

PREDIKO - SaaS TERMS OF SERVICE

PLEASE READ THIS AGREEMENT (COMPRISING THE PREDIKO ORDER FORM AND THESE SaaS TERMS OF SERVICE) CAREFULLY BEFORE USING THE SaaS PRODUCTS. THIS AGREEMENT CONSTITUTES A LEGAL AND ENFORCEABLE CONTRACT BETWEEN CUSTOMER AND PREDIKO. BY INDICATING ACCEPTANCE ELECTRONICALLY, OR ACCESSING OR OTHERWISE USING THE SaaS PRODUCTS, CUSTOMER AGREES TO ALL OF THE PROVISIONS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THIS AGREEMENT (OR ANY OF THE PROVISIONS OF THIS AGREEMENT), CUSTOMER IS NOT ENTITLED TO USE, AND MUST NOT USE, THE SaaS PRODUCTS AND MUST NOT ACCEPT THIS AGREEMENT.

1. Definitions and interpretation

The definitions and interpretative provisions in Schedule 1 apply to this Agreement.

2. Access and use

- 2.1 **Access and use.** Subject to payment of all Fees set out in this Agreement, Prediko grants Customer, during the Subscription Term, a non-exclusive, non-transferable right to access and use (and permit Authorised Users to access and use) the SaaS Products and applicable Documentation, such use to be solely for Customer's internal business purposes in accordance with the Documentation and as specified in this Agreement.
- 2.2 **Access and use restrictions.** Customer will not, and will procure that Authorised Users and other third parties do not, (directly or indirectly):
- 2.2.1 copy or reproduce the SaaS Products (or any part of them) or the Documentation (or any part of it) except as permitted under this Agreement;
 - 2.2.2 exceed the subscribed users, usage parameters or other entitlement measures of the SaaS Products as set out in this Agreement;
 - 2.2.3 remove or destroy any copyright, trademark or other proprietary marking placed on or contained in the SaaS Products, Documentation or Prediko Proprietary Material;
 - 2.2.4 assign, sell, resell, sublicense, rent, lease, time-share, distribute or otherwise transfer the rights granted to Customer under this Agreement (or any of them) to any third party except as expressly permitted under this Agreement;
 - 2.2.5 modify, reverse engineer or disassemble the SaaS Products (or any part of them) or decompile, attempt to derive the source code or underlying ideas or algorithms of any part of the SaaS Products;
 - 2.2.6 attempt to recreate the SaaS Products (or any part of them) or use the SaaS Products (or any part of them) for any competitive or benchmark purposes, except to the extent permitted by applicable laws;
 - 2.2.7 create, translate or otherwise prepare derivative works based upon any part of any of the SaaS Products, Documentation or Prediko Proprietary Material;
 - 2.2.8 interfere with or disrupt the integrity or performance of the SaaS Products (or any part of them);
 - 2.2.9 attempt to gain unauthorised access to any part of the SaaS Products or related systems or networks, or perform unauthorised pen-testing on the SaaS Products; or

- 2.2.10 use the SaaS Products in a manner that infringes on the Intellectual Property Rights, publicity rights or privacy rights of any third party, or to use the SaaS Products to store or transfer discriminatory, obscene, offensive, defamatory, racist, sexist or otherwise unlawful data.
- 2.3 **Login access to the SaaS Products.** Customer is solely responsible for ensuring:
 - 2.3.1 that only appropriate and approved Authorised Users have access to the SaaS Products;
 - 2.3.2 that such Authorised Users have been trained in proper use of the SaaS Products; and
 - 2.3.3 proper usage of passwords, tokens and access procedures with respect to logging into the SaaS Products.
- 2.4 Prediko reserves the right to refuse registration of, or to cancel, login IDs that it reasonably believes violate the provisions of this Agreement, in which case Prediko will promptly inform Customer in writing of such refusal or cancellation. In addition to the rights set out in this Agreement, Prediko may suspend Customer's access and use of the SaaS Products (or any part of them) if there is an unusual and material spike or increase in Customer's use of the SaaS Products and Prediko reasonably suspects or knows that such traffic or use is fraudulent or materially or negatively impacting the operating capability of the SaaS Products (or any part of them). Prediko will provide notice prior to such suspension if permitted by applicable law or unless Prediko reasonably believes that providing such notice poses a risk to the security of the SaaS Products. Prediko will promptly reinstate Customer's access and use once the issue has been resolved.
- 2.5 **Third Party Materials** The SaaS Products include Third Party Materials, use of which is subject to their respective Third Party Licences as indicated in the Documentation. Prediko warrants that the inclusion of such Third Party Materials in the SaaS Products will not prevent Customer from exercising the rights provided to Customer in respect of the SaaS Products or limit Customer's ability to use the SaaS Products in accordance with the Documentation.
- 2.6 **Support.** As part of its provision of the SaaS Products, Prediko will make available technical support during Business Hours to Customer. Prediko may amend the SaaS support terms in its sole and absolute discretion from time to time.
- 2.7 **Trial Services.** If Customer is using a free trial, a proof of concept version of the SaaS Products, a beta version of the SaaS Products, or using the SaaS Products on any other free-of-charge basis, including any related support services to the extent provided by Prediko in its sole discretion (collectively, **Trial Services**), Prediko makes such Trial Services available to Customer until the earlier of:
 - 2.7.1 the end of the free trial or proof of concept period or beta testing period as communicated by Prediko;
 - 2.7.2 the start date of any purchased version of such SaaS Products; or
 - 2.7.3 written notice of termination from Prediko

