

## ANNEX I

### SCHEDULE OF MALAYSIA

\*This Annex of CPTPP remain unchanged in comparison with that of TPP (according to WTO Center-VCCI)

#### INTRODUCTORY NOTES

1. **Description** sets out the non-conforming measures for which the entry is made.
2. In accordance with Article 9.12.1 (Non-Conforming Measures) and Article 10.7.1 (Non-Conforming Measures), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the non-conforming measures identified in the **Description** element of that entry.

**Sector:** All

**Obligations Concerned:** National Treatment (Article 9.4)

**Level of Government:** Central

**Measures:** *Registration of Business Act 1956* [Act 197]  
*Limited Liability Partnership Act 2012* [Act 743]  
*Co-operative Societies Act 1993* [Act 502]

**Description:** Investment

Only Malaysian nationals or permanent residents can register a sole proprietorship or partnership in Malaysia. Foreigners can register a Limited Liability Partnership (LLP) in Malaysia, but the compliance officer shall be a citizen or permanent resident of Malaysia that resides in Malaysia.

Foreigners are not allowed to establish or join cooperative societies in Malaysia.

**Sector:** Manufacturing

**Obligations Concerned:** National Treatment (Article 9.4)

**Level of Government:** Central

**Measures:** *Industrial Co-ordination Act 1975* [Act 156]  
Administrative Guidelines

**Description:** Investment

1. Foreign equity is limited up to 49 per cent for investment in the manufacture or assembly of motor vehicles. However, no foreign equity restrictions are imposed on the following categories:

- (a) luxury passenger vehicles with engine capacity of 1,800 c.c. and above and on the road price not less than RM150,000;
- (b) pick-up trucks and commercial vehicles;
- (c) hybrid and electric vehicles; and
- (d) motorcycles with engine capacity of 200 c.c. and above.

2. Foreign equity is limited up to 30 per cent for the manufacture of batik fabric and apparel of batik.

<b>Sector:</b>	Manufacturing
<b>Obligations Concerned:</b>	Performance Requirements (Article 9.10)
<b>Level of Government:</b>	Central and Regional
<b>Measures:</b>	<p><i>Industrial Co-ordination Act 1975</i> [Act 156]  <i>Customs Act 1967</i> [Act 235]  <i>Free Zone Act 1990</i> [Act 438]  <i>Petroleum Development Act 1974</i> [Act 144]  <i>Pineapple Industry (Cannery Control) Regulations 1959</i>  <i>Pineapple Industrial Act 1957 (Revised 1990)</i> [Act 427]  Administrative Guidelines</p>
<b>Description:</b>	<p><u>Investment</u></p> <ol style="list-style-type: none"> <li>1. Companies located within the Licensed Manufacturing Warehouse (LMW) and Free Industrial Zone (FIZ) are subject to export conditions.</li> <li>2. Companies engaging in petroleum refining activity are required to export 100 per cent of their products.</li> <li>3. Expansion of existing projects in the manufacture of optical disc is subject to export conditions of 100 per cent export.</li> <li>4. Expansion projects will be considered only for existing independent palm oil refineries which source 100 per cent from their own plantation. For Sabah and Sarawak, a manufacturing licence will only be considered for new integrated projects which source 50 per cent of crude palm oil from their own plantations. Integrated projects refer to projects with own plantation.</li> <li>5. For pineapple canning, approval will only be granted for projects which source 100 per cent supply from their own plantation.</li> </ol>

**Sector:** Marine Capture Fisheries

**Obligations Concerned:** National Treatment (Article 9.4 and Article 10.3)  
Local Presence (Article 10.6)

**Level of Government:** Central and Regional

**Measures:** *Fisheries Act 1985* [Act 317]

**Description:** Investment and Cross-Border Trade in Services

No foreign fishing vessel shall load or unload any fish, fuel or supplies or tranship any fish, or fish or attempt to fish, or conduct any techno-economic research or waters survey of any fishery, in Malaysian fisheries waters unless authorised to do so.

An application for a licence or a permit to be issued in respect of a foreign fishing vessel to fish in Malaysian fisheries waters shall be made through a Malaysian agent who shall undertake legal and financial responsibility for the activities to be carried out by such vessel.

