

# Addendum - Picky Assist Data Processing Agreement

(hereinafter referred to as "Picky Assist DPA")

Version 1.0 – December 1 st, 2018

This Picky Assist Data Protection Addendum ("**Addendum**") including the Standard Contractual Clauses forms part of the agreement between the parties as defined by the Picky Assist Customer Terms of Service ("**Agreement**")

The term of this DPA shall follow the term of the Agreement. Terms not otherwise defined herein shall have the meaning as set forth in the Agreement. Except as modified below, the terms of the Agreement shall remain in full force and effect.

In consideration of the mutual obligations set out herein, the parties hereby agree that the terms and conditions set out below shall be added as an Addendum to the Agreement. Except where the context requires otherwise, references in this Addendum to the Agreement are to the Agreement as amended by, and including, this Addendum.

## 1. Definitions

In this Addendum, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

1. "**Applicable Laws**" means (a) European Union or Member State laws with respect to any Company Personal Data in respect of which any Company Group Member is subject to EU Data Protection Laws; and (b) any other applicable law with respect to any Company Personal Data in respect of which any Company Group Member is subject to any other Data Protection Laws;
2. "**Company Affiliate**" means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with Company, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise;
3. "**Company Group Member**" means Company or any Company Affiliate;
4. "**Company Personal Data**" means any Personal Data Processed by a Contracted Processor on behalf of a Company Group Member pursuant to or in connection with the Agreement;
5. "**Contracted Processor**" means Vendor or a Subprocessor;
6. "**Data Protection Laws**" means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;
7. "**EEA**" means the European Economic Area;
8. "**EU Data Protection Laws**" means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or

superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

9. "**GDPR**" means EU General Data Protection Regulation 2016/679;

10. "**Restricted Transfer**" means:

1. a transfer of Company Personal Data from any Company Group Member to a Contracted Processor; or
2. an onward transfer of Company Personal Data from a Contracted Processor to a Contracted Processor, or between two establishments of a Contracted Processor, in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws) in the absence of the Standard Contractual Clauses to be established under section [6.4.3 or] 12 below;

11. "**Services**" means the services and other activities to be supplied to or carried out by or on behalf of Vendor for Company Group Members pursuant to the Agreement;

12. "**Standard Contractual Clauses**" means the contractual clauses set out in Annex 2, amended as indicated (in square brackets and italics) in that Annex and under section 13.4;

13. "**Subprocessor**" means any person (including any third party and any Vendor Affiliate, but excluding an employee of Vendor or any of its sub-contractors) appointed by or on behalf of Vendor or any Vendor Affiliate to Process Personal Data on behalf of any Company Group Member in connection with the Agreement; and

14. "**Vendor Affiliate**" means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with Vendor, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

15. "**Vendor**" would mean Picky Assist Inc, owners of the platform Picky Assist.

16. The terms, "**Commission**", "**Controller**", "**Data Subject**", "**Member State**", "**Personal Data**", "**Personal Data Breach**", "**Processing**" and "**Supervisory Authority**" shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

## 2. Processing of Company Personal Data

1. Vendor and each Vendor Affiliate shall:

1. Not Process Company Personal Data other than on the relevant Company Group Member's documented instructions unless Processing is required by Applicable Laws to which the relevant Contracted Processor is subject, in which case Vendor or the relevant Vendor Affiliate shall to the extent permitted by Applicable Laws inform the relevant Company Group Member

of that legal requirement before the relevant Processing of that Personal Data.

2. Each Company Group Member:

1. instructs Vendor and each Vendor Affiliate (and authorises Vendor and each Vendor Affiliate to instruct each Subprocessor) to:

1. Process Company Personal Data; and
2. in particular, transfer Company Personal Data to any country or territory, as reasonably necessary for the provision of the Services and consistent with the Agreement; and

2. warrants and represents that it is and will at all relevant times remain duly and effectively authorised to give the instruction set out in section 2.2.1 on behalf of each relevant Company Affiliate.