(Trial Services Period).
- 2.8 Prediko grants Customer, during the Trial Services Period, a non-exclusive, non-transferable right to access and use the Trial Services for Customer's internal evaluation purposes in accordance with the Documentation and subject to the access and use restrictions set forth in this Agreement. Customer is authorised to use Trial Services only for evaluation and not for any business or productive

purposes, unless otherwise authorised by Prediko in writing. Any data Customer enters into the Trial Services and any configurations made to the Trial Services by or for Customer during the term of such Trial Services will be permanently lost unless Customer:

- 2.8.1 has purchased a subscription to the same SaaS Products as covered by the Trial Services; or
 - 2.8.2 exports such data or configurations before the end of such free period.
- 2.9 There is no guarantee that features or functions of the Trial Services will be available, or if available will be the same, in the general release version of the SaaS Products, and Customer should review the SaaS Products features and functions before making a purchase. Prediko will be under no obligation to provide Customer any maintenance or support services with respect to the Trial Services. Notwithstanding anything to the contrary, Prediko provides the Trial Services “as is” and “as available” without any warranties or representations of any kind. To the extent permitted by law, Prediko disclaims all implied warranties and representations, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose and non-infringement. Customer assumes all risks and all costs associated with its use of the Trial Services. Customer’s sole and exclusive remedy in case of any dissatisfaction or Prediko’s breach of this Agreement with respect to such Trial Services is termination of the Trial Services. Any obligations on behalf of Prediko to indemnify, defend, or hold harmless under this Agreement are not applicable to Customers using Trial Services.

3. Fees and payment

- 3.1 **Additional Fees.** Fees for the SaaS Products are based on use of the SaaS Products in a manner consistent with this Agreement and the Documentation. If Customer uses the SaaS Products in a manner that is inconsistent with, outside of or in violation of this Agreement or the Documentation, then additional fees and charges (as determined by Prediko) may be payable.
- 3.2 **Payment terms.** Prediko will issue an invoice to Customer, at the start of each month, for the Fees due to Prediko for the upcoming month.
- 3.3 Customer will pay all invoices within 30 days of date of invoice, without any deduction or set-off, and payment will be sent to the bank account specified by Prediko.
- 3.4 Any amounts arising in relation to this Agreement not paid when due will, from the date or dates when such money first becomes due and payable until such time as it is paid, incur interest at the rate of 4% per annum above the base lending rate from time to time of the Bank of England.
- 3.5 **Taxes.** Any sums payable under this Agreement exclude VAT (which will be payable, in addition, at the prevailing rate if applicable) and will be paid by Customer to Prediko in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by any applicable law).
- 3.6 If any amount of tax is required to be withheld by Customer pursuant to any applicable law or order of the relevant tax authorities, Customer will pay to Prediko such sum as will, after any withholding has been made, leave Prediko with the same amount as it would have been entitled to receive in the absence of any such requirement to make the withholding.

