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Guidance Note

香港個人資料私隱專員公署
Office of the Privacy Commissioner
for Personal Data, Hong Kong

Guidance on Recommended Model Contractual Clauses for Cross-border Transfer of Personal Data

PART 1:   INTRODUCTION

Given the increasing digitalisation in the handling of personal data and globalisation of business operations in recent years, local enterprises, especially the small and medium-sized ones, may experience practical difficulties in crafting appropriate contractual terms for effecting cross-border transfers of personal data while ensuring that the data concerned be given equivalent protection to the degree provided under the Personal Data (Privacy) Ordinance (Cap. 486) (**PDPO**). Meanwhile, with the proliferation and advancement of information and communication technology including the big data, cloud computing and data analytics, the challenges and complexities involved in cross-border data transfers are set to mount.

The Office of the Privacy Commissioner for Personal Data has prepared two sets of Recommended Model Contractual Clauses (**RMCs**) to cater for two different scenarios in cross-border data transfers, namely (i) from one data user to another data user; and (ii) from a data user to a data processor. The RMCs set out the general terms and conditions which are applicable to the transfer of personal data from a Hong Kong entity to another entity outside Hong Kong; or between two entities both of which are outside Hong Kong when the transfer is controlled by a Hong Kong data user, with a view to facilitating the parties to cross-border transfers of personal data to take into account the relevant requirements of the PDPO, including the Data Protection Principles (**DPPs**) under Schedule 1 thereof.

The RMCs are prepared as free-standing clauses, which may be incorporated into more general commercial agreements between data transferors and data transferees. This Guidance provides detailed elaborations as to the substantive effect of the RMCs, and how adherence to the same ensures that adequate protection be given to the personal data as provided under the PDPO as if the data concerned were not transferred outside Hong Kong.

Notwithstanding that section 33 of the PDPO, which imposes restrictions on cross-border transfers of data, is not yet in operation, this Guidance recommends to data users, especially the small and medium-sized enterprises, the best practices to be adopted as part of their data governance responsibility to protect and respect the personal data privacy of data subjects.

This Guidance supplements the Guidance on Personal Data Protection in Cross-border Data Transfer, including the Recommended Model Clauses in the Schedule annexed thereto, issued by this Office in December 2014 [1].

The legal requirements

Data Protection Principle 3 of the PDPO, which is directed against the misuse of personal data, specifies that personal data shall not, without the data subject's prescribed consent, be used for a new purpose. "New purpose" means in essence any purpose other than the one for which the personal data was originally

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1   The Guidance on Personal Data Protection in Cross-border Data Transfer is available at
      https://www.pcpd.org.hk//english/resources_centre/publications/files/GN_crossborder_e.pdf.

collected or a directly related purpose. "Prescribed consent" means consent that is expressly and voluntarily given and has not been withdrawn by the data subject in writing, while "use" includes both disclosure and transfer of data. Thus, transfer of personal data to a place outside Hong Kong would require the data subject's prescribed consent under DPP3 if it is for a new purpose, unless such transfer falls within the exemptions under Part 8 of the PDPO.

Further, outsourcing and entrusting personal data processing work by data users to their agents has become ubiquitous. If a data user engages a data processor to process personal data outside Hong Kong on behalf of the data user, the data user must adopt contractual or other means to, among other things, (i) prevent any personal data transferred to the data processor from being kept longer than is necessary for processing of the data (under DPP2(3)), and (ii) prevent unauthorised or accidental access, processing, erasure, loss or use of the data transferred to the data processor for processing (under DPP4(2)). For example, if a data user passes the personal data of its customers to a contractor situated outside Hong Kong to make direct marketing phone calls, the data user must still abide by the requirements under Part 6A of the PDPO in using personal data in direct marketing. The data user remains liable for the act done by its agent with its authority under section 65 of the PDPO.

To ensure compliance with the requirements imposed by the PDPO notwithstanding the transfer of data outside Hong Kong, therefore, it is advisable for data users to incorporate the RMCs into cross-border data transfers. The adoption of the RMCs will also serve to illustrate that the data user has taken all reasonable precautions and exercised all due diligence to ensure that the data will not, in the jurisdiction of the transferee, be collected, held, processed, or used in any manner which, if that took place in Hong Kong, would be a contravention of a requirement under the PDPO (cf. the **Due Diligence Requirement** under section 33(2)(f) of the PDPO). All these factors will be taken into account when there is any suspected or alleged breach of the PDPO, including the DPPs.

