

## **INTERNATIONAL DATA TRANSFER REGULATION**

### **ANNEX II - Standard contractual clauses**

(NOTE: As provided for in Annex I - International Data Transfer Regulations, the clauses set out in this ANNEX II may be used as part of a contract signed to specifically govern the international transfer of data or a contract with a broader object, including through the signing of an addendum by the exporter and importer involved in the international data transfer operation.)

### **SECTION I - GENERAL INFORMATION**

(NOTE: This Section contains Clauses that may be supplemented by the Parties, exclusively in the spaces indicated and in accordance with the guidelines presented. The definitions of the terms used in these Clauses are detailed in CLAUSE 6).

#### **CLAUSE 1. Identification of the Parties**

1.1. By this agreement, the Exporter and the Importer (hereinafter, "Parties"), identified below, have agreed to these standard contractual clauses (hereinafter, "Clauses") approved by the National Data Protection Authority (ANPD), to govern the International Data Transfer described in CLAUSE 2, in accordance with the provisions of the National Legislation.

Name:
Qualification:
Main Address:
E-mail Address:
Contact for the Data Subject:
Other information:

( ) Exporter/Controller)

( ) Exporter/processor)

(NOTE: check the option corresponding to "Controller" or "Processor" and fill in the identification information, as indicated in the table.)

Name: Qualification: Main Address: E-mail Address: Contact for the Data Subject: Other information:
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( ) Exporter/Controller)

( ) Exporter/processor)

(NOTE: check the option corresponding to “Controller” or “Processor” and fill in the identification information, as indicated in the table.)

## **CLAUSE 2. Object**

2.1 This Clauses shall apply to International Transfers of Personal Data between Data Exporters and Data Importers, as described below.

Description of the international data transfer:

Main purposes of the transfer: Categories of personal data transferred: Period of data storage: Other information:
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(NOTE: fill in as many details as possible with the information regarding the international transfer)

## **CLAUSE 3. Onward Transfers**

(NOTE: choose between “OPTION A” and “OPTION B”, as appropriate.)

OPTION A. 3.1. The Importer may not carry out an Onward Transfer of Personal Data subject to the International Data Transfer governed by these Clauses, except in the cases provided for in item 18.3.

OPTION B. 3.1. The Importer may carry out an Onward Transfer of Personal Data subject to the International Data Transfer governed by these Clauses, in the cases and according to the conditions described below and the provisions of CLAUSE 18.

Main purposes of the transfer: Categories of personal data transferred: Period of data storage: Other information:
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(NOTE: fill in as many details as possible with information regarding authorized subsequent transfers)

#### **CLAUSE 4. Responsibilities of the Parties**

(NOTE: choose between “OPTION A” and “OPTION B”, as appropriate.)

OPTION A. (“Option A” is exclusive to international data transfers in which at least one of the Parties acts as Controller)

4.1 Without prejudice to the duty of mutual assistance and the general obligations of the Parties, the Designated Party below, as Controller, shall be responsible for complying with the following obligations set out in these Clauses:

a) Responsible for publishing the document provided in CLAUSE 14;

☐ Exporter      ☐ Importer

b) Responsible for responding to requests from Data Subjects dealt with in CLAUSE 15:

☐ Exporter      ☐ Importer

c) Responsible for notifying the security incident provided in CLAUSE 16:

☐ Exporter      ☐ Importer

(NOTE: in items “a”, “b” and “c”, check the option corresponding to: (i) “Exporter” or “Importer”, in cases where only one of the Parties acts as controller; or (ii) check both options, in cases where both Parties act as controllers. Responsibility for compliance with the obligations referred to in Clauses 14 to 16 cannot be attributed to the Party acting as Processor. Should it subsequently be ascertained that the Designated Party is acting as Processor, the provisions of Clause 4.2 shall apply.)

4.2. For the purposes of these Clauses, if the Designated Party pursuant to item 4.1. is the Processor, the Controller remains responsible for:

a) compliance with the obligations provided in CLAUSES 14, 15 and 16 and other provisions established in the National Legislation, especially in case of omission or non-compliance with the obligations by the Designated Party;

b) compliance with ANPD's determinations; and

c) guaranteeing the Data Subjects' rights and repairing damages caused, subject to the provisions of Clause 17.

