

SERVICE AGREEMENT

Project Vacation (“PV”) provides Travel and Adventure Marketplace comprising product management, customer relationship management, sales, its website, help resources, user interfaces, user manuals and documentation, Intellectual Property rights, in object code form and any related technology as updated from time to time (“PV”) to its customers. This agreement (“**Agreement**”) binds you or the entity you represent (“**you**”) if are a provider of tours, tickets, activities, entertainment transportation and/or other goods and/or services and you use the PV platform. This Agreement contains the terms and conditions that govern your access to and use of the PV Marketplace as a Platform and Services and is made between PV and you. This Agreement commences on the Commencement Date. You represent that you are legally entitled and able to enter into this Agreement and, where you are signing up on behalf of another legal entity, that you have the legal authority to bind that entity.

1. SUBSCRIPTION AUTHORIZATION

1.1 Authorization

Upon entering into this Agreement, we grant you an unlimited upload of products and services, staff assignment, non-transferable and non-exclusive licence to access and use the PV platform based on package selected only in accordance with this Agreement and for the purpose of:

- (a) managing your inventory;
- (b) managing your customer database; and
- (c) processing electronic bookings by your customers, subject to the terms and conditions of this Agreement.

1.2 Exclusivity

Other than the use of the PV platform, you must not use any application, program, platform, Intellectual Property or any other service that has a function materially similar to the PV platform (whether in whole or in part) during the term of this Agreement.

1.3 Limitation

Your rights in the PV platform are limited to those expressly granted in this Agreement. We reserve all rights and licences in and in relation to the PV platform not

expressly granted here under. As between us and you, the Application (and all copies thereof) and all Intellectual Property rights therein or relating there to, must remain the exclusive property of PV or its licensors.

1.4 Marketing and publicity

You hereby grants us a limited, revokable, non-exclusive, non-transferable, royalty-free license, to use your trade name, logos and trademarks in our advertising, marketing and promotional materials and activities including on our websites and social media sites, and in presentations, case studies, trade show materials, and other advertising, marketing and promotional media and collateral, during the term of this Agreement (including any extensions and renewals hereof) including to be publicly named as a client of PV (i.e. we can name you and display your logo as a user of the PV Platform).

2. YOUR ACCOUNT

2.1 Setup

To access the PV platform you must register with PV by creating an account on our website. You will then be required to activate Your Account by providing us with your payment details and any other details required by us.

2.2 Activation

If you are entitled to a free trial, you do not need to activate Your Account at the time of registration but must activate Your Account prior to the end of the trial. If you do not activate Your Account before the trial ends we will immediately terminate your access to Your Account and the Services.

2.3 Facilitation

You agree to facilitate the setup and activation of the PV Platform and Your Account and must provide us with access to Your Account and hardware used to access Your Account, whether on-site or through remote facilities, and to any of your computer or electronic data storage system or those of its third party contractors, if applicable, in order for us to perform any of its obligations pursuant to this Agreement.

2.4 Your information

If you are registering on behalf of a company you represent and warrant that you have the requisite authority to register on behalf of that company. You are responsible for ensuring that all information provided to us (including the information stored in Your Account), remains true, complete and up to date.

2.5 Username and password

Once you have registered, we will provide you with a username and password. You are responsible for the security of your password and all activity on Your Account (whether or not undertaken by you) and must ensure that there is no unauthorised access to Your Account.

2.6 Update

You must ensure that all data uploaded by you using Your Account is true, correct, accurate and up to date at all times.

2.7 Security

PV will use firewalls and other technology generally used in the trade to prevent unauthorised third party access to its computer systems storing Your Account data as well as available encryption technology generally used in the trade to prevent unauthorised third party access. Notwithstanding the foregoing, PV is not be liable to you in the event that its use of firewalls and other technology generally used in the trade fails to prevent unauthorised third party access to Your Account data or its website generally or its use of encryption technology generally used in the trade fails to prevent unauthorised third party access.

