

Penguin Pick-Up Limited Partnership, by its general partner, Penguin Pick-Up G.P. Inc.  
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Canada  
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## **Penguin Pick-Up Personal Subscription Agreement**

Subscribe now by accepting the agreement below.  
Your subscription will automatically renew until cancelled.

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1. **Binding Agreement.** This Subscription Agreement is between you (“**you**”) an individual, and Penguin Pick Up Limited Partnership, by its general partner, Penguin Pick-Up G.P. Inc. (“**PenguinPickUp**”). This Subscription Agreement becomes effective at the time that PenguinPickUp replies to your clicking of the “I agree” button below with a confirmation email to you, and continues until this Subscription Agreement is cancelled.
2. **Additional Agreements and Policies.** By accepting this Subscription Agreement you acknowledge and accept our:
  - a. **Terms of Use, found at:**  
[https://penguinpickup.com/policies?policy=terms\\_of\\_use](https://penguinpickup.com/policies?policy=terms_of_use)
  - b. **Privacy Policy, found at:**  
[https://penguinpickup.com/policies?policy=privacy\\_policy](https://penguinpickup.com/policies?policy=privacy_policy)
  - c. **Parcel Policy, found at:**  
[https://penguinpickup.com/policies?policy=parcel\\_policy](https://penguinpickup.com/policies?policy=parcel_policy)
  - d. **Fee Schedule, found at:**  
[https://penguinpickup.com/policies?policy=fee\\_schedule](https://penguinpickup.com/policies?policy=fee_schedule)
3. **Parcel Services.** PenguinPickUp offers services where it receives, temporarily holds, and releases parcels at parcel shops (“**Parcel Shops**”) or PenguinPickUp lockers (“**Lockers**”), in each case at the locations listed on its website from time to time, through the Penguin Pick Up App, or the website found at [penguinpickup.com](https://penguinpickup.com) (the “**Services**”).
4. **Subscription Services.** Subject to the limitations set out in this Subscription Agreement, PenguinPickUp agrees to make the Services available to you on a 30 DAY SUBSCRIPTION (the “**Subscription**”).
5. **Fees.** The fees for the Subscription, including any usage-based fees, are set out in the {**Fee Schedule**} (“**Subscription Fee**”). The Subscription is for 30 Days (“**Subscription Period**”). The Subscription Fee is due and payable in full on the first day of each Subscription

Period. Applicable taxes are extra. PenguinPickUp will give you at least 30 days' notice of any change in the Subscription Fee, which will take effect at your next renewal date.

6. **Refunds.** Canceling the Subscription during an active 30 DAY Subscription Period will not make you eligible for any refund.

7. **Recurring Payment.** Your Subscription will continue to renew for further Subscription Periods and will be subject to this Subscription Agreement, unless you notify PenguinPickUp before the end of your Subscription Period that you wish to cancel. PenguinPickUp will charge your payment card on or about the first day of each Subscription Period. You authorize PenguinPickUp to charge your payment card for any fees due under this agreement.

8. **Cancellation of Subscription.**

**By You:**

You may cancel your Subscription by logging into your account at [penguinpickup.com/login](http://penguinpickup.com/login).

**By PenguinPickUp:**

Unless you reside in the Province of Québec, PenguinPickUp may terminate this Subscription Agreement at any time as it deems fit in its sole and absolute discretion by giving you written notice and such termination shall be effective immediately. PenguinPickUp shall not be obligated to renew the Subscription upon expiry of the Subscription Period, in which case PenguinPickUp shall provide you with 15 days' written notice of non-renewal.

9. **Limitations to Subscription.** The Services and Subscription are limited in the following ways:

- a. **Paid Subscribers only.** The Services are provided on the condition that you have paid the Subscription Fee.
- b. **Maximum Holding Period.** PenguinPickUp storage services are temporary, and PenguinPickUp's expectation is that parcels will be picked up within 48 hours of the drop-off time. It is your responsibility to pick-up your parcel in a timely manner. Subject to Sections 14, 15 and 16 below, PenguinPickUp will not be under any obligation to store your parcel for longer than:
  - i. for parcels dropped off at Parcel Shops: 14 DAYS;
  - ii. for parcels dropped off at Lockers: 14 DAYS.
- c. **Commercial Usage Prohibited.** Subscription is provided to you personally for non-business usage. Additional Storage Charges will apply to business usage of the Services by you. Contact [info@penguinpickup.com](mailto:info@penguinpickup.com) to obtain our commercial storage options.

