

# Pick IBO - Terms and Conditions

Effective January 1, 2019



1. I, the undersigned applicant, represent that I am of legal age to enter into legally binding agreements, and that the information submitted in connection with my application to become an IBO is complete, true and correct. I agree to promptly notify Pick of any changes to such information. If I am executing this Agreement on behalf of a corporation, limited liability company, partnership, trust or other entity, I represent that I have the authority to enter into such agreements for the entity, but nonetheless I agree that in addition to such entity, I will be personally responsible for the performance of all the duties and obligations described in this Agreement.

2. I agree to timely pay for any products, materials, services or other items that I purchase from any Pick Company. In the event that I am delinquent with respect to such payments, I acknowledge that Pick may offset such debt from any commissions, bonuses, or other compensation earned through the Pick Compensation Plan, or any other monies owing to me ("Pick Payments").

3. I agree that, as an IBO, I am an independent contractor responsible for my own business and not an employee, partner, agent, franchisee, or legal representative of any Pick Company or of any carrier, supplier, service provider or other party with whom any Pick Company transacts or contracts business (all such parties other than IBOs are referred to collectively herein as "Pick Providers"). I understand that, as an IBO, I am free to select my own means, methods and manner of operation and that I am free to choose the hours and location of my activities performed as an IBO, subject to the terms and conditions of this Agreement and all applicable federal, state, and local statutes, rules, regulations, directives, ordinances, guidance and other laws (collectively, "Applicable Law"). If I employ individuals to perform services for my independent business, I understand that I am responsible for their acts and omissions and for ensuring compliance with this Agreement and Applicable Law. I understand that I am solely responsible for remitting any taxes, making any reports, and obtaining any licenses, permits, authorizations or insurance required to conduct my business in compliance with this Agreement and Applicable Law. I shall have no power or authority to bind any Pick Company or Pick Provider in any way, either directly or indirectly, and I will not take any action inconsistent with this limit of authority. I acknowledge that as an independent contractor I am not entitled to holidays, vacations, disability, insurance, pensions or retirement plans, or any other benefits offered or provided by any Pick Company to its employees. I acknowledge and agree that I will not be treated as, nor represent myself or anyone I engage in my independent business as an employee of any Pick Company or Pick Provider for any purpose, including for purposes arising under Applicable Law.

4. I may terminate this Agreement for any reason, at any time, by giving Pick prior written notice at its address of record. Pick may terminate this Agreement pursuant to the Pick Policies and Procedures or in the event that I breach any part of this Agreement.

5. I acknowledge that as an IBO, I am not guaranteed any income nor am I assured any profits or success, and I certify that no claims of guaranteed profits or representations of expected earnings that might result from my efforts as an IBO have been made by Pick or my sponsor. Similarly, I shall not represent directly or indirectly that any person may, can, or will earn any stated amount or that any IBOs are guaranteed success.

6. I understand that the Pick Products are offered in different markets on terms and at rates determined by Pick or Pick Providers, and that the markets where the products are offered and the terms and conditions or prices thereof may change from time to time without notice.

7. This Agreement shall become effective upon acceptance by Pick and continue for an initial term of one (1) year unless sooner terminated as permitted herein. My relationship with Pick may be extended for additional one-year periods by my agreement to the then current Pick IBO Terms and Conditions. I understand that failure to renew within the specified time frame shall result in termination of this Agreement and my relationship with Pick and deactivation of my IBO position, and shall result in the forfeiture of bonuses, commissions or other payments from Pick. However, those rights and obligations which by their nature are intended to survive termination of this Agreement shall survive, including without limitation the provisions governing dispute resolution, indemnification, non-solicitation, confidentiality, and account maintenance fees.

8. I understand that a Pick IBO has a monthly back office fee that is \$100, starting three (3) months from the IBO Agreement date. The monthly back office fee is for services provided by Pick which include but are not limited to tracking of personal and downline drivers, tracking of personal and downline IBOs and support services, including but not limited to hosting of a Pick IBO's website, materials and training information on the IBO Back Office, and access to IBO support. I also understand that the payment of the monthly back office fee is considered my personal volume.

9. I understand that there is a fee to process all Pick Payments. I agree that any payments made to me by Pick that remain unclaimed by me after six (6) months shall be held in an account that is subject to an account maintenance fee of \$10 per month (the "Account Maintenance Fee") which shall be deducted by Pick monthly. If there are insufficient funds owed me from which to deduct the monthly Account Maintenance Fee when due, and I do not otherwise pay the Account Maintenance Fee, then the Account Maintenance Fee shall be prorated to reflect the amount of funds remaining and the account shall remain open for an equally prorated amount of time. When no unclaimed amounts are owed to me by Pick the account shall be closed. I further acknowledge that unclaimed amounts owed to me may be subject to applicable escheat laws which may require Pick to deliver unclaimed funds to the state.