Fishing vessel means any boat, craft, ship or other vessel which is used for, equipped to be used for, or of a type used for:

- (a) fishing; or
- (b) aiding or assisting another boat, craft, ship or other vessel in the performance of any activity related to fishing, including any of the activities of preparation, processing, refrigeration, storage, supply or transportation of fish.

<b>Sector:</b>	Patent Agent Services Trademark Agent Services
<b>Obligations Concerned:</b>	Local Presence (Article 10.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Patent Act 1983</i> [Act 291]
<b>Description:</b>	<u>Cross-Border Trade in Services</u>  Only natural persons registered with the Intellectual Property Corporation of Malaysia (MyIPO) and residing in Malaysia are allowed to carry out a business, practice or act as a patent and trademark agent in Malaysia.

<b>Sector:</b>	Professional Services
<b>Sub-Sector:</b>	Engineering services Quantity surveying services Land surveying services Architectural services
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central and Regional
<b>Measures:</b>	<i>Registration of Engineers Act 1967 (amended 2007) [Act 138]</i> <i>Registration of Engineers Regulations 1990 (amended 2003)</i> <i>Architect Act 1967 [Act 117]</i> <i>Architect Rules 1996 (Amendment 2011)</i> <i>Quantity Surveyors Act 1967 [Act 487]</i> <i>Quantity Surveyors (Amendment) Rules 2004</i> <i>Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994 [Act 520]</i> Administrative Guidelines
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>  Any qualified natural persons, who are resident in Malaysia and registered with the relevant professional boards are allowed to supply engineering, quantity surveying, land surveying and architectural services.  Foreigners will be subject to temporary registration.  Engineering services and architectural services must be authenticated by a registered professional in Malaysia.  The shareholding of an engineering, architectural and quantity surveying services establishment shall be no less than 70 per cent held by any one of the registered professionals. For each of these establishments, the majority of directors shall be registered professionals. This shall also apply to multi-disciplinary practices (MDP) comprising of professional architects, professional engineers with a practicing certificate,

and registered land or quantity surveyors with a practicing certificate.



<b>Sector:</b>	Legal Services (other than arbitration)
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Market Access (Article 10.5) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central and Regional
<b>Measures:</b>	<i>Legal Profession Act 1976</i> [Act 166] Legal Profession (Licensing of International Partnerships and Qualified Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014 <i>Offshore Companies Act 1990</i> [Act 441] <i>Labuan Trust Companies Act 1990</i> [Act 442] <i>Advocates Ordinance of Sabah 1953</i> [Sabah Cap. 2] <i>Advocates Ordinance of Sarawak 1953</i> [Sarawak Cap. 110]
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>  <b>Peninsular Malaysia and the Federal Territory of Labuan</b>  Foreign law firms and foreign lawyers are not permitted to practice Malaysian law save as provided for under section 40(O) of the <i>Legal Profession Act 1976</i> [Act 166] and the Legal Profession (Licensing of International Partnerships and Qualified Foreign Law Firms and Registration of Foreign Lawyers) Rules 2014.  Foreign law firms from recognised jurisdictions must apply to a Selection Committee to be established as a Qualified Foreign Law Firm (QFLF) or an International Partnership (IP) with a Malaysian law firm. A maximum of five QFLF licences may be issued in the initial period and only to foreign law firms with proven expertise in International Islamic Finance.  Only foreign lawyers from recognised jurisdictions can apply to work in a QFLF, an IP or a Malaysian law firm. Such a foreign lawyer must be resident in Malaysia for not less than 182 days in any calendar year.  A QFLF and an IP, and a registered foreign lawyer working in a Malaysian law firm are subject to the provisions of the <i>Legal</i>

*Profession Act 1976 [Act 166].*

Foreign lawyers providing legal services in Malaysia on a “*fly-in and fly-out*” basis shall be subject to the provisions under section 37(2B)(b) of the *Legal Profession Act 1976 [Act 166]*.

### **Sabah and Sarawak**

Foreign law firms and foreign lawyers are not permitted to practice in Sabah or Sarawak.

<b>Sector:</b>	Real Estate Services on a fee or contract basis
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3)
<b>Level of Government:</b>	Central and Regional
<b>Measures:</b>	Section 18 of <i>Valuers, Appraisers &amp; Estate Agents Act 1981</i> [Act 242] Valuers, Appraisers & Estate Agents Rules 1986
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>  A natural person who is not a citizen or permanent resident of Malaysia shall not qualify for registration as a valuer.

