

	<p style="text-align: center;"><b>CIVIL AVIATION AUTHORITY OF MALAYSIA</b>  <b>AVIATION POLICY &amp; DEVELOPMENT DIVISION</b>  <b>ECONOMIC &amp; COMPETITION</b></p> <p style="text-align: center;"><b>INDIVIDUAL EXEMPTION APPLICATION FORM</b></p>	<p style="text-align: center;">CAAM/CPD/CEC/01</p>
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## Section A. General Instructions

### 1 Form, Application Document, and Supporting Documents

- 1.1 The Civil Aviation Authority of Malaysia (“CAAM”) prescribes this individual exemption application form (“Form”) for any application for an individual exemption under section 36Q of the Civil Aviation Authority of Malaysia Act 2017 [Act 788] (“the Act”).
- 1.2 Section B of this Form provides a description of the information and supporting documents which must be provided by the applicant when applying for an individual exemption under section 36Q of the Act.
- 1.3 The applicant must provide all required information as listed in Section B of this Form in a single document (“Application Document”).
- 1.4 The applicant must provide relevant supporting documents to substantiate the information provided or claim made in the Application Document. The supporting documents must be attached to the Application Document and tagged and numbered systematically.
- 1.5 Section B of this Form must also be completed by the applicant to provide an index of the information provided in the Application Document and the supporting documents.
- 1.6 Any claim made by the applicant in its Application Document must be substantiated by evidence or data. Any evidence or data provided by the applicant must be accompanied by a clear explanation on the source of the evidence or data, the assumptions made, the methodology employed, and the reasoning for the assumptions and methodology. Unsubstantiated claims will be rejected by CAAM.
- 1.7 In preparing the Application Document and supporting documents, the applicant is advised to refer to the Guidelines on Aviation Service Market Definition and Guidelines on Anti-Competitive Agreements. These Guidelines are available on the CAAM’s website at <https://www.caam.gov.my/industry/competition/guidelines-and-competition-forms/>.

### 2 Confidential Information

- 2.1 Any confidential information provided by the applicant in the Application Document must be clearly identified by the applicant and accompanied with written justifications as to why the information should be treated as confidential. The applicant is also required to provide a non-confidential version of the Application Document, with the confidential information removed and replaced by the word “[CONFIDENTIAL]”. In general, “confidential information” refers to trade, business or industrial information

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that belongs to any person, that has economic value and is not generally available to or known by others.

### **3 Submission of Application**

3.1 A complete application for an individual exemption consists of the following documents:

- a) Section B of this Form, which has been completed by the applicant;
- b) Application Document, which contains all information required in Section B of this Form;
- c) A public version of the application document for publication on the CAAM's website. Please provide a clearly marked confidential version where confidentiality is claimed for any part of the application. All confidentiality claims must be substantiated, and the public version must contain sufficient information to enable public consultation on the application; and
- d) Supporting documents, which are attached to the Application Document, tagged and numbered.

3.2 Please submit two (2) hard copies of the application for an individual exemption and one soft copy of the application to the following address:

Chief Executive Officer  
Civil Aviation Authority of Malaysia  
No. 27, Persiaran Perdana, Aras 3,  
Blok Podium, Presint 4  
62618 Wilayah Persekutuan Putrajaya

3.3 The soft copy may be submitted via email to: [competition@caam.gov.my](mailto:competition@caam.gov.my). The soft copy of the application for an individual exemption must be in a Word document format which allows for the cutting and pasting of text.

3.4 Any additional copy of the application for an individual exemption shall also be made available to CAAM upon CAAM's request.

3.5 CAAM may refuse to accept an application for an individual exemption if it is –

- a) incomplete;
- b) not accompanied by the relevant supporting documents;
- c) not made in the form prescribed by CAAM; or
- d) not made in accordance with any provision of the Act, or any applicable regulations, guidelines or application requirements determined by CAAM.

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- 3.6 CAAM will only initiate the assessment process upon receipt of a complete application.
- 3.7 Any subsequent material changes to the information provided in the Application Document or the supporting documents must be notified to CAAM immediately.
- 3.8 CAAM may require additional information or supporting documents from the applicant during its assessment process.
- 3.9 Any delay by the applicant in providing any required information or supporting documents may result in the lengthening of the assessment period.



