

Malaysia Digital Economy Corporation Sdn Bhd (“**MDEC**”) expects its bidders, suppliers, contractors, consultants, or other service providers (“**Suppliers**”), recipients of cash grants or sponsorship from MDEC (“**Recipients**”), persons who participate in any of the programmes launched or undertaken by MDEC (“**Participants**”) and its clients (“**Clients**”) to conduct their respective businesses in the most ethical and professional manner.

This Code of Conduct sets out the minimum criteria which must be observed and complied with by all Suppliers/Recipients/Participants/Clients.

1. A Supplier/Recipient/Participant/Clients must not participate/commit or be involved in or fall within one or more of the following events/categories (collectively “**Blacklist Events**” and severally a “**Blacklist Event**”): -
 - (a) be engaged in or has the reputation of engaging in Corrupt, Fraudulent, Collusive, Coercive, Unethical or Obstructive Practices; or
 - (b) in respect of any Bids or other Business Dealings with MDEC, be engaged in or has engaged in Corrupt, Fraudulent, Collusive, Coercive, Unethical or Obstructive Practice in securing that Bid or other Business Dealing with MDEC or in relation to or in the course of its Business Dealings with MDEC has engaged in such practices with third parties; or
 - (c) where the Supplier/Recipient/Participant/Clients has had or has current Business Dealings with MDEC, that Supplier/Recipient/Participant/Clients: -
 - (i) has breached any confidentiality obligation towards MDEC; or
 - (ii) has breached any material term in the relevant contract, agreement, option, arrangement, or Project with MDEC or committed any material misrepresentation resulting in the relevant contract, agreement, option, arrangement or Project being terminated; or
 - (iii) is in litigation with MDEC, either as plaintiff or defendant or has arbitration proceedings with MDEC; or
 - (d) where the Supplier/Recipient/Participant/Clients has breached any provision in this Code of Conduct including without limitation Clause 2 below.
2. In respect of any Business Dealing with MDEC, the Supplier/Recipient/Participant/Clients must ensure that there is no Conflict of Interest and must declare and disclose any Conflict of Interest or potential Conflict of Interest. A Conflict-of-Interest scenario will arise where:
 - (a) the Supplier/Recipient/Participant/Clients (or any of its directors, shareholders, officers or partners, as the case may be) has a close business or family relationship with a member of the Senior Management or member of the Procurement Committee or member of such other committees of MDEC as part of the procurement process, Bid/Application process and blacklisting process of MDEC or a director on the Board of Directors of MDEC or any other Employee who is directly or indirectly involved in the preparation of the bidding documents or is involved in the bid evaluation process or in the implementation or supervision or operation or enforcement of the Project; or

- (b) the Supplier submits more than one Bid, either individually or as a joint venture partner in another Bid or where an Immediate Family member of the Supplier or of a Person Associated with the Supplier or a Person Associated with the Supplier, whether directly or indirectly is in another Bid: or
 - (c) the Recipient/Participant submits more than one Application, either individually or as a joint venture partner in another Application or where an Immediate Family member of the Recipient/Participant or of a Person Associated with the Recipient/Participant or a Person Associated with the Recipient/Participant, whether directly or indirectly in another Application.
- 3. The Supplier/Recipient/Participant/Clients shall ensure that all information furnished to MDEC shall be true and correct at all material times and shall furnish any further information as may be required by MDEC from time to time. The Supplier/Recipient/Participant/Clients shall and shall ensure that Persons Associated with the Supplier/Recipient/Participant/Clients shall co-operate fully with MDEC in respect of any Complaint or any other information as may be requested of them.
- 4. The Supplier/Recipient/Participant/Clients shall ensure that it shall comply with and it shall procure that Persons Associated with the Supplier/Recipient/Participant/Clients shall comply with, to the extent applicable to them, the provisions of this Code of Conduct including without limitation any confidentiality obligation or information.
- 5. Save as otherwise permitted in writing by MDEC, the Supplier/Recipient/Participant/Clients shall keep confidential and shall ensure that Persons Associated with the Supplier/Recipient/Participant/Clients keep confidential all or any information which the Supplier/Recipient/Participant/Clients or the Persons Associated with the Supplier/Recipient/Participant/Clients received in respect of or in relation to any internal processes of MDEC and which should not have been disclosed or made known to or received by the Supplier/Recipient/Participant/Clients and/or Persons Associated with the Supplier/Recipient/Participant/Clients in the first instance.
- 6. The Supplier/Recipient/Participant/Clients shall ensure that it shall comply with and that it shall procure that Persons Associated with the Supplier/Recipient/Participant/Clients comply with all applicable laws and regulations with respect to the conduct of its business and further undertake that it shall not and shall ensure that Persons Associated with the Supplier/Recipient/Participant/Clients shall not undertake or be involved in (whether directly or indirectly) with any of the following activities: -
 - (a) fix prices or terms related to pricing; or
 - (b) engage in any anti-competitive activity; or
 - (c) rig a competitive bidding process; or
 - (d) engage in any money-laundering activity.
- 7. The Supplier/Recipient/Participant/Clients shall furnish and shall ensure that Persons Associated with the Supplier/Recipient/Participant/Clients shall furnish their fullest co-operation with MDEC in respect of any request for information by MDEC.
- 8. The Supplier/Recipient/Participant/Clients acknowledges that MDEC is at liberty to vary or modify this Code of Conduct including without limitation, the procedures relating to any enquiry or investigation from time to time.