3. USE OF THE SERVICES

You agree not to:

- (a) allow access to or use of the PV Platform by anyone other than you and your representatives;
- (b) create internet "links" to or from the PV Platform, or "frame" or "mirror" any content forming part of the PV Platform other than your own intranets or otherwise for its own internal business purposes
- (c) build a competitive product or service or build a product or service using similar ideas, features, functions or graphics of the PV Platform;
- (d) copy any ideas, features, functions or graphics of the PV Platform, except in each case such use for your internal purposes;
- (e) copy, modify, alter or distribute the PV Platform or any other platform used to provide the Services;

(f) licence, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the PV Platform available to any third party, other than as contemplated by this Agreement;

(g) reverse engineer, disassemble or attempt to derive the source code from the PV Platform or any other platform used to provide the Services;

(h) upload viruses, worms, trojans, or other harmful platform;

(i) interfere with or disrupt the integrity or performance of the PV Platform or the data contained therein;

(j) access or use the Services in any way intended to avoid incurring charges or exceeding usage limits; or

(k) transmit information that infringes the rights of others or is abusive, pornographic, violent, racist, discriminatory, defamatory, harassing or threatening.

4. THIRD PARTY CONTENT

4.1 Availability

We may make third party content such as platform applications, website links or communication forums (including but not limited to online bulletin boards, chat forums, news groups or any other communication forum) available from time to time at our discretion (“**Third Party Content**”). Any Third Party Content is owned by the party contributing that content.

4.2 Your content

As a user of any communication forum you are responsible for your content. By transmitting content on any such forum you represent and warrant that you have all rights and authority necessary to post, submit, display, produce or otherwise transmit the content and you agree that you will not submit material that is or contains third party Intellectual Property unless you have authority to use it.

4.3 Confidentiality

You agree that any content transmitted on a communication forum is not confidential. By submitting any material in any forum you grant us an irrevocable right to use, reproduce, distribute, modify or display the material in connection with the PV Platform or Services. You represent and warrant that you have all rights and authority necessary to grant these rights unconditionally

4.4 Control

We are entitled to delete or remove any material placed by you on any communication forum that we, in our sole discretion and for any or no reason, deem inappropriate.

4.5 Risk

Third Party Content is not controlled, monitored, tested or endorsed by us and use of any Third Party Content is at your own risk. We are not be liable for any damage, costs, claims or liability incurred as a direct or indirect result of your use of the Third Party Content and you unconditionally and irrevocably release us form any such claims .

5. YOUR RESPONSIBILITIES

You are responsible for:

- (a) the development and maintenance of Your Content and ensuring your Content us accurate and up to date;
- (b) configuring and using the PV Platform;
- (c) protection and backup of all Your Content;
- (d) ensuring that all your product or service information, including availability and pricing information, is kept current at all times;
- (e) ensuring that you can fulfil all reservations, bookings or purchases made online and for communicating any changes directly with your customers;
- (f) compliance with any applicable laws and PV policies; and
- (g) any claims relating to Your Content, including but not limited to any infringement of Intellectual Property rights claims.

6. MAINTENANCE

6.1 Upgrades

We may, from time to time and in our sole discretion, release modifications or upgrades to the PV Platform but are under no obligation to do so. You consent to us modifying or upgrading the PV Platform without your knowledge.

6.2 Maintenance

You acknowledge that from time to time we may be required to undertake scheduled or unscheduled maintenance and this may cause interruptions to the Services. You may not be able to process bookings using the PV Platform during this time or otherwise access our website. Where practicable we will provide you with at least 2 days' notice in respect of any scheduled maintenance period or upgrade. Any general maintenance periods will be specified on our website.

6.3 No warranty

PV does not warrant or guarantee that:

- (a) the PV Platform will meet your requirements and expectations;
- (b) the PV Platform will be compatible with, or capable of being used on or in connection with, your computer and communications systems;
- (c) your access to the PV Platform will be uninterrupted or error free; or
- (d) the PV Platform will be accurate, reliable or fit for any particular purpose.