4. Rights in Proprietary Material

- 4.1 **Proprietary Material.** Except for the rights granted in this Agreement, Prediko and/or its licensors will retain all rights, title and interest in and to the SaaS Products, Documentation and Prediko Proprietary Material. Except as set out in this Agreement, Customer and/or its licensors will retain all rights, title and interest in and to Customer Proprietary Material. Nothing in this Agreement will transfer ownership of any rights in Proprietary Material from one Party to the other.
- 4.2 **Customer Data.** Except as expressly set out in this Agreement, Customer owns all rights, title and interest in all Customer Data and nothing in this Agreement will be construed to grant Prediko any rights in Customer Data. Customer grants Prediko a non-exclusive royalty-free and worldwide licence to view, use and process Customer Data solely for the purpose of providing the SaaS Products. If the Customer Data includes personal data Customer will, without limiting the provisions of clauses 5.4 and 5.5, take all such steps as are required to ensure that Prediko is entitled to process that personal data.
- 4.3 In the event of any loss or damage to the Customer Data, Customer's sole and exclusive remedy will be for Prediko to use reasonable commercial efforts to restore the lost or damaged Customer Data from its latest backup of such Customer Data. Prediko will not be responsible for any loss, destruction, alteration or disclosure of the Customer Data caused by Customer or by any third party (except those third parties subcontracted by Prediko to perform services related to the Customer Data).
- 4.4 Customer is responsible for creating and maintaining current and complete backup files for any data, information and programs that may be affected by the provision of the SaaS Products.
- 4.5 **Customer Marks.** Customer grants Prediko during the term of this Agreement the right to use Customer's trade names, logos and symbols ("**Customer Marks**") in its public promotional materials and communications for the sole purpose of identifying Customer as a Prediko customer.
- 4.6 Customer:
- 4.6.1 warrants that the receipt and use of Customer Materials in the performance of this Agreement by Prediko, its agents, sub-contractors, sub-processors or consultants will not infringe the rights, including any Intellectual Property Rights, of any third party; and
- 4.6.2 indemnifies Prediko against all costs, expenses, damages and losses, including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by Prediko as a result of or in connection with any claim brought against Prediko, its agents, sub-contractors, sub-processors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this Agreement of Customer Materials (or any part of them).
- 4.7 **Usage Data and Suggestions.** Prediko will be permitted to collect and use the Usage Data for its reasonable business purposes and for Customer's benefit. If Prediko wishes to disclose the Usage Data or any part of it to third parties (either during the Subscription Term or after), such data will be anonymised and/or presented in the aggregate so that it will not identify Customer or its Authorised Users. The provisions of this clause 3.5 will not limit in any way Prediko's confidentiality obligations pursuant to clause 4 below. To the extent that Customer provides Prediko with Suggestions, such Suggestions will be free from any confidentiality restrictions that might otherwise be imposed upon Prediko pursuant

to this Agreement, and may be implemented by Prediko in its sole discretion. Customer acknowledges that any Prediko products or materials incorporating any such Suggestions will be the sole and exclusive property of Prediko.

5. Confidentiality

- 5.1 Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under this Agreement. A Party's Confidential Information will not be deemed to include information that:
- 5.1.1 is or becomes publicly known other than through any act or omission of the receiving Party;
 - 5.1.2 was in the other Party's lawful possession before the disclosure;
 - 5.1.3 is lawfully disclosed to the receiving Party by a third party without restriction on disclosure;
 - 5.1.4 is independently developed by the receiving Party, which independent development can be shown by written evidence; or
 - 5.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 5.2 Each Party will hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than as expressly permitted under this Agreement.
- 5.3 Each Party will take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.
- 5.4 Customer acknowledges that details of the SaaS Products, this Agreement, the Account Setup Email and Documentation constitute Prediko's Confidential Information.
- 5.5 The provisions of this clause 4 will survive termination of this Agreement, however arising.
- 5.6 **Advertising and publicity.** Neither Party will make or permit to be made any public announcement concerning the existence, subject matter or terms of this Agreement or relationship between the Parties without the prior written consent of the other Party.

