

TERMS & CONDITIONS

1. The Contractual Relationship

1.1 These Terms of Use (“**Terms**”) govern the access and/or use by you of our applications, all related websites and/or the mobile application(s), content products and/or services (the “**Services**”), made available on our Website (www.nicoldavidorganisation.org) (the “**Website**”). The access and use of the Services and the Website have been made available by and through Nicol David Organisation Berhad (“**NDO**”) (Registration No. 202101025491 (1425791-A)), a Company Limited by Guarantee registered under the Companies Act 2016 with an address at Lot 12, Bukit Jalil Golf & Country Resort, Jalan Jalil Perkasa 3, Bukit Jalil 57000, Kuala Lumpur, Wilayah Persekutuan Kuala Lumpur.

Kindly read the Terms herein carefully before proceeding to access and/or use the Services and/or the Website.

Your access and use of the Services and/or the Website constitute your agreement to be bound by the Terms, which stands as a contractual relationship between you and NDO.

1.2 If you do not agree to these Terms, you should not access or use the Services and/or the Website. The Terms herein expressly supersede any prior agreements or arrangements with you. NDO reserves all rights to immediately terminate these Terms and/or your access and/or usage of any of the Services and/or the Website, or generally cease its offering or deny access to the Services and/or the Website at any time for any reason, with due notice provided.

1.3 NDO reserves the right to offer you, at any time, such supplemental terms as may be necessary and/or as may be applicable to certain Services and/or the Website, and such supplemental terms will be disclosed to you in connection with the applicable Services and/or the Website. Supplemental terms are an addition to, and shall be deemed a part of, the Terms for the purposes of the applicable Services and/or the Website. Supplemental terms shall prevail over these Terms in the event of a conflict with respect to the applicable Services and/or the Website.

1.4 NDO reserves all rights to amend the Terms related to the Services and/or the Website from time to time, without any prior notice. Such amended Terms will be effective upon the posting of the updated Terms on our Website. You may determine when we last revise these Terms by referring to the ‘Last Updated’ statement found at the bottom of these Terms. Your continued access and/or use of the Services and/or the Website, after such posting occurs, constitutes your consent to be bound by the updated Terms as amended.

1.5 Our collection and use of personal data, in connection with the Services and/or the Website, is as provided in the Privacy Policy Notice which can be accessed at [www.nicoldavidorganisation.org/privacypolicy] (“**Privacy Policy Notice**”).

2. The Services contained in the Website

2.1 The Services contained on the Website include a growing variety of resources provided by NDO and/or any of its related third-party partner(s), affiliate(s) and/or service provider(s), including but not limited to:

(a) donation and/or corporate funding toward the NDO’s stated objectives on the Website;

- (b) viewing of media contents such as articles, videos, podcasts and pictures;
- (c) news and updates;
- (d) other various communications tools;
- (e) forums;
- (f) personalised content;
- (g) administrative and other electronic messages;
- (h) related third party links and/or materials; and
- (i) other related material, documents, information and/or content which NDO, may in its sole discretion upload on the Website and its related applications and/or services, from time to time.

3. Website

- 3.1 The Website is the main platform (other than any other applications which may be subsequently used or created to facilitate access to the Services at such other time) used to facilitate access to the Services.
- 3.2 All data and information contained about and/or related to the Services on the Website shall not give rise to any commitment and/or obligation which is not specifically stipulated in the Terms herein.
- 3.3 Any material, documents, information and/or content posted, uploaded and/or shared through the Website are at no material time to be construed or considered as advice on which reliance should be placed.

4. Licence

- 4.1 Subject to your compliance with the Terms, NDO grants you a limited, non-exclusive, non-sublicensable, revocable, non-transferable licence to:
 - (a) access the Services and the Website on your device solely in connection with your use of the Services and/or the Website; and
 - (b) access and use of any content, information and related materials that may be made available through the Services and/or the Website, in each case solely for your use, subject at all material times to permissions granted by NDO and/or its licensors. Any rights not expressly granted herein are expressly reserved by NDO and/or of its affiliated or related licensors.
- 4.2 Except as expressly provided under these Terms, nothing contained herein shall be construed as conferring you or any third party any licence or right in respect of the Services and/or Website, whether by implication or otherwise, under any law, rule or regulation.