9. The Supplier/Recipient/Participant/Clients further acknowledges that in the event of any failure of the Supplier/Recipient/Participant/Clients to observe and comply with or cause to be observed and complied with any provision of this Code of Conduct, MDEC on receipt of a complaint (“**Complaint**”) and after investigation, is at liberty to, without prejudice to any other right or remedy available to MDEC, blacklist the Supplier/Recipient/Participant/Clients name onto the blacklist register of MDEC for such duration of time as decided by MDEC (“**Blacklist Period**”) and the blacklisted Supplier/Recipient/Participant/Clients will not be permitted to have any Business Dealing with MDEC during such Blacklist Period and any existing Business Dealing may cease or terminate at the discretion of MDEC. For avoidance of doubt, MDEC is at liberty to include any Person Associated with the blacklisted Supplier/Recipient/Participant/Clients onto that blacklist register as well. In respect of a Complaint, the Supplier/Recipient/Participant/Clients acknowledges and is aware that MDEC has the discretion whether or not to inform the Supplier/Recipient/Participant/Clients that it is being investigated and may be blacklisted and/or the grounds of the blacklisting or any decision made in relation to such blacklisting. In respect of an existing Business Dealing, where the Supplier/Recipient/Participant/Clients is blacklisted in the course of the Business Dealing, without prejudice to any other rights available to MDEC, MDEC has the liberty to terminate the existing Business Dealing.
10. The Supplier/Recipient/Participant/Clients is aware and irrevocably consents that information (including personal data) relating to the Supplier/Recipient/Participant/Clients and any Persons Associated with the Supplier/Recipient/Participant/Clients furnished to MDEC will be or is made available to the Employees, Procurement Committee and such other committees of MDEC as part of the procurement process, Bid/Application process and blacklisting process of MDEC and this Code of Conduct.
11. The Supplier/Recipient/Participant/Clients undertakes that it shall furnish a copy of this Code of Conduct to Persons Associated with the Supplier/Recipient/Participant/Clients in so far as such Persons Associated with the Supplier/Recipient/Participant/Clients are or will be involved in the Business Dealing.
12. For purposes of this Code of Conduct, the following terms and expressions shall have the following meaning save where the context otherwise requires or is separately defined: -
- “**Application**” shall mean an application to MDEC for cash grant or sponsorship or for participation in a programme operated or undertaken by MDEC, as the context may require.
- “**Bid**” shall include a tender, proposal in respect of a contract, award or Project.
- “**Business Dealings**” shall include but not limited to: -
- (a) the supply of goods or services to or by MDEC or the submission for Bids for the supply of goods or services to or by MDEC, whether directly or indirectly;
 - (b) the receipt of cash grants or sponsorship from MDEC; and/or
 - (c) participation in any of the programmes launched or undertaken by MDEC.
- “**Coercive Practice**” shall mean an act which impairs or harms or which threatens to impair or harm, directly or indirectly, any Person or the property of the Person to influence improperly the actions of that Person.
- “**Collusive Practice**” shall mean an arrangement between two or more Persons designed to achieve an improper purpose, including to influence improperly the actions of another Person.