6. Data protection

- 1.1 For the purpose of this clause 5 the terms **process, processed, processes, processing, personal data, personal data breach, data controller, data processor** and **data subject** have the meanings set out in the Data Protection Legislation.
- 1.2 Both Parties will comply with all applicable requirements of the Data Protection Legislation. This clause 5 is in addition to, and does not relieve, remove or replace either Party's obligations under the Data Protection Legislation.
- 1.3 The Parties acknowledge that under this Agreement, for the purposes of the Data Protection Legislation, Customer is the data controller and Prediko is the data processor.
- 1.4 As between Prediko and Customer, Customer is solely responsible for:
- 1.4.1 the content, quality and accuracy of Customer Data as made available by Customer and by Authorised Users;

- 1.4.2 providing notice to Authorised Users with regards to how Customer Data will be collected and used for the purpose of the SaaS Products;
 - 1.4.3 ensuring Customer has a valid legal basis for processing Customer Data and for sharing Customer Data with Prediko (to the extent applicable); and
 - 1.4.4 ensuring that Customer Data as made available by Customer complies with applicable laws and regulations including Data Protection Legislation.
- 1.5 Customer warrants and undertakes that:
- 1.5.1 Prediko is entitled to use and process personal data on Customer's behalf in order to provide the SaaS Products and to fulfil its obligations under this Agreement;
 - 1.5.2 there is, and it will ensure that there will continue to be, a lawful basis for Prediko and its sub-processors to process the personal data pursuant to Data Protection Legislation; and
 - 1.5.3 it has obtained, and it will ensure that it will maintain, any and all necessary permissions and authorisations necessary to permit Prediko and its sub-processors to perform their obligations under this Agreement.
- 1.6 In respect of any personal data processed by Prediko in connection with this Agreement and in respect of which Customer is the data controller, Prediko will:
- 1.6.1 processes the personal data only on documented instructions from Customer, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by applicable laws to which Prediko is subject; in such a case, Prediko will inform Customer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
 - 1.6.2 ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
 - 1.6.3 take all measures required pursuant to Article 32 of the UK GDPR;
 - 1.6.4 taking into account the nature of the processing, assist Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of Customer's obligation to respond to requests for exercising a data subject's rights laid down in Chapter III of the UK GDPR;
 - 1.6.5 assist Customer in ensuring compliance with its obligations pursuant to Articles 32 to 36 of the UK GDPR, taking into account the nature of processing and the information available to Prediko;
 - 1.6.6 at the choice of Customer, delete or return of all the personal data to Customer after the end of the provision of the SaaS Products, and delete existing copies unless any applicable laws require storage of the personal data;
 - 1.6.7 make available to Customer all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the UK GDPR and allow for and contribute to audits, including inspections, conducted

by Customer or another auditor mandated by Customer (at Customer's cost); and

1.6.8 with regard to clause 5.6.7, Prediko will immediately inform Customer if, in its opinion, an instruction provided by Customer infringes the UK GDPR or other applicable laws to which Prediko is subject.

1.7 Customer provides a general authorisation for Prediko to sub-contract its processing obligations to the sub-processors listed in the Data Processing Particulars table set out in clause 5.8, subject to Prediko informing Customer of any intended changes concerning the addition or replacement of any data sub-processor throughout the Term, thereby giving Customer the opportunity to object to such changes (and provided that the sub-processor agrees in writing to process the personal data on terms equivalent to those set out in this clause 5 and that Prediko remains liable to Customer for the performance of such sub-processor's obligations).

1.8 Each of the Parties acknowledges and agrees that the particulars set out below contain an accurate description of the Data Processing Particulars.

The subject matter and duration of the processing	<p>Subject matter: Inventory planning and related services to be provided under this Agreement.</p> <p>Duration: From the commencement of this Agreement up until termination of this Agreement for whatever reason.</p>
The nature and purpose of the processing	The processing of personal data by Prediko on behalf of Customer for the purpose of providing the SaaS Products under this Agreement.
The type of personal data being processed	<p>In respect of the categories of data subjects described below:</p> <ul style="list-style-type: none"> - Contact data such as Authorised Users' names and email addresses; - Profile data such as Authorised Users' usernames or similar identifiers, passwords, ages, dates of birth, genders, interests, statistics, preferences, feedback and survey responses; - Financial data such as Authorised Users' bank accounts and payment card details; - Usage data such as details of Authorised Users' use or Authorised Users' visits to our website including, but not limited to, traffic data and other communication data; - Location data such as a country identifier and time zone; and - Other/voluntary information which Authorised Users share with us when Authorised Users respond to communications from us, communicate with us via email or share additional information about themselves through their use of the SaaS Products.
The categories of data subjects	<ul style="list-style-type: none"> - Authorised Users
Prediko's approved sub-contractors	<ul style="list-style-type: none"> - AWS; Shopify; Google Ads; Facebook Ads; Auth0; Notion Labs; Atlassian; Pipredrive; Waalaxy; MangoDB Atlas; Slack; G Suite; Google cloud Platform; Retool; Payfit; Linear; Osome; Prediko France; Trello.