10. In the process of selling or otherwise promoting the Pick Products, I agree that I will operate in a lawful, ethical and moral manner and I agree to make no false or misleading statements regarding the Pick Products or about the various relationships between Pick, the Pick Provider(s) and me.

11. I understand that during any investigation by Pick with respect to my breach of this Agreement or my conduct as an IBO, my IBO position status may be suspended by Pick and any Pick Payments which may be otherwise owing to me shall be held until final resolution has been achieved. I acknowledge that in the event Pick determines that I have violated this Agreement, including the Pick Policies and Procedures or the Pick Compensation Plan, Pick may terminate this Agreement and deactivate my IBO position, in which event I will not be entitled to any Pick Payments or further commissions or compensation of any kind.

12. I agree to keep accurate records and shall not engage in or perform any misleading, deceptive or unethical practices. I further agree to abide by all federal, state and local laws and regulations governing the sale or solicitation of the products or opportunities marketed by Pick and/or the Pick Provider(s), including but not limited to, all applicable anti-spam legislation and obtaining and maintaining any and all permits and licenses required to perform under this Agreement and I understand that I will be personally liable for any fines and other expenses incurred by Pick, any Pick Company or any Pick Provider as a result of any failure to do so.

13. IN NO EVENT WILL Pick, ANY OTHER Pick COMPANY OR ANY OTHER Pick PROVIDER BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR INCIDENTAL DAMAGES, (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, AND THE LIKE), ARISING OUT OF ANY CAUSE, INCLUDING BUT NOT LIMITED TO, BREACH OF WARRANTY OR THE DELAY, ACT, ERROR OR OMISSION OF Pick, ANY Pick COMPANY OR ANY Pick PROVIDER, OR THE DELIVERY, NONDELIVERY, DISCONTINUATION, OR MODIFICATION OF ANY PRODUCT OR SERVICE BY Pick, ANY Pick COMPANY, OR ANY Pick PROVIDER, EVEN IF Pick HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

14. OTHER THAN THE RETURN RIGHTS DESCRIBED HEREIN, Pick, THE OTHER Pick COMPANIES AND Pick PROVIDERS MAKE NO EXPRESS WARRANTIES, AND THERE ARE NO IMPLIED WARRANTIES. EXPRESSLY EXCLUDED ARE ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY Pick, ANY Pick COMPANY, ANY Pick PROVIDER, OR THEIR AGENTS OR EMPLOYEES WILL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE FOREGOING WARRANTY.

15. Pick shall periodically make various sales literature, promotion materials, training and other products available for my use in conducting my business as an IBO. I, however, am under no obligation to purchase any quantities of those materials or services at any time. Rather, I will have the option to order and purchase any materials or services which I may choose. If I choose to purchase such materials then I may return any unused, unopened and currently marketable items for up to one year and receive a refund of 90% of the purchase price. I will be responsible for the cost of shipping said materials to Pick.

16. I acknowledge that I have the right to sign up as many personal drivers or IBOs as I wish. For each personal driver or IBO signed, I will be eligible to receive a commission from my personal drivers' completed rides or IBOs' personal volume and from personal drivers or IBOs in my network of IBOs in accord with the currently valid Pick Compensation Plan. I understand that eligibility to receive Pick Payments is conditioned upon being an active IBO with a valid Agreement in effect on the date such compensation is scheduled to be paid. Pick reserves the right to vary or change eligibility as set out in the Pick Compensation Plan. Any other payments I receive will be based upon fulfilling certain terms of qualification as set forth by the Pick Compensation Plan. I agree that as a Pick IBO, I shall place primary emphasis upon the sale of the Pick rideshare app service to drivers. Under certain circumstances, commission rates may be adjusted for promotional products or negotiated pricing.

17. I agree to indemnify and hold Pick, the other Pick Companies, the Pick Providers and their respective shareholders, directors, officers and employees harmless from any and all claims, damages, and expenses, including any attorney's fees, arising out of my actions or omissions in connection with this Agreement.

18. This Agreement shall be governed by the laws of the state of Delaware and the Federal Arbitration Act, as specified in Section II.B. of the Pick Policies and Procedures. In the event of a dispute between Pick and me as to our respective rights, duties and obligations arising out of or relating to this Agreement, it is mutually agreed that such disputes shall be exclusively resolved through the process and according to the provisions specified in Section II.B. of the Pick Policies and Procedures ("Dispute Resolution Provisions"). Pick and I agree that, notwithstanding Section 18 below, to the extent of any inconsistency, the Dispute Resolution Provisions in the Pick Policies and Procedures shall control. The Dispute Resolution Provisions require, without limitation, and except as otherwise expressly stated, that Pick and I will resolve all disputes through binding arbitration before the American Arbitration Association pursuant to the Commercial Rules of Arbitration. Both Pick and I agree that all disputes will be resolved on an individual basis and that each may only bring claims against the other in an individual capacity (and not as a claimant or class member in any purported class or representative proceeding).