OPTION B. (NOTE: "Option B" is exclusive for international data transfers carried out between processors)

4.1. Considering that both Parties act exclusively as Processors within the scope of the International Data Transfer governed by these Clauses, the Exporter declares and guarantees that the transfer is carried out in accordance with the written instructions provided by the Third-Party Controller identified in the chart below.

Identification information of the Third-Party Controller:

Name:

Qualification:

Main address:

E-mail address:

Contact for the Data Subject:

Information on Related Contract:

(NOTE: fill in as many details as possible with the identification and contact information of the Third Party Controller and, if applicable, of the Related Contract).

4.2. The Exporter shall be jointly liable for the damage caused by the International Data Transfer if it is carried out in breach of the obligations of the National Legislation or the lawful instructions of the Third-Party Controller, in which case the Exporter shall be deemed to be the Controller, subject to the provisions of Clause 17.

4.3 In the event of being deemed a Controlling Party as referred to in item 4.2, the Exporter shall be responsible for complying with the obligations set out in Clauses 14, 15 and 16.

4.4 With the exception of the provisions of items 4.2 and 4.3, the provisions of Clauses 14, 15 and 16 shall not apply to the Parties as Processors.

4.5. The Parties shall, in any event, provide all the information at their disposal that proves necessary for the Third-Party Controller to comply with ANPD's determinations and to adequately fulfill the obligations provided for in the National Legislation relating to transparency, compliance with the rights of data subjects and the reporting of security incidents to ANPD.

4.6. The Parties shall promote mutual assistance in order to meet the requests of the Data Subject.

4.7 In the event of receiving a request from a Data Subject, the Party shall:

- a) respond to the request when it has the necessary information;
- b) inform the Data Subject of the service channel provided by the Third-Party Controller; or
- c) forward the request to the Third-Party Controller as soon as possible, to enable a response within the period provided for in the National Legislation.

4.8. The Parties must keep a record of security incidents involving personal data, in accordance with national legislation.

## **SECTION II – MANDATORY CLAUSES**

(NOTE: This Section contains Clauses that must be adopted in full and without any changes to their text in order to ensure the validity of the international data transfer).

### **CLAUSE 5 Purpose**

5.1 These Clauses are presented as a mechanism to enable the secure international flow of personal data, establish minimum guarantees and valid conditions for carrying out the International Data Transfer and aim to guarantee the adoption of adequate safeguards for compliance with the principles, the rights of the Data Subject and the data protection regime provided for in National Legislation.

## **CLAUSE 6. Definitions**

6.1 For the purposes of these Clauses, the definitions in art. 5 of LGPD, and art. 3 of the Regulation on the International Transfer of Personal Data shall be considered, without prejudice to other normative acts issued by ANPD. The Parties also agree to consider the terms and their respective meanings as set out below:

- a) Processing agents: the controller and the processor;
- b) ANPD: National Data Protection Authority;
- c) Clauses: the standard contractual clauses approved by ANPD, which are part of SECTIONS I, II and III;
- d) Related Contract: contractual instrument signed between the Parties or, at least, between one of them and a third-party, including a Third-Party Controller, which has a common purpose, link or dependency relationship with the contract that governs the International Data Transfer;
- e) Controller: Party or third-party ("Third Controller") responsible for decisions regarding the processing of Personal Data;
- f) Personal Data: information related to an identified or identifiable natural person;
- g) Sensitive Personal Data: personal data on racial or ethnic origin, religious belief, political opinion, affiliation to trade unions or to a religious, philosophical or political organization, data regarding health or sexual life, genetic or biometric data, whenever related to a natural person;
- h) Erasure: exclusion of data or dataset from a database, regardless of the procedure used;
- i) Exporter: processing agent, located in the national territory or in a foreign country, who transfers personal data to the Importer;

j) Importer: processing agent, located in a foreign country, who receives personal data from the Exporter;

k) National Legislation: set of Brazilian constitutional, legal and regulatory provisions regarding the protection of Personal Data, including the LGPD, the International Data Transfer Regulation and other normative acts issued by ANPD;

l) Arbitration Law: Law No. 9,307, of September 23, 1996;