- d. **Parcel Requirements.** PenguinPickUp may refuse any parcel that does not meet its requirements set out in the Parcel Policy. It is your responsibility to ensure that your parcels meet PenguinPickUp's requirements, including with respect to sizing and labeling requirements and with respect to certain prohibited goods requirements. You agree not to ship or cause the shipment of such parcels to PenguinPickUp. In addition, you specifically acknowledge and agree that you have reviewed the [Locker dimensions](#) and that any parcels you deliver to a Locker conform with such dimensions.
- e. **Locations and Hours.** Parcel pick-up availability may be limited by the business hours of a particular location, or the closing of a location. You agree that locations and business hours are subject to change in PenguinPickUp's sole discretion, and PenguinPickUp may choose its locations and business hours as it deems fit.

10. **User Accounts.** When you create an account with PenguinPickUp, you must provide PenguinPickUp information that is accurate, complete, and current at all times, including your payment and contact information. Failure to do so constitutes a breach of this Subscription Agreement, which may result in immediate termination of your account with PenguinPickUp. You are responsible for safeguarding the password that you use to access PenguinPickUp and for any activities or actions under your password, whether your password is with PenguinPickUp or a Third-Party Social Media Service. You agree not to disclose your password to any third party. You must notify PenguinPickUp immediately upon becoming aware of any breach of security or unauthorized use of your account.

11. **Share Codes.** You may authorize PenguinPickUp to release your package to anyone by generating on the PenguinPickUp website/App a secret and unique alphanumeric code called a Share Code. By generating a Share Code you authorize PenguinPickUp to release your parcel to anyone presenting the Share Code to PenguinPickUp. You are responsible for safeguarding the Share Code. You must notify PenguinPickUp immediately upon becoming aware of any breach of security or unauthorized use of the Share Code.

12. **Authority.** You authorize PenguinPickUp to handle your parcels, including to receive, inspect, store, return-to-sender, and/or release your parcels as PenguinPickUp deems fit.

13. **Storage Liens/Prior Claims.** PenguinPickUp shall have a lien, prior claim or right of retention, as applicable, on your parcels and upon the proceeds from the sale thereof to secure PenguinPickUp's payment of all fees, charges and expenses incurred hereunder in connection with the storage, transportation, preservation, and handling of the parcel, as well as for like charges and expenses in relation to any other parcel whenever deposited with PenguinPickUp for you. PenguinPickUp may enforce this lien, prior claim, or right of retention, as applicable, at any time, including by selling all or any part of the parcel in accordance with applicable law.

14. **Deemed Abandonment of Parcel.** Notwithstanding anything in this agreement to the contrary, any parcels not picked up on or before the end of the maximum hold periods noted in Section 9(b) above (being 14 DAYS, in the case of parcels dropped off at Lockers,

and 14 DAYS, in the case of parcels dropped off at Parcel Shops) will be deemed to be abandoned. You authorize PenguinPickUp to dispose, as it deems fit in its sole and absolute discretion, any abandoned parcels, including by destruction, sale or other disposition of same in PenguinPickUp's sole and absolute discretion. You shall be responsible for all charges incurred in removing and disposing of such parcels. If your parcel has been deemed abandoned and removed from the Parcel Shop or Locker, as applicable, and you wish to retrieve same, please contact [info@penguinpickup.com](mailto:info@penguinpickup.com) with your details. There is no guarantee that the parcel will be available and may have been disposed of as noted in this paragraph; however, in the event PenguinPickUp is able to effect the return of your parcel, you will be liable for any costs or other charges associated therewith.

15. **Additional Storage Charges.** Additional storage charges may apply if PenguinPickUp stores your parcel at a Locker for longer than 2 DAYS. In such a case the storage charge shall be a flat fee of \$3.99 (plus applicable taxes) per parcel for every 2 days beyond such maximum holding period, which will be charged to your credit card on the first of each such 2 days, or as otherwise noted in the [Fee Schedule](#) from time to time.

