



Malaysia Digital Economy Corporation Sdn Bhd (389346-D)

2360 Persiaran APEC, 63000 Cyberjaya,
Selangor Darul Ehsan, Malaysia

T +603 8315 3000 F +603 8315 3115



TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Unless the context otherwise require, the following expressions shall bear the following meanings:-

- Agreement** : means the User Agreement Form, these Terms and Conditions (including the Annexures) and the House Rules and/or such other agreements documents terms as may be required by MDEC at any time and from time to time including any amendments, variations substitutions or additions thereto;
- Code of Conduct** : means the Code of Conduct of MDEC which is accessible at <https://mdec.my/footer-pages/code-of-conduct/> as may be provided, varied, amended or substituted by MDEC at any time and from time to time which shall form an integral part of this Agreement;
- Data Protection** : means the the Personal Data Protection Statement of MDEC which is accessible at <https://mdec.my/footer-pages/personal-data-protection/> in respect of the protection of personal data in accordance with the Personal Data Protection Act, 2010 as may be provided, varied, amended or substituted by MDEC at any time and from time to time which shall form an integral part of this Agreement;
- Deposit** : means such sum of deposit paid or payable by the User as stated in the User Agreement Form under Part C;
- Facilities and Services** : means the facilities and services provided by MDEC within Orbit for the use of the User as stated in Annexure A, which is accessible at https://theorbit.io/sites/default/files/Orbit_Facilities_Services.pdf and MDEC has its absolute discretion to vary from time to time, change, amend or substitute the facilities and services and the charges imposed thereon or add new facility(ies) and service(s) and charges to be imposed thereon;
- House Rules** : means the house rules and regulations as stated in Annexure B, which is accessible at https://theorbit.io/sites/default/files/Orbit_House_Rules.pdf as may be provided, varied, amended or substituted by MDEC at any time and from time to time which shall form an integral part of this Agreement;
- MDEC** : means Malaysia Digital Economy Corporation Sdn Bhd of 2360, Persiaran APEC, 63000 Cyberjaya, Selangor Darul Ehsan with its website at <https://mdec.my> and includes its successors in title and assigns and where the context so permit its staff, agents and employee;
- Orbit** : means the coworking space located at Suite 3-1, Level 3, Tower B, The Vertical Corporate Tower, UOA Corporate Tower 2, Avenue 10, The Vertical Bangsar South City, No. 8 Jalan Kerinchi, 59200 Kuala Lumpur, Malaysia or any other place as may be provided by MDEC from time to time;
- Operating Hours** : means the operating hours of Orbit as provided in Clause 6 herein;
- Property** : means any property within the Orbit belonging to MDEC and/or in MDEC's control or possession including but not limited to its User Access Card, equipment, machines, devices, electronic devices, electrical appliances, fixtures and fittings, furniture, stationery and any other items.

1.2 In this Agreement where the context so admits the term "User" shall include their heirs, personal representative, executors and administrators, successors in title and permitted assigns and when a corporate entity is included in the term "User" in addition to the individual User their liabilities under this Agreement shall be joint and several and vice versa. The terms "you" or "yours" and similar words in this Agreement shall refer to the User.

1.3 In this Agreement where the context so admits the term MDEC shall include its successors in title and assigns and the terms "we" or "us" or "ours" and similar words in this Agreement shall refer to MDEC.



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- 1.4 Words importing the masculine gender include the feminine and neuter genders and vice versa.
- 1.5 Words importing the singular number include the plural and vice versa.
- 1.6 Words applicable to natural persons shall include any body of persons, company, corporation, firm or partnership, corporate or incorporated and vice versa.
- 1.7 The headings are inserted for convenience only and shall not in any way affect the interpretation of the provisions of this Agreement.

2. AGREEMENT

This Agreement shall consist of the User Agreement Form, these Terms and Conditions (including the Annexures) and the House Rules and/or such other agreements documents terms as we may require at any time and from time to time and shall include any additions, amendments, variations or substitutions thereto and shall bind the parties herein.

