监管 机构。通知应当包含下列事项：（1）发生或者可能发生篡改、破坏、泄露、丢失、非法利用、7 未经授权提供或者访问的个人信息种类、原因和可能造成的危害。（2）已采取的补救措施。（3）个人信息主体可以采取的减轻危害的措施。（4）负责处理相关情况的负责人或者负责团队的联系方式。3.相关法律法规要求通知个人信息主体的，通知的内容包含本项 第 2 目的事项。受个人信息处理者委托处理个人信息的，由个人信息 处理者通知个人信息主体。4.记录并留存所有与发生或者可能发生篡改、破坏、泄露、丢失、非法利用、未经授权提供或者访问有关的情况，包括采取的所有补救 措施。（八）同时符合下列条件的，方可向中华人民共和国境外的第三 方提供个人信息：1.确有业务需要。2.已告知个人信息主体该第三方的名称或者姓名、联系方式、处 理目的、处理方式、个人信息种类、保存期限以及行使个人信息主体 权利的方式和程序等事项。向第三方提供敏感个人信息的，还应当向 个人信息主体告知提供敏感个人信息的必要性以及对个人权益的影 响。但是法律、行政法规规定不需要告知的除外。3.基于个人同意处理个人信息的，应当取得 个人信息主体的单独 同意。涉及不满十四周岁未成年人个人信息的，应当取得未成年人的 父母或者其他监护人的单独同意。法律、行政法规规定应当取得书面 同意的，应当取得书面同意。8 4.与第三方达成书面协议，确保第三方的个人信息处理活动达到 中华人民共和国相关法律法规规定的个人信息保护标准，并承担因向 中华人民共和国境外的第三方提供个人信息而侵害个人信息主体享 有权利的法律责 任。5.根据个人信息主体的要求向个人信息主体提供该书面协议的 副本。如涉及商业秘密或者保密商务信息，在不影响个人信息主体理 解的前提下，可对该书面协议相关内容进行适当处理。（九）受个人信息处理者委托处理个人信息，转委托第三方处理 的，应当事先征得个人信息处理者同意，要求该第三方不得超出本合 同附录一“个人信息出境说明”中约定的处理目的、处理方式等处理 个人信息，并对该第三方的个人信息处理活动进行监督。（十）利用个人信息进行自动化决策的，应当保证决策的透明度和 结果公平、公正，不得对个人信息主体在交易价格等交易条件上实 行不合理的差别待遇。通过自动化决策方式向个人信息主体进行信息 推送、商业营销的，应当同时提供不针对其个人特征的选项，或者向 个人信息主体提供便捷的拒绝方式。（十一）承诺向个人信息处理者提供已遵守本合同义务所需的必 要信息，允许个人信息处理者对必要数据文件和文档进行查阅，或者 对本合同涵盖的处理活动进行合规审计，并为个人信息处理者开展合 规审计提供便利。（十二）对开展的个人信息处理活动进行客观记录，保存记录至 少 3 年，并按照相关法律法规要求直接或者通过个人信息处理者向监 9 管机构提供相关记录文件。（十三）同意在监督 本合同实施的相关程序中接受监管机构的监 督管理，包括但不限于答复监管机构询问、配合 监管机构检查、服从 监管机构采取的措施或者作出的决定、提供已采取必要行动的书面证 明等。第四条 境外接收方所在国家或者地区个人信息保护政策和法规 对合同履行的影响（一）双方应当保证在本合同订立时已尽到合理注意义务，未发 现境外接收方所在国家或者地区的个人信息保护政策和法规（包括任 何提供个人信息的要求或者授权公共机关访问个人信息的规定）影响 境外接收方履行本合同约定的义务。（二）双方声明，在作出本条第一项的保证时，已经结合下列情 形进行评估：1.出境的具体情况，包括个人信息处理目的、传输个人信息的种 类、规模、范围及敏感程度、传输的规模和频率、个人信息传输及境 外接收方的保存期限、境外接收方此前类似的个人信息跨境传输和处 理相关经验、境外接收方是否曾发生个人信息安全相关事件及是否进 行了及时有效地处置、境外接收方是否曾收到其所在国家或者地区公 共机关要求其提供个人信息的请求及境外接收方应对的情况。