m) Security Measures: technical and administrative measures able to protect Personal Data from unauthorized access and from accidental or unlawful events of destruction, loss, alteration, communication or dissemination;

n) Research Body: body or entity of the government bodies or associated entities or a non-profit private legal entity legally established under Brazilian laws, having their headquarter and jurisdiction in the Brazilian territory, which includes basic or applied research of historical, scientific, technological or statistical nature in its institutional mission or in its corporate or statutory purposes;

o) Processor: Party or third-party, including a Sub-processor, which processes Personal Data on behalf of the Controller;

p) Designated Party: Party or a Third-Party Controller, under the terms of CLAUSE 4, designated to fulfill specific obligations regarding transparency, Data Subjects' rights and notifying security incidents;

q) Parties: Exporter and Importer;

r) Access Request: request for mandatory compliance, by force of law, regulation or determination of public authority, to grant access to the Personal Data subject to the International Data Transfer governed by these Clauses;

s) Sub-processor: processing agent hired by the Importer, with no link with the Exporter, to process Personal Data after an International Data Transfer;

t) Third-Party Controller: Personal Data Controller who authorizes and provides written instructions for the carrying out of the International Data Transfer between Processors governed by these Clauses, on his behalf, pursuant to Clause 4 ("Option B");

u) Data Subject: natural person to whom the Personal Data which are subject to the International Data Transfer governed by these Clauses relate;

v) Transfer: processing modality through which a processing agent transmits, shares or provides access to Personal Data to another processing agent;

w) International Data Transfer: transfer of Personal Data to a foreign country or to an international organization which Brazil is a member of; and

x) Onward Transfer: transfer of Personal Data, within the same country or to another country, by an Importer to a third-party, including a Sub-processor, provided that it does not constitute an Access Request.

#### **CLAUSE 7. Applicable legislation and ANPD supervision**

7.1. The International Data Transfer subject to these Clauses shall subject to the National Legislation and to the supervision of ANPD, including the power to apply preventive measures and administrative sanctions to both Parties, as appropriate, as well as the power to limit, suspend or prohibit the international transfers arising from this agreement or a Related Contract.

#### **CLAUSE 8. Interpretation**

8.1. Any application of these Clauses shall occur in accordance with the following terms:

a) these Clauses shall always be interpreted more favorably to the Data Subject and in accordance with the provisions of the National Legislation;

b) in case of doubt about the meaning of any term in these Clauses, the meaning which is most in line with the National Legislation shall apply;

c) no item in these Clauses, including a Related Agreement and the provisions set forth in SECTION IV, shall be interpreted as limiting or excluding the liability of any of the Parties in relation to obligations set forth in the National Legislation; and

d) provisions of SECTIONS I and II shall prevail in case of conflict of interpretation with additional clauses and other provisions set forth in SECTIONS III and IV of this agreement or in Related Agreements.

#### **CLAUSE 9. Docking Clause**



9.1. By mutual agreement between the Parties, it shall be possible for a processing agent to adhere to these Clauses, either as a Data Exporter or as a Data Importer, by completing and signing a written document, which shall form part of this contract.

9.2 The acceding party shall have the same rights and obligations as the originating parties, according to the position assumed of Exporter or Importer and according to the corresponding category of treatment agent.

## **CLAUSE 10. General obligations of the Parties**

10.1. The Parties undertake to adopt and, when necessary, demonstrate the implementation of effective measures capable of demonstrating observance of and compliance with the provisions of these Clauses and the National Legislation, as well as with the effectiveness of such measures and, in particular:

a) use the Personal Data only for the specific purposes described in CLAUSE 2, with no possibility of subsequent processing incompatible with such purposes, subject to the limitations, guarantees and safeguards provided for in these Clauses;

b) guarantee the compatibility of the processing with the purposes informed to the Data Subject, according to the processing activity context;

c) limit the processing activity to the minimum required for the accomplishment of its purposes, encompassing pertinent, proportional and non-excessive data in relation to the Personal Data processing purposes;

d) guarantee to the Data Subjects, subject to the provisions of Clause 4:

(d.1.) clear, accurate and easily accessible information on the processing activities and the respective processing agents, with due regard for trade and industrial secrecy;