5. Restrictions or Prohibited Conduct

- 5.1 You are responsible for the access to and use of the Services and the Website. You agree that you will comply with the Terms herein and you will not:

- (a) use the Services and/or the Website for any purpose(s) which may:
 - (i) breach any law, statute, rule, regulation or by-law of Malaysia or any other applicable jurisdiction;
 - (ii) be fraudulent, criminal or unlawful in any way;
 - (iii) be inaccurate or out-of-date;
 - (iv) be contrary to any specific rule or requirement that is stipulated on the Services and/or the Website (whether it be in relation to a particular part or in general) including as set out in these Terms;
 - (v) be contrary to our interests and/or the interests of other users.
- (b) intentionally, knowingly or unknowingly impersonate any other person, entity or body; falsely claim an affiliation with, or misrepresent a relationship with, any person, entity or body; misrepresent the source, identity, or content of information transmitted via the Website; or perform any other similar fraudulent activity;
- (c) deliberately and knowingly provide information or content that is false, misleading, inaccurate, illegal, threatening, obscene, hateful, libellous or defamatory;
- (d) involve your use, delivery or transmission of any viruses, malwares, unsolicited emails, 'trojan horses' or any computer programming routines that are intended and/or for the purpose of damaging, detrimentally interfering with, surreptitiously intercepting, or expropriate any system, data, personal information or any user's enjoyment of the Services and/or the Website;
- (e) in any way damage or disrupt the Services and/or the Website and/or the operation of the Services and/or the Website;
- (f) reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of the Website or any part thereof; remove any copyright, trademark and/or any other intellectual property rights ("IP Rights"), or other proprietary notices from the Services and/or the Website or any part thereof;
- (g) reproduce, modify, adapt, translate, prepare derivative works based upon, distribute, license, lease, sell, resell, transfer, publicly display, publicly perform, transmit, stream, broadcast, or otherwise exploit any of the Services and/or the Website or any part thereof except as expressly permitted in writing by NDO;
- (h) delete, remove, circumvent, disable, damage, infringe or otherwise interfere with (i) security-related features of the Services and/or Website, (ii) features that prevent or restrict use or copying of any content accessible through the Website, (iii) features that enforce limitations on the use of the Website, or (iv) the copyright or other proprietary rights notices on the Website or the copyright or other proprietary rights of third parties;
- (i) link to, mirror or frame the Services and/or the Website or any part thereof, without express permission in writing by NDO;

- (j) attempt to indicate in any manner, without our prior written permission, that you have a relationship with us or that NDO has endorsed you or any products or services for any purpose;
- (k) relay email from a third party's mail servers without the permission of that third party; manipulate identifiers in order to disguise the origin of user content transmitted through the Website;
- (l) cause to be launched or launch any programs or scripts for the purpose of indexing, surveying or otherwise data mining the Services and/or the Website or any part thereof, or unduly burdening or hindering the operation and/or functionality of any aspect of the Services and/or the Website;
- (m) attempt to circumvent any content filtering techniques NDO employs, or attempt to gain unauthorised access to or impair any aspect of the Services and/or the Website and/or its related systems or networks that you are not authorised to access; and/or
- (n) interfere with or disrupt the Services and/or the Website or servers or networks connected to the Website, or disobey any requirements, procedures, policies, or regulations of networks connected to the Website; use the Website in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying the Services and/or the Website, or that could damage, disable, overburden, or impair the functioning of the Website in any manner.

5.2 In addition, you agree that the entire risk arising out of your use of the Services and/or the Website remains solely with you, to the full extent permitted under the laws of Malaysia.

6. Access to the Services and the Website

Access

- 6.1 On occasion, NDO may temporarily suspend the provision of the Services and/or accessibility to the Website to carry out routine repairs, maintenance or introduce new facilities and functions to the Services and/or the Website. NDO shall not be liable for any damages or loss that you may suffer or sustain as a result of temporary or permanent suspension of the Services and/or the Website.
- 6.2 At any material time, NDO reserves all rights to make changes and/or updates as it deems fit.
- 6.3 NDO shall not be liable for any damage to, or viruses or other codes that may affect any hardware or device, software, data or other property as a result of your access to and use of the Services and/or the Website.

NDO reserves the right to:

- (a) check, vet and/or control any activity, content or information occurring on or through the Website;
- (b) investigate any infringement of these Terms and take any appropriate action thereafter;
- (c) restrict your access to and use of the Services and/or the Website if you violate any of these Terms; and/or

- (d) report any suspicious activity(ies) concerning the possible contravention of any applicable law or regulation to the appropriate authorities and to cooperate with such authorities as necessary.

7. Third Party Services and Content

- 7.1 The Services and/or the Website may be made available or accessed in connection with third party services and content (including advertising) that NDO does not control. Accordingly, you acknowledge that different terms of use and privacy policies may apply to your access and/or use of such third party services and content. Unless expressly agreed or stated otherwise, NDO does not endorse nor control such third party services and content and in no event shall NDO be responsible or liable for any products or services of such third parties.