3. Annex 1 to this Addendum sets out certain information regarding the Contracted Processors' Processing of the Company Personal Data as required by article 28(3) of the GDPR (and, possibly, equivalent requirements of other Data Protection Laws). Company may make reasonable amendments to Annex 1 by written notice to Vendor from time to time as Company reasonably considers necessary to meet those requirements. Nothing in Annex 1 (including as amended pursuant to this section) confers any right or imposes any obligation on any party to this Addendum.

### 3. Vendor and Vendor Affiliate Personnel

Vendor and each Vendor Affiliate shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Company Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Company Personal Data, as strictly necessary for the purposes of the Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

### 4. Security

1. Taking into account the state of the art technology being used in the platform, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Vendor and each Vendor Affiliate shall in relation to the Company Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

2. In assessing the appropriate level of security, Vendor and each Vendor Affiliate shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

### 5. Subprocessing

1. Each Company Group Member authorises Vendor and each Vendor Affiliate to appoint (and permit each Subprocessor appointed in accordance with this section 5 to appoint) Subprocessors in accordance with this section 5 and any restrictions in the Agreement.
2. Vendor and each Vendor Affiliate may continue to use those Subprocessors already engaged by Vendor or any Vendor Affiliate as at the date of this Addendum, subject to Vendor and each Vendor Affiliate in each case as soon as practicable meeting the obligations set out in section 5.4.
3. Vendor shall give Company prior written notice of the appointment of any new Subprocessor, including full details of the Processing to be undertaken by the Subprocessor. If, within 30 days of receipt of that notice, Company notifies Vendor in writing of any objections (on reasonable grounds) to the proposed appointment: Neither Vendor nor any Vendor Affiliate shall appoint (or disclose any Company Personal Data to) that proposed Subprocessor until reasonable steps have been taken to address the objections raised by any Company Group Member and Company has been provided with a reasonable written explanation of the steps taken.
4. With respect to each Subprocessor, Vendor or the relevant Vendor Affiliate shall:
  1. before the Subprocessor first Processes Company Personal Data (or, where relevant, in accordance with section 5.2), carry out adequate due diligence to ensure that the Subprocessor is capable of providing the level of protection for Company Personal Data required by the Agreement;
  2. ensure that the arrangement between on the one hand (a) Vendor, or (b) the relevant Vendor Affiliate, or (c) the relevant intermediate Subprocessor; and on the other hand the Subprocessor, is governed by a written contract including terms which offer at least the same level of protection for Company Personal Data as those set out in this Addendum and meet the requirements of article 28(3) of the GDPR;
  3. if that arrangement involves a Restricted Transfer, ensure that the Standard Contractual Clauses are at all relevant times incorporated into the agreement between on the one hand (a) Vendor, or (b) the relevant Vendor Affiliate, or (c) the relevant intermediate Subprocessor; and on the other hand the Subprocessor, or before the Subprocessor first Processes Company Personal Data procure that it enters into an agreement incorporating the Standard Contractual Clauses with the relevant Company Group Member(s); and
  4. provide to Company for review such copies of the Contracted Processors' agreements with Subprocessors (which may be redacted to remove confidential commercial information not relevant to the requirements of this Addendum) as Company may request from time to time.
5. Vendor and each Vendor Affiliate shall ensure that each Subprocessor performs the obligations, as they apply to Processing of Company Personal Data carried out by that Subprocessor, as if it were party to this Addendum in place of Vendor.

## 6. Data Subject Rights

Vendor will provide reasonable assistance, including technical and organizational measures and taking into account the nature of the Processing, to enable Controller to

respond to any request from Data Subjects seeking to exercise their rights under the Data Protection Law with respect to Personal Data (including access, rectification, restriction, deletion or portability of Personal Data, as applicable), to the extent permitted by the law. If such request is made directly to Vendor, Vendor will promptly inform Company Group Member and will advise Data Subjects to submit their request to the Company Group Member directly, who shall be solely responsible for responding to any Data Subjects' requests.

