

# THE MALAYSIA DIGITAL (MD) BILL OF GUARANTEES

## Introduction

The grant of Malaysia Digital (MD) Status entitles qualified companies access to a set of incentives, rights and privileges from the Government of Malaysia (“Government”), namely the Malaysia Digital (MD) Bill of Guarantees (“BoGs”). The BoGs reflects the Government’s intention to provide an environment in Malaysia that is conducive to the development of MD Status companies.

The incentives, rights and privileges granted pursuant to the BoGs are subject to the continued adherence by the MD Status companies to the relevant criteria, applicable conditions and requirements under relevant laws and regulations.

While the Government will reasonably exercise all authority and power towards providing the relevant incentives, rights and privileges under the BoGs, the actual provision will be dependent upon a range of factors and parties (both public and private), and can be affected by circumstances that are not within the control of the Government.

The BoGs are as follows:

- BoG 1: To provide a world-class physical and information infrastructure.  
*Note: BoG 1 is only available for MD Status companies located in MD Cybercities/Cybercentres.*
- BoG 2: To allow employment of local and foreign knowledge workers.
- BoG 3: To ensure freedom of ownership by exempting companies with MD Status from local ownership requirements.
- BoG 4: To give the freedom to source capital globally for MD infrastructure, and the right to borrow funds globally.
- BoG 5: To provide competitive financial incentives, namely income tax exemption or investment tax allowance and no duties on the importation of multimedia equipment.
- BoG 6: To become a regional leader in Intellectual Property Protection and Cyberlaws.
- BoG 7: To ensure no censorship of the Internet.

- BoG 8: To provide globally competitive telecommunications tariffs.  
*Note: BoG 8 is only available for MD Status companies located in MD Cybercities/Cybercentres.*
- BoG 9: To tender key MD infrastructure contracts to leading companies willing to use Malaysia as their regional hub.
- BoG 10: To provide a high-powered implementation agency to act as an effective one-stop super shop.

This document reflects the Government's interpretation in respect of the BoGs, and may be subject to change. For further information, please contact the Malaysia Digital Economy Corporation Sdn. Bhd. ("MDEC") at:

**Client Contact Centre (CliC)**

Tel. no.: +603-8315 3000

Toll free no.: 1-800-88-8338 (within Malaysia)

Email: clic@mdec.com.my

## **Bill of Guarantee No. 1: To provide a world-class physical and information infrastructure**

### **Policy Objective**

To realise the vision for Malaysia to be a major global ICT hub, the Government recognises the importance of the physical and information infrastructure, to provide a conducive and enabling environment for companies to conduct their business operations, undertake research and develop new technologies, applications and products.

### **Interpretation**

The Government has put in place policies, frameworks and plans to facilitate the provision of physical and information infrastructure as part of a conducive and enabling environment for the operation of MD Status companies. The relevant policies, frameworks and plans have been developed and will continually be updated based on global benchmark towards attaining globally competitive standards ie. “world-class”.

This BoG is available for MD Status companies which opted to locate and operate their business operations in “Designated Premises” or other commercial premises within “MD Cybercities” or “MD Cybercentres”, being areas that are measured by their respective sets of globally competitive standards, namely the “MD Performance Standards”, on matters such as utilities and telecommunications services.

To facilitate the spread of MD, a 2-tier framework of “MD Cybercities” and “MD Cybercentres” has been formulated and implemented by the Government, recognising that different types of businesses and/or operations will have different requirements for physical and information infrastructure.

MD Status companies are required to conduct their own due diligence and continuously satisfy themselves as to the suitability of their respective location(s) and the adequacy of the amenities, facilities, services and business environment provided therein. MD Status companies are further encouraged to adopt the “MD Performance Guarantees with Financial Penalties (“PGFPs”)” offered by the relevant service providers.

Some of the key parties involved in the delivery of this BoG are as follows:

- Cybercity / Cybercentre Manager.
- Building managers and owners.
- Utility companies, telecommunication service providers (“Telcos”) and internet service providers (“ISPs”).

- State Government, local authorities and related Government agencies.

**Responsible Ministries / Agencies**

- Ministry of Communication and Multimedia Malaysia.
- Ministry of Energy and Natural Resources.
- Ministry of Environment and Water.
- Ministry of Housing and Local Government.
- Malaysian Communications and Multimedia Commission.

## Bill of Guarantee No. 2: To allow employment of local and foreign knowledge workers

### Policy Objective

To realise the vision for Malaysia to be a major global ICT hub, the Government recognises the importance of human capital to meet the demands of the industry.

