## LAWS AND REGULATIONS IN SINGAPORE

### Workplace Safety and Health Act

The Workplace Safety and Health Act 2006 of Singapore ("**WSHA**") provides, among other things, that every employer has the duty to take, so far as is reasonably practicable, such measures as are necessary to ensure the safety and health of the employer's employees at work.

These measures include, among other things, providing and maintaining a work environment which is safe, without risk to health, and adequate as regards to the facilities and arrangements for the employee's welfare at work; ensuring that adequate safety measures are taken in respect of any machinery or equipment used by the employees; ensuring that the employees are not exposed to hazards in their workplace or near their workplace; developing and implementing procedures for dealing with emergencies; and ensuring that the employees have adequate instruction, information, training and supervision.

More specific duties imposed by the relevant regulatory body, the Ministry of Manpower ("**MOM**"), on employers are set out in the Workplace Safety and Health (General Provisions) Regulations of Singapore ("**WSHR**"). Under the WSHR, it is the duty of the occupier of a workspace to ensure that:

(a) every dangerous part (including any flywheel) of any electric generator, motor, transmission machinery or other machinery in the workplace is securely fenced unless the dangerous part of the generator, motor or machinery:

  (i) is in such a position or of such construction as to be safe to every person at work in the workplace as it would be if securely fenced; or

  (ii) is made safe for persons at work in the workplace by other effective means which will protect the persons from being injured by the dangerous part when that part is in motion or in use;

(b) in any room or place in the workplace where transmission machinery is used, there is provided and maintained efficient devices or appliances in that room or place by which the power can promptly be cut off from the transmission machinery; and

(c) any part of a stock-bar used in a workplace which projects beyond the headstock of a lathe is securely fenced or is otherwise made safe to every person at work in the workplace.

Under the WSHR, the fencing or other effective means which are used to render machinery safe may be removed to such extent as is necessary when:

(a) a person is carrying out in the workplace, while the part of machinery is in motion:

  (i) any examination of the machinery or part of the machinery; or

  (ii) any lubrication or adjustment shown by such examination to be immediately necessary,

  being an examination, a lubrication or an adjustment which is necessary to be carried out while the part of machinery is in motion; or

(b) a person is carrying out in the workplace any lubrication or any mounting or shifting of belts in respect of any part of a transmission machinery and if:

  (i) the Commissioner for Workplace Safety and Health (the "**CWSH**") has determined that, owing to the continuous nature of such process, the stopping of that part would seriously interfere with the carrying on of the process in the workplace; and

  (ii) the lubrication or mounting or shifting of belts is carried out by such methods and in such circumstances and subject to such conditions as the CWSH may determine.

This shall only apply under certain conditions specified in the WSHR.

Any person who breaches his or her duty under the WSHA shall be guilty of an offence and shall be liable on conviction, in the case of a body corporate, to a fine not exceeding S$500,000 and, if the contravention continues after the conviction, the body corporate shall be guilty of a further offence and shall be liable to a fine not exceeding S$5,000 for every day or part thereof during which the offence continues after conviction. For repeat offenders, where a person has on at least one previous occasion been convicted of an offence under the WSHA that causes the death of any person and is subsequently convicted of the same offence that causes the death of another person, the court may, punish the person, in the case of a body corporate, with a fine not exceeding S$1 million and, in the case of a continuing offence, with a further fine not exceeding S$5,000 for every day or part thereof during which the offence continues after conviction.

Under the WSHA, the CWSH may serve a remedial order or a stop-work order in respect of a workplace if the CWSH is satisfied that (a) the workplace is in such condition, or is so located, or any part of the machinery, equipment, plant or article in the workplace is so used, that any work or process carried on in the workplace cannot be carried on with due regard to the safety, health and welfare of the persons at work; (b) any person has contravened any duty imposed by the WSHA; or (c) any person has done any act, or has refrained from doing any act which, in the opinion of the CWSH, poses or is likely to pose a risk to the safety, health and welfare of persons at work.

Under the Workplace Safety and Health (Risk Management) Regulations of Singapore, the employer in a workplace is supposed to, among other things, conduct a risk assessment in relation to the safety and health risks posed to any person who may be affected by his or her undertaking in the workplace, take all reasonably practicable steps to eliminate any foreseeable risk to any person who may be affected by his or her undertaking in the workplace, and where it is not reasonably practicable to eliminate the risk, implement reasonably practicable measures to minimise the risk and safe work procedures to control the risk, specify the roles and responsibilities of persons involved in the implementation of any measure or safe work procedure and inform workers of the same, maintain records of such risk assessments, and measures or safe work procedure implemented for a period of not less than three years, and submit such records to the CWSH when required by the CWSH from time to time.

**Work Injury Compensation Act**

Work injury compensation is governed by the Work Injury Compensation Act 2019 of Singapore ("**WICA**"), and is administered by the MOM. The WICA applies to all employees (except members of the Singapore Armed Forces, officers of the Singapore Police Force, the Singapore Civil Defence Force, the Central Narcotics Bureau of Singapore and the Singapore Prisons Service, and domestic workers, being an individual employed in or in connection with the domestic services of any private premises) who have entered into or works under a contract of service with an employer, in respect of injury suffered by them arising out of and in the course of their employment and sets out, among other things, the amount of compensation that they are entitled to and the method(s) of calculating such compensation.

The WICA provides that if in any employment, personal injury by accident arising out of and in the course of employment is caused to an employee, the employer of the employee shall be liable to pay compensation in accordance with the provisions of the WICA. The amount of compensation shall be computed in accordance with a fixed formula as set out in the WICA, subject to maximum and minimum limits.