## 7. Personal Data Breach

1. Vendor shall notify Company without undue delay upon Vendor or any Subprocessor becoming aware of a Personal Data Breach affecting Company Personal Data, providing Company with sufficient information to allow each Company Group Member to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.
2. Vendor shall co-operate with Company and each Company Group Member and take such reasonable commercial steps as are directed by Company to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

## 8. Data Protection Impact Assessment and Prior Consultation

Vendor and each Vendor Affiliate shall provide reasonable assistance to each Company Group Member with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Company reasonably considers to be required of any Company Group Member by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Company Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

## 9. Deletion or return of Company Personal Data

Other than to the extent required to comply with Data Protection Law, following termination or expiry of the Agreement, Processor will return or delete all Personal Data processed pursuant to this DPA in a reasonable time frame. If Processor is unable to delete Personal Data for technical or other reasons, Processor will apply measures to ensure that Personal Data is blocked from any further Processing.

## 10. Audit

1. Vendor and each Vendor Affiliate shall make available to each Company Group Member on request all information necessary to demonstrate compliance with this Addendum, and shall allow for and contribute to audits, including inspections, by any Company Group Member or an auditor mandated by any Company Group Member in relation to the Processing of the Company Personal Data by the Contracted Processors.
2. Information and audit rights of the Company Group Members only arise under section 10.1 to the extent that the Agreement does not otherwise give them information and audit rights meeting the relevant requirements of Data Protection Law (including, where applicable, article 28(3)(h) of the GDPR).

3. Company or the relevant Company Affiliate undertaking an audit shall give Vendor or the relevant Vendor Affiliate reasonable notice of any audit or inspection to be conducted under section 10.1 and shall make (and ensure that each of its mandated auditors makes) reasonable endeavours to avoid causing (or, if it cannot avoid, to minimise) any damage, injury or disruption to the Contracted Processors' premises, equipment, personnel and business while its personnel are on those premises in the course of such an audit or inspection. A Contracted Processor need not give access to its premises for the purposes of such an audit or inspection:
  1. to any individual unless he or she produces reasonable evidence of identity and authority;
  2. outside normal business hours at those premises, unless the audit or inspection needs to be conducted on an emergency basis and Company or the relevant Company Affiliate undertaking an audit has given notice to Vendor or the relevant Vendor Affiliate that this is the case before attendance outside those hours begins; or
  3. for the purposes of more than [one] audit or inspection, in respect of each Contracted Processor, in any [calendar year], except for any additional audits or inspections which:
    1. Company or the relevant Company Affiliate undertaking an audit reasonably considers necessary because of genuine concerns as to Vendor's or the relevant Vendor Affiliate's compliance with this Addendum; or
    2. A Company Group Member is required or requested to carry out by Data Protection Law, a Supervisory Authority or any similar regulatory authority responsible for the enforcement of Data Protection Laws in any country or territory,

where Company or the relevant Company Affiliate undertaking an audit has identified its concerns or the relevant requirement or request in its notice to Vendor or the relevant Vendor Affiliate of the audit or inspection

## 11. Restricted Transfers

1. Subject to section 11.3, each Company Group Member (as "data exporter") and each Contracted Processor, as appropriate, (as "data importer") hereby enter into the Standard Contractual Clauses in respect of any Restricted Transfer from that Company Group Member to that Contracted Processor.
2. The Standard Contractual Clauses shall come into effect under section 11.1 on the later of:
  1. the data exporter becoming a party to them;
  2. the data importer becoming a party to them; and
  3. commencement of the relevant Restricted Transfer.
3. Section 11.1 shall not apply to a Restricted Transfer unless its effect, together with other reasonably practicable compliance steps (which, for the avoidance of doubt, do not include obtaining consents from Data Subjects), is to allow the relevant Restricted Transfer to take place without breach of applicable Data Protection Law.