## Section B. Information Required

**AN APPLICATION FOR AN INDIVIDUAL EXEMPTION BY [insert the full registered name of the applicant]**

### Section B – Information Required

Information Required for an Application for Individual Exemption	Corresponding Page Number of the Application Document	List of Supporting Documents (where applicable)
<p><b>1. Parties to the Agreement</b></p> <p>1.1. For each party to the agreement in respect of which an individual exemption is sought, provide the following details:</p> <p>(a) Name</p> <p>(b) Address</p> <p><i>Provide the full address of the registered office of each party to the agreement in respect of which an individual exemption is sought, and its principal place of business in Malaysia, if different.</i></p> <p>(c) Contact details</p> <p><i>Provide the contact details of the registered office of each party to the agreement in respect of which an individual exemption is sought, and its principal place of business in Malaysia, if different.</i></p> <p>(d) Company/business registration number</p> <p><i>Provide the registration number of each party to the agreement in respect of which an individual exemption is sought, either as a body corporate, an unincorporated body, partnership or sole proprietor or any other entity.</i></p>		



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<p><i>Attach as supporting documents a copy of the certificate of incorporation, Memorandum of Association, Article of Association, Form 58 of the Companies Act 2016 (or its equivalent), or any proof of business registration of each party to the agreement, whichever is applicable. Such copy shall be certified true by a director or company secretary of the relevant party.</i></p> <p>(e) Description of business</p> <p><i>Describe the business carried on by each party to the agreement as a whole and the part of the party's business for which the agreement is entered into.</i></p> <p>(f) Description of the shareholding structure</p> <p><i>Provide the details on the shareholding structure of each party to the agreement in respect of which an individual exemption is sought, including the list and profile of shareholders. Attach as supporting documents any proof of shareholding such as register of members, return of allotment of shares or shareholders' agreement.</i></p> <p>(g) Description of the organisational structure and decision-making mechanism</p> <p><i>Provide the details on the organisational structure of each party to the agreement in respect of which an individual exemption is sought, including its list of directors and senior management, and decision-making mechanism.</i></p>		



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<p><i>Attach as supporting documents any proof the organisational structure and decision-making mechanism of each party to the agreement in respect of which an individual exemption is sought.</i></p>		
<p>1.2. State which party to the agreement is making the individual exemption application</p> <p><i>The application may be submitted by one enterprise that is a party to the agreement in respect of which an individual exemption is sought, or all enterprise who are parties to such agreement.</i></p>		
<p>1.3. If the application is made by only one enterprise that is a party to the agreement in respect of which an individual exemption is sought, please confirm that the applicant –</p> <p>(a) <i>Has the consent of the other party or parties to the agreement to make an individual exemption application; and</i></p> <p>(b) <i>Is capable of certifying the accuracy of the information provided in the individual exemption application.</i></p> <p><i>Attach as supporting documents any proof of consent stated in paragraph 1.3(a) above.</i></p>		
<p><b>2. Information on the Agreement</b></p> <p>2.1. Description of the agreement for which the individual exemption is sought, including the following:</p> <p>(a) The agreement period</p> <p>(b) Whether the agreement is in writing or not</p>		



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<p><i>If the agreement is in writing, attach as a supporting document a copy of the agreement. Such copy shall be certified true by a director or company secretary of a party to the agreement. If the agreement is not in writing, provide a full and accurate description of the agreement.</i></p> <p>(c) Whether it is a horizontal or vertical agreement</p> <p>(d) The aviation services to which the agreement relate</p> <p>(e) The purpose of the agreement</p> <p>(f) The status of the agreement, including whether the agreement has been entered into or implemented</p> <p><i>If the agreement has been entered into and implemented, provide the details of its implementation. Attach as supporting documents any proof of the implementation of the agreement.</i></p> <p>(g) The salient provisions or terms of the agreement</p> <p>(h) Any other key detail relating to the agreement</p> <p><i>Any key detail relating to the agreement in respect of which an individual exemption is sought, other than those listed in sub-paragraph 3.1(a) – (g) above, shall be provided as well. Attach relevant supporting documents where necessary.</i></p>		
2.2. Description of the provisions, and the object or effect of the agreement for which an individual exemption is sought		