PART 2: THE USE OF RECOMMENDED MODEL CONTRACTUAL CLAUSES

Introduction

The RMCs set out in the Schedule to this Guidance serve as recommended contractual clauses which may be used by data users, especially small and medium-sized enterprises, as a practical means to ensure an adequate level of protection be provided in respect of cross-border transfers of personal data.

There are two sets of RMCs:

A)   The first set of RMCs applies to transfers of personal data from one data user to another data user, in which the transferor and the transferee will both use the personal data for their separate business purposes (for example, as part of a data sharing collaboration for their respective business activities) (**Data User to Data User RMCs**).

B)   The second set of RMCs applies to transfers of personal data from a data user to a data processor, in which the transferee will only process the personal data for purposes designated by the transferor (for example, when a Hong Kong business enters into arrangements for an offshore cloud service) (**Data User to Data Processor RMCs**).

How to use the RMCs

The RMCs are not intended to constitute the entirety of the agreement between the transferring and the receiving parties. It is likely that commercial considerations will need to be addressed as part of the contractual arrangements between the parties, before they proceed with the transfer of personal data. In addition, it will often be appropriate for a data user to seek additional and, more specifically, assurances from transferees in

relation to how they will handle the personal data being transferred. Some of these additional assurances are addressed in the sub-section "**Additional contractual measures**" below.

The RMCs are intended to be general terms and conditions applicable to (i) cross-border transfers of personal data from a Hong Kong entity to another entity outside Hong Kong or (ii) between two entities both of which are outside Hong Kong when the transfer is controlled by a Hong Kong data user, so that relevant requirements, in particular the DPPs under Schedule 1, of the PDPO are taken into consideration. The RMCs serve to provide a practical basis for facilitating transfers of personal data from Hong Kong, enabling organisations to come to a clear agreement on what personal data is being transferred; the purposes for which it will be transferred; and the specific allocation of responsibilities between them for transferring personal data in line with the requirements of the PDPO in areas such as data security, managing data access and correction rights, and the scope for the transferee to make onward transfers to other jurisdictions or to other recipients.

The RMCs may be adapted by organisations, especially small and medium-sized enterprises, in developing their own form of data transfer agreements or be incorporated into a wider service agreement. Organisations are free to use alternative wording which in substance is consistent with the requirements of the PDPO. The RMCs are prepared as free-standing clauses which may be incorporated into more general commercial agreements between transferors and transferees, provided that the substantive effect of the RMCs (and thus the protection afforded to the personal data under the PDPO as if they were not transferred outside Hong Kong) continues to be met. The RMCs herein shall not be taken as satisfying the requirements of the General Data Protection Regulation of the European Union and/or be considered as an alternative to the Standard Contractual Clauses promulgated by the European Commission. Data users should ensure that an adequate level of protection be provided when transferring personal data to other jurisdictions outside Hong Kong.

(A) Data User to Data User RMCs

In the context of cross-border transfers of personal data involving one data user in Hong Kong to another data user outside Hong Kong, data users are advised to take all reasonable precautions and exercise all due diligence to ensure that the personal data being transferred outside Hong Kong would not, in the destination jurisdictions, be used, held or processed in a manner which, if that took place in Hong Kong, would be a contravention of the PDPO. The Data User to Data User RMCs have been drafted to reflect the recommended best practices that the transferee (being a data user outside Hong Kong) should adhere to, having regard to the relevant requirements that the transferor (as a data user in Hong Kong) ought to comply with under the PDPO, as incorporated in the following contractual requirements:

1. only use the personal data for the purposes of transfer agreed with the transferor (or directly related purposes) and for which the personal data was collected in the first place by the transferor, unless the PDPO permits any wider scope of use (clause 4.1);

2. ensure that the personal data be adequate but not excessive in relation to the purposes of transfer as agreed with the transferor (or directly related purposes) (clause 4.2);

3. apply agreed security measures to the use of the personal data, as set out in the Data Transfer Schedule annexed to the Data User to Data User RMCs (clause 4.3);

4. retain the personal data only for a period which is necessary for the fulfilment of the purposes of transfer or for the duration of any specific retention period as agreed (clause 4.4);

5. take all practicable steps to erase the personal data transferred, once the retention period or the need to retain the personal data has lapsed (clause 4.5);

6. take all practicable steps to ensure that the personal data be accurate, having regard to the purposes of transfer agreed with the transferor (or directly related purposes) (clause 4.6);

7.   take all practicable steps to ensure that any inaccurate personal data (i) should not be used unless it is rectified or (ii) should be erased (clause 4.7);