16. **Calculation of Time.** References herein to "days" are references to 24 HOUR periods, commencing on the date and time that a parcel is logged into PenguinPickUp's system. For illustrative purposes only, if a package is dropped off at 1pm on a Monday, the additional storage charges will be incurred at 1:01pm on the following Wednesday, being 48 hours after the drop-off. The same package would be deemed abandoned pursuant to Section 14 above 336 hours after drop-off, being fourteen 24 hour periods.

17. **Jurisdiction.** PenguinPickUp's head office is physically located within the Province of Ontario, Canada. This Subscription Agreement will be governed by the laws of the Province of Ontario and the federal laws of Canada and shall be treated in all respects as an Ontario contract, without reference to the principles of conflicts of law. Except where prohibited by applicable law (including in the Province of Québec), in the event of a dispute, you agree to submit to the jurisdiction of the Ontario courts. Where you reside in the Province of Québec, in the event of a dispute you agree to submit to the jurisdiction of the Québec courts.

18. **Waiver of Certain Legal Rights.** Unless you reside in the Province of Québec, you agree to waive any right you may have to: (i) a trial by jury; and (ii) commence or participate in any class action against PenguinPickUp, you also agree to opt out of any class proceedings against PenguinPickUp or its licensors.

19. **Limited Warranty.** PenguinPickUp shall not be liable for any loss or damage to parcels tendered, stored, or handled, however caused, unless such loss or damage resulted from the failure by PenguinPickUp to exercise care with regard to the parcels that a reasonably careful warehouseman would have exercised under the same circumstances. PenguinPickUp is not liable for damages which could not have been avoided by the exercise of such reasonable care.

PenguinPickUp shall not be liable for loss of parcels due to unexplained or mysterious disappearance of parcel, unless you establish such loss occurred because of PenguinPickUp's failure to exercise reasonable care. Any presumption of conversion where applicable under

applicable law shall not apply to a loss with respect to any parcel, and a claim for conversion must be established through affirmative evidence that PenguinPickUp converted the parcel to its own use. You shall permit PenguinPickUp to inspect any damaged parcel for which a claim is submitted hereunder.

PenguinPickUp shall not be liable for any breach of this limited warranty unless: (i) you give written notice to PenguinPickUp of any claim within 5 business days after release of the parcel by PenguinPickUp or (ii) you are notified by PenguinPickUp that loss or damage to part or all of the parcel has occurred, as the case may be, reasonably described. No lawsuit or other action may be maintained by you against PenguinPickUp for loss or damage to the parcel unless a timely written claim has been given by you as provided in the previous sentence and unless such lawsuit or other action is commenced no later than the earlier of: 6 months after the date of delivery of the parcel to you or your nominee by PenguinPickUp or 6 months after you are notified by PenguinPickUp that loss or damage to part or all of the parcel has occurred.

IN NO EVENT SHALL PENGUINPICKUP'S LIABILITY UNDER THIS SECTION EXCEED (I) THE ACTUAL COST TO REPAIR, RESTORE AND/OR REPLACE ANY DAMAGED GOODS, OR (II) \$400 CDN FOR THE DAMAGED GOODS, WHICHEVER IS LESS. THE REMEDIES SET FORTH IN THIS CLAUSE SHALL BE YOUR SOLE AND EXCLUSIVE REMEDY AND PENGUINPICKUP'S ENTIRE LIABILITY FOR ANY BREACH OF ITS OBLIGATIONS SET FORTH IN THIS SECTION.

20. **“AS IS” and “AS AVAILABLE” Disclaimer.** The Service is provided to you “AS IS” and “AS AVAILABLE” and with all faults and defects without warranty of any kind. To the maximum extent permitted under applicable law, PenguinPickUp, on its own behalf and on behalf of its Affiliates and its and their respective licensors and service providers, expressly disclaims all warranties, whether express, implied, statutory or otherwise, with respect to the Service, including all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage or trade practice. Without limitation to the foregoing, the Company provides no warranty or undertaking, and makes no representation of any kind that the Service will meet your requirements, achieve any intended results, be compatible or work with any other software, applications, systems or services, operate without interruption, meet any performance or reliability standards or be error free or that any errors or defects can or will be corrected. Without limiting the foregoing, neither PenguinPickUp nor any of its providers make any representation or warranty of any kind, express or implied: (i) as to the operation or availability of the Service, including the availability of Lockers from time to time, or the information, content, and materials or products included on our website or mobile application; (ii) that the Service will be uninterrupted or error-free; (iii) as to the accuracy, reliability, or currency of any information or content provided through the Service (including on our website or mobile application); or (iv) that the Service, its servers, the content, or e-mails sent from or on behalf of PenguinPickUp are free of viruses, scripts, trojan horses, worms, malware, timebombs or other harmful components. Some jurisdictions, including the Province of Québec, do not allow the exclusion of certain types of warranties or limitations on applicable statutory rights of a consumer, so some or all of the above exclusions and limitations may not apply to

you. But in such a case the exclusions and limitations set forth in this section shall be applied to the greatest extent enforceable under applicable law.