Further, the WICA provides, among other things, that, where any person (referred to as the principal) in the course of or for the purpose of his or her trade or business contracts with any other person (referred to as the employer) for the execution by the employer of the whole or any part of any work, or for the supply of labour to carry out any work, undertaken by the principal, the Commissioner for Labour ("**CL**") appointed under Section 3 of the Employment Act 1968 of Singapore ("**EA**") may direct the principal to fulfil the obligations of the employer under the WICA in relation to any employee of the employer employed in the execution of the work any compensation payable under the WICA as if that employee had been immediately employed by the principal.

Employers are required to maintain work injury compensation insurance for two categories of employees engaged under contracts of service, unless exempted. The first category includes all employees doing manual work. The second category includes all non-manual employees earning S$2,600 or less a month. An employer who breaches the above provisions shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S$10,000 or to imprisonment for a term not exceeding 12 months or to both.

**Employment Act**

The EA is administered by the MOM and sets out the basic terms and conditions of employment, and the rights and responsibilities of employers as well as employees who are covered under the EA.

The term "employee" is defined in the EA to mean a person who has entered into or works under a contract of service with an employer and includes, among other things, a workman, but does not include certain specified categories of employees including, among other things, any seafarer or domestic worker.

Part 2 of the EA sets out provisions in relation to contracts of service including, among other things, illegal terms of contract of service, termination of contract, notice of termination of contract, termination of contract without notice, contractual age, when contract deemed to be broken by employer and employee, dismissal, termination by employee threatened by danger, liability on breach of contract, contract of service not to restrict rights of employees to join, participate in or organise trade unions, change of employer, and transfer of employment. Specifically, Section 10 of the EA provides, among other things, that either party to a contract of service may at any time give to the other party notice of the first-mentioned party's intention to terminate the contract of service, and the length of such notice shall be the same for both employer and employee and shall be determined by any provision made for the notice in the terms of the contract of service.

Part 4 of the EA sets out provisions in relation to rest days, hours of work and other conditions of service, including, among other things, rest day, work on rest day, hours of work, task work, shift workers, payment of retrenchment benefit, retirement benefit, priority of retirement benefits, and payment of annual wage supplement or other variable payment, and only applies to certain categories of employees covered under the EA, namely, workmen who receive salaries not exceeding S$4,500 a month and employees (other than workmen or a person employed in a managerial or an executive position) who receive salaries not exceeding S$2,600 a month.

An employee who is covered under Part 4 of the EA is not allowed to work for more than 12 hours in any one day except in specified circumstances, including, among other things, where the work, the performance of which is essential to the life of the community, and where the work is essential for defence or security. In addition, Section 38(5) of the EA provides that an employee is not permitted to work overtime for more than 72 hours a month.

Employers may seek the prior written approval of the CL for exemption if they require an employee or class of employees who are covered under Part 4 of the EA to work for more than 12 hours a day or perform overtime work for more than 72 hours a month. The CL may by written order exempt the employee or class of employees from the daily and overtime limits subject to such conditions as the CL thinks fit.

An employee who is covered under Part 4 of the EA must not be required under his or her contract of service to work:

(a) more than six consecutive hours without a period of leisure;

(b) more than eight hours in one day or more than 44 hours in one week:

Provided that:

(c) an employee who is engaged in work which must be carried on continuously may be required to work for eight consecutive hours inclusive of a period or periods of not less than 45 minutes in the aggregate during which he or she must have the opportunity to have a meal;

(d) where, by agreement under the contract of service between the employee and the employer, the number of hours of work on one or more days of the week is less than eight, the limit of eight hours in one day may be exceeded on the remaining days of the week, but so that no employee is required to work for more than nine hours in one day or 44 hours in one week;

(e) where, by agreement under the contract of service between the employee and the employer, the number of days on which the employee is required to work in a week is not more than five days, the limit of eight hours in one day may be exceeded but so that no employee is required to work more than nine hours in one day or 44 hours in one week; and

(f) where, by agreement under the contract of service between the employee and the employer, the number of hours of work in every alternate week is less than 44, the limit of 44 hours in one week may be exceeded in the other week, but so that no employee is required to work for more than 48 hours in one week or for more than 88 hours in any continuous period of two weeks.

Despite the foregoing, an employee who is engaged under his or her contract of service in regular shift work may be required to work more than six consecutive hours, more than eight hours in any one day or more than 44 hours in any one week but the average number of hours worked over any continuous period of three weeks must not exceed 44 hours per week.

Any employer who employs any person as an employee who is covered under Part 4 of the EA and fails to comply with Part 4 of the EA shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S$5,000, and for a second or subsequent offence to a fine not exceeding S$10,000 or to imprisonment for a term not exceeding 12 months or to both.

Under Section 95A of the EA, an employer must, among other things, give each employee who enters into a contract of service with the employer on or after 1 April 2016 and who is employed under that contract for a period not shorter than the prescribed minimum period of service, a written record of the key employment terms of the employee not later than 14 days after the day that the employee starts employment with the employer. An employer is taken to have failed to comply if no written record is given or if the written record given is incomplete or inaccurate, whether or not the employer knew that the record is incomplete or inaccurate.

Under Section 126A(a) of the EA, a failure by an employer to comply with, among other things, Section 95A(2) of the EA is declared to be a civil contravention for the purposes of the EA. Under Section 126B(1)(a) of the EA, an authorised officer may issue a contravention notice to an employer requiring the employer to pay an administrative penalty of the prescribed amount, for each occasion of an alleged failure by the employer to comply with, among other things, Section 95A(2) of the EA with respect to any one employee or former employee.

Under Paragraph 3 of the Schedule to the Employment (Administrative Penalties) Regulations 2016, the administrative penalties for failure under Section 95A(2) of the EA to give an employee a written record of the key employment terms within the time specified in Section 95A(2) of the EA are as follows:

(a) S$200 for the first occasion of failure with respect to any one employee or former employee; and

(b) S$400 for each subsequent occasion of failure, whether or not with respect to the same employee or former employee.