<b>Sector:</b>	Communications Services
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Communications and Multimedia Act of 1998</i> [Act 588] Communications and Multimedia (Licensing) Regulations 2000
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>

Licences for the supply of telecommunications services in Malaysia are divided into individual licences and class licences, depending on the character of the service.

The following persons or classes of persons shall be ineligible to apply for an individual licence:

- (a) a foreign company defined under the *Companies Act 1965* [Act 125];
- (b) an individual or a sole proprietorship; and
- (c) a partnership.

The following persons or classes of persons shall be ineligible to be registered as a class licensee:

- (i) a foreign individual who is not a permanent resident; and
- (ii) a foreign company as defined under the *Companies Act 1965* [Act 125].

Foreigners are not permitted to apply for a licence for Content Applications Service Providers (CASP), a special subset of applications service providers that refers to satellite broadcasting, subscription broadcasting, terrestrial free to air TV or terrestrial radio broadcasting.

The Minister of Communication and Multimedia may, for good cause or as the public interest may require, permit either of the above to apply to be registered as any one of the licensee mentioned above.

<b>Sector:</b>	Education Services
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Education Act 1996</i> [Act 550] <i>Private Higher Education Institutions Act 1996</i> [Act 555]
<b>Description:</b>	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>Education services provided in Malaysia can only be provided by education services suppliers that are registered and established in Malaysia.</p> <p>Foreigners are not allowed to supply the following education services:</p> <ul style="list-style-type: none"> <li>(a) preschool;</li> <li>(b) primary and secondary school education services covering Malaysian national curriculum; and</li> <li>(c) religious school.</li> </ul>

<b>Sector:</b>	Private Healthcare Facilities and Services Allied Health Services
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	Medical Regulations 1974 <i>Private Healthcare Facilities and Services Act 1998</i> [Act 586] Private Healthcare Facilities and Services Regulations 2006 Registration of Pharmacists Act 1951 [Act 371] Administrative Guidelines
<b>Description:</b>	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>Private healthcare facilities and services can only be supplied by service suppliers that are registered and established in Malaysia and with authorisation.</p> <p>Foreigners are not allowed to establish blood banks, maternity homes, psychiatric hospitals, pathology laboratories or to practice as general dental practitioners, general medical practitioners, and general nurses including midwifery.</p> <p><i>Specialised Dental Services</i></p> <p>Foreigners are not allowed to provide specialised dental services or operate a specialised medical facility except in oral and maxillo-facial reconstructive surgery.</p> <p><i>Pharmacists</i></p> <p>Foreign pharmacists are not allowed to prepare, dispense, assemble or sell medicinal products.</p> <p><i>Allied health services</i></p> <p>Foreigners are not allowed to supply allied health services which cover services such as clinical scientist, microbiologist, clinical biochemist, medical geneticist, biomedical scientist, embryologist, medical physicist, entomologist, forensic</p>

scientist, nutritionist, speech language pathologist/speech language therapist, audiologist, physiotherapist, counsellors, diagnostic radiographer, radiotherapist, food technologist, dietician, medical social officer, optometrist, health education officer, environmental health officer, medical laboratory technologist, health care food service assistant officer, assistant medical officer and assistant food technologist.



<b>Sector:</b>	Customs Agents and Brokers
<b>Obligations Concerned:</b>	National Treatment (Article 10.3)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Customs Act 1967</i> [Act 235] Customs Regulations 1977 Customs Standing Orders No.45/2003
<b>Description:</b>	<u>Cross-Border Trade in Services</u>  Foreigners are not allowed to act as customs agents and brokers.

**Sector:** Tourist Guide Services

**Obligations Concerned:** National Treatment (Article 10.3)

**Level of Government:** Central

**Measures:** *Tourism Industry Act 1992* [Act 482]

**Description:** Cross-Border Trade in Services

Foreigners are not allowed to provide tourist guide services.