2.境外接收方所在国家或者地区的个人信息保护政策和法规，包 括下列要素：（1）该国家或者地区现行的个人信息保护法律法规及普遍适用 10 的标准。（2）该国家或者地区加入的区域性或者全球性的个人信息保护 方面的组织，以及所作出的具有约束力的国际承诺。（3）该国家或者地区落实个人信息保护的机制，如是否具备个 人信息保护的监督执法机构和相关司法机构等。3.境外接收方安全管理制度和技术手段保障能力。（三）境外接收方保证，在根据本条第二项进行 评估时，已尽最 大努力为个人信息处理者提供了必要的相关信息。（四）双方应当记录根据本条第二项进行评估的过程和结果。（五）因境外接收方所在国家或者地区的个人信息保护

政策和法规发生变化（包括境外接收方所在国家或者地区更改法律，或者采取强制性措施）导致境外接收方无法履行本合同的，境外接收方应当在知道该变化后立即通知个人信息处理者。（六）境外接收方接到所在国家或者地区的政府部门、司法机构关于提供本合同项下的个人信息要求的，应当立即通知个人信息处理者。

第五条 个人信息主体的权利 双方约定个人信息主体作为本合同第三方受益人享有以下权利：（一）个人信息主体依据相关法律法规，对其个人信息的处理享有知情权、决定权，有权限制或者拒绝他人对其个人信息进行处理，有权要求查阅、复制、更正、补充、删除其个人信息，有权要求对其个人信息处理规则进行解释说明。11（二）当个人信息主体要求对已经出境的个人信息行使上述权利时，个人信息主体可以请求个人信息处理者采取适当措施实现，或者直接向境外接收方提出请求。个人信息处理者无法实现的，应当通知并要求境外接收方协助实现。（三）境外接收方应当按照个人信息处理者的通知，或者根据个人信息主体的请求，在合理期限内实现个人信息主体依照相关法律法规所享有的权利。境外接收方应当以显著的方式、清晰易懂的语言真实、准确、完整地告知个人信息主体相关信息。（四）境外接收方拒绝个人信息主体的请求的，应当告知个人信息主体其拒绝的原因，以及个人信息主体向相关监管机构提出投诉和寻求司法救济的途径。（五）个人信息主体作为本合同第三方受益人有权根据本合同条款向个人信息处理者和境外接收方的一方或者双方主张并要求履行本合同项下与个人信息主体权利相关的下列条款：1.第二条，但第二条第五项、第六项、第七项、第十一项除外。2.第三条，但第三条第七项第2目和第4目、第九项、第十一项、第十二项、第十三项除外。3.第四条，但第四条第五项、第六项除外。4.第五条。5.第六条。6.第八条第二项、第三项。127.第九条第五项。上述约定不影响个人信息主体依据《中华人民共和国个人信息保护法》享有的权益。第六条 救济（一）境外接收方应当确定一个联系人，授权其答复有关个人信息处理的询问或者投诉，并应当及时处理个人信息主体的询问或者投诉。境外接收方应当将联系人信息告知个人信息处理者，并以简洁易懂的方式，通过单独通知或者在其网站公告，告知个人信息主体该联系人信息，具体为：联系人及联系方式（办公电话或电子邮箱）（二）一方因履行本合同与个人信息主体发生争议的，应当通知另一方，双方应当合作解决争议。（三）争议未能友好解决，个人信息主体根据第五条行使第三方受益人的权利的，境外接收方接受个人信息主体通过下列形式维护权利：1.向监管机构投诉。2.向本条第五项约定的法院提起诉讼。（四）双方同意个人信息主体就本合同争议行使第三方受益人权利，个人信息主体选择适用中华人民共和国相关法律法规的，从其选择。（五）双方同意个人信息主体就本合同争议行使第三方受益人权利的，个人信息主体可以依据《中华人民共和国民事诉讼法》向有管辖权的13 人民法院提起诉讼。（六）双方同意个人信息主体所作的维权选择不会减损个人信息主体根据其他法律法规寻求救济的权利。