3. RIGHT OF ACCESS AND RIGHT TO USE

- 3.1 Subject to payment of all moneys due and payable under this Agreement and compliance with all the terms of this Agreement, you shall have the right of access to the Orbit ("**Right of Access**") and the right to use the Facilities and Services provided by us within the Orbit ("**Right to Use**") based on the Type of Space in accordance with this Agreement.
- 3.2 Notwithstanding any provisions to the contrary in this Agreement contained, the rights granted in this Agreement are personal to you only and are strictly non-assignable and non-transferrable under any circumstances whatsoever.
- 3.3 The User shall be provided with the form(s) necessary for the application of access card(s) ("**User Access Card**") to enter the Vertical Corporate Tower B ("**the Building**"). The application for the User Access Card needs to be done by the User with the management of the Building. The User shall ensure strict compliance to the term and conditions imposed by the management of the Building in relation to the User Access Card.
- 3.4 In the event the User Access Card is damaged, lost or not in good working condition, fair wear and tear excepted, whether or not this Agreement has been terminated, the User shall pay to the management of the Building all costs of repairs, refurbishment, restoration, reinstatement or replacement and our decision as to the cost thereof shall be final and conclusive and shall not be challenged by the User for any reason whatsoever.
- 3.5 MDEC shall have the right to terminate the Right of Access and Right to Use granted to the User in an Event of Default (as stated in Clause 9 hereinafter contained).
- 3.6 It is expressly agreed by the parties hereto that no lease or tenancy shall be expressed or implied under this Agreement.

4. FACILITIES AND SERVICES

- 4.1 The list of Facilities and Services is as stated in Annexure A, which is accessible at https://theorbit.io/sites/default/files/Orbit_Facilities_Services.pdf and the User shall have the right to use the Facilities and Services based on the Type of Space subject to settlement of all outstanding payment due and payable under this Agreement and payment of such charges as may be imposed by MDEC for the use of each specific facility and service. Notwithstanding the aforesaid, MDEC shall have the right to add, vary, change, amend, substitute or remove the Facilities and Services or the charges imposed thereon at any time and from time to time at our absolute discretion.
- 4.2 If any of the facilities or equipment listed in the list of Facilities and Services is damaged by any act or omission whether wilful or otherwise by the User, the User must pay to MDEC on demand, an amount equal to the costs incurred to repair or reinstate the damaged area, facilities or equipment to the standard of repair and condition that the area, facilities or equipment were in immediately before the damage occurred. If any equipment is damaged beyond repair, the User must pay to MDEC the replacement cost of that equipment or replace the equipment with an identical equipment or higher specification equipment as approved by MDEC. MDEC shall submit complete details of any damages and a full breakdown costs incurred by MDEC to reinstate the damages done by the User.



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5. PAYMENT

- 5.1 The User shall pay to MDEC the Subscription Fee and based on the Type of Space and such other charges as may be due and payable to MDEC prior to your access to the Orbit and/or the use of the Facilities and Services within the Orbit. Except for Hot Desk, all payment of charges shall be made by the User within 7 days upon receiving the invoice from MDEC. For the Hot Desk, the payment of charges payable monthly shall be paid in advance on or before the first day of every month.
- 5.2 The User shall also pay to MDEC the Deposit based on the Type of Space prior to your access to the Orbit and/or the use of the Facilities and Services within the Orbit as security for due observance and performance of the terms of this Agreement by the User. The Deposit shall not at any time during the Term of Usage be treated by the User as payment for the Subscription Fee or any charges payable under this Agreement.
- 5.3 The Deposit shall be returned to the User free of interest at the expiry of the Term of Usage less such sum as may be deducted by MDEC for payment of any charges due and owing to us including but not limited to any fees penalties charges costs of repair and making good any damage to the Property caused by the User.
- 5.4 The Deposit shall not be refunded to the User if the User's Right of Access and Right to Use shall be terminated pursuant to an Event of Default (as stated in Clause 9 hereinafter contained).
- 5.5 MDEC reserves the right to vary or revise the Subscription Fee, Deposit, charges imposed by MDEC for the Right of Access and Right to Use at any time and from time to time.

6. OPERATING HOURS

- 6.1 Operating Hours at the Orbit shall from 9.00 a.m. to 6.00 p.m. from Monday to Friday excluding Saturday, Sunday and gazetted public holiday in the State of Wilayah Persekutuan. Notwithstanding the aforesaid, MDEC shall have the right to vary the Operating Hours at its absolute discretion.
- 6.2 The User may request MDEC for access to the Orbit and use the Facilities and Services beyond the Operating Hours and we may grant such a request subject to payment of such additional charges and/or terms as we may impose provided our prior approval must be obtained which approval may be withheld by MDEC without having to assign any reason whatsoever.