<b>Sector:</b>	Utilities
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central and Regional
<b>Measures:</b>	<i>Electricity Supply Act 1990 [Act 447]</i> <i>Electricity (Amendment) Ordinance 2003 (Cap A109)</i> <i>Electricity Rules 1999</i> <i>Electricity (State Grid Code) Rules 2003</i> <i>SESCO Ordinance 1962 (Cap 51)</i> <i>Sarawak Electricity Supply (successor Company) Ordinance 2004 (Cap 59)</i> <i>Energy Commission Act 2001 [Act 610]</i> <i>Electricity Regulations 1994</i> <i>Licensee Supply Regulations 1990</i> <i>Gas Supply Act 1993</i> <i>Gas Supply Regulation 1997</i> <i>Energy Commission Act 2001 [Act 610]</i> <i>Sarawak Gas Supply Services (Operating Company) Ordinance 1995</i> <i>Waters Act 1920 [Act 418]</i>
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>  No person, other than a supply authority, is authorised to supply, use, work or operate any installation relating to gas, water and electricity.  Only persons that are registered and established in Malaysia can supply services for gas, water and electricity, and disposal of waste.

<b>Sector:</b>	Transport Services
<b>Sub-Sector:</b>	International maritime transport services (including maritime cabotage and government cargo)
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central and Regional
<b>Measures:</b>	<i>Merchant Shipping Ordinance 1952 [Ordinance 70/1952]</i> <i>Merchant Shipping Ordinance 1960 (Sabah) [Ordinance 11/1960]</i> <i>Merchant Shipping Ordinance 1960 (Sarawak) [Ordinance 2/1960]</i> <i>Merchant Shipping (Amendment and Extension) Act 2007 [Act A1316]</i> Administrative Guidelines
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>  Foreign shipping vessels are not permitted to provide and supply domestic shipping services, maritime cabotage services and government cargo.  <i>Malaysia International Ship Registry</i>  Foreign persons may only provide international maritime services that are not plying in domestic waters only through a representative office, regional office or locally incorporated joint venture corporation with Malaysian individuals or Malaysian controlled corporations or both. Aggregate foreign shareholding in the joint venture corporation shall maintain not less than 51 per cent.  All joint venture or corporation seeking to register ships under this registry shall appoint a ship manager prior to registration of a ship, who shall be:

- (a) a Malaysian citizen having his or her permanent residence in Malaysia; or
- (b) a company incorporated in Malaysia and having its principal place of business in Malaysia.

*Traditional Registry*

Only ships registered on the Traditional Registry may provide domestic maritime services.

Foreign persons may only register a ship on the Traditional Registry through a representative office, regional office or locally incorporated joint venture corporation with Malaysian individuals or Malaysian controlled corporations or both. Aggregate foreign shareholding in the joint venture corporation shall not exceed 51 per cent.

All joint ventures or corporations seeking to register ships under this registry shall satisfy the following conditions:

- (a) majority of senior managers and board of directors shall be Malaysians; and
- (b) incorporated in Malaysia and having its main business operations in Malaysia.

<b>Sector:</b>	Distribution Services
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	Guidelines on Foreign Participation in the Distributive Trade Services in Malaysia (Amendment 2010) <i>Franchise Act 1998</i> [Act 590] <i>Companies Act 1965</i> [Act 125] Guideline on Convenience Stores with Foreign Interest
<b>Description:</b>	<p><u>Investment and Cross-Border Trade in Service</u></p> <p>Foreigners are not allowed to operate supermarkets, mini markets, permanent wet markets, permanent pavement markets, fuel stations with or without kiosk, news agent, medical hall, Malaysian cuisine restaurants, bistro, jewellery stores and textile stores.</p> <p>All hypermarkets, superstores, departmental stores, specialty stores, franchise businesses, and convenience stores (as defined in the relevant Guidelines) with foreign equity must be incorporated locally under the <i>Companies Act 1965</i> [Act 125].</p> <p>All foreign involvement in distributive trade shall obtain the approval of the Ministry of Domestic Trade, Co-operatives and Consumerism (MDTCC) on:</p> <ul style="list-style-type: none"> <li>(a) acquisition;</li> <li>(b) mergers or takeovers;</li> <li>(c) opening of new branches/outlets/chain stores;</li> <li>(d) relocation or expansion of existing and new branches/outlets/chain stores;</li> </ul>

- (e) acquisitions of outlets of other operators; and
- (f) purchase and sale of properties to operate distributive trade activities prior to obtaining the approval or license from local authorities and other agencies to operate distributive trade activities.

All distributive trade companies with foreign equity shall:

- (a) appoint Bumiputera directors;
- (b) hire personnel at all levels including management to reflect the racial composition of the Malaysian population;
- (c) formulate plans on human resource such as capacity building and transfer of knowledge to assist Bumiputera participation in the distributive trade sector; and
- (d) hire at least one per cent of the total workforce from persons with disabilities.