(d.2.) facilitated and free of charge consultation on the form and duration of the processing, as well as on the integrity of their Personal Data; and

(d.3.) accuracy, clarity, relevance and updating of the Personal Data, according to the necessity and for compliance with the purpose of their processing;

e) adopt the appropriate security measures compatible with the risks involved in the International Data Transfer governed by these Clauses;

f) not to process Personal Data for abusive or unlawful discriminatory purposes;

g) ensure that any person acting under their authority, including sub-processors or any agent who collaborates with them, whether for reward or free of charge, only processes data in compliance with their instructions and with the provisions of these Clauses;

h) keep a record of the Personal Data processing operations of the International Data Transfer governed by these Clauses, and submit the relevant documentation to ANPD, when requested.

#### **CLAUSE 11. Sensitive personal data**

11.1. If the International Data Transfer involves Sensitive Personal Data, the Parties shall apply additional safeguards, including specific Security Measures which are proportional to the risks of the processing activity, to the specific nature of the data and to the interests, rights and guarantees to be protected, as described in SECTION III.

#### **CLAUSE 12. Personal data of children and adolescents**

12.1. In case the International Data Transfer governed by these Clauses involves Personal Data concerning children and adolescents, the Parties shall implement measures to ensure that the processing is carried out in their best interest, under the terms of the National Legislation and relevant instruments of international law.

#### **CLAUSE 13. Legal use of data**

13.1. The Exporter guarantees that Personal Data has been collected, processed and transferred to the Importer in accordance with the National Legislation.

#### **CLAUSE 14. Transparency**

14.1. The Designated Party shall publish, on its website, a document containing easily accessible information written in simple, clear and accurate language on the conduction of the International Data Transfer, including at least information on:

- a) the form, duration and specific purpose of the international transfer;
- b) the destination country of the transferred data;
- c) the Designated Party's identification and contact details;
- d) the shared use of data by the Parties and its purpose;
- e) the responsibilities of the agents who shall conduct the processing;

f) the Data Subject's rights and the means for exercising them, including an easily accessible channel made available to respond to their requests, and the right to file a petition against the Exporter and the Importer before ANPD; and

g) Onward Transfers, including those relating to recipients and to the purpose of such transfer.

14.2. The document referred to in item 14.1. shall be made available on a specific website page or integrated, in a prominent and easily accessible format, to the Privacy Policy or equivalent document.

14.3. Upon request, the Parties shall make a copy of these Clauses available to the Data Subject free of charge, complying with trade and industrial secrecy.

14.4. All information made available to Data Subjects, under the terms of these Clauses, shall be written in Portuguese.

## **CLAUSE 15. Rights of the data subject**

15.1. The Data subject shall have the right to obtain from the Designated Party, as regards the Personal Data subject to the International Data Transfer governed by these Clauses, at any time, and upon request, under the terms of the National Legislation:

a) confirmation of the existence of processing;

b) access to data;

c) correction of incomplete, inaccurate or outdated data;

d) anonymization, blocking or erasure of unnecessary or excessive data or data processed in noncompliance with these Clauses and the provisions of National Legislation;

e) portability of data to another service or product provider, upon express request, in accordance with ANPD regulations, complying with trade and industrial secrecy;

f) erasure of Personal Data processed under the Data Subject's consent, except for the events provided in CLAUSE 20;

g) information on public and private entities with which the Parties have shared data;

h) information on the possibility of denying consent and on the consequences of the denial;

i) withdrawal of consent through a free of charge and facilitated procedure, remaining ratified the processing activities carried out before the request for elimination;

j) review of decisions taken solely on the basis of automated processing of personal data affecting their interests, including decisions aimed at defining their personal, professional, consumer and credit profile or aspects of their personality; and

k) information on the criteria and procedures adopted for the automated decision.

15.2. Data subject may oppose to the processing based on one of the events of waiver of consent, in case of noncompliance with the provisions of these Clauses or National Legislation.

15.3 The deadline for responding to the requests provided for in this Clause and in item 14.3 is 15 (fifteen) days from the date of the data subject's request, except in the event of a different deadline established in specific ANPD regulations.