8.   take all practicable steps to ensure that data subjects should be able to access its policies and practices in relation to the personal data (clause 4.8);

9.   not make any onward transfer of personal data to any third party except as agreed by the parties in the Data Transfer Schedule or with the transferor's consent (clause 4.9);

10.   ensure that onward transfers of personal data meet the requirements of the Data User to Data User RMCs or Data User to Data Processor RMCs, as applicable (clause 4.10);

11.   not make any onward transfer of personal data to any other jurisdictions except as agreed (clause 4.11) [2];

12.   comply with its obligations as a data user in respect of the access and correction rights of the data subject (clause 5); and

13.   comply with its obligations to cease direct marketing using the personal data upon receipt of a written notice from the transferor to that effect, unless the PDPO permits such direct marketing (clause 6).

The transferor also acknowledges its obligation to ensure that the transfer be made in accordance with the PDPO (clause 3), reflecting the transferor's obligations to comply with each of the DPPs and other requirements under the PDPO.

(B) Data User to Data Processor RMCs

The Data User to Data Processor RMCs reflect the transferor's obligations imposed on a data user under the PDPO in respect of its transfers to a data processor. In particular, the transferor (as a data user) is obliged to adhere to the requirements under the PDPO in ensuring the data processor's compliance with the requirements of the PDPO and, specifically, the transferee as a data processor should:

1.   only process personal data for the purposes (or directly related purposes) designated by the transferor and for which the personal data was collected in the first place by the transferor (clause 3.1);

2.   ensure that the personal data be adequate but not excessive in relation to the purposes of transfer (or directly related purposes) designated by the transferor (clause 3.2);

3.   apply agreed security measures to the processing of the personal data, as set out in the Data Transfer Schedule annexed to the Data User to Data Processor RMCs (clause 3.3);

4.   retain the personal data only for a period which is necessary for the fulfilment of the purposes of transfer (or directly related purposes) designated by the transferor or for the duration of any specific retention period as agreed (clause 3.4);

5.   take all practicable steps to erase the personal data transferred, once the retention period or the need to retain the personal data has lapsed (or as otherwise instructed by the transferor) (clause 3.5);

6.   take all practicable steps to ensure that the personal data be accurate, having regard to the purposes of transfer (or directly related purposes) designated by the transferor (clause 3.6);

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2   Clause 4.11 proposes two alternative approaches with respect to onward transfers of personal data by the transferee to a third party:
  (a) the transferee must obtain the transferor's prior consent to each onward transfer, in which case the transferor must evaluate the transferee's request to make an onward transfer and determine whether or not the personal data transferred will be given equivalent protection as provided under the PDPO; or
  (b) the transferee must notify the transferor of the transfer and undertake to the transferor that it will make the onward transfer under one of the specified conditions.

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7.   take all practicable steps to ensure that any inaccurate personal data (i) should not be processed unless it is rectified or (ii) should be erased (clause 3.7);

8.   not make any onward transfer of personal data to any third party except as agreed by the parties in the Data Transfer Schedule or with the transferor's consent (clause 3.8);

9.   ensure that onward transfers of personal data meet the requirements of the Data User to Data Processor RMCs (Clause 3.9); and

10. not make any onward transfer of personal data to any other jurisdictions except with the transferor's prior written consent (clause 3.10).

Data Transfer Schedule

Both RMCs incorporate a Data Transfer Schedule which is intended to set out the transferor's and transferee's agreements in respect of specific operational and technical aspects of the data transfer, in particular:

1.   the categories of personal data being transferred by the transferor to the transferee (**Personal Data Transferred**);

2.   the purposes for which the personal data is transferred (**Purposes of Transfer**);

3.   any specific agreement on the destinations to which the personal data will be transferred (**Permitted Jurisdictions**);

4.   any specific maximum retention period applicable to the transfer (**Retention Period**);

5.   any specific agreement in respect of onward transfers of personal data which the transferee may make ("**Onward Transfer**" in respect of data user to data user transfers and "**Sub-processing**" in respect of data user to data processor transfers);

6.   the security measures which the transferee is required to apply to its use/processing and storage of the personal data (**Security Measures**), such as specific encryption standards in respect of the transfer and storage of the personal data or specific techniques for erasing the personal data from storage once the processing arrangements are completed; and

7.   in the case of data user to data user transfers, the parties' arrangements for handling data subjects' access and correction requests.