8. Ownership

- 8.1 The Services and/or the Website and all rights therein are and shall remain the property of NDO and/or its licensors. Neither the Terms nor your use of the Services and/or the Website convey or grant you any rights:
 - (a) in or related to the Services and/or the Website except for the limited license as set out in these Terms; or
 - (b) to use or reference in any manner NDO's company names, logos, products and service names, trademarks or service marks of those, or those of NDO's.

9. Accuracy of Information

- 9.1 NDO is not responsible if information made available on the Website is not accurate, complete or current. The information on the Website is provided for general information only and should not be relied upon or used as the sole basis for making decisions without consulting primary, more accurate, more complete, or more up-to-date sources of information. Any reliance on the material on the Website is at your own risk. The Website may contain certain historical information which may not necessarily be current and is provided for your reference only.

10. Payment: Donation

- 10.1 When you make a donation, you will be required to submit:
 - (a) certain personal data such as your full name, address, email address, date of birth, mobile number, location, national identification and/or passport number as well as any other information which may be necessary; and
 - (b) bank account details for at least one valid debit or credit card for processing of payment.
- 10.2 The information supplied by you in connection with your donation is processed through a secure website and/or application as explained further in Clause 12 below. However, you acknowledge and agree that internet transmissions cannot be guaranteed to be entirely secure or private and any information provided by you may be able to be read and/or intercepted by a third party. NDO shall not be liable for any interception and/or other unauthorised access to the information supplied by you in connection with your donation.

10.3 You acknowledge and agree that you are under no obligation to become a donor or to pledge a donation and that you will be solely responsible for any decision to become a donor. You understand that your contribution is being made to NDO and that NDO has exclusive legal control and rights over all donations.

11. Payment Service Providers

11.1 All payment processing services on the Website for the charges ("**Payment Services**") will be undertaken and facilitated by third party payment gateway providers and subject to or governed by the terms of service of the third party payment gateway providers.

11.2 In order to use the Payment Services, you must provide NDO with accurate and complete information required for the Payment Services, including bank account information for at least one valid debit or credit card through the Website. You acknowledge and agree that NDO may use third-party payment gateway providers, to process payments and to manage the account information you have provided to us. You may add, delete, or edit the payment method / account information you have provided from time to time directly through the Website.

11.3 By using a particular payment method, you are agreeing to the terms of service of the third party payment gateway providers and your financial institution. You will bear all fees that may be charged by the third-party payment gateway providers (if any) and/or your financial institution (if any) for the selected payment method.

11.4 By providing the account information for a credit or debit card, you represent and warrant, that: (i) you are legally authorised to provide such information to us; (ii) you are legally authorised to perform payments from the account(s) you have provided to us; and (iii) such action does not violate the terms and conditions applicable to your use of such account(s) or applicable law. When you authorise a payment using any such account(s) via the Website, you represent and warrant that there are sufficient funds or credit available to complete a payment using such account(s).

11.5 You agree to authorise NDO and/or its related corporations to provide or give instructions on your behalf to the third-party payment gateway providers for processing the Payment Services on your behalf including, but not limited to making, accepting and/or refunding any payments, in accordance with the Terms.

11.6 All credit or debit cardholders are subject to validation checks and authorisation by the card issuer. NDO accepts no responsibility if your card issuer refuses payment authorisation and NDO shall not be liable for any resulting delay or non-delivery.

12. Refund Policy: Donations

12.1 Due to the nature of charitable donations, NDO does not refund any donation once they have been made. However, if the donation was unauthorised, a report should then be made to NDO at admin@nicoldavidorganisation.org so that we can investigate the same.

13. Warranties and Guarantees

13.1 NDO makes the following warranties and guarantees:

- (a) to make best efforts and endeavours to ensure that the Services and/or the Website are error-free, containing accurate, complete and up-to-date information and/or data to facilitate your ease of use of the same;
- (b) to make best efforts and endeavours to make the Services and/or the Website available 24 hours a day, 7 days a week;
- (c) upon conducting any routine repairs, maintenance of upgrades, that it shall make best efforts and endeavours to resume regular or normal activity of the Services and/or the Website at the soonest time possible.

