

**CLEAFY PREVENT CUSTOMER AGREEMENT**  
**v1.0**

*Effective date: 1st September 2024*

This Agreement is made between Cleafy and the Customer. “*Customer*” means the entity on behalf of which this Agreement is accepted or, if that does not apply, the individual accepting this Agreement. “*Cleafy*” means the Cleafy entity that owns or operates the Product. The “*Product*” means “*Cleafy Prevent free subscription*” (also, “**Cleafy Prevent Free Subscription**”).

Cleafy may update the Agreement from time to time, providing that any such update is published on Cleafy’s website (<https://cleafy.com/prevent-terms-of-service>).

If you (the person accepting this Agreement) are accepting this Agreement on behalf of your employer or another entity, you agree that: (i) you have full legal authority to bind your employer or such entity to this Agreement, and (ii) you agree to this Agreement on behalf of your employer or such entity.

If you are accepting this Agreement using an email address from your employer or another entity, then: (i) you will be deemed to represent that party, (ii) your acceptance of this Agreement will bind your employer or that entity to these terms, and (iii) the word “you” or “Customer” in this Agreement will refer to your employer or that entity.

By clicking on the “Agree” (or a similar button or checkbox) that is presented to you at the time of downloading or by using or accessing the Product, you confirm you are bound by this Agreement. If you do not wish to be bound by this Agreement, please do not click “Agree” (or a similar button or checkbox), download, use or access the Product.

## **1. Definitions**

“Affiliate” means an entity that, directly or indirectly, owns or controls, is owned or is controlled by or is under common ownership or control with a party, where “*ownership*” means the beneficial ownership of more than fifty per cent (50%) of an entity’s voting equity securities or other equivalent voting interests and “*control*” means the power to direct the management or affairs of an entity.

“Agreement” means this agreement.

“Customer Data” means any data, content or materials provided to Cleafy by or at the direction of Customer or its end-users via the Cleafy Prevent.

“Documentation” means Cleafy’s usage guidelines and standard technical documentation for the applicable Product provided by Cleafy.

“End-User” means any individual that the Customer authorizes to use the Product by integrating the Cleafy Prevent SDK in the mobile application they distribute. End-users may include (i) Customer’s and its Affiliates’

employees, consultants, contractors and agents, (ii) third parties with which Customer or its Affiliates transact business, and (iii) individuals Customer's end-users.

"Laws" means all applicable laws, regulations, conventions, decrees, decisions, orders, judgments, codes and requirements of any government authority (federal, state, local or international) having jurisdiction.

"Product" means Cleafy Prevent Free Subscription.

"Support" means the support for the Product provided by Cleafy as described in section 6.

"Subscription Term" means the period during which the Customer is authorized to use the Product under this Agreement.

## **1. Overview**

The terms of this Agreement apply to the Cleafy Prevent service, including all supporting tools (e.g., Cleafy's SDK) and related documentation.

## **2. Use of the Product**

2.1. Permitted Use. Subject to this Agreement, Cleafy grants Customer a non-exclusive, worldwide right to use the Product for testing and internal business purposes, in accordance with the Documentation, for its and its Affiliates.

2.2. Restrictions. Except to the extent otherwise expressly permitted by this Agreement, Customer must not (and must not permit anyone else to): (a) rent, lease, sell or re-sell, or sublicense the Product to a third-party (except for Affiliates), (b) provide access to the Product (except for Affiliates) to a third party, (c) use the Product to develop a similar or competing product or service, (d) reverse engineer, decompile, disassemble or seek to access the source code or non-public APIs to the Product, (e) modify or create derivative works of the Product, (f) interfere with or circumvent Product usage limits restrictions, (g) remove, obscure or modify in any way any proprietary or other notices or attributions in the Product. These restrictions apply even if the Product is freely available and can be downloaded from the Internet, by anyone and without restriction.

2.3. Cleafy's IP rights. The Customer agrees to acknowledge that Cleafy is the exclusive owner of the Product and that Cleafy has all IP rights on it. The Customer also agrees to abide by this principle in dealings with third parties as well.

2.4. Processing of Customer's data. Cleafy will process the Customer's data (e.g., e-mail, phone number, name and surname, etc.) to provide the Product to the Customer and execute the obligations under this Agreement.

