Terms and Conditions

Article 1. Definitions

Additional Services	Services performed by Churned other than the Service, such as consulting and development;
Additional Work	work in the context of the Service or Additional Services which is not described in the Offer;
Agreement	the agreement between Churned and the Client on the use of the platform consisting of the Offer, the Processing Agreement, the SLA and these General Terms and Conditions;
API	Application Programming Interface that enables Churned to deliver its Service through standardised web technology. To this end, Churned uses various APIs at both the front and back of the Churned data science engine;
Application	The application that generates the Predictions based on the Source data and the Predictive Model;
Churned	The private company QuantIQ B.V., with registered office in Amsterdam and principal place of business in (1016 SX) Amsterdam at the Rozengracht 251–3;
Client	Churned's contracting party for the use of the Service and any Additional Services, as described in the Offer;
Client Content	All Source Data and all Predictions processed by the Client via the Application;

Client Data Platform	the CRM–, CSM–, Marketing automation– or sales tool as agreed upon in writing by the Parties;
Commencement Date: Fee:	the date stated in the Offer; a fee payable by the Client to Churned for the Service or for an Additional Service;
General Terms and Conditions	these general terms and conditions of Churned, which apply to the Agreement;
End User	an employee of the Client who uses the Application with the Client's permission;
IP rights	All intellectual or industrial property rights, such as copyrights, patent rights, trademark rights, database rights and rights to know–how;
Implementation	implementing and configuring the Service for the Client in accordance with Article 3
Party	Churned or the Client
Prediction	a prediction or estimate as specified in the Offer relating to the Client's customer;
Predictive Model	A predictive model implemented by Churned during the Implementation;
Processor Agreement	the processor agreement between Churned and the Client in respect of the processing of personal data within the framework of the Service;
Offer	the document in which Churned makes an offer to the Client for the use of the Service;
Result	The result to be achieved by Additional Services, as described in a SOW;
Service	the remote provision of the Application (SaaS) under the terms of the Agreement;
Source Data	the data as defined in the Offer
Statement of Work (SOW)	An agreement for the provision of Additional Services;

Article 2.   Service and License

2.1   Churned shall use its best efforts as a good contractor to provide the Service and any Additional Services, and to provide the Implementation.

2.2   Churned grants the Client the right to use the Application as described in this article (the "Licence") for the duration and under the terms of the Agreement, subject to the Client paying all Fees in a timely manner.

2.3.   The Client may only allow End Users to use the Service, and only for the internal purposes of his organisation. The Client may not offer the Service to third parties.

2.4.   Client understands and accepts that the Application generates Predictions based on the Predictive Model, and that the Prediction involves a calculation of probability. Churned does not guarantee that the Prediction either measured across all Source Data, or in any individual case, is 100% accurate

2.5.   The use of the Service by the Client and End Users is at the expense and risk of the Client.

2.6.   The Application may contain third party software. Churned does not give any warranty in relation to such software, is not liable for such software and is not responsible for its use and maintenance. The Client acknowledges that third party terms of use may apply to the use of this software.

2.7.   After prior notification, Churned may make changes to the Application, interrupt the Service and temporarily block access to the Service (e.g. as a result of maintenance, updates and/or extension of the work performed by Churned in relation to the Service). In that case, the Client is not entitled to compensation, nor is Client entitled to set off of the Fees.

2.8.   If a change to the Application results in a material change to its functionality, Churned will notify the Client accordingly within a reasonable period of time. If the Client does not agree to such a change, the Client is entitled to terminate the Agreement subject to one month's notice.

Article 3.   Implementation period

3.1.   After the Offer has been signed, the Implementation will start. During the Implementation
          a. Parties will jointly determine the goals of the Predictive Model and the Source Data;
          b. Churned will process the Source Data into the Predictive Model
          c. Churned will configure the Client Data Platform so that Prediction is available therein.

3.2.   Both Parties are jointly responsible for ensuring that the Implementation runs smoothly, and will provide each other with all necessary information in a timely manner. Churned will inform the Client in a timely manner about the information that Churned requires, and about any delay in the completion of the Implementation, for example as a result of the failure to provide information.

Article 4.   Reimbursement and payment

4.1.   The Fees for the Service, the Implementation and the Additional Services are described in the Offer. All fees are exclusive of VAT.

4.2.   The Fee for the Implementation is due after signing the Agreement.

4.3.   Churned will invoice the Fee for the Service monthly in advance from the Effective Date. The Fee for Additional Services will be invoiced monthly in arrears.

4.4.   Churned may increase the agreed Fees once a year by no more than the consumer price index figure published by Statistics Netherlands (CBS) for the previous year. Churned will inform the Client in advance of any proposed change to the Fees.