## 12. General Terms

Effective 25 May 2018 Picky Assist will process Personal Data in accordance with the GDPR requirements contained herein which are directly applicable to Picky Assist's provision of the Subscription Services.

1. Nothing in this Addendum reduces Vendor's or any Vendor Affiliate's obligations under the Agreement in relation to the protection of Personal Data or permits Vendor or any Vendor Affiliate to Process (or permit the Processing of) Personal Data in a manner which is prohibited by the Agreement. In the event of any conflict or inconsistency between this Addendum and the Standard Contractual Clauses, the Standard Contractual Clauses shall prevail.
2. Subject to section 12.1, with regard to the subject matter of this Addendum, in the event of inconsistencies between the provisions of this Addendum and any other agreements between the parties, including the Agreement and including (except where explicitly agreed otherwise in writing, signed on behalf of the parties) agreements entered into or purported to be entered into after the date of this Addendum, the provisions of this Addendum shall prevail.
3. Should any provision of this Addendum be invalid or unenforceable, then the remainder of this Addendum shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

### Standard Contractual Clauses (Processors)

For the purposes of Article 26(2) of Directive 95/46/EC for the transfer of personal data to processors established in third countries which do not ensure an adequate level of data protection,

The Customer, as defined in the Picky Assist Customer Terms of Service (the "data exporter") And Picky Assist Inc., (the "data importer"), each a 'party'; together 'the parties', HAVE AGREED on the following Contractual Clauses (the Clauses) in order to adduce adequate safeguards with respect to the protection of privacy and fundamental rights and freedoms of individuals for the transfer by the data exporter to the data importer of the personal data specified in Appendix 1.

#### Clause 1 - Definitions

For the purposes of the Clauses:

- (a) '**personal data**', '**special categories of data**', '**process/processing**', '**controller**', '**processor**', '**data subject**' and '**supervisory authority**' shall have the same meaning as in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
- (b) '**the Data Exporter**' means the controller who transfers the personal data;
- (c) '**the Data Importer**' means the processor who agrees to receive from the data exporter personal data intended for processing on his behalf after the transfer in accordance with his instructions and the terms of the Clauses and who is not subject to a third country's

system ensuring adequate protection within the meaning of Article 25(1) of Directive 95/46/EC;

(d) **'the Subprocessor'** means any processor engaged by the data importer or by any other subprocessor of the data importer who agrees to receive from the data importer or from any other subprocessor of the data importer personal data exclusively intended for processing activities to be carried out on behalf of the data exporter after the transfer in accordance with his instructions, the terms of the Clauses and the terms of the written subcontract;

(e) **'the applicable data protection law'** means the legislation protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data applicable to a data controller in the Member State in which the data exporter is established;

(f) **'technical and organisational security measures'** means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

## Clause 2 - Details of the transfer

The details of the transfer and in particular the special categories of personal data where applicable are specified in Appendix 1 which forms an integral part of the Clauses.

## Clause 3 - Third-party beneficiary clause

- The data subject can enforce against the data exporter this Clause, Clause 4(b) to (i), Clause 5(a) to (e), and (g) to (j), Clause 6(1) and (2), Clause 7, Clause 8(2), and Clauses 9 to 12 as third-party beneficiary.

- The data subject can enforce against the data importer this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where the data exporter has factually disappeared or has ceased to exist in law unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law, as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity.

- The data subject can enforce against the subprocessor this Clause, Clause 5(a) to (e) and (g), Clause 6, Clause 7, Clause 8(2), and Clauses 9 to 12, in cases where both the data exporter and the data importer have factually disappeared or ceased to exist in law or have become insolvent, unless any successor entity has assumed the entire legal obligations of the data exporter by contract or by operation of law as a result of which it takes on the rights and obligations of the data exporter, in which case the data subject can enforce them against such entity. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.