1.9 **Security of Customer Data.** Prediko will:

1.9.1 ensure that it has in place appropriate administrative, physical and technical measures designed to protect the security and confidentiality of Customer Data against any accidental or illicit destruction, alteration or unauthorised access or disclosure to third parties;

1.9.2 have measures in place designed to protect the security and confidentiality of Customer Data; and

- 1.9.3 access and use Customer Data solely to perform its obligations in accordance with the terms of this Agreement, and as otherwise expressly permitted in this Agreement. Prediko will not materially diminish its security controls with respect to Customer Data during a particular SaaS Products term.

Warranties

- 2.1 Each of the Parties warrants that:
 - 2.1.1 it is free to enter into this Agreement and to grant the rights and perform the obligations set out in this Agreement;
 - 2.1.2 it will keep the terms of this Agreement confidential and not disclose any financial information relating to the affairs of the other Party except to its professional advisers, or as required by law; and
 - 2.1.3 it will perform its obligations under this Agreement in accordance with all applicable laws.
- 2.2 **Limited SaaS Products warranty.** During the applicable Subscription Term, Prediko warrants that:
 - 2.2.1 the SaaS Products will perform substantially in conformity with this Agreement and the Documentation; and
 - 2.2.2 Prediko will use industry standard measures designed to detect viruses, worms, trojan horses or other unintended malicious or destructive code in the SaaS Products.
- 2.3 The warranty in clause 6.2 will be void if the failure of the SaaS Products has resulted from negligence, error or misuse of the SaaS Products (including use not in accordance with this Agreement, the Account Setup Email or Documentation) by Customer, any Authorised User or by anyone other than Prediko.
- 2.4 Customer will be required to report any breach of warranty to Prediko within a period of 30 days of the date on which the incident giving rise to the claim occurred. Prediko's sole and exclusive liability, and Customer's sole and exclusive remedy, for breach of these warranties will be for Prediko, at its expense, to use reasonable commercial efforts to correct such nonconformity within 30 days of the date that notice of the breach was provided. If Prediko fails to correct the breach within such cure period, Customer may terminate this Agreement and, in such event, Prediko will provide Customer with a pro rata refund of any unused pre-paid fees paid for the period following termination as calculated on a monthly basis for the affected SaaS Products.
- 2.5 Customer warrants that it will take and maintain appropriate steps within its control to protect the confidentiality, integrity and security of its Confidential Information and Customer Data, including:
 - 2.5.1 operating the SaaS Products in accordance with this Agreement, the Account Setup Email and Documentation and applicable law and; and
 - 2.5.2 dedicating reasonably adequate personnel and resources to implement and maintain the security controls set out in the Documentation.
- 2.6 Customer will be responsible for the acts and omissions of its Authorised Users.

Indemnities

- 3.1 Prediko will defend and indemnify Customer against all third party claims and proceedings resulting from the infringement of such third party's Intellectual Property Rights caused by Customer's use of the SaaS Products in accordance with this Agreement, the Account Setup Email and the Documentation, and all

directly related losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees).

