

## SOFTWARE SERVICES AGREEMENT-MOBILITY SERVICE PROVIDER

This Software Services Agreement (Agreement) constitutes a legal agreement between you, an individual in the business of providing transportation services and Digital Mobility Services Lanka (Private) Limited (DMSL), a company registered under the Companies Act No.7 of 2007 and having its registered office at Level 14, Maga One, No.200, Nawala Road, Narahenpita, Colombo 05, Sri Lanka

DMSL provides customer the PickMe Mobility Service Provider Application (PickMe Mobility Service Provider App) for the purpose of providing mobility solutions. Customer acknowledges and agrees that PickMe is a technology services provider that does not provide Mobility Services, function as a Mobility carrier or agent for the Mobility of passengers.

DMSL, a software development company, has developed the PickMe Mobility Service Provider Application (PickMe Mobility Service Provider App) which facilitates the delivery of mobility services by Mobility Services Providers. You, agree to use the PickMe Mobility Service Provider App on the following terms and conditions. Upon your execution of this Agreement you shall be bound by the terms and conditions set forth herein.

### PROVISION OF SERVICES

Subject to this Agreement, DMSL grants the Customer a non-exclusive, non-transferable, non-sublicensable, non-assignable license, during the term of this Agreement, to use the PickMe Mobility Service Provider App for the purpose of connecting with Users of the PickMe User App (Hereinafter referred to as "Users") and tracking resulting Fares and Fees. All rights not expressly granted to Customer are reserved by DMSL.

During the Term of the Agreement, DMSL may update or modify the PickMe Mobility Service Provider App, to reflect changes in, among other things, laws, regulations, rules, technology, industry practices, patterns of system use, and availability of a third-party program..

Customer shall not, and shall not allow any other party to: (a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise provide or make available to any other party the PickMe Mobility Service Provider App in any way; (b) modify or make derivative works based upon the PickMe Mobility Service Provider App; (c) improperly use the PickMe Mobility Service Provider App, including creating Internet "links" to any part of the Driver App, "framing" or "mirroring" any part of the PickMe Mobility Service Provider App on any other websites or systems, or "scraping" or otherwise improperly obtaining data from the PickMe Mobility Service Provider App; (d) reverse engineer, decompile, modify, or disassemble the PickMe Mobility Service Provider App, except as allowed under applicable law; or (e) send spam or otherwise duplicative or unsolicited messages. In addition, Customer shall not, and shall not allow any other party to, access or use the PickMe Mobility Service Provider App to: (i) design or develop a competitive or substantially similar product or service; (ii) copy or extract any features, functionality, or content thereof; (iii) launch or cause to be launched on or in connection with the PickMe Mobility Service Provider App an automated program or script, including web spiders, crawlers, robots, indexers, bots, viruses or worms, or any program which may make multiple server requests per second, or unduly burden or hinder the operation and/or performance of the PickMe Diver App; or (iv) attempt to gain unauthorized access to the PickMe Mobility Service Provider App or its related systems or networks..

### PROPRIETARY RIGHTS

The PickMe Mobility Service Provider App and data accruing therefrom, including all intellectual property rights shall remain the property of DMSL. Neither this Agreement nor Customer's use of the PickMe Mobility Service Provider App or such data conveys or grants to Customer any rights: (a) in or related to the PickMe Mobility Service Provider App or such data, except for the limited license granted above; or (b) to use or reference in any manner DMSL's name, logos, product and service names, trademarks,

service marks or other indicia of ownership. Additionally, Customer acknowledges PickMe's rights in its trademarks and names, including the name "PickMe", alone and in combination with other letters, punctuation, words, symbols and/or designs. Customer agrees not to try to register or otherwise claim ownership in any of the PickMe Marks and Names, alone or in combination with other letters, punctuation, words, symbols and/or designs, or in any confusingly similar mark or name.

## **FEES AND PAYMENT**

In consideration of DMSL's provision of the PickMe Mobility Service Provider App, Customer agrees to pay DMSL App (software) related charges as set forth on the Mobility Service Provider Terms and Conditions (addendum to this Agreement).

If You fail to pay the above mentioned service fee, DMSL shall be entitled, at its sole discretion, to: (a) suspend provision of the PickMe Mobility Service Provider App until you fulfill your pending obligations; and/or (b) terminate this Agreement and take necessary legal action to recover the outstanding payments.

## **PRIVACY AND CONFIDENTIAL INFORMATION**

Each party acknowledges and agrees that in the performance of this Agreement it may have access to or may be exposed to, directly or indirectly, confidential information of the other party. Confidential Information includes DMSL data, Driver IDs, Information of the Users, and the transaction volume, marketing and business plans, business, financial, technical, operational and such other non-public information on DMSL (whether disclosed in writing or verbally) that such party designates as being proprietary or confidential or of which the other party should reasonably know that it should be treated as confidential

Each party acknowledges and agrees that: (a) all Confidential Information shall remain the exclusive property of the disclosing party; (b) it shall not use Confidential Information of the other party for any purpose except in furtherance of this Agreement; (c) it shall not disclose Confidential Information of the other party to any third party, except to its employees, officers, contractors, agents and service providers ("Permitted Persons") as necessary to perform under this Agreement, provided Permitted Persons are bound in writing to obligations of confidentiality and non-use of Confidential Information no less protective than the terms hereof; and (d) it shall return or destroy all Confidential Information of the disclosing party upon the termination of this Agreement or at the request of the other party (subject to applicable law and, with respect to DMSL, its internal record-keeping requirements). Provided that DMSL may use any data generated as a result of the use of the PickMe Mobility Service Provider App in anonymized form for its internal or other commercial or developmental purposes.