Under Section 126D of the EA, in lieu of or in addition to giving an employer a contravention notice under Section 126B of the EA, an authorised officer may issue such directions to the employer as the authorised officer thinks appropriate to bring the civil contravention to an end; and where necessary, require the employer to take such action as is specified in the direction to remedy, mitigate or eliminate any effects of the civil contravention and to prevent the recurrence of the civil contravention. An employer who, without reasonable excuse, fails to comply with a direction given to the employer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S$5,000 or to imprisonment for a term not exceeding six months or to both.

**Employment of Foreign Manpower Act**

The employment of foreign workers in Singapore is governed by the Employment of Foreign Manpower Act 1990 of Singapore ("**EFMA**"), and is administered by the MOM.

Under Section 5(1) of the EFMA, no person shall employ a foreign employee unless he has obtained in respect of the foreign employee a valid work pass from the MOM, which allows the foreign employee to work for him or her. In addition, the employment of the foreign employee must be in accordance with the conditions of the foreign employee's work pass.

Any person who fails to comply with or contravenes Section 5(1) of the EFMA shall be guilty of an offence and shall:

(a) be liable on conviction to a fine of at least not less than S$5,000 and not more than S$30,000 or to imprisonment for a term not exceeding 12 months or to both; and

(b) on a second or subsequent conviction:

  (i) in the case of an individual, be punished with a fine of not less than S$10,000 and not more than S$30,000 and with imprisonment for a term of not less than one month and not more than 12 months; or

  (ii) in any other case, be punished with a fine not less than S$20,000 and not more than S$60,000.

In addition, under Section 25(1) of the EFMA, where any employer (a) makes, or causes to be made to the Controller of Work Passes (the "**Controller**"), an application for a work pass on the basis of the employer's foreign employee entitlement; and (b) commits, or causes or permits to be committed, any act or omission which facilitates, or which results in, the inflation of the employer's foreign employee entitlement, the Controller may impose on the employer a financial penalty of an amount, not exceeding S$20,000, as the Controller may determine.

An employer of foreign workers is also subject to, among other things, the provisions set out in the EA, the EFMA, the Immigration Act 1959 of Singapore and the regulations issued pursuant to these Acts.

To employ migrant workers for the manufacturing sector, an employer will have to meet specific requirements for business activity, worker's source country or region, quota and levy.

An employer can be considered to be under the manufacturing sector if it meets all of these requirements:

(a) Has a valid factory notification or registration.

(b) Use machinery to manufacture or produce items from raw materials.

(c) Operates in a designated industrial setting area.

An employer can employ migrant workers from Malaysia, the PRC and North Asian sources ("**NAS**") comprising Hong Kong (holders of Hong Kong passports), Macau, South Korea and Taiwan. The minimum age for all non-domestic migrant workers is 18 years old. When applying for a Work Permit, Malaysian workers must be below 58 years old; and non-Malaysian workers must be below 50 years old.

For the manufacturing sector, the maximum number of years a worker can work in Singapore on a Work Permit is as follows:

| Source Country/Region | Types of Workers | Maximum Period of Employment |
|---|---|---|
| PRC | Basic-skilled (R2) | 14 years |
| PRC | Higher-skilled (R1) | 22 years |
| NAS, Malaysia | All | No maximum period of employment. |

The number of Work Permit holders that an employer can hire is limited by quota (or dependency ratio ceiling) and subject to a levy. The levy rates are tiered so that those who hire close to the maximum quota will pay a higher levy.

An employer pays less levy for higher-skilled migrant workers. An employer can apply for the higher-skilled worker levy rate for workers possessing specific certificates of certain types of qualifications.

Before their Work Permits can be issued, first-time non-Malaysian Work Permit holders in the manufacturing sector must attend the Settling-in Programme.

Migrant workers who handle metals and machinery in metalworking industry must complete either the Metalworking Safety Orientation Course of Apply Workplace Safety and Health in Mental Work Course before an employer can get their Work Permits issued. Such migrant workers must complete the course within two weeks from arrival in Singapore and pass the course within three months of arrival, or their Work Permits may be revoked.

**Central Provident Fund Act**

The Central Provident Fund Act 1953 of Singapore (the "**CPF Act**") governs the contributions made by employers and employees into the central provident fund (the "**Fund**"). The CPF Act is administered by the Central Provident Fund Board.

Section 7(1) of the CPF Act provides that subject to Section 69 of the CPF Act and any regulations made under Section 77 of the CPF Act, every employer of an employee shall pay to the Fund monthly in respect of each employee contributions at the appropriate rates set out in the First Schedule of the CPF Act.

Under Section 7(2) of the CPF Act, notwithstanding the provisions of any written law or any contract to the contrary, an employer is allowed to recover from the monthly wages of an employee the amount shown in the First Schedule of the CPF Act as so recoverable from the employee.

Where the amount of the contributions which an employer is liable to pay under Section 7 of the CPF Act in respect of any month is not paid within such period as may be prescribed, the employer shall be liable to pay interest on the amount for every day the amount remains unpaid commencing from the first day of the month succeeding the month in respect of which the amount is payable and the interest is to be calculated at the rate of 1.5% per month or the sum of S$5, whichever is the greater.

Where any employer who has recovered any amount from the monthly wages of an employee in accordance with the CPF Act and fails to pay the contributions to the Fund within such time as may be prescribed, the employer shall be guilty of an offence and shall be liable on conviction to a fine not exceeding S$10,000 or to imprisonment for a term not exceeding seven years or to both.

Any person convicted of an offence under the CPF Act for which no penalty is provided, subject to exceptions, shall be liable on conviction (a) to a fine not exceeding S$5,000 or to imprisonment for a term not exceeding six months or to both; and (b) if that person is a repeat offender in relation to the same offence, to a fine not exceeding S$10,000 or to imprisonment for a term not exceeding 12 months or to both.