- 3.2 Customer will defend and indemnify Prediko against any third party claims and proceedings resulting from:
 - 3.2.1 any infringement or alleged infringement by Customer Data of such third party's Intellectual Property Rights; or
 - 3.2.2 Prediko's use of Customer Data or processing of personal data, in accordance with the terms of this Agreement, which violates applicable law or Data Protection Legislation; and all directly related losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees).
- 3.3 The indemnities set out in this clause 7 are conditional on the indemnified Party:
 - 3.3.1 notifying the indemnifying Party in writing of any claim promptly upon becoming aware of it;
 - 3.3.2 allowing the Indemnifying Party to take control of the claim;
 - 3.3.3 not making any admission or admitting any liability or agreeing to any settlement or compromise in relation to the claim;
 - 3.3.4 at the Indemnifying Party's request and reasonable expense, giving the indemnifying Party all reasonable assistance in connection with the claim; and
 - 3.3.5 taking reasonable steps to mitigate any losses.
- 3.4 The above Prediko obligations to defend and indemnify will not apply in the event that a claim arises from or relates to:
 - 3.4.1 use of the SaaS Products (or any part of them) not in accordance with the Account Setup Email, Documentation or this Agreement;
 - 3.4.2 Customer's use of the SaaS Products (or any part of them) in violation of applicable laws;
 - 3.4.3 any modification, alteration or conversion of the SaaS Products (or any part of them) not created or approved in writing by Prediko;
 - 3.4.4 any combination or use of the SaaS Products (or any part of them) with any computer, hardware, software, data or service not required by this Agreement or Documentation;
 - 3.4.5 Prediko's compliance with specifications, requirements or requests of Customer; or
 - 3.4.6 Customer's gross negligence or wilful misconduct.
- 3.5 **Remedies.** If the SaaS Products become, or Prediko reasonably determines that the SaaS Products are likely to become, subject to a claim of infringement for which Prediko must indemnify Customer as described above, Prediko may at its option and expense:
 - 3.5.1 procure for Customer the right to continue to access and use the SaaS Products;
 - 3.5.2 replace or modify the SaaS Products (or any part of them) to become non-infringing without causing a material adverse effect on the functionality provided by the infringing SaaS Products; or
 - 3.5.3 if neither of the abovementioned options are available in a timely manner on commercially reasonable terms, terminate the supply of the

affected SaaS Products and provide Customer with a pro rata refund of any unused pre-paid fees paid for the period following termination as calculated on a monthly basis for the affected SaaS Products.

- 3.6 This clause 7 states the sole liability of Prediko and the exclusive remedy of Customer with respect to any indemnification claims arising out of or related to this Agreement.

Limitation of liability

- 4.1 Except as expressly and specifically provided in this Agreement:
- 4.1.1 Customer assumes sole responsibility for results obtained from the use of the SaaS Products and the Documentation by Customer, and for conclusions drawn from such use. Prediko will have no liability for any damage caused by errors or omissions in any information or instructions or output provided to Prediko by Customer in connection with the SaaS Products, or any actions taken by Prediko at Customer's direction;
 - 4.1.2 any and all warranties, expressed, incorporated or implied, are limited to the extent and period mentioned in this Agreement. To the maximum extent allowed by applicable law, Prediko disclaims (and disclaims on behalf of its licensors and/or contributors to any Third Party Materials) all other warranties, conditions and other terms, whether express or implied or incorporated into this Agreement by statute, common law or otherwise, including the implied conditions and warranties of merchantability and fitness for a particular purpose. Prediko will have no liability for delays, failures or losses attributable or related in any way to the use or implementation of third party software or services not provided by Prediko; and
 - 4.1.3 the SaaS Products and the Documentation are provided to Customer on an "as is" basis.
- 4.2 Nothing in this Agreement will exclude or restrict either Party's liability for:
- 4.2.1 death or personal injury resulting from the negligence of that Party or its employees while acting in the course of their employment;
 - 4.2.2 fraud or fraudulent misrepresentation; or
 - 4.2.3 any other matter for which it would be unlawful for a Party to exclude or limit its liability.
- 4.3 Subject to clauses 8.1 and 8.2:
- 4.3.1 Prediko will not be liable whether in tort (including for breach of statutory duty), contract, misrepresentation, restitution or otherwise for: (1) loss of profits; (2) loss of business or loss of revenue; (3) loss of anticipated savings; (4) depletion of goodwill or damage to reputation; (5) loss or corruption of data or information (subject to clause 3.3); (6) loss of use; (7) the purchase of a replacement product or services; or (8) any special, indirect or consequential loss, costs, damages, charges or expenses, however arising under this Agreement; and
 - 4.3.2 Prediko's maximum liability in contract, tort (including negligence) or otherwise, however arising, out of or in connection with this Agreement will be limited to the total amount paid to Prediko under this Agreement during the 12 month period preceding the date of the initial claim.

Assignment.

- 5.1 Customer will not, without the prior written consent of Prediko (which it may give or withhold in its absolute discretion), assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.
- 5.2 Prediko may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement, subject to clause 5 in relation to any sub-contracting of Prediko's obligations involving personal data. If Prediko does sub-contract any of its rights or obligations under this Agreement, it will remain primarily responsible to Customer.