Subject to all applicable laws, DMSL may provide to a third party any information (including personal data and any DMSL Data) about Customers provided hereunder if: (a) there is a complaint, dispute or conflict, including an accident, between a Customer and a User; (b) it is necessary to enforce the terms of the Agreement; (c) it is required, in DMSL's sole discretion, by applicable law or regulation; (d) it is necessary, in DMSL's sole discretion, to (1) protect the safety, rights, property or security of DMSL, DMSL Services or any third party, (2) detect, prevent or otherwise address fraud, security or technical issues, and/or (3) prevent or stop activity which DMSL or any of its Affiliates, in their sole discretion, consider to be, or to pose a risk of being, illegal, unethical or legally actionable; or (e) it is required or necessary, in DMSL's sole discretion, for insurance or other purposes related to Customer's ability to qualify, or remain qualified, to use the PickMe Mobility Service Provider App. Customer understands that DMSL may retain Customer's personal data for legal, regulatory, safety, and other necessary purposes after this Agreement is terminated.

**DISCLAIMER**

Customer hereby represents and warrants that: (a) it has full power and authority to enter into this Agreement and perform its obligations hereunder; (b) it has not entered into, and during the term will not enter into, any agreement that would prevent it from complying with this Agreement; (c) it will comply with all applicable laws in its performance of this Agreement.

DMSL provides, and Customer accepts, the PickMe Mobility Service Provider App and other ancillary services (if any) on an "as is" and "as available" basis. Neither DMSL, warrants or guarantees that Customer's access to or use thereto : (a) will be uninterrupted or error free; or (b) will result in any requests for Mobility Services.

DMSL functions as an on-demand mobility solutions provider and related service only and makes no representations, warranties or guarantees as to the actions or inactions of the Users who may request or receive Mobility Services from Customer, and DMSL need not screen or otherwise evaluate Users.

DMSL does not guarantee the availability or uptime of the PickMe Mobility Service Provider App. Customer acknowledges and agrees that the PickMe Mobility Service Provider App may be unavailable at any time and for any reason (e.g., due to scheduled maintenance or network failure). Further, the PickMe Mobility Service Provider App may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications, and DMSL is not responsible for any delays, delivery failures, or other damages, liabilities or losses resulting from such problems.

**RELATIONSHIP OF THE PARTIES**

Except as otherwise expressly provided herein with respect to DMSL acting as a Mobility Solutions Provider, the relationship between the parties under this Agreement is solely that of independent contractors. The parties expressly agree that: (a) this Agreement is not an employment agreement, nor does it create an employment relationship (including from the perspective of labor law, tax law or any other in Sri Lanka), between DMSL and a Customer and (b) no joint venture, partnership, or agency relationship exists between DMSL and Customer.

Customer has no authority to bind DMSL and undertakes not to hold itself out, as an employee, agent or authorized representative of DMSL. Where, by implication of mandatory law or otherwise, Customer may be deemed an employee, agent or representative of DMSL, Customer undertakes and agrees to indemnify, defend (at DMSL's option) and hold DMSL harmless from and against any claims by any person, entity, regulators or governmental authorities based on such implied employment, agency or representative relationship.

**INDEMNIFICATION.**

Customer shall indemnify, defend (at DMSL's option) and hold harmless DMSL its respective officers, directors, employees, agents, successors and assigns from and against any and all liabilities, expenses (including legal fees), damages, penalties, fines, and taxes arising out of or related to: (a) Customer's breach of its representations, warranties or obligations under this Agreement; or (b) a claim by a third party (including Users, regulators and governmental authorities) directly or indirectly related to Customer's provision of Mobility Services through the use of the PickMe Mobility Service Provider App.

**LIMITATION OF LIABILITY**

DMSL shall not be liable under or related to this Agreement for any of the following, whether based on contract, delict or any other legal theory, even if a party has been advised of the possibility of such damages: (i) any incidental, punitive, special, exemplary, consequential, or other indirect damages of any type or kind; or (ii) Customer's or any third party's property damage, or loss or inaccuracy of data, or loss of business, revenue, profits, use or other economic advantage. Except for DMSL's obligations to pay amounts due to Customer pursuant to the Mobility Service Provider Terms and Conditions (addendum to this Agreement) attached below, but subject to any limitations or other provisions contained in this Agreement which are applicable thereto, in no event shall the liability of DMSL under this Agreement exceed the amount of Service Fees actually paid to or due to DMSL hereunder in the three (3) month period immediately preceding the event giving rise to such claim.

