

Independent Contractor And Intellectual Property Assignment Agreement



This Independent Contractor and Intellectual Property Assignment Agreement (the “**Agreement**”) is made and entered into as of _____ (the “**Effective Date**”) by and between PickNik Inc., a Delaware corporation (the “**Company**”), and _____ an individual residing at _____ (“**Contractor**”).

1. **Engagement of Services.** Company hereby engages and retains Contractor to provide certain services, and Contractor agrees to render such services to Company, from time to time as mutually agreed to by Company and Contractor (the “**Services**”) and that are described in one or more statements of work (“**SOWs**”), in the form attached as Exhibit A.
2. **Compensation.** Company will pay Contractor the fees set forth in each SOW in consideration for rendering the Services pursuant to this Agreement and such SOW. Contractor will be reimbursed for expenses that relate to the Services and that are approved by Company in advance. Upon termination of this Agreement for any reason, Company will pay Contractor any unpaid fees for Services that have been completed prior to such termination.
3. **Intellectual Property.**
 - a. **Assignment of Work Product.** The Company’s business is to help others commercialise robotic technology. Company’s customers require Company to assign certain rights to the customers so that they can adequately commercialize technology. As such, Company is and will be the owner of all interests, including all IP, in the Work Product so that Company can assign certain rights to its customers as necessary and so that Company may maintain the benefit of the Services that Company pays Contractor for. Contractor hereby irrevocably sells, transfers and assigns to Company all right, title and interest that Contractor has or will have, including all IP, in and to the Work Product, and Contractor acknowledges that Company owns and will own all such existing and future right, title and interest, including all IP, in and to the Work Product.
 - i. “**IP**” means all present and future worldwide interests in (a) works of authorship, discoveries, inventions, improvements, innovations, technical information, procedures, software, technology and other intellectual property, as reflected in any form, including patent applications, patents, continuations, extensions and divisions, copyrights, trade secrets, mask works, trademarks, trade identities, trade dress, know-how, confidential information, industrial rights, and other similar proprietary information and intangible rights; and (b) all rights relating to possession, ownership, and use of the foregoing, including the rights to license, assign, divide, pledge, sell, offer to sell, transfer, import, make or have made, enforce, register and otherwise exploit such interests.
 - ii. “**Work Product**” means, individually and collectively, all software (including object and source code, programming notes, and architectures), databases, algorithms, processes, designs, prototypes, methodologies, reports, specifications, technical information, technology, reports, tools, schematics, workflows, documents, analyses, presentations, notes, outlines, concepts, systems, analysis frameworks, leading practices, and other expressions reduced to reproducible electronic or tangible media that are developed or prepared by Contractor, solely or jointly with others, in connection with performance of the Services or for Company.
 - b. **Assignment of Prior Inventions.** Contractor is or may be the owner of all interests, including all IP, in the Prior Inventions. Contractor hereby grants to Company an unrestricted, non-exclusive, royalty-free, irrevocable, perpetual, worldwide license (with rights to sublicense

through multiple tiers of sublicensees, by any means now known or hereafter developed) to practice all IP rights in, to, or relating to any Prior Invention utilized by, or incorporated into, the Work Product..

- i. **“Prior Inventions”** means, individually and collectively, all software (including object and source code, programming notes, and architectures), databases, algorithms, processes, designs, prototypes, methodologies, reports, specifications, technical information, technology, tools, schematics, workflows, documents, analyses, presentations, notes, outlines, concepts, systems, analysis frameworks, leading practices, and other expressions reduced to reproducible electronic or tangible media that have been developed or prepared by Contractor, solely or jointly with others, prior to the Effective Date of this Agreement or outside the scope of this Agreement. “Prior Inventions” does not include any expressions or works that Contractor contributed to any project licensed under open source, FOSS, or other such licensing schemes prior to the Effective Date of this Agreement.