**Companies Act and Constitution**

The Companies Act 1967 of Singapore generally governs, among other things, matters relating to the status, power and capacity of a company, shares and share capital of a company (including issuances of new ordinary shares and preference shares), treasury shares, share buybacks, redemption, share capital reduction, declaration of dividends, financial assistance, directors and officers and shareholders of a company (including meetings and proceedings of directors and shareholders, dealings between such persons and the company), protection of minority shareholders' rights, accounts, arrangements, reconstructions and amalgamations, winding up and dissolution.

In addition, members of a company are subject to, and bound by the provisions of the Constitution. The Constitution contains, among other things, provisions relating to some of the matters in the foregoing paragraph, transfers of shares as well as sets out the rights and privileges attached to the different classes of shares of the company (if applicable).

**Singapore Taxation**

The discussion in this section is not intended to be and does not constitute legal or tax advice. It is based on the current tax laws and practice in Singapore and is subject to changes in such laws, or in the interpretation thereof. Such changes may be retrospective. No assurance can be given that courts or fiscal authorities responsible for the administration of such laws will agree with this interpretation or that changes in such laws and practice will not occur on a retrospective basis.

***Corporate Tax***

Corporate taxpayers (whether Singapore tax resident or non-Singapore tax resident) are generally subject to Singapore income tax on income accruing in or derived from Singapore, and on foreign-sourced income received or deemed to be received in Singapore (unless specified conditions for exemption are satisfied). Foreign income in the form of dividends, branch profits and service fee income received or deemed to be received in Singapore by a Singapore tax resident corporate taxpayer may however be exempt from Singapore tax if specified conditions are met.

Section 43(1) of the Income Tax Act 1947 of Singapore ("**ITA**") provides, among other things, that the prevailing corporate income tax rate is 17%. Section 43(6B) of the ITA provides, among other things, that there is partial tax exemption for normal chargeable income of up to S$200,000 as follows:

(a) 75% exemption of up to the first S$10,000 of normal chargeable income; and

(b) a further 50% exemption on the next S$190,000 of normal chargeable income.

The chargeable income of a company in excess of the first S$200,000 (after the partial tax exemption) will be fully taxable at the prevailing corporate income tax rate of 17%.

***Dividend Distributions and Withholding Tax***

All Singapore tax resident companies are under the one-tier corporate taxation system of Singapore (the "**One-Tier System**"). Under the One-Tier System, the tax collected from corporate profits is a final tax and the after-tax profits of the company resident in Singapore can be distributed to the shareholders as tax-exempt (one-tier) dividends. Such dividends are tax-exempt in the hands of the shareholders, regardless of whether the shareholder is a company or an individual and whether or not the shareholder is a Singapore tax resident.

Singapore currently does not impose withholding tax on dividends paid to resident or non-resident shareholders. Foreign shareholders are advised to consult their own tax advisers to take into account the tax laws of their respective home countries or countries of residence and the applicability of any double taxation agreement which the relevant tax jurisdiction may have with Singapore.

***Goods and Services Tax***

The Goods and Services Tax Act 1993 of Singapore governs goods and services tax ("**GST**"), which is a consumption tax that is levied on the import of goods into Singapore, as well as nearly all supplies of goods and services in Singapore. GST on the import of goods into Singapore is collected by the Singapore Customs while GST on local supplies of goods and services is collected by GST-registered persons.

The prevailing rate of GST is 9%. Certain supplies are exempt from GST. Broadly, these include the provision of certain financial services, and the sale and lease of residential properties. The provision of international services and the export of goods are generally zero-rated (i.e. subject to GST at a rate of 0%).

***Stamp Duty***

There is no stamp duty payable on the subscription and issuance of shares.

Where shares evidenced in certificate form are acquired in Singapore and where a company maintains a share registry in Singapore, stamp duty is payable on the instrument of transfer of such shares at the rate of 0.2% of the consideration for, or the net asset value of, such shares, whichever is higher. The purchaser has an obligation to pay stamp duty, unless there is an agreement to the contrary. No stamp duty is payable if no instrument of transfer is executed or the instrument of transfer is executed outside Singapore. However, stamp duty may be payable if the instrument of transfer which is executed outside Singapore, is subsequently received in Singapore.

The Stamp Duties Act 1929 of Singapore was amended by the Stamp Duties (Amendment) Act 2017 of Singapore with effect from 11 March 2017 to, among other things, introduce the additional conveyance duty to be levied on acquisitions and disposals of equity interests in residential property-holding entities, and imposed the obligation to pay stamp duty once the agreement for the sale and purchase of shares was executed. However, pursuant to the Stamp Duties (Agreements for Sale of Equity Interests) (Remission) Rules 2018 of Singapore which came into operation on 11 April 2018, the position on stamp duty for the sale and purchase of shares before the enactment of the Stamp Duties (Amendment) Act 2017 of Singapore was reinstated. Stamp duties for agreements for the sale and purchase of shares were remitted with effect from 11 April 2018 except where the shares to be transferred are in property-holding entities. Accordingly, stamp duty in respect of the sale and purchase of shares remains payable on the instrument of transfer.

**Personal Data Protection Act**

The Personal Data Protection Act 2012 of Singapore (the "**PDPA**") establishes the Singapore regime for the protection of personal data (i.e. data, whether true or not, about an individual who can be identified from that data or other information accessible to the relevant organisation) and seeks to ensure that organisations comply with a baseline standard of protection for personal data of individuals.

The PDPA currently imposes ten data protection obligations on organisations collecting, using or disclosing personal data of individuals, namely, the accountability obligation, the notification obligation, the consent obligation, the purpose limitation obligation, the accuracy obligation, the protection obligation, the retention limitation obligation, the transfer limitation obligation, the access and correction obligation, and the data breach notification obligation.