Customer acknowledges and agrees that any and all claims Customer has or purports to have against DMSL should be notified to PickMe within one (1) year after the event(s) that gave rise to such claim and that Customer forfeits all rights in respect of that claim if Customer fails to do so. Nothing in this Section purports to limit or exclude liability that cannot be limited or excluded by applicable law.

## **TERMINATION.**

This Agreement shall commence on the date that the Agreement is executed by Customer and shall continue until terminated as set forth herein.

Either party may terminate this Agreement: (a) without cause at any time upon seven (7) days prior notice to the other party; (b) immediately, without notice, for the other party's material breach of this Agreement; or (c) immediately, without notice, in the event of the insolvency or bankruptcy of the other party, or upon the other party's filing or submission of request for suspension of payment (or similar action or event) against the terminating party.

Upon termination of the Agreement, Customer shall immediately delete and fully remove the PickMe Mobility Service Provider App from any applicable Devices. All Addendums to this agreement shall automatically terminate upon the termination of this agreement. All outstanding payment obligations and Sections of this agreement shall survive the termination of this Agreement.

## **GENERAL**

**Modification** – DMSL reserves the right to modify the terms of this Agreement, effective upon publishing an updated version of this Agreement, as applicable, on the DMSL Website or the PickMe Mobility Service Provider App. DMSL reserves the right to modify any information referenced at hyperlinks from this Agreement from time to time. Continued use of the PickMe Mobility Service Provider App after any such modifications or updates shall constitute Customer's consent to such change.

**Addendums** - Addendums may apply to Customer's use of the PickMe Mobility Service Provider App to provide mobility services, such as use policies or terms related to certain features and functionality, which may be modified from time to time. Customer may be presented with certain Addendums from time to time. Addendums are in addition to, and shall be deemed a part of, this Agreement. Addendums shall prevail over this Agreement in the event of a conflict.

**Severability** - If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, under any law, such provision or part thereof shall to that extent be deemed not to form part of this Agreement but the legality, validity and enforceability of the remainder of this Agreement shall not be affected. In that event, the parties shall replace the illegal, invalid or unenforceable (part of the) provision with a (part of a) provision that is legal, valid and enforceable and that has, to the greatest extent

possible, a similar effect as the illegal, invalid or unenforceable (part of the) provision, given the contents and purpose of this Agreement.

**Entire Agreement** - This Agreement, including all Addendums, constitutes the entire agreement and understanding of the parties with respect to its subject matter and replaces and supersedes all prior or contemporaneous agreements or undertakings regarding such subject matter. In this Agreement, the words “including” and “include” mean “including, but not limited to.”

**Assignment** -Customer may not assign or transfer this Agreement or any of its rights or obligations hereunder, in whole or in part, without the prior written consent of the other party. DMSL may assign or transfer this Agreement or any or all of its rights or obligations hereunder, in whole or in part, under this Agreement from time to time without consent.

**No Third-Party Beneficiaries** - The parties acknowledge that there are no third party beneficiaries to this Agreement. Nothing contained in this Agreement is intended to or shall be interpreted to create any third-party beneficiary claims.

**Notices** - Any notice delivered by DMSL to Customer under this Agreement will be delivered by posting on the PickMe Mobility Service Provider App. Any notice delivered by Customer to DMSL under this Agreement will be delivered by contacting DMSL at <http://partners.PickMe.com> in the “Contact Us” section. Additional Territory-specific notices may be required from time to time

**Force Majeure** – DMSL will not be liable for any delay or failure to perform obligations under this Agreement due to any cause beyond its reasonable control, including acts of God; labor disputes; industrial disturbances; systematic electrical, telecommunications or other utility failures; earthquakes, storms, or other elements of nature; blockages; embargoes; riots; acts or orders of government; acts of terrorism; and war.

## **GOVERNING LAW AND DISPUTE RESOLUTION**

This Agreement shall be governed by and construed in accordance with the laws of Sri Lanka.

If any dispute arises between the Customer and DMSL, in connection with, or arising out of, this Agreement, the dispute shall be referred to arbitration under the Arbitration Act. No. 11 of 1995 (Sri Lanka) to be adjudicated by a sole arbitrator to be appointed by DMSL. Arbitration shall be held in Colombo. The proceedings of arbitration shall be in the English language. The arbitrator’s award shall be final and binding on the Parties.

In addition to above remedies, DMSL shall be entitled to an interim injunction, restraining order or such other equitable relief as a court of competent jurisdiction may deem necessary or appropriate to restrain Customer from committing any violation of the covenants and obligations set out in this Agreement. These equitable remedies are cumulative and are in addition to any other rights and remedies DMSL may have at law or in equity.

By clicking “I accept” or signing below (as such may be required by applicable law), Customer expressly acknowledges that Customer has read, understood, and taken steps to thoughtfully consider the consequences of this Agreement, that Customer agrees to be bound by the terms and conditions of this Agreement, and that Customer is legally competent to enter into this Agreement with DMSL.