第七条 合同解除（一）境外接收方违反本合同约定的义务，或者境外接收方所在国家或者地区的个人信息保护政策和法规发生变化（包括境外接收方所在国家或者地区更改法律，或者采取强制性措施）导致境外接收方无法履行本合同的，个人信息处理者可以暂停向境外接收方提供个人信息，直到违约行为被改正或者合同被解除。（二）有下列情形之一的，个人信息处理者有权解除本合同，并在必要时通知监管机构：1.个人信息处理者根据本条第一项的规定暂停向境外接收方提供个人信息的时间超过1个月。2.境外接收方遵守本合同将违反其所在国家或者地区的法律规定。3.境外接收方严重或者持续违反本合同约定的义务。4.根据境外接收方的主管法院或者监管机构作出的终局决定，境外接收方或者个人信息处理者违反了本合同约定的义务。在本项第1目、第2目、第4目的情况下，境外接收方可以解除本合同。（三）经双方同意解除本合同的，合同解除不免除其在个人信息处理过程中的个人信息保护义务。14（四）合同解除时，境外接收方应当及时返还或者删除其根据本合同所接收到的个人信息（包括所有备份），并向个人信息处理者提供书面说明。删除个人信息从技术上难以实现的，应当停止除存储和采取必要的安全保护措施之外的处理。第八条 违约责任（一）双方应就其违反本合同而给对方造成的损失承担责任。（二）任何一方因违反本合同而侵害个人信息主体享有的权利，应当对个人信息主体承担民事法律责任，且不影响相关法律法规规定个人信息处理者应当承担的行政、刑事等法律责任。（三）双方依法承担连带责任的，个人信息主体有权请求任何一方或者双方承担责任。一方承担的责任超过其应当承担的责任份额时，有权向另一方追偿。第九条 其他（一）如本合同与双方订立的任何其他法律文件发生冲突，本合同的条款优先适用。（二）本合同的成立、效力、履行、解释、因本合同引起的双方间的任何争议，适用中华人民共和国相关法律法规。

(三) 发出的通知应当以电子邮件、电报、电传、传真(以航空信件寄送确认副本)或者航空挂号信发往(具体地址)或者书面通知取代该地址的其它地址。如以航空挂号信寄出本合同项下的通知,在邮戳日期后的天应当视为收讫;如以电子邮件、电报、电传或者传真发出,在发出以后的个工作日应当视为收讫。15 (四) 双方因本合同产生的争议以及任何一方因先行赔偿个人信息主体损害赔偿责任而向另一方的追偿,双方应当协商解决;协商解决不成的,任何一方可以采取下列第种方式加以解决(如选择仲裁,请勾选仲裁机构): 1.仲裁。将该争议提交 中国国际经济贸易仲裁委员会 中国海事仲裁委员会 北京仲裁委员会(北京国际仲裁中心) 上海国际仲裁中心 其他《承认及执行外国仲裁裁决公约》成员的仲裁机构按其届时有效的仲裁规则在(仲裁地点)进行仲裁; 2.诉讼。依法向中华人民共和国有管辖权的人民法院提起诉讼。(五) 本合同应当按照相关法律法规的规定进行解释,不得以与相关法律法规规定的权利、义务相抵触的方式解释本合同。(六) 本合同正本一式份,双方各执份,其法律效力相同。本合同在(地点)签订 个人信息处理者: 年月日 境外接收方: 年月日 16 附录一 个人信息出境说明 根据本合同向境外提供个人信息的详情约定如下: (一) 处理目的: (二) 处理方式: (三) 出境个人信息的规模: (四) 出境个人信息种类(参考 GB/T 35273《信息安全技术 个人信息安全规范》和相关标准): (五) 出境敏感个人信息种类(如适用,参考 GB/T 35273《信息安全技术 个人信息安全规范》和相关标准): (六) 境外接收方只向以下中华人民共和国境外第三方提供个人信息(如适用): (七) 传输方式: (八) 出境后保存期限: (年月日至年月日) (九) 出境后保存地点: (十) 其他事项(视情况填写): 17 附录二 双方约定的其他条款(如需要)