The Personal Data Protection (Amendment) Bill of Singapore has introduced a new data portability obligation, which will take effect when the relevant regulations are issued. Under the data portability obligation, at the request of the individual, organisations are required to transmit the individual's data that is in the organisation's possession or under its control, to another organisation in a commonly used machine-readable format.

## LAWS AND REGULATIONS IN MALAYSIA

### Business Operation

#### *Local Government Act 1976 ("LGA 1976")*

For its business premise, SGP Malaysia requires a business licence from the local authority. The LGA 1976 which provides for the powers of a local authority to grant certain licence or permit also confers on the local authority powers to make, amend and revoke by-laws such as the following by-laws:

(a) The Licensing of Trades, Businesses and Industries (Iskandar Puteri City Council) By-Laws 2018 provides that no person shall use any place or premises, within the area of the Iskandar Puteri City Council for any trade, business or industry without a licence issued by the Iskandar Puteri City Council.

(b) The Advertisement (Johor Bahru Tengah District Council) By-Laws 1982 provides that no person shall exhibit or cause to be exhibited any advertisement without a licence issued by the Iskandar Puteri City Council.

Any person who contravenes any of the provisions under these by-laws shall be liable to a fine not exceeding RM2,000 or to imprisonment not exceeding one year or to both.

#### *Personal Data Protection Act 2010 ("PDPA 2010")*

The PDPA 2010 is an act to regulate the collection, processing, storage, transfer and retention of individuals' data. It applies to the processing of personal data in commercial transactions including but not limited to employment relationships where a data user is obliged to comply with the personal data protection principles as set out in the PDPA 2010.

The PDPA 2010 prohibits data users from collecting and processing a data subject's personal data without his consent. Data users are prohibited from disclosing or making the data available to any third party without the consent of data subjects and data users are to inform data subjects on the purpose of its data collection, the class of third party who may have access to the data and the choices that data subjects have on how the data is to be used. In this regard, any processing of data by an employer related to its employees would require consent from the employees. Pursuant to the PDPA 2010, data users are under a duty to develop and implement a security policy to prevent the loss, misuse, modification, unauthorised or accidental access or disclosure, alteration or destruction of data under their care.

A data user who contravenes the foregoing commits an offence and shall, on conviction, be liable to a fine not exceeding RM300,000 or to imprisonment not exceeding two years or to both.

**Property and Equipment**

***National Land Code (Revised 2020) ("NLC")***

The NLC is an act to amend and consolidate the laws relating to land within the Peninsular Malaysia and the Federal Territories.

Pursuant to the NLC, the title or interest of any person or body for the time being registered as proprietor of any land shall be indefeasible unless the exceptions under the NLC applies.

Under the NLC, land is alienated by a state authority either as freehold land (in perpetuity) or as leasehold land (for a term not exceeding 99 years). Land may be subject to one of 3 categories of land use, being "agriculture", "building" and "industry" which is subject to the respective implied conditions in the NLC.

Under the NLC, the proprietor of any alienated land may grant leases of the whole or any part thereof for a term exceeding 3 years or a tenancy for a term not exceeding 3 years. The interest of any lessee or tenant shall, whether or not it takes effect in possession, vest in the lessee on the registration of the lease or in the tenant on the grant of the tenancy.

For further details on the production facility in Malaysia owned by SGP Malaysia, please refer to the section sub-headed "Business — Properties".

***Street, Drainage and Building Act 1974 ("SDBA 1974")***

The SDBA 1974 is an act to amend and consolidate the laws relating to street, drainage and building in local authority areas in Peninsular Malaysia.

Under the SDBA 1974, any person who occupies or permits to be occupied any building without a certificate of completion and compliance shall be liable on conviction to a fine not exceeding RM250,000 or to imprisonment not exceeding 10 years or to both. The SDBA 1974 further provides that no certificate of completion and compliance shall be issued except by a principal submitting person in accordance with the SDBA 1974.

For further details on the certificate issued in the name of SGP Malaysia under the SDBA 1974, please refer to the section sub-headed "Business — Licences, Permits and Approvals".

***Fire Services Act 1988 ("FSA 1988")***

The FSA 1988 is an act to make necessary provisions for, amongst others, the protection of persons and property from fire risks or emergencies.

Under the FSA 1988, every designated premise shall require a fire certificate to be issued by the Fire and Rescue Department of Malaysia. Under the Fire Services (Designated Premises) Order 1998, a designated premise includes, among others, a factory which is 2,000 square metres and over in total floor areas with automatic sprinklers systems.

Where there is no fire certificate in force in respect of any designated premises, the owner of the premises shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding RM50,000 or to imprisonment not exceeding five years or to both.

For further details on the certificate issued in the name of SGP Malaysia under the FSA 1988, please refer to the section sub-headed "Business — Licences, Permits and Approvals".

***Factories and Machinery Act 1967 ("FMA 1967")***

The FMA 1967 is an act to provide for the control of factories with respect to matters relating to the safety, health and welfare of persons therein, the registration and inspection of machinery and for matters connected therewith.

The FMA 1967 provides that no person shall install or caused to be installed any machinery in any factory except with the written approval of the Inspector of Factories and Machinery. Any person who contravenes the foregoing shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding RM100,000 or to imprisonment not exceeding two years or to both.

As at the date of this document, the Factories and Machinery (Repeal) Act 2022 ("**FMRA 2022**") has been enacted but has not come into force. The FMRA 2022 will come into operation on a date to be appointed by the Ministry of Human Resources of Malaysia by notification in the gazette. Once the FMRA 2022 comes into operation, the FMRA 2022 will repeal the FMA 1967 and the provisions of FMRA 2022 will be integrated into the OSHA 1994 (as defined below).