- The parties do not object to a data subject being represented by an association or other body if the data subject so expressly wishes and if permitted by national law.

## Clause 4 - Obligations of the data exporter

The data exporter agrees and warrants:

(a) that the processing, including the transfer itself, of the personal data has been and will continue to be carried out in accordance with the relevant provisions of the applicable data protection law (and, where applicable, has been notified to the relevant authorities of the Member State where the data exporter is established) and does not violate the relevant provisions of that State;



(b) that it has instructed and throughout the duration of the personal data-processing services will instruct the data importer to process the personal data transferred only on the data exporter's behalf and in accordance with the applicable data protection law and the Clauses;

(c) that the data importer will provide sufficient guarantees in respect of the technical and organisational security measures specified in Appendix 2 to this contract;

(d) that after assessment of the requirements of the applicable data protection law, the security measures are appropriate to protect personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the data to be protected having regard to the state of the art and the cost of their implementation;

(e) that it will ensure compliance with the security measures;

(f) that, if the transfer involves special categories of data, the data subject has been informed or will be informed before, or as soon as possible after, the transfer that its data could be transmitted to a third country not providing adequate protection within the meaning of Directive 95/46/EC;

(g) to forward any notification received from the data importer or any subprocessor pursuant to Clause 5(b) and Clause 8(3) to the data protection supervisory authority if the data exporter decides to continue the transfer or to lift the suspension;

(h) to make available to the data subjects upon request a copy of the Clauses, with the exception of Appendix 2, and a summary description of the security measures, as well as a copy of any contract for subprocessing services which has to be made in accordance with the Clauses, unless the Clauses or the contract contain commercial information, in which case it may remove such commercial information;

(i) that, in the event of subprocessing, the processing activity is carried out in accordance with Clause 11 by a subprocessor providing at least the same level of protection for the personal data and the rights of data subject as the data importer under the Clauses; and

(j) that it will ensure compliance with Clause 4(a) to (i).

## Clause 5 - Obligations of the data importer

The data importer agrees and warrants:

(a) to process the personal data only on behalf of the data exporter and in compliance with its instructions and the Clauses; if it cannot provide such compliance for whatever reasons, it agrees to inform promptly the data exporter of its inability to comply, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(b) that it has no reason to believe that the legislation applicable to it prevents it from fulfilling the instructions received from the data exporter and its obligations under the contract and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by the Clauses, it will promptly notify the change to the data exporter as soon as it is aware, in which case the data exporter is entitled to suspend the transfer of data and/or terminate the contract;

(c) that it has implemented the technical and organisational security measures specified in Appendix 2 before processing the personal data transferred;

(d) that it will promptly notify the data exporter about:

(i) any legally binding request for disclosure of the personal data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation;

(ii) any accidental or unauthorised access; and

(iii) any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so;

(e) to deal promptly and properly with all inquiries from the data exporter relating to its processing of the personal data subject to the transfer and to abide by the advice of the supervisory authority with regard to the processing of the data transferred;

(f) at the request of the data exporter to submit its data-processing facilities for audit of the processing activities covered by the Clauses which shall be carried out by the data exporter or an inspection body composed of independent members and in possession of the required professional qualifications bound by a duty of confidentiality, selected by the data exporter, where applicable, in agreement with the supervisory authority;

(g) to make available to the data subject upon request a copy of the Clauses, or any existing contract for subprocessing, unless the Clauses or contract contain commercial information, in which case it may remove such commercial information, with the exception of Appendix 2 which shall be replaced by a summary description of the security measures in those cases where the data subject is unable to obtain a copy from the data exporter;

(h) that, in the event of subprocessing, it has previously informed the data exporter and obtained its prior written consent;

(i) that the processing services by the subprocessor will be carried out in accordance with Clause 11;

(j) to send promptly a copy of any subprocessor agreement it concludes under the Clauses to the data exporter.