13.2 NDO does not warrant and/or guarantee and/or waive disclaimers as follows:

- (a) the Terms herein contained are intended to be construed as a warranty and/or a guarantee of uninterrupted, timely or error-free access to the Services and/or the Website;
- (b) that the Website will be compatible with all hardware and software which you may use;
- (c) to take any ownership of responsibility and/or liability for any viruses, malware, unsolicited emails, 'trojan horses' or any computer programming routines that are intended and/or for the purpose of damaging, detrimentally interfering with, surreptitiously intercepting, or expropriate any system, data or personal information, which may directly or indirectly affect any computer equipment, software, data or other property as a result of your access and/or use of the Services and/or Website;
- (d) to take any ownership of responsibility and/or liability for the actions of third parties;
- (e) to take any ownership of responsibility and/or liability arising from any reliance placed on materials made available about and/or on the Services and/or the Website by any user, professional or client, or by any other person who may be informed of the contents of said materials; and
- (f) representations, warranties or guarantees are made regarding the reliability, timeliness, quality, suitability or availability of the Services, or that the Services will be uninterrupted or error-free.

14. Limitation of Liability

14.1 NDO shall not be liable for any direct or indirect, incidental, or consequential damages, including loss of profits, loss of data, or property damage related to, in connection with, or otherwise resulting from any use of the Services and/or the Website, even if the possibility of such damages have already been advised. NDO shall not be liable for any damages, liability or losses arising out of:

- (a) your use or reliance on the Services or your inability to access or use the Services; or
- (b) delay or failure in performance resulting from causes beyond the control of NDO.

14.2 Our total liability, if any, to any party concerned, including but not limited to you and/or any other third party, shall in no circumstances exceed, in aggregate, a sum equal to the

greater of the value of the donation made by you. For the avoidance of doubt, NDO shall not be liable for any donation made by you via the Website.

15. Indemnity

15.1 You agree to indemnify and hold NDO and its officers, directors, employees and agents harmless from any and all claims, demands, losses, liabilities and expenses (including legal costs and fees) arising out or in connection with:

- (a) your use of the Services and/or the Website;
- (b) your breach or violation of any of the Terms herein contained; or
- (c) your violation of the rights of any third party.

16. Intellectual Property

IP Rights

16.1 For the purpose of the Terms herein and/or the Privacy Policy Notice, IP Rights shall include a non-exhaustive list of, amongst others, copyrights, trademarks, patents, designs, methods, know-hows and processes.

16.2 NDO and/or its licensors are the sole owners of all IP Rights (whether jointly or severally) contained and/or related to and/or connected with the Website and all content and material contained therein, with the exception of user content. All works, content and materials on the Website are protected by international copyright laws and treaties. All such rights are hereby expressly and impliedly reserved.

16.3 No content or material contained on the Website is to be used for any commercial purpose and/or public circulation without the express permission NDO and/or its licensors.

16.4 Should there be infringement of any of the rights owned by NDO and/or its' licensors, all action shall be taken to the full extent permitted by law to seek redress and relief for such infringement.

16.5 Any disputes with regard to infringement of any solely / exclusively owned IP Rights of NDO shall be settled by way of the dispute resolution mechanism as set out in the Terms herein below.

Trademarked Brand Names

16.6 The "Nicol David Organisation" name and logos and all related names, design marks and slogans are the trademarks of NDO or its licensors.

17. Governing Law and Jurisdiction

17.1 The Terms and your use of the Website and/or the Services (and all non-contractual relationships arising out of or connected to them) shall be governed and construed in accordance with the prevailing laws of Malaysia.

17.2 Any disputes which may arise out of or which may be related to or in connection with the Services and/or the Website and/or the Terms shall fall under the exclusive jurisdiction of the courts of Malaysia, for the settlement of such disputes.

18. Notice

18.1 NDO may give notice, by means of general notice, on the Services and/or the Website and/or the Terms herein contained, electronic mail to your email address as registered in the Website or by written communication sent to your address as contained in the Website.

19. Severability

19.1 If at any material time, during the subsistence of the Terms, there are changes to laws, regulations, by-laws or otherwise, which may render any of the Terms illegal, invalid or otherwise unenforceable in any state or country in which these terms are intended to be effective, then to the extent and within the jurisdiction which that term is illegal, invalid or unenforceable, it shall be severed and deleted and the remaining Terms shall survive, remain in force and effect and continue to be binding on all parties herein concerned.

20. Waiver

20.1 No failure or delay by NDO in exercising any right under these Terms shall operate as a waiver of such right or affect any other or subsequent event or impair any rights or remedies in respect of it or in any way modify or diminish NDO's rights under these Terms.

21. Assignment

21.1 NDO may assign, delegate or transfer any rights or obligations under these Terms, in our sole discretion, to a third party. You shall not assign, delegate or transfer any rights or obligations under these Terms to a third party without our written approval.

22. These Terms were last updated on 19th May 2022.