

## LUBUTO PLATFORM TERMS OF USE

Updated: 19 February 2021

### 1. About these Terms

- 1.1 These Terms govern the use by you through any means, including use of our Lubuto app, and associated services (**Platform**) provided by Ambisie Pty Ltd and its related bodies corporate (**Lubuto, Ambisie, us or we**). These Terms are in addition to any other terms we agree in writing with you in relation to your use of the Platform (including without limitation relating to pricing). If there is any inconsistency between such other written terms and these Terms, then those other written terms will prevail to the extent on the inconsistency.
- 1.2 We may update these Terms from time to time, and your continued use of the Platform constitutes your ongoing agreement with the updated Terms. If we reasonably consider that the changes are material, we will notify you in advance of such changes.
- 1.3 You acknowledge and agree that these Terms form a direct contractual relationship between you and Ambisie in relation to your use of the Platform, and that Ambisie may directly enforce its rights under these Terms, even in the case where your access to the Platform has been granted or procured through a third party, such as your employer or a travel management company.

### 2. Access to the Platform

- 2.1 Subject to these Terms, we grant you and, if you are an organisation, any of your employees or other users authorised by you (**Users**) non-exclusive access to the Platform for internal business purposes only.
- 2.2 If you are an organisation, you acknowledge and agree that you are responsible for the Users' use of the Platform and you will provide such information to Users and obtain any necessary undertakings from Users to enable you to comply with these Terms.
- 2.3 You acknowledge and agree that your access to the Platform may enable or assist you to use or access products or services provided by third parties (for example, ticketing services provided by a travel management company). We make no representation and will have no liability whatsoever in relation to the content or use of any such third party products or services.

### 3. Your obligations

- 3.1 You must provide us in a timely manner with such accurate information and data as reasonably requested by us to enable us to provide you with access to the Platform. You must notify us if any of this information or data changes.
- 3.2 You must keep, and/or ensure that the Users keep, any Platform access passwords secure confidential.
- 3.3 You are responsible for maintaining such internet, network or telecommunications links as required to access the Platform.
- 3.4 You must ensure that your network and systems comply with the specifications provided by us from time to time, including in our [Compatibility Statement](#) as updated from time to time.

- 3.5 You must comply with all laws and regulations relevant to your use of the Platform, including without limitation all laws relating to data protection and privacy. You agree to our [Privacy Policy](#) and/or you must ensure that all Users are aware of and have agreed with our [Privacy Policy](#) prior to allowing them to access the Platform.
- 3.6 You must follow any reasonable guidelines or documentation we give to you about use of the Platform.
- 3.7 You must maintain current anti-virus software on your system in accordance with good industry practice and you must not, and/or you must ensure that the Users do not, introduce contamination (including viruses, worms, trojans or other latent defects or errors) or disabling code or other harmful or destructive code into the Platform.
- 3.8 You must not, and/or you must ensure that the Users do not, use the Platform to commit a crime, fraud or illegal act or otherwise misuse the Platform for any purpose.

#### **4. Intellectual Property**

4.1 In this clause 4, **Intellectual Property** means designs, copyright, trade marks, patents, operations, software or systems, trade names and domain names, rights in goodwill, rights in confidential information or other intellectual property rights, whether under statute, common law, equity, custom or usage, and whether registered or unregistered and including all applications for, and renewals or extensions of, such rights and all similar rights which subsist or will subsist now or in the future in any part of the world.

4.2 You acknowledge and agree that Ambisie and/or its related bodies corporate and licensors own all Intellectual Property in the Platform and any associated materials such as user guides and support materials (**Materials**). You must take all steps required by Ambisie to protect the Intellectual Property in the Platform and Materials. You must not:

- 4.3
- (a) except as necessary for you to use the Platform, copy or attempt to copy, modify, adapt, create derivative works from, reverse engineer or distribute the Platform or the Materials;
  - (b) access the Platform in order to build a product or service that competes with the Platform;
  - (c) without our prior written consent, use the Platform to provide services to a third party, or bundle or package the Platform with or as part of any other collection of products or services.

4.4 If you are an organisation, you give us permission to publish your name, logo and trade mark, together with reference to the fact that you are a customer of ours, in any medium including without limitation on our website and in our marketing materials.

#### **5. Exclusion of warranties**

5.1 Unless otherwise agreed with you in writing, and to the extent permitted by law, we exclude any and all warranties and representations in relation to the Platform or any services provided in connection with Platform, whether express or implied by statute, common law, equity or otherwise.

5.2 We do not warrant that the Platform or any services provided in connection with the Platform will be uninterrupted, virus free or error free.

## **6. Limitation of liability and indemnity**

- 6.1 In no event will we be liable for any indirect or consequential loss or damage, or for loss of profits whether direct or indirect, arising from or in connection with the use by you and/or the Users of the Platform or any services provided in connection with the Platform.
- 6.2 Without limiting clause 6.1, our total aggregate liability to you in connection with use by you and/or the Users of the Platform or any services provided in connection with the Platform, is limited to the amounts paid by you for use of the Platform in the 6 months immediately preceding the date on which the claim giving rise to such liability arose.
- 6.3 To the extent that you acquire services from us as a consumer within the meaning of the Australian Consumer Law, then our liability to you in relation to our breach of any of the non-excludable obligations under the Australian Consumer Law is limited to (at our option) us supplying the relevant services to you again or the cost of having the services supplied again.
- 6.4 You indemnify and hold harmless Ambisie and its related bodies corporate (as defined in the *Corporations Act 2001* (Cth)) from all claims, liabilities, losses and costs arising directly or indirectly from:
- (a) breach by you of any of your obligations under these Terms;
  - (b) any negligent, willful or wrongful act by you or a User; and
  - (c) any infringement of our Intellectual Property (as defined in clause 4).

## **7. Suspension or termination of access**

- 7.1 We may suspend or terminate your access to the Platform, and/or the access of one or more Users, at any time if;
- (a) we reasonably consider that you are not complying with any of your obligations under these Terms; or
  - (b) if you are an organization, you are placed into administration, liquidation or enter into any arrangement with your creditors or you are or are likely to become insolvent or you cease or threaten to cease trading.

## **8. Governing law**

- 8.1 These Terms are governed by the laws in force in Victoria, Australia.
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