Term and termination

- 6.1 **Term.** This Agreement will be effective from the Effective Date and will remain in force during the applicable Subscription Term of the SaaS Products unless or until terminated by either Party pursuant to this clause 10.
- 6.2 **Termination.** Either Party may terminate this Agreement immediately upon notice to the other Party if the other Party:
 - 6.2.1 materially breaches this Agreement and (if remediable) fails to remedy such breach within 30 days after receiving written notice of the breach from the other Party; or
 - 6.2.2 commences insolvency or dissolution proceedings, has a receiver appointed for a substantial part of its assets or ceases to operate in the ordinary course of business.
- 6.3 In addition, a Party may terminate this Agreement in whole or in part, or cease provision of the SaaS Products if required to comply with applicable law or regulation, and such termination will not constitute a breach of this Agreement by the terminating Party.
- 6.4 Prediko reserves the right to suspend Customer's access to the applicable SaaS Products upon 30 days' written notice to Customer if:
 - 6.4.1 an invoice is more than 45 days overdue; or
 - 6.4.2 if there is an uncured material breach of this Agreement.
- 6.5 Prediko will promptly reinstate Customer's access and use of the SaaS Products once the issue referred to in clause 10.4 has been resolved.

Effects of termination/expiry

- 7.1 Upon termination or expiry of this Agreement:
 - 7.1.1 any accrued rights and obligations will survive including in particular clauses 1.2, 3, 4, 7, 8, 11 and 12;
 - 7.1.2 all outstanding fees and other charges under this Agreement will become immediately due and payable;
 - 7.1.3 Customer will have no further right to access or use the applicable SaaS Products; and
 - 7.1.4 each Party will, within 30 days after written request, return or destroy any tangible Confidential Information of the other Party within its possession or control that is not contained on the SaaS Products, unless any longer retention period is required by applicable law.
- 7.2 Upon termination or expiration of an applicable Subscription Term:

- 7.2.1 Customer will have no further right to access or use the applicable SaaS Products; and
- 7.2.2 each Party will, within 30 days after written request, return or destroy any tangible Confidential Information of the other Party within its possession or control that is not contained on the applicable SaaS Products, unless any longer retention period is required by applicable law.
- 7.3 Any Customer Data contained on the SaaS Products will be deleted within 60 days of termination/expiration of Customer's Subscription Term, unless any longer retention period is required by applicable law. Customer acknowledges that it is responsible for exporting any Customer Data to which Customer desires continued access after termination/expiration, and Prediko will have no liability for any failure of Customer to retrieve such Customer Data and no obligation to store or retain any such Customer Data after such 60 day period. Following termination of the SaaS Products, Prediko may immediately deactivate Customer's account.

Miscellaneous

- 8.1 **No partnership or agency.** Nothing in this Agreement is intended to or will operate to create a legal partnership between the Parties, or authorise either Party to act as agent for the other, and neither Party will have the authority to act in the name of or on behalf of or otherwise to bind the other in any way.
- 8.2 **Notices.** Any notice required to be given under this Agreement will be in writing and will be sent by email, delivered by hand or sent by prepaid first class post or recorded delivery post to the other Party at its address set out in this Agreement, or such other address (or email address if sent by email and for the purpose of clause 12.2.1) as may have been notified in writing by that Party to the other from time to time. A notice is deemed to be given or served:
 - 8.2.1 if delivered by email, at the time of transmission, or, if this time falls outside Business Hours, when Business Hours resume, unless the sender receives an automatic notification that the email has not been received or an out of office message, in which case it will be deemed not to have been delivered;
 - 8.2.2 if delivered by hand, at the time it is left at the address; and
 - 8.2.3 if sent by prepaid post (whether ordinary first class, airmail, special delivery or recorded delivery), on the second Business Day after posting.
- 8.3 Clause 12.2 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 8.4 **Force Majeure.** With the exception of Customer's payment obligations, neither Party will be liable to the other Party if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Prediko or any other party), failure of a utility service or transport or telecommunications network, act of God, epidemic, pandemic, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the other Party is notified of such an event and its expected duration. However, in such event, both

Parties will resume performance promptly after the cause of such delay or failure has been removed.