The minimum capital investment is RM50 million for hypermarkets, RM25 million for superstores, RM20 million for department stores, and RM1 million for specialty stores and convenience stores, subject to review every three years.

No less than 30 per cent of the equity in hypermarkets, superstores and convenience stores is to be held by Bumiputera.

Hypermarkets, superstores, convenience stores and departmental stores shall seek to allocate 30 per cent of the Stock Keeping Units displayed on the shelf space for Bumiputera SME goods and products in each outlet within three years.

One hypermarket will be allowed for every 250,000 residents and one superstore for every 200,000 residents.

All hypermarkets, superstores and departmental stores shall begin operation within two years from the date of approval from MDTCC.

A specialty store may be allowed to operate if it fulfils the

following objectives:

- (a) there is an absence of local players in the proposed format;
- (b) it creates employment opportunities;
- (c) transfer of technology and skills; and
- (d) the business has a unique or exclusive nature.

Foreigners are not allowed to apply for a franchise broker or consultant licence.

The sale of a franchise is deemed to be in Malaysia where an offer to sell or buy a franchise:

- (a) is made in Malaysia and accepted within or outside Malaysia;
- (b) is made outside Malaysia and accepted within Malaysia; and
- (c) the franchised business is or will be operating in Malaysia.

There are three types of franchises as follows:

<b>Type of Franchises</b>	<b>Definition</b>
Franchisor	A person who grants a franchise to a franchisee and includes a master franchisee and his relationship with a sub-franchisee.
Master Franchisee	A person who has been granted the rights by a franchisor to sub-franchise to another person, at his own expense, the franchise of the franchisor.
Franchisee of Foreign Franchisor	A person who has been granted the rights by a foreign franchisor but does not sub-franchise to another person.

For convenience stores, only a foreign company that is not associated with the franchisor (according to *Franchise Act 1998* [Act 590]) may invest or own not more than 30 per cent equity



interest.

For greater certainty, “only a foreign company that is not associated with the franchisor” means only a foreign company that is not the franchisor according to *Franchise Act 1998* [Act 590].

<b>Sector:</b>	Construction and Related Engineering Services
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Registration of Engineers Act 1967 (amended 2007)</i> [Act 138] Registration of Engineers Regulations 1990 (amended 2003) <i>Architect Act 1967</i> [Act 117] <i>Quantity Surveyors Act 1967</i> [Act 487] Quantity Surveyors (Amendment) Rules 2004 <i>Lembaga Pembangunan Industri Pembinaan Malaysia Act 1994</i> [Act 520] Administrative Guidelines
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>  Only an entity incorporated in Malaysia registered with the Malaysian Construction Industry Development Board (CIDB) and locally incorporated either through a representative office, regional office or joint venture corporation, with Malaysian individuals or Malaysian controlled corporations may be permitted to provide construction and related services.  Any entity incorporated in Malaysia, whose foreign equity exceeds more than 30 per cent by way of a joint venture corporation or consortium with Malaysian individuals or Malaysian controlled corporations, is subject to the registration requirements by CIDB.  The senior management and board of directors of each foreign entity shall be of Malaysian majority that shall have control over its management and investment.

<b>Sector:</b>	Freight Road Transportation Services
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Market Access (Article 10.5) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Land Public Transport Act 2010</i> [Act 715] Panduan Dasar Pelesenan Suruhanjaya Pengangkutan Awam Darat (SPAD)
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>  Only entities that are registered and established in Malaysia are allowed to provide freight road transportation services in Malaysia.  Foreigners are not allowed to own more than 49 per cent of equity shareholding in any entity supplying freight transportation services covering transportation of containerised freight based on a fee or contractual basis.

<b>Sector:</b>	Wholesale and Distribution Services
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Price Control Act 1946</i> [Act 121] <i>Control of Supplies Act 1961</i> [Act 122]
<b>Description:</b>	<u>Investment and Cross-Border Trade in Services</u>  Foreigners are not permitted to provide wholesale and distribution services for fabrics and apparels of batik, motor vehicles including motorcycles and scooters, passenger cars and commercial vehicles (excluding automotive components and parts of these vehicles).