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<p><i>Describe the provisions, and the object or effect of the agreement which are viewed by the applicant as infringing the prohibition under section 36o of the Act and the reasoning for the view.</i></p>		
<p><b>3. Aviation Service Market Definition</b></p> <p>3.1. Description of the relevant aviation service market, including the relevant service market, geographic market and temporal market, where applicable</p> <p>3.2. <i>Explain the relevant aviation service market definition and substantiate with evidence or data. Include the following details in the explanation on the relevant aviation service market, where applicable:</i></p> <ul style="list-style-type: none"><li>▪ <i>the aviation service that is the subject of the agreement for which an individual exemption is sought, i.e. the focal aviation service;</i></li><li>▪ <i>any other service viewed as substitutable with the focal aviation service;</i></li><li>▪ <i>the enterprises competing in the relevant aviation service market;</i></li><li>▪ <i>the enterprises competing in the relevant aviation service market;</i></li><li>▪ <i>the estimated of the market shares of the enterprises competing in the relevant aviation service market, including that of the parties to the agreement for which an individual exemption is sought;</i></li><li>▪ <i>the annual turnover of the parties to the agreement for which an individual exemption is sought. Attach as supporting documents a copy of the</i></li></ul>		



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<p><i>most recent annual report and audited accounts of the parties to the agreement;</i></p> <ul style="list-style-type: none"> <li>▪ <i>the the factors to be considered relating to the demand-side substitutability of the focal aviation service, such as switching period and costs, price elasticities, brand loyalty, service differentiation, etc.;</i></li> <li>▪ <i>the factors to be considered relating to the demand-side substitutability of the focal aviation service, such as sunk costs, barriers to expansion, buyer preference, economies of scale, capacity of other enterprises to provide the focal aviation service or its substitutable service, substitution costs, etc.;</i></li> <li>▪ <i>the geographic or temporal scope of the focal aviation service, and the factors to be considered relating to demand-side and supply-side substitutability in terms of a geographic market or a temporal market; and</i></li> <li>▪ <i>factors to be considered relating to the barriers to entry into the relevant aviation service market. Where available, identify any new enterprise that has entered the relevant aviation service market during the last three years from the date of the application, or any potential enterprise that has announced its intention to enter such market in the near future. Provide the details of each new or potential competing enterprise by full name, full address of the registered office and the principal place of business, contact number, and a contact</i></li> </ul>		



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<p><i>person. Provide the applicant's best estimates of the market share of the new or potential enterprise in the relevant aviation service market.</i></p> <p><i>Attach as supporting documents a copy of evidence or data to substantiate the explanation on the relevant aviation service market definition. This may include any study that analysed the relevant aviation service market, market research, interview with buyers or sellers, or consumer surveys.</i></p> <p><i>If there are more than one relevant aviation service market, please provide the details, substantiate with evidence or data, and attach the supporting documents for each relevant aviation service market.</i></p>		
<p><b>4. Relief of Liability</b></p> <p><i>Describe how the agreement for which an individual exemption is sought fulfills all requirements for relief of liability under Section 36P of the Act.</i></p> <p>4.1. Description of the benefits directly arising from the agreement</p> <p>(a) Description of significant identifiable technological benefits directly arising from the agreement, if any</p> <p><i>Explain and substantiate with evidence or data –</i></p> <ul style="list-style-type: none"> <li>▪ <i>the significant identifiable technological benefits directly arising from the agreement;</i></li> <li>▪ <i>how, why and when the significant identifiable technological benefits would be achieved;</i></li> </ul>		