For further details on the approval issued in the name of SGP Malaysia for the machinery under the FMA 1967, please refer to the section sub-headed "Business — Licences, Permits and Approvals".

**Environment Protection**

***Environmental Quality Act 1974 ("EQA 1974")***

The EQA 1974 is an act relating to the prevention, abatement, control of pollution and enhancement of the environment.

The EQA 1974 provides that no person shall, among others, place, deposit or dispose of, except at prescribed premises only, any scheduled wastes on land or into Malaysian waters, without any prior written approval of the Director General of Environmental Quality. Any person who contravenes the foregoing shall be guilty of an offence and shall on conviction be punished with imprisonment not exceeding five years and shall also be liable to a fine not exceeding RM500,000.

The Environmental Quality (Scheduled Wastes) Regulations 2005 further obliges any person who generates scheduled wastes to, within 30 days from the date of generation of scheduled wastes, notify the Director General of Environmental Quality of the new categories and quantities of scheduled wastes which are generated and to ensure that such person do not store scheduled waste more than 180 days after its generation. Any person who generates scheduled wastes shall also ensure that scheduled wastes generated by him are properly stored, treated on-site, recovered on-site for material or product from such scheduled wastes or delivered to and received at prescribed premises for treatment, disposal or recovery of material or product from scheduled wastes.

**Employment and Labour Protection**

***Employment Act 1955 ("EA 1955")***

The EA 1955 is an act which provides minimum terms and conditions of employment to be adhered to including but not limited to overtime, sick leave, annual leave entitlement, maternity protection and termination benefits.

The EA 1955 provides that any term or condition of a contract of service or of an agreement which is less favourable to an employee than that prescribed under the EA 1955 shall be void and have no effect. To this extent, the more favourable provisions of the EA 1955 will prevail. Conversely, an employer and employee may agree to any terms or conditions of employment which is more favourable to the employee than the provisions of the EA 1955.

Any person who contravenes any provisions of the EA 1955, in respect of which no penalty is provided, shall be liable, on conviction, to a fine not exceeding RM50,000.

***Employment (Restriction) Act 1968 ("ERA 1968")***

The ERA 1968 is an act to provide for the restriction of employment in certain business activities in Malaysia of non-citizens and the registration of such non-citizens.

The ERA 1968 provides that no person shall employ in Malaysia, a non-citizen unless there has been a valid employment permit issued for the non-citizen. It further provides that any person who fails to comply with the foregoing commits an offence and shall, on conviction, be liable to a fine not exceeding RM5,000 or to imprisonment not exceeding one year or to both.

***Immigration Act 1959/63 ("IA 1959/63")***

The IA 1959/63 is an act relating to immigration laws. Pursuant to the IA 1959/63, no person other than a citizen shall enter Malaysia unless the following, among others, applies:

(a) he is in possession of a valid entry permit;

(b) his name is endorsed upon a valid entry permit and he is in the company of the holder of such entry permit; or

(c) he is in possession of a valid pass.

The IA 1959/63 provides that any person who employs any person, other than a citizen or a holder of an entry permit who is not in possession of a valid pass, shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than RM10,000 but not more than RM50,000 or to imprisonment not exceeding 12 months or to both.

***National Wages Consultative Council Act 2011 ("NWCCA 2011")***

The NWCCA 2011 is an act to establish a National Wages Consultative Council to conduct studies on all matters concerning minimum wages and to make recommendations to the government of Malaysia to make minimum wages orders.

The NWCCA 2011 provides that an employer who fails to pay the basic wages as specified in the minimum wages order to his employees commits an offence and shall, on conviction, be liable to a fine of not more than RM10,000 for each employee and in the case of a continuing offence, to a daily fine not exceeding RM1,000 for each day.

***Employees Provident Fund Act 1991 ("EPFA 1991")***

The EPFA 1991 is an act governing the scheme of savings for employees' retirement and the management of the savings for the retirement purposes.

By virtue of the EPFA 1991, a fund called the "Employees Provident Fund" is established into which shall be paid, among others, all contributions required to be made thereunder. The EPFA 1991 provides that an employer shall be liable to pay both the contributions payable by the employer and also, on behalf of and to the exclusion of its employee, the contributions payable by that employee. The employee's portion of contributions is deducted from his salary. The amount of contribution payable is calculated based on the amount of wages of the employees at the rate set out in the EPFA 1991. It further provides that an employer who fails, within such prescribed period,

to pay to the Employees Provident Fund the contributions shall be guilty of an offence and shall, on conviction, be liable to imprisonment not exceeding three years or to a fine not exceeding RM10,000 or to both.

***Employees' Social Security Act 1969 ("ESSA 1969")***

The ESSA 1969 is an act to provide social security in certain contingencies and to make provision for certain other matters in relation to it.

The ESSA 1969 provides that all employees in industries to which the ESSA 1969 applies, irrespective of the amount of wages, shall be insured in the manner provided by the ESSA 1969. ESSA 1969 further provides that the employer shall pay the contribution payable by the employer and the contribution payable by the employee to the Social Security Organization at the rates specified in the ESSA 1969. Similarly, the contributions by the employee are deducted from the salary. It further provides that if any person, among others, fails to pay any contribution or any part thereof which is payable by him under the ESSA 1969 or fails to pay within the prescribed time any interest payable, or is guilty of any contravention of or non-compliance with any of the requirements of the ESSA 1969 in respect of which no special penalty is provided, he shall be punishable with imprisonment up to two years, or with a fine not exceeding RM10,000, or to both.

***Employment Insurance System Act 2017 ("EISA 2017")***

The EISA 2017 is an act to provide for the Employment Insurance System administered by the Social Security Organization.