Additional contractual measures

In addition to the incorporation of the RMCs, the transferor may also wish to consider whether it is necessary or advisable to incorporate additional contractual assurances, rights and obligations in relation to the use or processing of the personal data by the transferee in the context of the specific cross-border data transfer. This is particularly so where the subject matter of the contract consists of more complex contractual obligations that last for a comparatively long period of time. Very often, multi-national companies will adopt a more complex set of additional contractual clauses, as compared to small and medium-sized enterprises. Readers may refer to the set of Recommended Model Clauses set out in the Guidance on Personal Data Protection in Cross-border Data Transfer issued in December 2014 for incorporation of additional contractual assurances as appropriate. Some examples of such additional assurances include:

a)   **Reporting, Audit and Inspection Rights:** It is advisable for the transferors to receive regular reports and information from the transferees in respect of their handling of the personal data. For example, in the context of transfers from data users to data processors, a data user may wish to receive regular

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reports on the results of a data processor's data security tests and reviews. The data user may also consider it necessary to retain its rights to inspect the data processor's data processing facilities or carry out security audits in relation to the data processor's systems and equipment.

b) **Notification of Breach:** To safeguard data users' interests, it is advisable for data users to receive reasonably prompt notifications of data security breaches committed by their data processors in relation to the data transferred to the data processors. Breach notifications enable a data user to take appropriate measure(s) to contain the damage and determine the cause of the breach, prevent further harm to the affected data subjects, and report the incident to the Commissioner as appropriate. The data user may, for instance, wish to contractually require the data processor to notify the data user as soon as reasonably practicable after it becomes aware of a personal data breach, and provide the data user with relevant details of the breach, such as what personal data was affected and how the breach occurred.

c) **Compliance Support and Co-operation:** It is advisable for data users to require the transferees to co-operate with them in respect of regulatory compliance investigations and reviews, and in respect of matters such as data subjects' data access and correction requests. For example, a data user may wish to include a contractual obligation on a data processor to forward data access requests received by it for handling by the data user.

In the context of data user to data user transfers, there may be a wider range of practical considerations to be incorporated into the legal terms and conditions, such as arrangements in respect of sharing personal data for direct marketing purposes (bearing in mind the stringent controls on such sharing under Part 6A of the PDPO). As each data user as the transferor will remain responsible for complying with the obligations under the PDPO, it is recommended that transferors put in place contractual arrangements that set out the agreed roles and responsibilities between the parties for ensuring that adequate protection be given to the personal data as provided under the PDPO as if the data concerned were not transferred outside Hong Kong in areas where mutual co-operation is likely to be beneficial. For example, the parties may agree on an obligation to work jointly to ensure that personal data be kept up to date or an obligation to ensure each data user should provide a designated point of contact to communicate with each other with respect to matters of compliance with the PDPO.

Data ethics, transparency and accountability

As data-driven innovations continue to accelerate and transform, involving new forms of processing activities and larger volumes of data being processed, as a matter of principle, data users should adopt good data ethics which, put simply, is about doing what is reasonably expected by data subjects and being transparent about data processing activities. More specifically, as a matter of good practice, it is recommended that data users should notify data subjects of the fact that their personal data may be transferred outside Hong Kong and the underlying grounds. A perceived lack of transparency around data processing activities can engender a sense of distrust between the data user and data subjects. By adopting RMCs and observing the principles of transparency and accountability, it will be conducive not only to maximising the value of data but also to developing and sustaining the trust of data subjects.

In addition, where something goes wrong, data users will be in a better position if they can demonstrate that they have considered the relevant risks and have implemented appropriate measures or practices to mitigate the impact of such risks. On the contrary, if a data user is unable to demonstrate that it has implemented good data protection measures, including, for instance, the incorporation of RMCs, it may be susceptible to potential liability and reputational damage.

Schedule: Recommended Model Contractual Clauses

(A) RECOMMENDED MODEL CONTRACTUAL CLAUSES FOR DATA TRANSFER FROM DATA USER TO DATA USER

1. DEFINITIONS

1.1 For the purposes of these clauses, including the Data Transfer Schedule (collectively, the "**Clauses**"):

"**Onward Transfer Recipient**" has the meaning given in Clause 4.9;

"**PDPO**" means the Personal Data (Privacy) Ordinance (Cap. 486), as may be amended from time to time;

"**Permitted Jurisdictions**" means the place(s) listed in the Data Transfer Schedule or any other place where the Personal Data Transferred may from time to time be used or processed or held in accordance with these Clauses;

"**Personal Data Transferred**" means personal data of the types or categories listed in the Data Transfer Schedule;

"**Purposes of Transfer**" means the purposes for using the Personal Data Transferred listed in the Data Transfer Schedule or the directly related purposes;

"**Recommended Model Data Processing Clauses**" means the recommended model contractual clauses for cross-border transfer of personal data from a data user to a data processor as published by the Commissioner from time to time; and

"**Retention Period**" means any period of time identified as such in the Data Transfer Schedule.