- 8.5 **Variation.** Prediko may amend this Agreement from time to time. Customer will be notified at least 45 days in advance of such amendments before they enter into force. If Customer does not agree to the amendments, Customer may terminate this Agreement on no less than 30 days' prior written notice to Prediko.
- 8.6 **Waiver.** No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.
- 8.7 **Rights and remedies.** Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 8.8 **Severance.** If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 8.9 **Entire agreement.** This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 8.10 **No reliance.** Customer acknowledges that the SaaS Products are not bespoke to Customer and Customer will review the SaaS Products' features and functions before using them. In addition, each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.
- 8.11 **Governing law.** This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the law of England and Wales.
- 8.12 **Jurisdiction.** Each Party irrevocably agrees that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). Nothing will prevent Prediko from taking any action in a court of competent jurisdiction.

Schedule 1
Definitions and Interpretation

The following definitions and rules of interpretation apply in this Agreement:

Account Setup Email	Prediko's account setup email which will be sent to Customer.
Authorised Users	employees, agents, consultants, contractors or vendors authorised by Customer to use the SaaS Products solely for the internal use of Customer, subject to this Agreement.
Business Day	a day other than a Saturday, Sunday or public holiday in England when banks in London, UK are open for business.
Business Hours	9am to 5pm UK time on a Business Day.
Confidential Information	all information provided by the disclosing Party to the receiving Party concerning the disclosing Party's business, products or services that is not generally known to the public, including information relating to customers, vendors, trade secrets, prices, products, services, computer programs and Proprietary Material and other Intellectual Property Rights and any other information which a Party should reasonably understand to be considered to be confidential whether or not such information is marked "confidential" or contains such similar legend by the disclosing Party at the time of disclosure.
Customer	as defined in the Order Form.
Customer Data	all data and/or content uploaded to the SaaS Products by Customer (including where applicable Authorised Users), and in all data derived from it. For the avoidance of doubt, Customer Data does not include Usage Data.
Customer Marks	as defined in clause 3.3.
Customer Materials	all documents, information, items and materials in any form, whether owned by Customer or a third party, which are provided by Customer to Prediko in connection with the SaaS Products, including Customer Data and Customer Marks.
Data Protection Legislation	the UK GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and all other applicable data protection and privacy legislation in force from time to time in the UK.
Documentation	the user guides, installation documents and specifications for the SaaS Products that are

	made available from time to time by Prediko in electronic or tangible form.
Fees	the fees and charges for use of the SaaS Products, as set out in the Order Form.
Intellectual Property Rights	all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
Order Form	the order form between Prediko and Customer.
Prediko	as defined in the Order Form.
Proprietary Material	a Party's proprietary material, technology or processes (excluding the SaaS Products and Documentation), including services, software tools, proprietary framework and methodology, hardware designs, algorithms, objects and documentation (both printed and electronic), network designs, know-how, trade secrets and any related Intellectual Property Rights throughout the world (whether owned or licensed by a third party) and any derivatives, improvements, enhancements or extensions of such material, technology or processes conceived, reduced to practice, or developed.
SaaS Products	the Software-as-a-Service products specified in this Agreement and as further described in the Documentation (including any updates and upgrades provided by Prediko in its sole discretion, and any software, systems and locally-installed software agents and connectors that interact with the Software-as-a-Service products as may be provided by Prediko in connection with the Software-as-a-Service products).
Subscription Term	the period of time during which Customer is subscribed to the SaaS Products, as specified in the Order Form.
Third Party Materials	software programs that are made available by third parties under their respective Third Party Licences.

Third Party Licences	the respective licences to which the Third Party Materials are subject.
UK GDPR	the General Data Protection Regulation ((EU) 2016/679), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, as amended.
Usage Data	data generated in connection with Customer's access to, use of and configuration of the SaaS Products and data derived from those activities.

1. The definitions used in these Terms of Services will have the same meaning in the Order Form and the definitions used in the Order Form will have the same meaning as in these SaaS Terms of Service, unless specifically set out.
2. Clause headings will not affect the interpretation of this Agreement and references to clauses are to the clauses of this Agreement.
3. Unless the context otherwise requires, words in the singular will include the plural and in the plural will include the singular.
4. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and will include all subordinate legislation made from time to time under that statute or statutory provision.
5. Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.
6. Any words following the terms **including** or **include** will be regarded as examples only and not construed as an exhaustive list.

Should Customer have any questions concerning this Agreement, or if Customer desires to contact Prediko for any reason, please e-mail us at: contact@prediko.io