<b>Sector:</b>	Oil and Gas
<b>Obligations Concerned:</b>	National Treatment (Article 9.4 and Article 10.3) Performance Requirements (Article 9.10) Senior Management and Boards of Directors (Article 9.11) Market Access (Article 10.5) Local Presence (Article 10.6)
<b>Level of Government:</b>	Central
<b>Measures:</b>	<i>Petroleum Development Act 1974</i> [Act 144] Other Implementing Measures
<b>Description:</b>	<p><u>Investment and Cross-Border Trade in Services</u></p> <p>The Prime Minister of Malaysia may make non-conforming regulations for the purposes of carrying into effect the provisions of the <i>Petroleum Development Act of 1974</i> [Act 144] with respect to the upstream oil and gas sector<sup>1</sup>, and may in particular, provide for the conduct of or the carrying on of:</p> <ul style="list-style-type: none"> <li>(a) any business or service relating to the exploration, exploitation, winning or obtaining of petroleum; and</li> <li>(b) any business involving the manufacture and supply of equipment used in the petroleum industry,</li> </ul> <p>except:</p> <ul style="list-style-type: none"> <li>(c) regulations that impose non-conforming requirements shall not be adopted or maintained with respect to the supply of the following 12 goods or services<sup>2</sup>:</li> </ul>

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<sup>1</sup> For greater certainty, the Prime Minister may make non-conforming regulations pursuant to the *Petroleum Development Act of 1974* that are more non-conforming than existing regulations made pursuant to the Act. This entry does not require the Prime Minister to maintain existing regulations.

<sup>2</sup> For greater certainty, in the event Malaysia decides to offer a contract to an investor or service supplier of another Party for the supply of above-listed goods or services together with other goods or services, the investor or service supplier of the other Party may hold the prime contract, subject to meeting the PETRONAS' List of Licensed Registered Companies requirements with respect to the supply of the other goods or services.

- (i) Seismic Data Acquisition;
  - (ii) Directional Drilling services, Gyro While Drilling services, Measurement While Drilling services, and Logging While Drilling services;
  - (iii) Cementing Related Services;
  - (iv) Gas Turbines and related maintenance and repair services;
  - (v) Control Valves services;
  - (vi) Oil Country Tubular Goods;
  - (vii) Induction motor services;
  - (viii) Distributed Control Systems (DCS) services;
  - (ix) Transformer services;
  - (x) Structural steel;
  - (xi) Linepipes; and
  - (xii) Process pipes;
- (d) regulations shall not be adopted or maintained that impose restrictions on mode of entry for foreign entities that wish to participate in Malaysia's upstream oil and gas sector activities of exploring, exploiting, winning and obtaining petroleum that are more non-conforming than the following requirements:
- (i) a requirement to have a local establishment;
  - (ii) a requirement to partner with a subsidiary of PetroliaM Nasional Berhad (PETRONAS);
  - (iii) a requirement, during the exploration stage, that the PETRONAS subsidiary's

participating interest as a Petroleum Arrangement Contractor is 'carried' at maximum of its participating interest<sup>3</sup>; and

- (iv) a requirement that the Petroleum Arrangement Contractors may only procure goods and services from PETRONAS' List of Licensed Registered Companies (LLRC);
- (e) regulations shall not be adopted or maintained that impose restrictions on mode of entry for foreign entities that seek to supply goods and services to Malaysia's upstream oil and gas sector that are more non-conforming than the following requirements:
  - (i) a requirement to be licensed on the PETRONAS' LLRC; and
  - (ii) a requirement to appoint a local as an exclusive agent, or to establish in Malaysia and form a joint venture with a local company or individual;
- (f) regulations with respect to local participation requirements for equity, board of directors and senior management positions for foreign entities licensed on the PETRONAS' LLRC that seek to supply goods and services shall not be adopted or maintained that are more non-conforming than the requirements for relevant work categories listed in the existing Standardised Work and Equipment Categories for products and services; and
- (g) after Malaysia negotiates and executes a contract with an operator or service supplier, non-conforming regulations shall not be applied in a manner that is inconsistent with the terms and conditions of the contract.

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<sup>3</sup> During the exploration period, all exploration and other costs are borne by the Petroleum Arrangement Contractors other than the PETRONAS subsidiary. Consequently, upon the expiry of the carried interest period, the PETRONAS subsidiary will bear the costs of future operations in proportion to its participating interest in the production-sharing contract.