4. **Representations and Warranties; Instruments of Transfer.** In order for Company to make certain representations and warranties to its customers, among other reasons, Contractor represents and warrants that:

- a. Contractor has full and complete right, title and interest in and to the Prior Inventions and has not sold, granted, conveyed or assigned any of Contractor’s right, title or interest in or to the rights assigned hereunder to any person, firm or corporation other than Company; and
- b. There are no liens or encumbrances on the Prior Inventions and that no claims, proceedings or litigation exist or are pending with respect to the Prior Inventions.
- c. **Instruments of Conveyance and Transfer.** To ensure proper transfer of rights in Company’s performance with its customers and to protect Company’s intellectual property rights, Contractor will promptly execute, acknowledge and deliver to Company all additional instruments or documents that Company determines, at any time, to be necessary to carry out the intentions of this Agreement. Furthermore, Contractor will promptly perform any acts deemed necessary or desirable by Company to assist it in obtaining, maintaining, defending and enforcing any rights and/or assignment of the Work Product or Prior Inventions. To ensure that Company may make take the necessary actions for intellectual property protection, Contractor hereby irrevocably designates and appoints Company and its duly authorized officers and agents as Contractor’s agent and attorney-in-fact to act for and on Contractor’s behalf to execute and file any documents, applications or related filings and to do all other lawfully permitted acts in furtherance of the purposes set forth above, including, without limitation, the perfection of assignment and the prosecution and issuance of patents, patent applications, copyright applications and registrations, trademark applications and registrations, or other rights in connection with such Work Product or Prior Inventions and improvements thereto with the same legal force and effect as if executed by Contractor. Contractor hereby irrevocably waives all rights under all laws (of the United States and all other countries) now existing or hereafter permitted, with respect to any and all purposes for which the Work Product or Prior Inventions and any derivative works thereof may be used, including without limitation: (a) all rights under the United States Copyright Act, or any other country’s copyright law, including but not limited to, any rights provided in 17 U.S.C. §§ 106 and 106A; and (b) any rights of attribution and integrity or any other “moral rights of authors” existing under statutory, common or any other law.

5. Confidential Information.

- a. **Non-Disclosure.** Contractor shall not copy or use any Confidential Information for any purpose not within the scope of Contractor's rendering of the Services, nor shall it disclose any Confidential Information to anyone other than its affiliates, employees, contractors or authorized representatives who have a need to know the information in connection with Contractor's rendering of the Services and who have signed confidentiality agreements at least as restrictive as this Agreement. Contractor shall exercise the same degree of care to prevent disclosure of any Confidential Information as it takes to preserve and safeguard its own confidential information but, in any event, no less than a reasonable degree of care. In the event of any loss or improper disclosure of the Confidential Information, Contractor shall promptly notify the Company.
- b. **"Confidential Information"** means any of the Company's non-public information, know-how, or trade secrets in any form that are either designated as confidential or that a reasonable person should understand to be confidential, except information which:
 - i. is already known to, or independently developed by, Contractor;
 - ii. is already publicly available or becomes publicly available without a breach of this Agreement by Contractor;
 - iii. is lawfully received by Contractor from a third party;
 - iv. is required to be disclosed by law or a valid order by a court or other governmental body, provided that Contractor provides the Company with prior written notice of such disclosure in order to permit the Company to seek confidential treatment of such information.
- c. **Return of Information.** Upon written request of the Company, or upon termination of this Agreement, Contractor shall promptly return or destroy any Confidential Information in its possession and any copies thereof.

6. **Independent Contractor Relationship.** Contractor's relationship with Company is that of an independent contractor, and nothing in this Agreement is intended to, or should be construed to, create a partnership, agency, joint venture or employment relationship. Contractor is not authorized to make any representation, contract or commitment on behalf of Company unless specifically requested or authorized in writing to do so by Company. Contractor is solely responsible for, and must maintain adequate records of, expenses incurred in the course of performing services under this Agreement. No part of Contractor's compensation will be subject to withholding by Company for the payment of any social security, federal, state or any other employee payroll taxes. Company will regularly report amounts paid to Contractor by filing Form 1099-MISC with the Internal Revenue Service as required by law. CONTRACTOR IS ACTING AS AN INDEPENDENT CONTRACTOR TO COMPANY; CONTRACTOR IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS, WORKERS' COMPENSATION BENEFITS, PENSION, BONUS OR OTHER FRINGE BENEFITS FROM COMPANY. CONTRACTOR WILL PAY ALL NATIONAL, FEDERAL AND STATE INCOME TAX, SOCIAL SECURITY TAX AND OTHER AMOUNTS DUE UNDER APPLICABLE PAYROLL AND SIMILAR LAWS WITH RESPECT TO ALL AMOUNTS PAID IN CONNECTION WITH THIS AGREEMENT.