The EISA 2017 provides that all employees in the industries to which the EISA 2017 applies shall be registered and insured by the employers irrespective of the amount of wages. It provides that the contributions payable under the EISA 2017 shall comprise a contribution payable by the employer and a contribution payable by the employee to be paid to the Social Security Organization at the rates specified in the EISA 2017 based on the amount of the monthly wages of the employee. If the amount of the monthly contribution payable by the employer in respect of an employee is not paid within the relevant period, the employer shall be liable to pay interest on such amount to the Social Security Organization at the rate as prescribed by the Minister of Human Resources in respect of any period during which such amount remains unpaid.

The Employment Insurance System (Registration And Contribution) Regulations 2017 provides that any employer who fails to comply with the requirement to pay the contributions not later than the fifteenth day of the month immediately following the month in respect of which such contribution becomes due, commits an offence and shall, on conviction, be liable to a fine not exceeding RM10,000 or to imprisonment not exceeding two years or to both.

## Safety and Health of Employees

### *Occupational Safety and Health Act 1994 ("OSHA 1994")*

The OSHA 1994 is an act to make provisions for, amongst others, securing the safety, health and welfare of persons at work and for protecting others against risks to safety or health in connection with the activities of persons at work. By virtue of the OSHA 1994, every employer in the manufacturing industry is under an obligation to ensure, so far as is practicable, the safety, health and welfare to work of all his employees. Any person who contravenes the foregoing provisions under the OSHA is guilty of an offence and is liable on conviction to a fine not exceeding RM50,000 or to imprisonment not exceeding two years or to both.

As at the date of this document, the Occupational Safety and Health (Amendment) Act 2022 ("**OSHAA 2022**") has been enacted but has not come into force. The OSHAA 2022 will come into operation on a date to be appointed by the Ministry of Human Resources of Malaysia by notification in the gazette. Once the OSHAA 2022 comes into operation, the amendments to OSHA 1994 include, but are not limited to, the following:

(a) the imposition of new duties on a principal to take necessary measures, so far as is practicable, to ensure the safety of contractors and sub-contractors as well as to conduct and implement risk assessment; and

(b) the grant of right to employees to remove themselves from imminent danger at the employee's place of work if the employer fails to take any action to remove such danger.

## Taxation

### *Income Tax Act 1967 ("ITA 1967")*

The ITA 1967 is an act for the imposition of income tax. Pursuant to the ITA 1967, income tax shall be charged for each year of assessment upon the income of any person accruing in or derived from Malaysia or received in Malaysia from outside Malaysia. Companies in Malaysia are generally taxed at 24% on its chargeable income.

The Director General of Inland Revenue may seek to impose penalties on a taxpayer for failure to file a tax return under Section 112 of the ITA 1967, for making an incorrect return under Section 113 of the ITA 1967 and/or for wilful evasion of taxes under Section 114 of the ITA 1967. Under Section 112 of the ITA 1967, a maximum penalty of up to 300% of the tax payable and a fine of up to RM20,000 may be imposed. Under Section 113 of the ITA 1967, a maximum penalty of up to 200% of the tax undercharged and a fine of up to RM10,000 may be imposed. Under Section 114 of the ITA 1967, any person who wilfully and with the intent to evade, or assist any other person to evade, tax is guilty of an offence if he omits income from his return, makes a false statement or entry in his return, or commits fraud. A fine of RM1,000 to RM20,000 and/or imprisonment up to three years, and a special penalty of treble the tax undercharged may be imposed.

***Sales Tax Act 2018 and Service Tax Act 2018***

Pursuant to the Sales Tax Act 2018, sales tax is levied on taxable goods manufactured in Malaysia by a registered manufacturer. Sales tax is also imposed upon taxable goods imported into Malaysia by any person. The applicable sales tax rate depends on the type of taxable goods manufactured or imported into Malaysia.

Pursuant to the Services Tax Act 2018, service tax is chargeable on the provision of prescribed taxable services, as follows:

(a) taxable services provided in Malaysia by a registered person in carrying on his business, if the relevant threshold is reached;

(b) taxable services acquired by any person in Malaysia from any person who is outside Malaysia (recipient of the imported services is liable to account for service tax, instead of the service provider, in this situation); and

(c) provision of "digital services" by foreign service providers to any "consumer" in Malaysia.

"Taxable services" are as specified in the Service Tax Regulations 2018 and include, among others, consultancy services, digital services and management services.

**Customs Duties**

***Customs Act 1967 ("CA 1967")***

The CA 1967 is an act relating to customs. The customs duties payable depends on the type and nature of goods along with its tariff classification.

Pursuant to the CA 1967, the Director General of Customs and Excise of Malaysia may grant a licence to any person to carry on any manufacturing process and other operations in respect of goods liable to customs duties. Any such licence would also include a licence for warehousing the goods liable to customs duties. A licensed manufacturing warehouse approved under the CA 1967 may be entitled to certain exemption from customs duties in respect of raw materials, components, machinery or equipment used in the manufacturing process subject to the terms and conditions thereof.

Under Section 138 of the CA 1967, every omission or neglect to comply with and every act done or attempted to be done contrary to, the provisions of the of CA 1967, or any breach of the conditions and restrictions subject to, or upon which, any licence or permit is issued or any exemption is granted under of the CA 1967, shall be an offence against of the CA 1967 and in respect of any such offence for which no penalty is expressly provided the offender shall be liable to a fine of not exceeding RM50,000 or to a term of imprisonment not exceeding five years, or both.