### Interpretation

MD Status companies are expected to maintain a work force utilising a substantial percentage of knowledge workers, in view of the nature and demands of the ICT industry, and also because the presence of knowledge workers is consistent with Malaysia's long-term goal of enabling and sustaining productivity-driven growth of a knowledge-based economy.

A company applying for MD Status is required to specify the number of knowledge workers (local and foreign) that it requires for the conduct of its MD approved activities. Such requirements are to be set out in the company's business plan, which forms part of its application for MD Status.

An MD Status company may employ such number of knowledge workers as indicated upon the grant of MD Status, subject to such amendments as may be subsequently approved, based on requests by the MD Status company.

The process for employment of foreign knowledge workers is subject to requirements under the *Immigration Act 1959/63* and the *Immigration Regulations 1963*. MD Status companies can make applications directly with the Immigration Department, or appoint MDEC to provide the relevant services.

A "knowledge worker" is an individual who holds one of the following:

- *Tertiary qualification from an institution of higher learning (in any field); or*
- *Diploma in ICT, engineering, technology or specialized certification plus at least 2 years' relevant experience in a field that is a heavy user of technology; or*
- *Professional, executive, management and technical work categories in information technology enabled services eg. Information Technology / IS Professionals, Finance / Accounting, Business Administration, Engineering, Medical, Legal,*

*and also includes:*

- *foreign workers with knowledge-based skills that are not prevalent in Malaysia and required by MD Status companies.*

- *workers who are utilised for their creative talent to produce value-added creative work for MD Status companies.*

MD Status companies are expected to employ these knowledge workers for roles that commensurate their expertise and experience.

**Responsible Ministries / Agencies**

- The Immigration Department, under the Ministry of Home Affairs.

## **Bill of Guarantee No. 3: To ensure freedom of ownership by exempting companies with MD Status from local ownership requirements**

### **Policy Objective**

To realise the vision for Malaysia to be a major global ICT hub, the Government recognises the importance of attracting world-leading companies and multinational corporations to set up their global / regional hubs and/or to conduct their business operations, undertake research and develop new technologies, applications and products in Malaysia.

### **Interpretation**

Generally, no restrictions are imposed by the Government on equity conditions for companies incorporated in Malaysia. However, for companies involved in various sectors, equity conditions imposed by the respective sector regulators will apply.

For acquisition of properties (except residential units), approval of the Economic Planning Unit of the Prime Minister's Department is required in respect of the following<sup>1</sup>:

- Direct acquisition of property valued at RM20 million and above, resulting in the dilution in the ownership of property held by Bumiputera interest and/or Government agency; and
- Indirect acquisition of property by other than Bumiputera interest, through acquisition of shares, resulting in a change of control of the company owned by Bumiputera interest and/or Government agency, having property more than 50% of its total assets and the said property is valued at more than RM20 million.

Companies undertaking the above transactions are required to comply with equity conditions, and paid-up capital conditions. However, MD Status companies are exempted from the above, provided that the property is used for their operational activities, including as residence for their employees.

### **Responsible Ministries / Agencies**

- The Economic Planning Unit of the Prime Minister's Department.

---

<sup>1</sup> Guidelines on the Acquisition of Properties, Economic Planning Unit, Prime Minister's Department, effective from 30 June 2009.

## **Bill of Guarantee No. 4: To give the freedom to source capital globally for MD infrastructure, and the right to borrow funds globally**

### **Policy Objective**

As part of the efforts to promote Malaysia as a major global ICT hub, the Government recognises the need to provide flexibility to MD Status companies to source capital and funds globally.

### **Interpretation**

#### **Flexibility to Source Capital and Funds Globally**

Under this BoG, MD Status companies are free to source capital globally, unless otherwise stated in the *Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001*, or from residents, non-residents, authorities, agencies or entities of countries specified in the *Financial Services Act 2013*<sup>2</sup>.

Non-residents investing in MD Status companies are free to repatriate any amount of capital, divestment proceeds, profits and dividends or any income arising from their investments. Repatriation shall be made in foreign currency.

For purpose of investment in foreign currency asset, MD Status companies are free to remit funds abroad, which are made in foreign currency and transacted through licensed onshore banks.

MD Status companies are also free to borrow from resident and non-resident lenders in ringgit and in any foreign currency<sup>3</sup> to finance their business operations as follow:

(a) **Borrowing in ringgit:**

- (i) any amount from licensed onshore banks and other residents;
- (ii) any amount from their non-resident non-bank parent companies for purpose of financing activities in the real sector in Malaysia; and
- (iii) up to RM1 million in aggregate from other non-resident non-bank companies or non-resident individuals for use in Malaysia.