7. Term and Termination.

- a. **Term.** The term of each SOW shall be set forth therein. Unless earlier terminated, this Agreement shall expire at such time as the last SOW terminates or expires.
- b. **Termination for Convenience.** Company may terminate this Agreement and all outstanding SOWs with or without cause, at any time upon 14 days' prior written notice to Contractor. Company may also terminate this Agreement and all outstanding SOWs immediately in its sole discretion upon Contractor's material breach of Section 4 ("*Confidential Information*") or Section 9 ("*Noninterference with Business*").

8. **Survival.** The rights and obligations contained in Section 3 ("*Intellectual Property*"), Section 4 ("*Confidential Information*"), Section 5 ("*Independent Contractor Relationship*"), and Section 9 ("*Noninterference with Business*") will survive any termination or expiration of this Agreement.
9. **Noninterference with Business.** During the term of this Agreement, and for a period of one year immediately following its expiration or termination, Contractor agrees not to interfere with the business of Company in any manner. By way of example and not of limitation, Contractor agrees not to solicit or induce any client, employee or independent contractor to terminate or breach an employment, contractual or other relationship with Company.
10. **No Subcontracting.** Contractor will not subcontract or otherwise delegate its obligations under this Agreement without Company's prior written consent.
11. **Indemnification.** Contractor agrees to indemnify Company, its successors, assigns and licensees, and their respective officers, directors, members, managers and owners, and hold them harmless from and against any and all claims, liabilities, losses, damages, costs, expenses (including but not limited to attorneys' fees), judgments and penalties arising out of, resulting from, based upon or incurred because of the breach by Contractor of any representation or warranty made by Contractor hereunder, or of any other obligation of Contractor hereunder.
12. **Governing Law.** This Agreement will be governed in all respects by the laws of the United States of America and by the laws of the State of Colorado, excluding conflicts of law principles.
13. **Injunctive Relief for Breach.** Contractor's obligations under this Agreement are of a unique character that gives them particular value; breach of any of such obligations will result in irreparable and continuing damage to Company for which there will be no adequate remedy at law; and, in the event of such breach, Company will be entitled to injunctive relief and/or a decree for specific performance, and such other and further relief as may be proper (including monetary damages if appropriate).
14. **Notices.** Any notice required or permitted by this Agreement will be in writing and will be delivered as follows with notice deemed given as indicated: (i) when delivered personally, upon delivery; (ii) by overnight courier, upon written verification of receipt; (iii) by facsimile transmission or electronic mail, upon acknowledgment of receipt of electronic transmission; or (iv) by certified or registered mail, return receipt requested, upon verification of receipt. Notice will be sent to the addresses set forth below or such other address as either party may specify in writing.
15. **Severability.** Should any provisions of this Agreement be held by a court of law to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired thereby.
16. **Waiver.** The waiver by Company of a breach of any provision of this Agreement by Contractor will not operate or be construed as a waiver of any other or subsequent breach by Contractor.
17. **Assignment.** Company may freely assign and transfer this Agreement, or any rights or portion thereof, to any related or unrelated third party without Contractor's consent.
18. **Entire Agreement.** This Agreement and all outstanding SOWs constitute the entire agreement between the parties relating to this subject matter and supersede all prior or contemporaneous oral or written agreements concerning such subject matter. The terms of this Agreement and all outstanding SOWs will govern all Services undertaken by Contractor for Company. This Agreement and any SOW

may only be changed by mutual agreement of authorized representatives of the parties in writing. To the extent that there is any conflict between this Agreement and an SOW, the SOW will control.

[Signature Page Follows]

In Witness Whereof, the parties have executed this Agreement as of the date first written above.

COMPANY:

CONTRACTOR:

PickNik Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Address:

Address:

4730 Walnut St. Ste. 106

Boulder, CO 80301

United States

EXHIBIT A

STATEMENT OF WORK NO. __

Dated: _____

Services:

Contractor will render the following Services as Company may from time to time request:

Fees: \$ __ USD /hr (up to __ hours per month)

Expenses:

Unless otherwise approved in advance and in writing by Company, Contractor will be responsible for all expenses associated with performing the Services.

Payment Terms: Paid monthly within 15 days after each month.

Term: Until Terminated by either party upon 14 days' prior notice to the other party.

COMPANY:

PickNik Inc.

CONTRACTOR:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____