**21. Limitation of Liability. THE LAWS OF CERTAIN JURISDICTIONS, INCLUDING THE PROVINCE OF QUÉBEC, DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY OR OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE BELOW EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.**

IN NO EVENT SHALL PENGUINPICKUP BE RESPONSIBLE OR LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, OR SPECIAL DAMAGES OF ANY TYPE OR NATURE WHATSOEVER AND HOWEVER ARISING, INCLUDING, WITHOUT LIMITATION, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF ANY PROVISION OF THIS AGREEMENT, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY YOU OR COULD HAVE BEEN REASONABLY FORESEEN BY PENGUINPICKUP, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY, AS APPLICABLE, (CONTRACTUAL, TORT, EXTRA-CONTRACTUAL OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL PENGUINPICKUP'S AGGREGATE LIABILITY UNDER THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, PENGUINPICKUP'S LIABILITY UNDER SECTION 14 OF THIS AGREEMENT (LIMITED WARRANTY), EXCEED THE TOTAL OF THE AMOUNTS PAID TO PENGUINPICKUP FOR THE SERVICES.

**22. Indemnification.** You shall defend, indemnify and hold harmless PenguinPickUp and its affiliates, including their agents, employees, insurers, customers, shippers, receivers, successors, assigns, directors, officers, representatives and contractors, against all claims, fines, taxes, penalties, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs or expenses, as well as all resulting outside or in-house lawyers' fees, costs or expenses, which directly or indirectly arise out of: (i) you or your agent's breach of any term of this Subscription Agreement or any other agreement with PenguinPickUp, violation of any law or regulation, negligence, recklessness or willful misconduct; (ii) the design, manufacture, distribution, marketing, defect, use or sale of the parcel; (iii) the transportation of the parcel to or from PenguinPickUp, including any charges incidental thereto (such as demurrage or detention); or (iv) the hazardous nature of the parcel.

**23. Severability.** Any provision of this Subscription Agreement which is held by a court of competent jurisdiction to be illegal, invalid or unenforceable in such jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such illegality, invalidity or unenforceability and shall otherwise be enforced to the maximum extent permitted by law, all without affecting the remaining provisions of this Subscription Agreement or affecting the legality, validity or enforceability of such provision in any other jurisdiction.

**24. Insurance.** Your parcels are not insured by PenguinPickUp for your benefit against fire or other casualty. PenguinPickUp will not be required to maintain a watchman or a

sprinkler system, and you acknowledge that PenguinPickUp's failure to do so will not constitute negligence.

25. **Force Majeure.** PenguinPickUp shall not be liable or responsible to you, nor be deemed to have defaulted or breached this Subscription Agreement, for any failure or delay in fulfilling or performing any term of this Subscription Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of PenguinPickUp including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers, or inability or delay in obtaining supplies of adequate or suitable materials, materials, or telecommunication breakdown or power outage.

26. **Survivability.** Paragraphs 10 to 23 above survive the termination of this Subscription Agreement.

27. **Changes to the Subscription Agreement.** PenguinPickUp reserves the right, at its sole discretion, to modify or replace this Subscription Agreement, including the Subscription Fee, the [Terms of Use](#), [Privacy Policy](#), [Parcel Policy](#) and its other policies posted to its website from time to time. PenguinPickUp will provide at least 30 days' notice prior to any new terms taking effect. By continuing to access or use PenguinPickUp after those revisions become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, in whole or in part, please stop using the Service.

28. **Language.** The parties have requested that this Subscription Agreement and all related documents be drawn up in English only. *Les parties aux présentes ont exigé que la présente convention de souscription et tous les documents qui s'y rattachent soient rédigés en anglais seulement.*