

Annex A: Background on ASEAN DMF AND MCCS

ASEAN Data Management Framework (DMF)

1. The ASEAN DMF is a guide for businesses, particularly Small and Medium Enterprises (SMEs), to put in place a data management system, which includes data governance structures and safeguards based on data sets' purpose throughout its lifecycle. The DMF will help raise the knowledge and competence of ASEAN businesses in managing data and assist in complying with personal data protection requirements while enabling companies to use the data for business growth.

2. The ASEAN DMF proposes six foundational components consistent with globally recognised personal data protection and privacy management programmes. Businesses are encouraged to consider these concepts as part of its digital transformation journey. This is because good data management practices are key to help businesses unlock the value of personal data while ensuring adequate safeguards are in place.

ASEAN Model Contractual Clauses for Cross Border Data Flows (MCCs)

3. The MCCs are contractual terms and conditions that may be included in the binding legal agreements between businesses transferring personal data to each other across borders. The MCCs are templates setting out responsibilities, required personal data protection measures, and related obligations of the businesses. The MCCs have been created, in particular, to identify for businesses key issues when transferring personal data across borders.

4. To rely on the ASEAN MCCs as a legal basis for the cross-border transfer of data, businesses must employ the contractual provisions outlining key data protection obligations in their commercial contracts between the parties to the data transfer(s). These obligations are derived from the ASEAN Framework on Personal Data Protection (2016) and, to the extent possible and relevant to the ASEAN context, are aligned with global best practices to ensure accountability and that personal data is secured, when data is transferred between businesses. The clauses are baseline in nature, and businesses are encouraged to check if individual AMS have provided further guidance or templates, including those that are sector-specific, that are specific to those AMS' requirements.

5. MCCs are a voluntary standard designed to provide guidance on baseline considerations for transferring personal data. Businesses may, by written agreement, adopt or modify the MCCs in accordance with the principles set forth in the ASEAN Framework on Personal Data Protection (2016) or as required by any ASEAN Member States' Law. This does not preclude the businesses from adding clauses, by written agreement, as appropriate for their commercial or business arrangements so long as they do not contradict the MCCs. Businesses are free to negotiate commercial terms provided they do not contradict the MCCs.

6. Businesses are also free to use any other valid data transfer mechanisms recognised within ASEAN, if or when they are available or relevant to AMS. ASEAN recognises that these mechanisms include, but are not limited to, self-assessment that transfer of data overseas shall be protected to a comparable level of protection, consent, codes of conduct, binding corporate rules, certifications, such as ISO series relating to security and privacy techniques, APEC Cross Border Privacy Rules and Privacy Recognition for Processors Systems, or other legally enforceable mechanisms. Businesses have the flexibility to choose the most



appropriate personal data protection- or privacy-enhancing data transfer mechanism for a particular context.