## Clause 6 - Liability

The parties agree that any data subject, who has suffered damage as a result of any breach of the obligations referred to in Clause 3 or in Clause 11 by any party or subprocessor is entitled to receive compensation from the data exporter for the damage suffered.

## Clause 7 - Mediation and jurisdiction

The data importer agrees that if the data subject invokes against it third-party beneficiary rights and/or claims compensation for damages under the Clauses, the data importer will accept the decision of the data subject:

(a) to refer the dispute to mediation, by an independent person or, where applicable, by the supervisory authority;

(b) to refer the dispute to the courts in the Member State in which the data exporter is established.

- The parties agree that the choice made by the data subject will not prejudice its substantive or procedural rights to seek remedies in accordance with other provisions of national or international law.

## Clause 8 - Cooperation with supervisory authorities

- The data exporter agrees to deposit a copy of this contract with the supervisory authority if it so requests or if such deposit is required under the applicable data protection law.
- The parties agree that the supervisory authority has the right to conduct an audit of the data importer, and of any subprocessor, which has the same scope and is subject to the same conditions as would apply to an audit of the data exporter under the applicable data protection law.
- The data importer shall promptly inform the data exporter about the existence of legislation applicable to it or any subprocessor preventing the conduct of an audit of the data importer, or any subprocessor, pursuant to paragraph 2. In such a case the data exporter shall be entitled to take the measures foreseen in Clause 5(b).

## Clause 9 - Governing law

The Clauses shall be governed by the law of the Member State in which the data exporter is established.

## Clause 10 - Variation of the contract

The parties undertake not to vary or modify the Clauses. This does not preclude the parties from adding clauses on business related issues where required as long as they do not contradict the Clause.

## Clause 11 - Subprocessing

- The data importer shall not subcontract any of its processing operations performed on behalf of the data exporter under the Clauses without the prior written consent of the data exporter. Where the data importer subcontracts its obligations under the Clauses, with the consent of the data exporter, it shall do so only by way of a written agreement with the subprocessor which imposes the same obligations on the subprocessor as are imposed on the data importer under the Clauses. Where the subprocessor fails to fulfil its data protection obligations under such written agreement the data importer shall remain fully liable to the data exporter for the performance of the subprocessor's obligations under such agreement.
- The prior written contract between the data importer and the subprocessor shall also provide for a third-party beneficiary clause as laid down in Clause 3 for cases where the data subject is not able to bring the claim for compensation referred to in paragraph 1 of Clause 6 against the data exporter or the data importer because they have factually disappeared or have ceased to exist in law or have become insolvent and no successor entity has assumed the entire legal obligations of the data exporter or data importer by contract or by operation of law. Such third-party liability of the subprocessor shall be limited to its own processing operations under the Clauses.
- The provisions relating to data protection aspects for subprocessing of the contract referred to in paragraph 1 shall be governed by the law of the Member State in which the data exporter is established.
- The data exporter shall keep a list of subprocessing agreements concluded under the Clauses and notified by the data importer pursuant to Clause 5(j), which shall be updated

at least once a year. The list shall be available to the data exporter's data protection supervisory authority.

## Clause 12 - Obligation after the termination of personal data-processing services

- The parties agree that on the termination of the provision of data-processing services, the data importer and the subprocessor shall, at the choice of the data exporter, return all the personal data transferred and the copies thereof to the data exporter or shall destroy all the personal data and certify to the data exporter that it has done so, unless legislation imposed upon the data importer prevents it from returning or destroying all or part of the personal data transferred. In that case, the data importer warrants that it will guarantee the confidentiality of the personal data transferred and will not actively process the personal data transferred anymore.

- The data importer and the subprocessor warrant that upon request of the data exporter and/or of the supervisory authority, it will submit its data-processing facilities for an audit of the measures referred to in paragraph 1.