7. RENEWAL OF TERM OF USAGE

Upon the request of the User made in writing to MDEC not later than 30 days prior to the expiry of the Expiry Term, MDEC may grant to the User an option to renew the Term of Usage, which renewal may be granted at the option and absolute discretion of MDEC (whose decision shall be final and binding) and such renewal may be subject to such revised Subscription Fee to be determined by MDEC and containing the like Terms and Conditions as are herein contained but reserving at all times the right of the MDEC to make any variations, additions or deletions to the terms and conditions of the Term of Usage for the renewal term,

8. EARLY TERMINATION BY USER

- 8.1 Subject to the Clause 10 below, the User may terminate this Agreement prior to the expiry of the Term of Usage by giving MDEC, 30 days' prior written notice.
- 8.2 Notwithstanding the aforesaid, any money/ Subscription Fee paid in advance by the User to MDEC for the current day or month shall be forfeited absolutely and shall not be refunded to the User. The Deposit shall be returned to you provided that you shall not be in breach of any terms of this Agreement and the hand over of the Type of Space or working space or any other space occupied by you within the Orbit is in accordance with Clause 11 of this Agreement.

9. EARLY TERMINATION BY MDEC

- 9.1 MDEC may terminate this Agreement at any time by giving notice without assigning any reason therefor.



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- 9.2 In the event that this Agreement is terminated pursuant to Clause 9.1, any money/ Subscription Fee paid in advance by the User to MDEC for the current day or month shall be refunded to the User which shall be pro-rated on a daily basis from the date of the termination notice until the User hand over of the Type of Space or working space or any other space occupied by you within the Orbit is in accordance with Clause 11 of this Agreement. The Deposit shall be returned to you provided that you shall not be in breach of any terms of this Agreement and the hand over of the Type of Space or working space or any other space occupied by you within the Orbit is in accordance with Clause 11 of this Agreement.

10. EVENTS OF DEFAULT

10.1 Notwithstanding any provisions to the contrary in this Agreement contained, if the User:

- a) neglects, refuses and/or fails to pay the Subscription Fee, charges, interest or any part thereof due and payable under this Agreement within the time stipulated for payment; or
- b) commits or threatens to commit any breach of the terms or conditions contained in this Agreement or neglects, refuses and/or fails to comply with or perform or observe all or any of the User's terms to be complied with, performed or observed herein contained; or
- c) commits an act of bankruptcy or enters into any composition or arrangement with its creditors or being a company, enters into liquidation or an order is made, or resolution is effectively passed for winding up whether compulsory or voluntary or commits an act of insolvency or makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or has a receiver appointed; or
- d) suffers any distress or execution or other process of Court of competent jurisdiction to be levied upon it or its goods; or
- e) has a Receiver or Manager appointed in respect of its assets or undertaking;

MDEC shall be entitled to terminate this Agreement forthwith without any notice whereupon all advance payment paid for the current day or month, as the case may be and the Deposit shall be forfeited absolutely and the User shall return to MDEC all the Property including but not limited to the User Access Card held by the User forthwith, failing which you shall pay to MDEC all costs of repairs, restoration, refurbishment, reinstatement or replacement thereof and the decision of MDEC as to the cost thereof shall be final and conclusive and shall not be challenged by the User for any reason whatsoever.

11. HAND OVER/VACATE SPACE

11.1 Upon termination of this Agreement or expiry of the Term of Usage, whichever is applicable, the User shall hand over and/or vacate the Type of Space or working space or any other space occupied by you within the Orbit in the same condition as it was when first occupied by you free from any rubbish, objects or goods whether or not belonging to the User. In the event the Type of Space or working space or any other space occupied by the User within the Orbit is not free from any rubbish, objects or goods, MDEC shall be entitled to dispose of the rubbish, objects or goods at the User's costs and expense and MDEC shall not be liable to the User for any loss or damage suffered thereby.

11.2 The User shall return to MDEC all the Property held by the User in good working condition forthwith, failing which the User shall pay to MDEC all costs of repairs, restoration, refurbishment, reinstatement or replacement thereof and in which event the decision of MDEC as to the cost thereof shall be final and conclusive and shall not be challenged by the User for any reason whatsoever.