“Complaint” shall have the meaning ascribed to it in Clause 9 above.

“Complainant” shall mean the Person making the Complaint.

“Corrupt Practice” shall mean any act offering, giving, receiving or soliciting, directly or indirectly, any type of Gratification to influence improperly the actions of another Person.

“Employee(s)” shall mean the person(s) engaged by MDEC under an employment contract or contract for services, as the case may be.

“Fraudulent Practice” shall mean any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a Person to obtain a financial or other benefit or to avoid an obligation.

“Gifts” shall mean any gift of a substantial value or of a cash or non-cash nature or the offer of gratuitous services whether actual or potential and whether offered/made directly or indirectly or whether made to an Employee or to his/her Immediate Family. “Gifts” shall exclude any gifts of a festive seasonal nature, which are consumable or a “souvenir” items such as calendars, diaries, desk diaries, which have no monetary value or of low monetary value (less than RM250).

“Gratification” shall mean: -

- (a) Gifts;
- (b) any office, dignity, employment, contract of employment or services; and agreement to give employment or render services in any capacity;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any valuable consideration of any kind other than Gifts, any discount, commission, rebate, bonus, deduction or percentage;
- (e) any forbearance to demand any money or money's worth or valuable thing;
- (f) any other service or favour of any description, including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted and including the exercise or the forbearance from and exercise of any right or any official power or duty; and
- (g) any offer, undertaking or promise, whether conditional or unconditional, of any gratification, within the meaning of any of the preceding clauses (a) to (f).

“Immediate Family” shall mean: -

- (a) in respect of a Supplier/Recipient/Participant/Clients who is an individual or a Person Associated with that Supplier/Recipient/Participant/Clients who is an individual for example, a director or an officer or shareholder shall mean the spouse, parent, child (including adopted child or step-child), brother or sister, spouse of his/her child, brother or sister of that individual; and

- (b) in respect of an Employee or a director or other officer of MDEC shall mean the spouse, parent, child (including adopted child or step-child), brother or sister, spouse of his/her child, brother or sister of that Employee or director or other officer of MDEC.

“Obstructive Practice” shall mean any action which: -

- (a) deliberately destroys, falsifies, alters or conceals evidence material to the investigation or makes false statements to investigators in order to materially impede the investigation into allegations of a corrupt, fraudulent, coercive or collusive practice and/or threatens, harass or intimidates any Person to prevent it from disclosing its knowledge of matters relevant to the investigations or from pursuing the investigation; or
- (b) are engaged in acts intending to materially impede the exercise of any inspection and audit rights.

“Participant” shall mean a Person who/which participates in a programme operated or undertaken by MDEC.

“Person” shall mean individuals, firms, partnerships, corporations, organisations, regulatory authorities or public bodies.

“Persons Associated with the Supplier/Recipient/Participant/Clients” shall mean the directors, shareholders, partners, officers or Immediate Family of the Supplier/Recipient/Participant/Clients (if an individual) or the Immediate Family of its directors, shareholders, partners, officers or the agents, sub-consultants, sub-contractor or service providers of the Supplier/Recipient/Participant/Clients.

“Procurement Committee” shall mean the committee within MDEC which is involved in procurement activities including but not limited to the submission of bids.

“Project” shall mean the undertaking, task, job, scheme, plan, development, endeavour, grant, sponsorship, programme, assignment or purpose which is the subject matter of the Business Dealing.

“Recipient” shall mean a recipient of a cash grant or sponsorship from MDEC.

“Senior Management” shall mean Employees holding the post of Director/Head of Division and above.

“Unethical Practice” shall mean the submission by the Supplier/Recipient/Participant/Clients of more than one Bid or Application (whether directly or indirectly), non-disclosure of material or incorrect information in respect of the bid or during a Business Dealing, involvement in price fixing practices (whether in relation to a bid, during the Business Dealing or otherwise), permitting or allowing a conflict of interest situation to arise in a bid or during a Business Dealing which may adversely affect or adversely affects the potential Business Dealing or Business Dealing.

In this Code of Conduct: -

- (a) words importing the singular include the plural and vice-versa, words importing a gender include every gender.
- (b) references to Clauses are to clauses in this Code of Conduct. The headings to the Clauses do not affect the interpretation of this Code of Conduct.