19. I acknowledge that Pick fully reserves its right to amend this Agreement at any time by notifying me of the changes, including by posting the revisions on the Pick website (<https://pickride.network>). Any changes to this Agreement made by Pick may apply: (1) upon the date of execution or posting of the amended Agreement on the Pick website, or (2) prospectively to some specified date in the amendment. Any such changes are incorporated as part of this Agreement. No amendment shall apply retroactively. This Agreement, including the Terms and Conditions, the Pick Policies and Procedures and the Pick Compensation Plan which have been incorporated herein by reference, constitutes the entire agreement between the parties hereto and shall not be modified or amended except as described herein. In the event of a conflict between the Terms and Conditions and the Pick Policies and Procedures or the Pick Compensation Plan, the Terms and Conditions shall control. For purposes of this Agreement, my address as submitted by me with this Agreement shall be deemed to be my correct address unless and until notification of a change of address is provided by me to Pick.

20. I understand that I may not assign this Agreement without the prior written consent of Pick, which may be withheld, conditioned, or delayed in Pick's sole discretion. This Agreement shall be binding upon and inure to the benefit of heirs, successors and permitted assigns of the parties hereto. If any provision of this Agreement is determined by any authority of competent jurisdiction to be invalid or unenforceable in part or in whole for any reason whatsoever, the validity of the remaining provisions or portions thereof shall not be affected thereby and such authority should reform this Agreement to the extent necessary to render the otherwise unenforceable provision or portion thereof valid and enforceable.

21. I acknowledge that I may receive proprietary and confidential data or information of Pick and/or Pick Provider(s) which is not publicly known or available to the competitors of Pick or Pick Providers, including but not limited to information about Pick Products, drivers, customers, and IBOs ("Confidential Information"), and I agree that I shall treat such Confidential Information as strictly confidential and that I may not, directly or indirectly use, sell, lend, lease, distribute, license, give, transfer, disclose, disseminate, reproduce or otherwise communicate any such Confidential Information to any person or entity for any purpose other than as authorized by Pick in writing. I represent and warrant that I will comply with all Pick policies and procedures relating to confidential and proprietary information, and I agree that all prohibitions against disclosure of Confidential Information shall survive the termination of this Agreement.

22. During the term of this Agreement, I agree that I shall not, directly or indirectly, sell or solicit any customer, driver or IBO to purchase any product that is the same as or similar to any Pick Product offered by another provider or distribution channel other than as specifically designated or approved in writing by Pick. I agree that I shall not, during the term of this Agreement and for a period of one (1) year thereafter, directly or indirectly, divert, entice, knowingly call upon, sell or solicit, take away any customer, driver or IBO of Pick, any other Pick Company or any Pick Provider, whether or not I originally procured or brought such customer to Pick, any other Pick Company or Pick Provider (such activities are collectively referred to and included herein as "solicitation"). All customers solicited by an IBO on behalf of Pick, any other Pick Company or Pick Providers are deemed to be customers, drivers or IBOs of Pick, the other Pick Company or the Pick Provider (as applicable) and not of the IBO. I understand that such non-solicitation prohibition shall be strictly enforced and that each other Pick Company and each Pick Provider shall be a third-party beneficiary of this prohibition. Further, during the term of the Agreement and for a period of one (1) year thereafter, I may not enter into a direct marketing relationship with any Pick Provider or any other distribution or sales channel for any Pick Provider. During the term of this Agreement and for a period of one (1) year thereafter, I shall not solicit a Pick Company IBO, whether active, inactive, individual or entity, to participate in a network marketing program offered by any other company. Each Pick Company shall be a third-party beneficiary of this prohibition. Without limiting in any way Pick's or any other Pick Company's right to pursue all rights and remedies available to it, violation of this covenant and condition will result in, but is not limited to, forfeiture of all rights in any IBO position and Pick Payments, including all current and future commissions, bonuses and payments of any kind.

#### **NOTICE OF CANCELLATION**

I may cancel this transaction, without penalty or obligation, for a full refund, if postmarked within ten (10) business days from the date of this Agreement, exclusive of the date of signing. I understand that if I cancel after the ten (10) day period, I am not entitled to a full refund. This limitation is subject to and shall be deemed modified to reflect the limitations required by any state law, including the state of Delaware. If I cancel within the ten (10) business days from the date of this Agreement, any payments made by me under this Agreement and any instrument executed by me will be returned within fifteen (15) business days following receipt by Pick of my Cancellation Notice. To cancel this Agreement, I must deliver personally or via courier or by registered or certified mail return receipt requested, a written, signed, dated copy of a Notice of Cancellation to: Pick Ride Network, Inc, 5000 Eldorado Pkwy, Suite 150 #269, Frisco, TX 75033, Attn: Cancellation Notice. Where applicable state law on cancellation is inconsistent with Pick policy, such state law shall be in force.