4.5.   All Churned invoices have a final, strict payment term of fourteen days.

Article 5.   Accessing the Application

5.1.   The Client must keep the user names and passwords provided by Churned confidential. Churned will not be liable for any misuse of user names and passwords and may assume that an End User who logs on with an End User's user name and password is actually that End User.

5.2.   As soon as the Client knows or has reason to suspect that the user name and password have fallen into the hands of unauthorised persons, it must inform Churned, without prejudice to the Client's own obligation to take effective action immediately.

Article 6.   Additional Services

6.1.   Additional Services are provided on the basis of a SOW signed by both Parties, and always on the basis of a best efforts obligation. The only remedy the Client has in respect of a failure to perform an obligation under an SOW is to ask Churned to perform the Additional Services again.

6.2.   The provisions of these General Terms and Conditions apply to every SOW.

Article 7.   Duration and termination

7.1.   The Agreement is entered into upon signature by both Parties and for the duration described in the Offer. After the end of this period, the Agreement will be renewed each time for periods of one year, unless a Party cancels the Agreement at least one month before the end of the current period.

7.2.   Either Party may terminate the Agreement with immediate effect if the other Party is declared bankrupt, is granted a suspension of payments, or if the other Party's business is wound up or terminated other than for the purpose of reconstruction or merger of companies. The Parties shall not be obliged to pay any compensation for damages or to repay monies already received on account of such termination.

7.3.   If, at the time of any dissolution of the Agreement, any obligations towards the Client have already been fulfilled, that fulfilment and the related payment obligations cannot be the subject of dissolution. The amounts invoiced by Churned prior to dissolution shall remain due and payable immediately upon dissolution.

7.4   If the Agreement ends for any reason, Churned will keep the Service available for thirty calendar days after the end of the Agreement, solely to enable the Client to retrieve the Content and/or make a back-up copy. It will no longer be possible to process information during such period. During the aforementioned period, Churned shall have no other obligations than to guarantee the availability of the Content as described above, provided that this is requested in good time.

Article 8.   Privacy

8.1.   During the provision of the Service, Churned will process Personal Data on behalf of the Client. The parties agree that the Client is the controller for the processing of Personal Data during the use of the Service, and Churned is the processor. The conditions for this processing of Personal Data are laid down in the Processing Agreement.

Article 9.   Intellectual property rights

9.1.   Churned grants the Client only a limited, non-exclusive, non-transferable Licence, which cannot be sublicensed, as provided for in Article 2.

9.2.   All IP Rights in the Service, the Application, the APIs, the Predictive Models and the Results belong to Churned. Without limiting the foregoing, all IP Rights relating to the Service, and all modifications, extensions, updates and/or enhancements thereto, including, but not limited to, those proposed or requested by the Client – with the exception of Client's customer and engagement data – are and will remain fully owned by Churned.

9.3.   All Client Content is and remains the full property of the Client and its licensors. Churned shall not use such Client Content for any purpose other than to provide, administer, maintain and improve the Service, to collect anonymous usage statistics – which are not traceable to the Client or any individual – and to comply with applicable laws.

9.4.   The Client hereby grants Churned a perpetual irrevocable, non-exclusive licence to use, upload, display, copy, modify, process and store Client Content for the purpose of providing the Service, in accordance with these Terms and Conditions.

9.5.   Churned shall allow the Client to download all copies of Client Content available from the Application for this purpose until thirty calendar days after the expiry or termination of the Agreement. Thereafter, Churned shall completely erase all Client Content from its systems.

9.6.   The use of software from a third party that is incorporated in the Application or the Service is subject to the relevant licence and terms of use of that third party, in addition to these General Terms and Conditions.

Article 10.   Confidentiality

10.1.   The Parties shall ensure that all information received from the other Party that is known or ought reasonably to be known to be confidential in nature shall remain secret. The Party receiving confidential information shall only use it for the purpose for which it has been provided. Information shall in any case be considered confidential if it is designated as such by one of the Parties.

Article 11.   Liability

11.1.   The Client acknowledges and agrees that the Service is provided on an "as is" basis, without any prior warranty of any kind, and that Churned disclaims all other warranties.

11.2.   The Client agrees that it is solely responsible and liable for (i) the content of the Client Content, (ii) all activities that take place under the Client's account, including any acts or omissions by its employees, and (iii) the acquisition of all authorisations and/or permissions required for the use of the Client Content as envisaged in these General Terms and Conditions.

11.3.   Churned's liability shall be limited to compensation for direct damage, and in all cases to a maximum of EUR 5,000.

11.4.   Direct damage is understood to mean:

a. Property damage

b. Reasonable costs to determine the cause and extent of direct damage

c. Reasonable costs to prevent or limit direct damage

11.5.   All other damage, including loss of profit and missed sales, is indirect damage and does not qualify for compensation.

11.6.   Claims for compensation against Churned shall lapse by the mere lapse of twelve months, unless the Client institutes legal proceedings within that period.