1.2 The terms "**Commissioner**", "**data processor**", "**data subjects**", "**data user**", "**direct marketing**", "**personal data**", "**processing**" and "**using**" shall have the corresponding meanings given to those terms in the PDPO.

2. INTERPRETATION

The Clauses shall be read and interpreted in the light of the provisions of the PDPO. The Clauses shall not be interpreted in a way that may conflict with the relevant requirements under the PDPO.

3. OBLIGATIONS OF THE TRANSFEROR

The Transferor warrants and undertakes to the Transferee that, subject to the Transferee's compliance with its obligations under these Clauses, the Personal Data Transferred may be transferred to the Transferee for the Purposes of Transfer in the Permitted Jurisdictions in accordance with the PDPO.

4. OBLIGATIONS OF THE TRANSFEREE

The Transferee warrants and undertakes to the Transferor that it will:

4.1 except as otherwise permitted under the PDPO, only use the Personal Data Transferred for the Purposes of Transfer;

4.2 ensure that the Personal Data Transferred be adequate but not excessive in relation to the Purposes of Transfer;

4.3   use, hold and transmit the Personal Data Transferred using the security measures set out in the Data Transfer Schedule;

4.4   not retain the Personal Data Transferred for longer than is necessary for the fulfilment of the Purposes of Transfer and, in any event, not longer than any applicable Retention Period;

4.5   take all practicable steps to erase the Personal Data Transferred, once it is no longer necessary for the fulfilment of the Purposes of Transfer or, in any event, once any applicable Retention Period has lapsed;

4.6   take all practicable steps to ensure that the Personal Data Transferred be accurate, having regard to the Purposes of Transfer;

4.7   take all practicable steps to ensure that any inaccurate Personal Data Transferred (i) should not be used unless it is rectified or (ii) should be erased;

4.8   take all practicable steps to ensure that data subjects should be able to access its policies and practices in relation to the Personal Data Transferred;

4.9   not transfer the Personal Data Transferred to or permit access to the Personal Data Transferred by any person unless it is: (i) permitted under the Data Transfer Schedule; or (ii) made with the Transferor's prior written consent in each case (each, an "**Onward Transfer Recipient**");

4.10   ensure that each Onward Transfer Recipient acting as:

(a) a data user controlling the use or processing of the Personal Data Transferred (whether alone or jointly with others) should enter into a binding written contract with the Transferee which imposes the same or substantially similar data protection obligations as contained in these Clauses; and/or

(b) a data processor processing the Personal Data Transferred on behalf of the Transferee (and not for the Onward Transfer Recipient's own purposes) should enter into a binding written contract with the Transferee which imposes the same or substantially similar data protection obligations as contained in the Recommended Model Data Processing Clauses; and

4.11   not (i) use or hold the Personal Data Transferred; or (ii) permit any Onward Transfer Recipient to use, process or hold the Personal Data Transferred, in each case, in a place outside Hong Kong other than the Permitted Jurisdictions, unless *[it has obtained the Transferor's prior written consent]* or *[it has notified the Transferor and:*

(a) *it has taken all reasonable precautions and exercised all due diligence to ensure that the Personal Data Transferred will not, in that place, be collected, held, processed or used in any manner that would contravene the PDPO;*

(b) *each data subject to which the Personal Data Transferred relates has consented in writing to the use or processing or holding of their Personal Data Transferred in that place (and such consent has not been withdrawn);*

(c) *the use or processing or holding will be in a place that the Transferee has reasonable grounds for believing that there is in force in that place a law which is substantially similar to, or serves the same purposes, as the PDPO; or*

(d) *the use or processing or holding is otherwise permitted under the PDPO.* [3] *]*

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3   These provisions are italicised and placed in square brackets as they are intended to operate as alternative approaches to managing onward transfers.

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5. DATA SUBJECTS' ACCESS AND CORRECTION RIGHTS

The Transferor and the Transferee will each comply with their respective obligations in respect of the receipt and handling of data access and correction requests made by or on behalf of the data subjects of the Personal Data Transferred, as specified in the Data Transfer Schedule.