11.3 The User shall return the User Access Card to the management of Building held by the User.

12. INDEMNITY

The User shall indemnify and keep indemnified MDEC against all losses damages claims demands actions proceedings liabilities costs and expenses suffered or incurred by MDEC arising from the Right of Access and/or Right to Use or howsoever arise from this Agreement.



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13. INSURANCE

- 13.1 MDEC shall maintain adequate insurance coverage with reputable insurance companies of its choice against fire and such other risk as MDEC deem necessary
- 13.2 The User shall not do or permit or suffer to be done in Orbit anything which may cause any insurance obtained by MDEC to become void or voidable or whereby the rates of premium thereon may be increased and the User shall repay to MDEC all sums paid by way of increased premiums and all expenses incurred by them in or about the renewal of such policy or policies rendered necessary by a breach of this term and all such payments shall be made immediately on demand.
- 13.3 The User shall adequately insure itself against any injury to person and any loss or damage to its goods, equipment, device and property held, placed or brought onto the Orbit. Notwithstanding the aforesaid, MDEC shall not be held liable in any manner whatsoever for any injury to person or any loss or damage to the User's goods, equipment or property howsoever caused.

14. HOUSE RULES

- 14.1 The User shall comply with the House Rules.
- 14.2 The User agrees that non-compliance with any of the House Rules shall amount to default on the part of the User and shall be construed as an event of default and MDEC shall be entitled to enforce its right under Clause 10 hereof.
- 14.3 For the avoidance of doubt, any notices put up or placed by MDEC in any place within the Orbit or on its website shall be deemed to be incorporated into the House Rules and this Agreement.

15. THIRD PARTY SERVICE PROVIDERS

MDEC may provide the User with access to third party products and/or services which do not form part of the Services under this Agreement. MDEC has no obligations to provide such third-party products or service to any User. MDEC may also provide the User with access to advertisements from our third-party business partners. MDEC shall not be responsible for the content of these advertisement from our third-party services relating to any third-party products, services, advertisements or other materials. MDEC shall not be liable, directly or indirectly for any loss and/ or damages relating to any consumption use of and/or reliance on any advertisement on any products, services or other material relating to any such third-party advertisement. The User agree that any dispute and/ or claims for damages shall be directed solely at the relevant third-party service provider.

16. SALES AND SERVICES TAX ("SST") AND OTHER ADDITIONAL CHARGES

- 16.1 All charges, fees and all other sum for goods and services supplied and/or rendered under this Agreement to be payable by the User under this Agreement shall be treated as exclusive of SST and the User hereby agrees to pay the SST in addition to the charges, fees and all other sum for goods and services supplied and/or rendered under this Agreement.
- 16.2 If as a result of the introduction of any new laws, by-laws or regulations or the amendment of existing laws, by-laws rules or regulations, MDEC shall become liable to pay by reason of this Agreement any new or additional taxes rates duties fees charges or impositions, the User shall pay to MDEC the proportionate part of such new or additional taxes rates duties fees charges or impositions forthwith.

17. LATE INTEREST

Without prejudice to MDEC's rights under this Agreement, if the Subscription Fee, charges, SST, rates, taxes, fees and such other charges due and payable under this Agreement shall be in arrears, MDEC may, at its absolute discretion impose on the User interest at the rate of 12% per annum on any late payment of any outstanding charges due and payable under this Agreement calculated on day to day basis until full settlement thereof.



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18. CODE OF CONDUCT

The User hereby represent to MDEC that the User have read and understood the Code of Conduct which is accessible at <https://mdec.my/footer-pages/code-of-conduct/> and agreed to be bound by the terms of the Code of Conduct and the User have not breached and shall not breach any of the terms of the Code of Conduct.

19. DATA PROTECTION

The User agrees to the Personal Data Protection Statement of MDEC as stated in <https://mdec.my/footer-pages/personal-data-protection/> and agree to the processing of any personal data provided by the User to MDEC in accordance with the manner specified therein.