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<ul style="list-style-type: none"> <li>▪ <i>whether the significant identifiable technological benefits would be a one-time occurrence or recurring;</i></li> <li>▪ <i>the direct causal link between the agreement and the significant identifiable technological benefits; and</i></li> <li>▪ <i>the likelihood and the magnitude of the significant identifiable technological benefits.</i></li> </ul> <p>(b) Description of significant identifiable economic efficiency benefits directly arising from the agreement, if any</p> <p><i>Explain and substantiate with evidence or data –</i></p> <ul style="list-style-type: none"> <li>▪ <i>the significant identifiable economic efficiency benefits directly arising from the agreement;</i></li> <li>▪ <i>how, why and when the significant identifiable economic efficiency benefits would be achieved;</i></li> <li>▪ <i>whether the significant identifiable economic efficiency benefits would be a one-time occurrence or recurring;</i></li> <li>▪ <i>the direct causal link between the agreement and the significant identifiable economic efficiency benefits; and</i></li> <li>▪ <i>the likelihood and the magnitude of the significant identifiable economic efficiency benefits.</i></li> </ul>		



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<p>(c) Description of significant identifiable any social benefits directly arising from the agreement, if any</p> <p><i>Explain and substantiate with evidence or data —</i></p> <ul style="list-style-type: none"> <li>▪ <i>the significant identifiable social benefits directly arising from the agreement;</i></li> <li>▪ <i>how, why and when the significant identifiable social benefits would be achieved;</i></li> <li>▪ <i>whether the significant identifiable social benefits would be a one-time occurrence or recurring;</i></li> <li>▪ <i>the direct causal link between the agreement and the significant identifiable social benefits; and</i></li> <li>▪ <i>the likelihood and the magnitude of the significant identifiable social benefits.</i></li> </ul> <p>4.2. Description of how the benefits claimed in paragraph 4.1, Section B could not reasonably have been provided by the parties to the agreement without the agreement having the effect of preventing, restricting or distorting competition</p> <p><i>Explain how the benefits claimed in paragraph 4.1, Section B could not be provided by any other reasonable means without the agreement having such anti-competitive effect. Substantiate with evidence or data.</i></p> <p>4.3. Description of how the detrimental effect of the agreement on competition is proportionate to the benefits provided</p>		



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<p><i>To the extent possible, provide monetary estimates of the value of the significant benefits arising directly from the agreement, and the detrimental effect of the agreement on competition. The monetary estimates must be substantiated with evidence or data.</i></p> <p><i>Where the applicant is of the view that it is not possible to credibly provide the monetary estimates mentioned above, provide a qualitative assessment of the significant benefits arising directly from the agreement and the detrimental effect of the agreement. Substantiate the qualitative assessment with evidence or data.</i></p> <p>4.4. Description of how the agreement does not allow the enterprise concerned to eliminate competition completely in respect of a substantial part of the aviation services</p> <p><i>Explain and substantiate with evidence or data.</i></p>		
<p><b>5. Contact Person for Further Information</b></p> <p><i>Provide the details of a contact person authorised by the applicant to provide additional information in relation to this individual exemption application. The authorised contact person may be an officer or an employee of the applicant, or an agent of the applicant.</i></p> <p><i>If there are more than one applicant, provide the details of a contact person for each applicant.</i></p> <p>5.1. Name of the contact person</p> <p>5.2. Address of the contact person</p>		



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5.3. Contact number of the contact person  5.4. Email address of the contact person		
<p><b>6. Declaration and Signature</b></p> <p><i>The following caption must be included at the end of the application document:</i></p> <p align="center"><b><i>“I hereby declare and confirm that the information submitted in the form and the enclosed documents are true and correct to the best of my knowledge and belief.”</i></b></p> <p><i>The Application Document must be signed by a person who is authorised by the applicant to do so, such as the applicant’s officer or employee. Provide proof of authorisation together with the application.</i></p> <p><i>Underneath the signature of the authorised person, provide the following details:</i></p> <ul style="list-style-type: none"> <li>▪ <i>the name of the authorised person;</i></li> <li>▪ <i>the date of signature;</i></li> <li>▪ <i>the name of the applicant;</i></li> <li>▪ <i>the authorised person’s position or designation; and</i></li> <li>▪ <i>the official stamp of the applicant.</i></li> </ul> <p><i>If the Application Document is submitted by two or more enterprises who are parties to the agreement in respect of which an individual exemption is sought, the document must be signed by an authorised person of each applicant followed by the details listed above.</i></p>		