---

<sup>2</sup> MD Status companies may not source capital from “specified persons” as determined by the Central Bank of Malaysia from time to time under the *Financial Services Act 2013*, such as any residents, authorities, agencies or entities of Israel and any entity owned or controlled, directly, by Israel or its residents as well as from those belonging to or associated with individuals and entities pursuant to the United Nations Securities Council Resolutions (“UNSCR”). Notwithstanding, MD Status companies may enter into, or make or receive payment arising from an international trade with or involving a “specified person” if such trades are allowed by relevant authority in Malaysia.

<sup>3</sup> MD Status companies may not borrow from resident and non-resident lenders in the currency of Israel.

As ringgit remains a non-internationalised currency, all ringgit funds shall only be sourced from onshore financial markets.

(b) Borrowing in foreign currency:

- (i) any amount from licensed onshore banks, licensed International Islamic banks and non-residents; and
- (ii) any amount from resident entities which are within the same group of entities.

There is no restriction for principal repayment and interest payments to lenders in ringgit and foreign currency with regards to respective borrowings by MD Status companies.

**Responsible Ministries / Agencies**

- Bank Negara Malaysia (BNM) [The Central Bank of Malaysia].

**For More Information**

BNM continues to maintain a liberal foreign exchange policy (FEP) to support the competitiveness of the Malaysian economy by facilitating a more conducive environment for domestic and cross-border real economic activities.

Further information on FEP can be obtained from the following:

**BNM's FEP Website**

<https://www.bnm.gov.my/fep>

Any FEP enquiries can either be emailed to [FEPinfo@bnm.gov.my](mailto:FEPinfo@bnm.gov.my) or sent to BNM LINK as follows:

**BNM LINK**

Jabatan LINK & Pejabat BNM  
Tingkat 1, Bangunan AICB  
Jalan Dato Onn  
50480 Kuala Lumpur

Tel Number: 1-300-88-5465 or 1-300-88-LINK

Fax Number: 03-2174 1515

Email: [bnmtelelink@bnm.gov.my](mailto:bnmtelelink@bnm.gov.my)

eLink: <https://telelink.bnm.gov.my/>

*Operating Hours are from Monday to Friday, 9.00 a.m. to 5.00 p.m.*

**Bill of Guarantee No. 5: To provide competitive financial incentives, namely income tax exemption or investment tax allowance and no duties on the importation of multimedia equipment**

**Policy Objective**

To realise the vision for Malaysia to be a major global ICT hub, the Government recognises that the offer of financial incentives will encourage the accelerated growth of MD Status companies and enhance the competitiveness of their products and services.

**Interpretation**

Subject to applicable conditions, prevailing policies and guidelines, and relevant laws, MD Status companies may be given income tax exemption or investment tax allowance under the *Income Tax Act 1967*.

The grant and enjoyment of tax incentives, including the application process, the criteria and conditions to be met and the withdrawal, surrender and renewal process, are governed and regulated by the relevant laws.

Subject to the provisions under the *Customs Act 1967* and the *Sales Tax Act 2018*, and such conditions as may be imposed by the Minister of Finance, the import by MD Status companies of multimedia equipment and components for direct use in the operation of their MD approved activities may be exempted from import duties and sales tax.

The criteria to be met for such multimedia equipment and components are as follows:

- Multimedia / ICT equipment;
- Equipment is not available locally / not locally manufactured;
- Equipment is not for trading; and
- Equipment is “directly used” for MD approved activities.

To enjoy the exemption, MD Status companies are required to submit an application through MDEC.

**Responsible Ministries / Agencies**

- Ministry of Finance.
- Ministry of International Trade and Industry.
- Royal Malaysian Customs Department.

## **Bill of Guarantee No. 6: To become a regional leader in Intellectual Property Protection and Cyberlaws**

### **Policy Objective**

To realise the vision for Malaysia to be a major global ICT hub, the Government recognises the importance of Intellectual Property as a new engine of growth to enhance economic and social prosperity, and the need for an enabling Cyberlaws framework to tackle challenges brought about by developments in the ICT industry.

### **Interpretation**

The Government is committed to establish a conducive legal and regulatory framework of Intellectual Property and Cyberlaws, as well as to ensure that laws are duly administered, complied with and enforced. The Government further recognises the need to stay ahead of regional competition and is committed to continually enhance the framework to keep abreast with international developments and new challenges.