7. CHARGES

7.1 Pay monthly

If you have elected to pay monthly, payment of all fixed monthly Service Charges are payable in advance on the Due Date. All Usage Charges are payable monthly in arrears. We will issue you with a tax invoice you for the charges on a monthly basis.

7.2 Pay annually

If you have elected to pay annually in advance, an amount equal to the Service Charges for a 12 month period is payable upon entry into this Agreement. All Usage Charges are payable monthly in arrears. We will invoice you for the initial 12 month payment and will issue further invoices as necessary in respect of any Usage Charges.

7.3 Debit

You authorise us to debit all amount payable under this Agreement from your bank account using the credit card details associated with your PV account.

7.4 Free trial

Where applicable, you will not be liable for any charges incurred during a free trial period.

7.5 Tax

All fees and charges quoted are exclusive of GST, VAT, withholding tax and any other applicable taxes or duties. You are liable for any applicable taxes, rate, levy, impost, duty, interest, penalty, fine or other expense in relation to the Services and the amounts paid to you in respect of the Services.

7.6 No-refund

All charges paid to PV by you are non-refundable in all circumstances, including but not limited to any Service Charges paid in advance.

8. SUSPENSION

8.1 Suspension

We may suspend your access to the Services and/or Your Account if we determine, acting reasonably:

- (a) you are in breach of this Agreement;
- (b) payment has not been made within 14 days of the Due Date;
- (c) you are using the Services in a manner not permitted under this Agreement;
- (d) it is reasonably necessary for repair or maintenance of the Services or our website;
- (e) the Services are being used illegally or fraudulently; or
- (f) your use of the Services, in our opinion, acting reasonably, poses a risk to the PV platform or to PV and its business generally, and Service Charges will continue to accrue during a suspension imposed by us.

9. TERM AND TERMINATION

9.1 Term

This Agreement applies from the Commencement Date until the date it terminates in accordance with its terms and includes any applicable free trial period, any term as set out below and any other period during which you are using or have access to the Services.

9.2 General termination

If you have elected to pay:

(a) **on a monthly basis**, the term of this Agreement will commence on the Commencement Date and continue until terminated by either party providing 14 days prior written notice to the other party; or

(b) **annually in advance**, the term of this Agreement will commence on the Commencement Date and either party may terminate this agreement by providing written notice at least 14 days prior to the expiry of the 12 month period after the Commencement Date, in which case the effective date of termination will be the end of that 12 month period. If this Agreement is not terminated before the end of its then current term, it will automatically renew at the end of each term for a further 12 month period and we will charge you for that further 12 month period upon each renewal unless either party gives the other written notice of termination at least 14 days prior to the end of the relevant term.

9.3 Termination by PV

Notwithstanding any other clause of this Agreement, PV may terminate this Agreement (and your access to the PV Platform) by notice to you with immediate effect if:

(a) you fail to pay in full the charges due under this Agreement within 14 days of the Due Date;

(b) you have caused a material breach of this Agreement;

(c) you have breached this Agreement and the breach is not capable of remedy, or, where the breach is capable of remedy you have failed to rectify that breach within 14 days of receipt of a notice from PV requiring you to do so;

(d) your use of the PV platform is in breach of or in connection with a breach of the law;
or

9.4 Termination for insolvency

PV may terminate the Agreement with immediate effect by written notice if the other party becomes, is likely to become or resolves to become subject to any form of external administration, winding up, creditors partition, deed of arrangement or any other analogous insolvency event.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 Intellectual property warranties

You represent and warrant that:

- (a) you or your licensors own all right, title and interest in and to Your Content and you have the right to use You Content in the manner it is used in respect of your PV account, our website and this Agreement;
- (b) you have sufficient rights in Your Content to enter into and grant the rights provided for in this Agreement; and
- (c) Your Content does not infringe any third party Intellectual Property rights.