15.4. In case the Data Subject's request is directed to the Party not designated as responsible for the obligations set forth in this Clause or in item 14.3., the referred Party shall:

a) inform the Data Subject of the service channel made available by the Designated Party; or

b) forward the request to the Designated Party as early as possible, to enable the response within the period provided in item 15.2.

15.5. The Parties shall immediately inform the Data Processing Agents with whom they have shared data with the correction, deletion, anonymization or blocking of the data, for them to follow the same procedure, except in cases where this communication is demonstrably impossible or involves a disproportionate effort.

15.6. The Parties shall promote mutual assistance to respond to the Data Subjects' requests.

## **CLAUSE 16. Security Incident Reporting**

16.1. The Designated Party shall notify ANPD and the Data Subject, within 3 (three) working days of the occurrence of a security incident that may entail a relevant risk or damage to the Data Subjects, according to the provisions of National Legislation.

16.2. The Importer must keep a record of security incidents in accordance with National Legislation.

## **CLAUSE 17. Liability and compensation for damages**

17.1. The Party which, when performing Personal Data processing activities, causes patrimonial, moral, individual or collective damage, for violating the provisions of these Clauses and of the National Legislation, shall compensate for it.

17.2. Data Subject may claim compensation for damage caused by any of the Parties as a result of a breach of these Clauses.

17.3. The defense of Data Subjects' interests and rights may be claimed in court, individually or collectively, in accordance with the provisions in relevant legislation regarding the instruments of individual and collective protection.

17.4. The Party acting as Processor shall be jointly and severally liable for damages caused by the processing activities when it fails to comply with these Clauses or when it has not followed the lawful instructions of the Controller, except for the provisions of item 17.6.

17.5. The Controllers directly involved in the processing activities which resulted in damage to the Data Subject shall be jointly and severally liable for these damages, except for the provisions of item 17.6.

17.6. Parties shall not be held liable if they have proven that:

a) they have not carried out the processing of Personal Data attributed to them;

b) although they did carry out the processing of Personal Data attributed to them, there was no violation of these Clauses or National Legislation; or

c) the damage results from the sole fault of the Data Subject or of a third-party which is not a recipient of the Onward Transfer or not subcontracted by the Parties.

17.7. Under the terms of the National Legislation, the judge may reverse the burden of proof in favor of the Data Subject whenever, in his judgement, the allegation is credible, there is a lack of sufficient evidence or when the Data Subject would be excessively burdened by the production of evidence.

17.8. Judicial proceedings for compensation for collective damages which intend to establish liability under the terms of this Clause may be collectively conducted in court, with due regard for the provisions in relevant legislation.

17.9. The Party which compensates the damage to the Data Subject shall have a right of recourse against the other responsible parties, to the extent of their participation in the damaging event.

#### **CLAUSE 18. Safeguards for Onward Transfers**

18.1. The Importer shall only carry out Onward Transfers of Personal Data subject to the International Data Transfer governed by these Clauses if expressly authorized, in accordance with the terms and conditions described in CLAUSE 3.

18.2. In any case, the Importer:

a) shall ensure that the purpose of the Onward Transfer is compatible with the specific purposes described in CLAUSE 2;

b) shall guarantee, by means of a written contractual instrument, that the safeguards provided in these Clauses shall be ensured by the third-party recipient of the Onward Transfer; and

c) for the purposes of these Clauses, and regarding the Personal Data transferred, shall be considered responsible for any eventual irregularities committed by the third-party recipient of the Onward Transfer.

18.3. The Onward Transfer shall also be carried out based on another valid modality of International Data Transfer provided in National Legislation, regardless of the authorization referred to in CLAUSE 3.

#### **CLAUSE 19. Access Request Notification**

19.1 The Importer shall notify the Exporter and the Data Subject of any Access Request related to the Personal Data subject to the International Data Transfer governed by these Clauses, except in the event that notification is prohibited by the law of the country in which the data is processed.

19.2. The Importer shall implement the appropriate legal measures, including legal actions, to protect the rights of the Data Subjects whenever there is adequate legal basis to question the legality of the Access Request and, if applicable, the prohibition of issuing the notification referred to in item 19.1.