### **Responsible Ministries / Agencies**

- Ministry of Communication and Multimedia Malaysia.
- Malaysian Administration Modernisation and Management Planning Unit (“MAMPU”).
- Ministry of Entrepreneur Development and Cooperatives.
- Ministry of Domestic Trade and Consumer Affairs.
- Ministry of Home Affairs, supported by the Royal Malaysia Police.
- Intellectual Property Corporation of Malaysia (“MyIPO”).

## **Bill of Guarantee No. 7: To ensure no censorship of the Internet**

### **Policy Objective**

To realise the vision for Malaysia to be a major global ICT hub, the Government recognises the revolutionary role of the Internet in facilitating information-exchange and innovation, and providing the basis for continuing enhancements to quality of work and life.

### **Interpretation**

While the Government will not censor the Internet, this does not mean that any person may disseminate illegal content with impunity and without regard to the law. To the extent that any act is illegal in the physical world, it will similarly be outlawed in the online environment. Hence, laws prohibiting dissemination of, for example, indecent / obscene or other illegal materials will continue to apply.

In this regard, relevant ministries and agencies will continue to take appropriate actions and enforce those laws that are under their respective purview.

### **Responsible Ministries / Agencies**

- Ministry of Communication and Multimedia Malaysia.
- Malaysian Communications and Multimedia Commission.

## **Bill of Guarantee No. 8: To provide globally competitive telecommunications tariffs**

### **Policy Objective**

To realise the vision for Malaysia to be a major global ICT hub, the Government recognises the pivotal role of competitive telecommunication tariffs in attracting investments to Malaysia and encouraging the growth of the ICT industry.

### **Interpretation**

MD Status companies enjoy a set of published telecommunications tariffs that are generally competitive against selected countries, for the conduct of MD approved activities.

To ensure that the telecommunications tariffs at MD Cybercities and Cybercentres remain competitive, the published tariffs are continuously benchmarked and reviewed, and are therefore subject to fluctuations. Further, the said tariffs may not necessarily be the lowest, taking into consideration, among other things, the dynamic nature of the global telecommunications environment and the overall economic conditions and telecommunications framework of the country.

### **Responsible Ministries / Agencies**

- Ministry of Communication and Multimedia Malaysia.
- Malaysian Communications and Multimedia Commission.

**Bill of Guarantee No. 9: To tender key MD infrastructure contracts to leading companies willing to use Malaysia as their regional hub**

**Policy Objective**

To realise the vision for Malaysia to be a major global ICT hub, the Government recognises the importance of attracting leading companies to set up in Malaysia. Hence, the offer of contracts related to key MD infrastructure may be used as an incentive to attract these leading companies to set up their global / regional hubs in Malaysia.

**Interpretation**

The Government may consider inviting leading companies that are willing to set up their global / regional hubs in Malaysia to submit proposals for key MD infrastructure works, as an incentive to attract such companies to invest in Malaysia. Where appropriate, the offer of contracts may be made through direct negotiations based on a number of considerations, including value propositions of such companies and their expertise and track record in carrying out similar successful projects elsewhere.

“Key MD infrastructure works” encompass both physical and soft infrastructure.

**Responsible Ministries / Agencies**

- Ministry of Finance.

**Bill of Guarantee No. 10: To provide a high-powered implementation agency to act as an effective one-stop super shop**

**Policy Objective**

MDEC has been set up by the Government to act as a one-stop centre, to drive the development of MD specifically, and the ICT industry in general.

**Interpretation**

MDEC is incorporated as a private limited company under the *Companies Act 1965* and is an agency under the Ministry of Communication and Multimedia Malaysia.

MDEC's functions are to develop, coordinate and promote Malaysia's digital economy, information and communication technology (ICT) industry and the extensive use of ICT in Malaysia.

This would include processing applications by companies for MD Status, and facilitating applications related thereto, such as applications for foreign knowledge workers and tax incentives.

MDEC also conducts periodic benchmarking of regional and global tariffs and facilitates discussions and engagements with Telcos and ISPs, for adoption of competitive telecommunications tariffs for MD Status companies.

In addition, MDEC also provides advice to the Government on policies and laws relevant to the ICT industry, and develops and implements MD-specific initiatives (such as MD Cybercity / Cybercentre Status).

The promotion of MD locally and globally, and support given by MDEC to MD Status companies, both at the national and global levels, are also initiatives undertaken by MDEC to enhance the development of the ICT industry in Malaysia, towards growing Malaysia as a global ICT hub.

**Responsible Ministries / Agencies**

- Ministry of Communication and Multimedia Malaysia.

\*\*\*\*\*