10.2 Setup

You acknowledge that we or our affiliates or licensors own all rights, title and interest in and to the PV platform and all Intellectual Property rights therein or relating thereto (including but not limited to any images, photographs, videos, audio and text incorporated into the PV Platform) and your rights in the PV Platform are limited to those expressly granted in this Agreement. PV reserves all rights and licences in and in relation to the PV Platform not expressly granted to you hereunder. As between you and PV, the PV Platform (and all copies thereof) and all Intellectual Property rights therein or relating thereto, must remain the exclusive property of PV or its licensors.

11 LIABILITY AND INDEMNITY

11.1 Non-exclusion

You may have rights under statutory consumer protection laws, including the *Competition and Consumer Act 2010* (Cth), which cannot be excluded, restricted, limited or modified. The exclusions and limitations in this clause, apply subject to any rights you may have under such laws.

11.2 Warranty exclusion

To the extent permitted by law, all express or implied representations, conditions, warranties, guarantees or other provisions that are not contained in this Agreement (whether based in legislation, the common law or otherwise) are excluded, including any representations, conditions, warranties or guarantees as to acceptable quality, fitness for purpose or timeliness.

11.3 Warranty limitation

If any condition, warranty, guarantee or other provision is implied or imposed in relation to the Agreement (whether based in legislation, the common law or otherwise) and cannot be excluded (a **Non-Excludable Term**), and we are able to limit your remedy for a breach of a Non-Excludable Term, then our liability for a breach of a Non-Excludable Term is limited to (at our option):

- (a) the re-supply of the Services; or
- (b) the payment of the cost of resupplying the Services.

11.4 Predictability

Subject to our obligations under the Non-Excludable Terms, and to the maximum extent permitted by law, we are not liable to you in tort, contract or otherwise for any loss of profits, data, goodwill, pure economic loss, or expectation loss, or other indirect, consequential, special, punitive or exemplary loss or damage, even if such loss or damage was reasonably foreseeable, arose naturally or was contemplated by the parties.

11.5 Liability limitation

If we are liable to you in relation to the Services or the Agreement, our liability is limited to a sum equal to the total amount paid by you under the Agreement in the period 12 months prior to the date of the liability arising.

11.6 Indemnity

Notwithstanding any other provision of the Agreement, you are liable to us, our affiliates and licensors (including each of their directors, employees, agents, and representatives) for and indemnify us against any loss, damage, claim, proceeding and cost (including all legal costs on an indemnity basis), including as a result of any third party claim against PV, arising out of or directly or indirectly connected with:

- (a) the use or attempted use of the PV Platform or Services;

(b) Your Content, including any claim involving alleged infringement or misappropriation of third party rights in Your Content or the use, development, advertising or marketing of Your Content; and

(c) any breach of this Agreement.

11.7 Contributory liability

Our liability to you under this Agreement is reduced to the extent that such liability was caused by you, your employees, subcontractors and authorised representatives or a related body corporate (as defined in the *Corporations Act 2001*).

12. CONFIDENTIALITY

12.1 General confidentiality

You acknowledge that the design, specification and content of the PV Platform, the terms upon which the PV Platform and Services are being supplied and all pricing and product information provided by us (except to the extent such information is publicly available) constitutes commercially sensitive and confidential information of PV.

12.2 Use

You may use our confidential information only as permitted in accordance with this Agreement and must take all necessary measures to avoid disclosure, dissemination or unauthorised use of our confidential information. You agree not to disclose any information provided by PV that is designated as confidential or you should know is confidential to any third party without our prior written consent from PV, unless you are legally compelled to do so, and provided that, where practicable you first provide notice to PV.

13. NOTICE

13.1 Notices generally

All notices required to be given pursuant to this Agreement must be given in writing in accordance with this clause.

13.2 Notices to you

We may provide any notice to you under this Agreement by:

(a) posting a notice on our website; or

(b) sending an email to the email address then associated with Your Account.

13.3 Website notice

Notices we provide by posting on our website will be effective upon posting and notices we provide by email will be effective when we send the email. It is your responsibility to keep your email address current. You will be deemed to have received any email sent to the email address then associated with Your Account when we send the email, whether or not you actually receive the email.