## Appendix 1 to the Standard Contractual Clauses

This Appendix forms part of the Clauses. The Member States may complete or specify, according to their national procedures, any additional necessary information to be contained in this Appendix.

### A. Data exporter

The data exporter is the Customer, as defined in the Picky Assist Customer Terms of Service ("Agreement").

### B. Data importer

The data importer is Avronia, Inc., a global provider of chatbot and customer engagement software.

### C. Data subjects

Categories of data subjects set out under Section 2 of the Data Processing Agreement to which the Clauses are attached.

### D. Categories of data

Categories of personal data set out under Section 2 of the Data Processing Agreement to which the Clauses are attached.

### E. Special categories of data (if appropriate)

The parties do not anticipate the transfer of special categories of data.

### F. Processing operations

The processing activities set out under Section 2 of the Data Processing Agreement to which the Clauses are attached

## Appendix 2 to the Standard Contractual Clauses

This Appendix forms part of the Clauses.

importer in accordance with Clauses 4(d) and 5(c) (or document/legislation attached):

Picky Assist currently observes the security practices as described in this Appendix 2. Notwithstanding any provision to the contrary otherwise agreed to by data exporter, Picky Assist may modify or update these practices at its discretion provided that such modification and update does not result in a material degradation in the protection offered by these practices. All capitalized terms not otherwise defined herein shall have the meanings as set forth in the Agreement and the Addendum.

Hosting: Picky Assist hosts its platform and services on outsourced subprocessors who adhere to strict physical and environmental guidelines. Picky Assist maintains contractual relationships with such vendors in order to provide the Service in accordance with our

### **Data Processing Agreement**

Authentication: Customer data is stored in multi-tenant systems whose access is provided via the platform via user interface or application programming interface. Authentication mechanism is put in place for such access with a defined policy for passwords. Picky Assist's authorization model enforces that only users with specified access can use the platform.

Access controls and monitoring: Network access control mechanisms are enabled to prevent access to unauthorized protocols keeping the underlying platform safe. Picky Assist has systems in place to detect and notify abnormal network activity patterns. Picky Assist also performs periodic vulnerability detection scans to determine system risks. Platform Data Access: A limited subset of Picky Assist's employees have access to the customer data who have abided by company Non-Disclosure Agreements. Such access is controlled and secured by two-factor authentication. A review is done at least twice a year to determine the roles and individuals requiring such access.

Background Checks: All Picky Assist employees undergo background checks prior to the acceptance of their employment offer under the prevailing legal guidelines. All employees are required to act in a manner consistent with the company's policies, non-disclosure and other contractual requirements.

Data Transmission: All network communication on the platform happens over secured

HTTPS protocol. Picky Assist follows industry standard implementation for HTTPS.

Data at Rest: As of 25th of May, 2018, Picky Assist has implemented changes to secure the data by using industry standard encryption.

Detection: Picky Assist logs data around platform access and usage, which includes alerting systems that would trigger in case of unintended or malicious use of the platform.

Security Incidents: An incident log is maintained of every incident where an abnormal platform use or data access is determined, including details and impact. On every incident an impact analysis is performed and steps are taken to limit the damage to systems and unauthorized access.

Communication: If Picky Assist becomes aware of unlawful access to customer data, Picky Assist agrees to notify the customers of the incident. It also would communicate - information about the incident and steps taken for its resolution. Notification for such incidents will be sent to individual customers or such groups having been affected by the incident over email and/or phone or a medium Picky Assist deems fit.

Availability: Picky Assist via its infrastructure providers ensure a platform availability of 99.9% availability of the platform and supporting systems.

Backups: Data backups are taken for customer data and configurations at regular intervals. The periodicity of such backups may change without affecting the terms of the agreement.

## List of Sub-Processors

Amazon Web Services, Inc.

IBM, Inc

Softlayer, Inc

Google, Inc.

Facebook, Inc.

WhatsApp, Inc.

Sendgrid, Inc