19.3. To comply with both the ANPD's and the Exporter's requests, the Importer shall keep a record of Access Requests, including date, requester, purpose of the request, type of data requested, number of requests received, and legal measures implemented.

## **CLAUSE 20. Termination of processing and erasure of data**

20.1. Parties shall erase the personal data subject to the International Data Transfer governed by these Clauses after the ending of their processing, being their storage authorized only for the following purposes:

- a) compliance with a legal or regulatory obligation by the Controller;
- b) study by a Research Body, guaranteeing, whenever possible, the anonymization of personal data;
- c) transfer to a third-party, upon compliance with requirements set forth in these Clauses and in the National Legislation; and
- d) exclusive use of the Controller, being the access by a third-party prohibited, and provided data have been anonymized.

20.2. For the purposes of this Clause, processing of personal data shall cease when:

- a) the purpose set forth in these Clauses has been achieved;
- b) Personal Data are no longer necessary or pertinent to attain the intended specific purpose set forth in these Clauses;
- c) at the termination of the treatment period;
- d) Data Subject's request is met; and
- e) at the order of ANPD, upon violation of the provisions of these Clauses or National Legislation.

## **CLAUSE 21. Data processing security**



21.1. Parties shall implement Security Measures which guarantee sufficient protection of the Personal Data subject to the International Data Transfer governed by these Clauses, even after its termination.

21.2. Parties shall inform, in SECTION III, the Security Measures implemented, considering the nature of the processed information, the specific characteristics and the purpose of the processing, the technology current state and the probability and severity of the risks to the Data Subjects' rights, especially in the case of sensitive personal data and that of children and adolescents.

21.3. The Parties shall make the necessary efforts to implement periodic evaluation and review measures to maintain the appropriate level of data security.

## **CLAUSE 22. Legislation of country of destination**

22.1 The Importer declares that it has not identified any laws or administrative practices of the country receiving the Personal Data that prevent it from fulfilling the obligations assumed in these Clauses.

22.2. In the event of a regulatory change which alters this situation, the Importer shall immediately notify the Exporter to assess the continuity of the contract.

## **CLAUSE 23. Non-compliance with the Clauses by the Importer**

23.1. In the event of a breach in the safeguards and guarantees provided in these Clauses or being the Importer unable to comply with any of them, the Exporter shall be immediately notified, subject to the provisions in item 19.1.

23.2. Upon receiving the communication referred to in item 23.1 or upon verification of non-compliance with these Clauses by the Importer, the Exporter shall implement the relevant measures to ensure the protection of the Data Subjects' rights and the compliance of the International Data Transfer with the National Legislation and these Clauses, and may, as appropriate:

- a) suspend the International Data Transfer;

b) request the return of the Personal Data, its transfer to a third-party, or its erasure; and

c) terminate the contract.

#### **CLAUSE 24. Choice of forum and jurisdiction**

24.1. Brazilian legislation applies to these Clauses and any controversy between the Parties arising from these Clauses shall be resolved before the competent courts in Brazil, observing, if applicable, the forum chosen by the Parties in Section IV.

24.2. Data Subjects may file lawsuits against the Exporter or the Importer, as they choose, before the competent courts in Brazil, including those in their place of residence.

24.3. By mutual agreement, Parties may use arbitration to resolve conflicts arising from these Clauses, provided that the procedure is carried out in Brazil and in accordance with the provisions of the Arbitration Law.

### **SECTION III - Security Measures**

(NOTE: This Section should include details of the security measures implemented, including specific measures for the protection of sensitive data and children and adolescents. The measures may include the following aspects, among others, as indicated in the table below).

- (i) governance and supervision of internal processes:
- (ii) technical and administrative security measures, including measures to guarantee the security of the operations carried out, such as the collection, transmission and storage of data:

### **SECTION IV - Additional Clauses and Annexes**

(NOTE: In this Section, which is optional to complete and to disclose, Additional Clauses and Annexes may be included, at the discretion of the Parties, to regulate, among other

things, issues of a commercial nature, contractual termination, term of validity and choice of forum in Brazil. As provided for in the International Data Transfer Regulation, the clauses established in this Section or in Related Contracts may not exclude, modify or contradict, directly or indirectly, the Clauses provided in Sections I, II and III).

Place and date.

Signatures.