13.4 Notices to us

You may provide us notice under this Agreement by email to web@projectvacation.com. We may update the email address for notices to us by notice to you.

13.5 No objection

No objection may be made to the manner of delivery of any notice actually received in writing by your authorised agent.

14. AMENDMENTS

14.1 Amendments

PV may, in its sole discretion, modify any of the terms and conditions contained in this Agreement, including but not limited to monthly Service Charges and other charges, at any time, with your consent or by notice to you. It is your responsibility to check the PV website regularly for any amendments to this Agreement. The amended terms will become effective on the earlier of, the date you agree to the terms, the date they are posted on our website or otherwise the date the terms are deemed to be received by you in accordance with the notice provisions. By continuing to use the Services after the effective date of any amendment to this Agreement, you agree to be bound by the amended terms.

14.2 No fee changes

If you have paid for the Services in advance, no pricing changes will take effect until the end of the prepaid period.

15. FORCE MAJEURE

15.1 No liability

Notwithstanding any other clause of this Agreement, neither party will be liable to the other party for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond that party's reasonable control, including acts of God, systemic electrical, telecommunications or other utility failures, earthquakes, storms or other elements of nature, embargos, riots, acts or orders of government, acts of terrorism or war (**Force Majeure Event**).

15.2 Suspension

Each party's obligations to the other party will be suspended to the extent of the Force Majeure Event, other than your payment obligations contained in clause 8. If a Force Majeure Event prevents a party from discharging its obligations under this Agreement for a period exceeding 60 days, the other party may terminate this Agreement by providing 30 days written notice.

16. MISCELLANEOUS

16.1 Entire agreement

This Agreement contains the entire agreement and understanding between the parties with respect to its subject matter. Each party acknowledges that it has not relied on any previous negotiations or representations (express or implied) except as set out in this Agreement. All prior negotiations or representations are excluded to the maximum extent permitted by law.

16.2 Assignment

You may only assign or deal with your rights under this Agreement with PV's written consent. PV may at any time without your consent, by notice to you, assign or deal with its rights under this Agreement.

16.3 Severance

If any part of this Agreement is held to be invalid or unenforceable, then the invalid or unenforceable section will be severed and the remainder of this Agreement will remain in full force and effect.

16.4 No-waiver

The failure by a party to enforce any provision of this Agreement will not constitute a continuing waiver of that provision or a waiver of any other provision, unless expressly provided in writing by an authorised representative of that party.

16.5 Governance

This Agreement is governed by the laws of Malaysia irrevocably submit to the exclusive jurisdiction of the courts of Malaysia.

17 DEFINITIONS

In this Agreement, unless the context otherwise requires:

“Commencement Date” means the earlier of the date that you accept the terms and conditions of this Agreement or the date that you start using the Services.

“Due Date” means each monthly anniversary of the Commencement Date, unless your Commencement Date falls on the 28th to the 31st of a calendar month, in which case your anniversary will be the last day of each subsequent month.

“GST” means any applicable goods and services tax or any similar tax.

“Intellectual Property” means any invention, designs, copyrights, data, know-how, concepts, ideas, process, patents, patent rights, copyrights, trade secrets, trademarks, trade names, service marks and other intellectual property embodied therein and all applications and rights to apply for registration or protection rights pertaining thereto.

“Supplier Agreement” means the agreement titled ‘supplier agreement’ entered into between you and us.

“PV” (“we”, “us” or “our”) means PV Travel & Adventure Sdn Bhd and includes PV employees, contractors and any related bodies corporate.

“Service Charges” means the fees payable in respect of the Services which are described as ‘service charges’ and outlined at the URL: www.project-vacation.com/vendor, as updated from time to time.

“Services” means the Services provided by PV to you, which may include but is not limited to access to the PV Platform

“Your Account” means the online PV account you create to access the PV Platform and store Your Content.

“Your Content” means any platform, data, text, audio, video, images or other materials uploaded onto the PV Platform using Your Account, or otherwise processed, used or stored in connection with Your Account.