6. PROVISIONS CONCERNING DIRECT MARKETING

If the Purposes of Transfer include direct marketing by the Transferee using the Personal Data Transferred and the Transferor has given a written notice to the Transferee to cease using any Personal Data Transferred for this purpose, the Transferee must, except as otherwise permitted under the PDPO, immediately cease using the Personal Data Transferred for direct marketing purposes.

DATA TRANSFER SCHEDULE

1. DESCRIPTION OF TRANSFER

Categories of Personal Data Transferred	Purposes of Transfer	Permitted Jurisdiction(s)	Retention Period

2. ONWARD TRANSFER

Categories of Personal Data Transferred	Onward Transfer Recipients (specifically or by class)	Purposes of Onward Transfer	Permitted Jurisdiction(s)	Retention Period

3. SECURITY MEASURES

[*List security measures the Transferee is required to apply to the Personal Data Transferred.*]

4. DATA SUBJECTS' ACCESS AND CORRECTION REQUESTS

[*Describe arrangements for receiving and handling data subjects' access and correction requests.*]

(B) RECOMMENDED MODEL CONTRACTUAL CLAUSES FOR DATA TRANSFER FROM DATA USER TO DATA PROCESSOR

1.   DEFINITIONS

1.1   For the purposes of these clauses, including the Data Transfer Schedule (collectively, the "**Clauses**"):

"**PDPO**" means the Personal Data (Privacy) Ordinance (Cap. 486), as may be amended from time to time;

"**Permitted Jurisdictions**" means the place(s) listed in the Data Transfer Schedule or any other place where the Personal Data Transferred may from time to time be processed or held in accordance with these Clauses;

"**Personal Data Transferred**" means personal data of the types or categories listed in the Data Transfer Schedule;

"**Purposes of Transfer**" means the purposes for processing the Personal Data Transferred listed in the Data Transfer Schedule or the directly related purposes;

"**Retention Period**" means any period of time identified as such in the Data Transfer Schedule; and

"**Sub-processor**" has the meaning given in Clause 3.8.

1.2   The terms "**personal data**" and "**processing**" shall have the meanings given to those terms in the PDPO (and "**process**" shall have a corresponding meaning).

2.   INTERPRETATION

The Clauses shall be read and interpreted in the light of the provisions of the PDPO. The Clauses shall not be interpreted in a way that may conflict with the relevant requirements under the PDPO.

3.   OBLIGATIONS OF THE TRANSFEREE

The Transferee warrants and undertakes to the Transferor that it will:

3.1   only process the Personal Data Transferred for the Purposes of Transfer;

3.2   ensure that the Personal Data Transferred be adequate but not excessive in relation to the Purposes of Transfer;

3.3   process, hold and transmit the Personal Data Transferred using the security measures set out in the Data Transfer Schedule;

3.4   not retain the Personal Data Transferred for longer than is necessary for the processing instructed by the Transferor and, in any event, not longer than any applicable Retention Period;

3.5   take all practicable steps to erase the Personal Data Transferred: (i) once it is no longer required to be retained in accordance with Clause 3.4; or (ii) as instructed by the Transferor;

3.6   take all practicable steps to ensure that the Personal Data Transferred be accurate, having regard to the Purposes of Transfer;

3.7   take all practicable steps to ensure that any inaccurate Personal Data Transferred (i) should not be processed unless it is rectified or (ii) should be erased;

3.8   not transfer the Personal Data Transferred to or permit access to the Personal Data Transferred by any person unless it is: (i) permitted under the Data Transfer Schedule; or (ii) made with the Transferor's prior written consent in each case (each, a "**Sub-processor**");

3.9   ensure that each Sub-processor should enter into a binding written contract with the Transferee which imposes the same or substantially similar data protection obligations as contained in these Clauses; and

3.10 not (i) process or hold the Personal Data Transferred; or (ii) permit any Sub-processor to process or hold the Personal Data Transferred, in either case, in a place outside Hong Kong other than the Permitted Jurisdictions, without the Transferor's prior written consent.

DATA TRANSFER SCHEDULE

1.   DESCRIPTION OF TRANSFER

Categories of Personal Data Transferred	Purposes of Transfer	Permitted Jurisdiction(s)	Retention Period

2.   SUB-PROCESSING

Categories of Personal Data Sub-processed	Sub-processor (specifically or by class)	Permitted Jurisdiction(s)	Retention Period

3.   SECURITY MEASURES

[*List security measures the Transferee is required to apply to the Personal Data Transferred.*]

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