20. FORCE MAJEURE

Notwithstanding any provisions herein contained to the contrary, it is hereby expressly agreed by the parties hereto that MDEC shall not be liable to the User for any failure on our part to fulfil any terms of this Agreement if such fulfilment is delayed, hindered or prevented by circumstances beyond the control of MDEC including but not limited to force majeure, acts of God, strikes, lockouts or other industrial disturbances, riots, civil commotion, acts of war or terrorism, epidemics, pandemics, landslides, earthquakes, loss or damage by fire, flood, storm, lightning or tempest, shortage of labour, shortage of materials, government orders or failure to obtain any necessary sanction or approval of any local or other appropriate authority or any other circumstances of whatsoever nature beyond the control of MDEC.

21. DISCLAIMER

MDEC and its directors, shareholders, employees, agents, service providers, contractors, workers and servants shall not under any circumstances be held liable for any loss damage injury to person or property howsoever incurred or suffered by the User.

22. TIME

Time wherever mentioned in this Agreement shall be of the essence of the contract.

23. VARIATION

MDEC shall have the right to vary, amend or substitute any terms of this Agreement deemed necessary by MDEC at any time and from time to time at its absolute discretion without having to assign any reason for such changes and the User shall be deemed to have agreed to such changes.

24. ASSIGNMENT AND NOVATION

MDEC shall have the right at any time to assign, novate or transfer its interests in this Agreement to any third party nominated to act on its behalf. If requested to do so by MDEC, the User shall execute a Deed of Novation or any other agreement or document so that the nominated third party shall stand in the place of MDEC under the Agreement.

25. GOVERNING LAW

This Agreement shall be governed by the laws of Malaysia and its validity construction and performance shall be interpreted in accordance with the laws of Malaysia. The courts in Malaysia shall have exclusive jurisdiction relating to all matters affecting or arising out of this Agreement and the parties hereto hereby agree to submit to the jurisdiction of the courts of Malaysia for these purposes and for the determination of all actions and proceedings arising out of this Agreement.

26. CHANGES IN LAW

In the event the enactment or promulgation of any applicable law, regulation, rules, directive, treaty, regulatory requirement or governmental policy (whether or not having the force of law) or the administration or enforcement of any existing applicable law, regulation, rules, directive, treaty, regulatory requirement or governmental policy (whether or not having the force of law) or any changes therein or the judicial decision relating thereto or the interpretation or administration or application thereof



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affects the parties' respective rights and obligations herein, then this Agreement shall thereafter be construed as subject to such applicable law, regulation, rules, directive, treaty, regulatory requirement or governmental policy (whether or not having the force of law) or the judicial decision relating thereto or the interpretation or administration or application thereof.

27. WAIVER OR INDULGENCE

Knowledge or acquiescence by MDEC of any breach of any of the terms of this Agreement or any indulgence given by us shall not operate as or be deemed to be a waiver of any such terms or any of them and notwithstanding such knowledge or acquiescence or indulgence, MDEC shall be entitled to exercise any of its rights under this Agreement at any time and to require strict performance by the User of the terms herein. **No** single or partial exercise of any right by MDEC hereto shall preclude any other or further exercise thereof or the exercise of any other right. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies otherwise provided by law.

28. ENTIRE AGREEMENT

This Agreement embodies all the terms and conditions agreed upon between the parties hereto as to the subject matter of this Agreement and supersedes all previous agreement (if any) between the parties with regard to the subject matter hereof, whether written or otherwise, and no amendment or variation hereof shall be effective unless made by the parties in writing or made by MDEC as specifically provided herein.

29. SEVERABILITY

If any of the provisions of this Agreement are invalid, illegal or unenforceable in any respect under any law, such provisions shall be ineffective to the extent of such invalidity, illegality or unenforceability and the validity, legality and enforceability of the remaining provisions herein shall not in any way be affected or impaired and shall remain in full force and effect.

30. NOTICE

Any notice request or demand requiring to be served by either party hereto to the other under the provisions of this Agreement shall be in writing and shall be deemed to be sufficiently served:-

- (a) if hand delivered during normal business hours of the recipient of such notice, upon the acknowledgement of receipt by the recipient of such notice;
- (b) if transmitted by facsimile during normal business hours of the recipient of such notice, upon confirmation of successful transmission of such facsimile; and/or
- (c) if by electronic mail, 24 hours after sending;
- (d) if sent by registered post, 3 business days after posting.

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