### Foreign Exchange Control

***Financial Services Act 2013 ("FSA 2013")***

In exercise of the power conferred by the FSA 2013, the Central Bank of Malaysia issued Foreign Exchange Policy Notices which, amongst others, regulate the remittance of funds from and into Malaysia. Pursuant to the Foreign Exchange Policy Notices:

(a) non-residents are free to make or receive payment in Malaysian ringgit, in Malaysia, to or from residents for, among others, the income earned or expense incurred in Malaysia or the settlement of a trade in goods or services;

(b) residents are free to make or receive payment in foreign currency, to or from non-residents for any purpose, excluding payment for certain derivative related exceptions, in accordance with the Foreign Exchange Policy Notice; and

(c) non-residents are free to repatriate from Malaysia, funds including any income earned or proceeds from divestment of Malaysian ringgit assets, provided that the repatriation is made in foreign currency in accordance with the Foreign Exchange Policy Notices.

Any person who fails to comply with the Foreign Exchange Policy Notices is guilty of an offence and is liable on conviction to imprisonment for 10 years or to a fine not exceeding RM50,000,000 or to both.

## SANCTIONS LAWS AND REGULATIONS

Hogan Lovells, our International Sanctions Legal Advisers, have provided the following summary of the sanctions regimes imposed by the U.S., EU, UK, UN and Australia. This summary does not intend to set out the laws and regulations relating to the U.S., EU, UK, UN and Australian sanctions in their entirety.

### U.S.

OFAC is the primary agency responsible for administering U.S. sanctions programmes against targeted countries, entities, and individuals. "Primary" U.S. sanctions apply to "U.S. persons" or activities involving a U.S. nexus (e.g., funds transfers in U.S. currency even if performed by non-U.S. persons), and "secondary" U.S. sanctions apply extraterritorially to the activities of non-U.S. persons even when the transaction has no U.S. nexus. Generally, U.S. persons are defined as entities organised under U.S. law (such as companies and their U.S. subsidiaries); any U.S. entity's domestic and foreign branches (sanctions against Iran and Cuba also apply to U.S. companies' foreign subsidiaries or other non-U.S. entities owned or controlled by U.S. persons); U.S. citizens or permanent resident aliens ("green card" holders), regardless of their location in the world; individuals physically present in the United States; and U.S. branches or U.S. subsidiaries of non-U.S. companies.

Depending on the sanctions programme and/or parties involved, U.S. law also may require a U.S. company or a U.S. person to "block" (freeze) any assets/property interests owned, controlled or held for the benefit of a sanctioned country, entity, or individual when such assets/property interests are in the United States or within the possession or control of a U.S. person. Upon such blocking, no transaction may be undertaken or effected with respect to the asset/property interest — no payments, benefits, provision of services or other dealings or other type of performance (in case of contracts/agreements) — except pursuant to an authorisation or licence from OFAC.

OFAC's comprehensive sanctions programmes currently apply to Cuba, Iran, North Korea, Syria, the Crimea region of Russia/Ukraine, and the self-proclaimed Luhansk People's Republic (LPR) and Donetsk People's Republic (DPR) regions (the comprehensive OFAC sanctions programme against Sudan was terminated on October 12, 2017). OFAC also prohibits virtually all business dealings with persons and entities identified in the SDN List. Entities that a party on the SDN List owns (defined as a direct or indirect ownership interest of 50% or more, individually or in the aggregate) are also blocked, regardless of whether that entity is expressly named on the SDN List. Additionally, U.S. persons, wherever located, are prohibited from approving, financing, facilitating, or guaranteeing any transaction by a non-U.S. person where the transaction by that non-U.S. person would be prohibited if performed by a U.S. person or within the United States.

**United Nations**

The United Nations Security Council (the "**UNSC**") can take action to maintain or restore international peace and security under Chapter VII of the United Nations Charter. Sanctions measures encompass a broad range of enforcement options that do not involve the use of armed force. Since 1966, the UNSC has established 30 sanctions regimes.

The UNSC sanctions have taken a number of different forms, in pursuit of a variety of goals. The measures have ranged from comprehensive economic and trade sanctions to more targeted measures such as arms embargoes, travel bans, and financial or commodity restrictions. The UNSC has applied sanctions to support peaceful transitions, deter non-constitutional changes, constrain terrorism, protect human rights and promote non-proliferation.

There are 14 ongoing sanctions regimes which focus on supporting political settlement of conflicts, nuclear non-proliferation, and counter-terrorism. Each regime is administered by a sanctions committee chaired by a non-permanent member of the UNSC. There are ten monitoring groups, teams and panels that support the work of the sanctions committees.

UN sanctions are imposed by the UNSC, usually acting under Chapter VII of the United Nations Charter. Decisions of the UNSC bind members of UN and override other obligations of UN member states.

**European Union**

Under EU sanction measures, there is no "blanket" ban on doing business in or with a jurisdiction targeted by sanctions measures. It is not generally prohibited or otherwise restricted for a person or entity to do business (involving non-controlled or unrestricted items) with a counterparty in a country subject to EU sanctions where that counterparty is not a Sanctioned Person and not engaged in prohibited activities, such as exporting, selling, transferring or making certain controlled or restricted products available (either directly or indirectly) to, or for use in a jurisdiction subject to sanctions measures, provided that no funds and economic resources are made available to the Sanctioned Persons.

**United Kingdom and United Kingdom overseas territories**

As at 1 January 2021, UK is no longer an EU member state. EU law including EU sanctions measures continued to apply to and in UK until 31 December 2020. EU sanctions measures had also been extended by UK on a regime by regime basis to apply in UK overseas territories, including the Cayman Islands. Starting from 1 January 2021, UK applies its own sanctions programmes and has extended its autonomous sanctions regimes to apply to and in UK overseas territories.

**Australia**

The Australian restrictions and prohibitions arising from the sanctions laws apply broadly to any person in Australia, any Australian anywhere in the world, companies incorporated overseas that are owned or controlled by Australians or persons in Australia, and/or any person using an Australian flag vessel or aircraft to transport goods or transact services subject to UN sanctions.