2.5. Processing of End User's data. Cleafy will also process some End User's personal data (i.e., personal data pertaining to the Customer's clients) to operate the Product in accordance with this Agreement. However, by processing such data, Cleafy will not be able to identify the Customer's End User. Please find below a list of such personal data processed: IP address.

### **3. Cleafy Prevent**

3.1. Source Code. Cleafy may provide some portions of the Product in source code form for the Customer (*i.e.*, the Cleafy Prevent SDK). Customer must keep such source code secure (on computer devices and online repositories controlled by Customer), and confidential, and only make it available to Customer's employees who have a legitimate need to access and use the source code. The Customer must not distribute source code to third parties. Customer must securely destroy the source code at the earliest of: (a) Customer no longer needs to use source code, (b) termination or non-renewal of a relevant Subscription Term, or (c) Cleafy's request for any reason. Notwithstanding anything else in this Agreement, Cleafy has no support, warranty, indemnity or other responsibility in relation to the Product.

3.2. Security Program. Cleafy has implemented and will maintain an IEC/ISO 27001-certified information security program that uses appropriate physical, technical, and organizational measures to protect Customer Data from unauthorized access, destruction, use, modification, or disclosure.

3.3. Service Levels. Although Cleafy Prevent has no availability SLA, Cleafy is committed to providing an availability SLO (*service level objective*) of 99.9% of the monthly uptime percentage.

3.4. Service limitations. Cleafy Prevent is free of charge for a maximum threshold of 25,000 active devices per month per Customer. Exceeding this threshold requires subscribing to the Cleafy Prevent Premium service within 30 days of exceeding it; otherwise, the service will be permanently deactivated.

3.5. Removals and Suspension. Cleafy has no obligation to monitor the usage of the Cleafy Prevent by the Customer. Nonetheless, if Cleafy becomes aware that: (a) the usage of the Product by the Customer may violate Laws, or the rights of others (including relating to a takedown request received by mail at prevent-team@cleafy.com), or (b) the Customer's use of the Cleafy Prevent threatens the security or operation of Cleafy, or (c) the Customer is in breach of the obligations set forth by this Agreement, then Cleafy may: (i) limit access to, or remove, the relevant Customer Data, or (ii) suspend Customer's or any user's access to the relevant Cleafy Prevent. Cleafy may also take any such measures where required by Law, or at the request of a governmental authority. When practicable, Cleafy will give the Customer the opportunity to remedy the issue before taking any such measures.

3.6. Data Deletion. Data retention on the Prevent platform lasts for 30 days, after which the data is deleted.

3.7. Disclaimer. Notwithstanding anything else in this Agreement, to the maximum extent permitted by Law, Cleafy provides no warranty, indemnity, service level agreement or support services for Cleafy Prevent. Cleafy takes no responsibility if the Product is used for regulatory compliance purposes.

### **4. Customer Obligations**

4.1. Disclosures and Rights. The Customer must ensure it has made all disclosures and obtained all rights and consents required by the applicable Laws necessary for Cleafy to use and process Customer Data and End-user Personal Data on Cleafy Prevent service.

4.2. Product Assessment. The Customer is responsible for determining whether the Product meets the Customer's requirements and any regulatory obligations related to its intended use.

## **5. Third-Party Code and Third-Party Product**

5.1. Third-Party Code. Any third-party open-source components of the Products are subject to the relevant provider's terms of use, and not to this Agreement. Cleafy does not control and has no liability for third-party products.

## **6. Support**

6.1 Communication channel. Any support request and/or bug reporting must be sent via e-mail at [prevent-team@cleafy.com](mailto:prevent-team@cleafy.com). Since no SLA is granted, any support request from the Customer will be handled at the best effort and managed during regular business hours (Monday through Friday, 9 a.m. to 6 p.m. CET).

## **7. Product Activation**

Cleafy Prevent will be up and running when Cleafy provides the Customer with a confirmation email, providing access to the Product. Cleafy will also deliver usage instructions to the Customer.

## **8. Warranties**

The Product and Support are provided "AS IS". Cleafy makes no warranties, whether express, implied, statutory or otherwise, including warranties of merchantability, fitness for a particular purpose, title or non-infringement. Cleafy does not warrant that Customer's use of the Product will be uninterrupted or error-free. Cleafy is not liable for delays, failures or problems inherent in the use of the Internet and electronic communications or other systems outside Cleafy's control.

## **9. Term and Termination**

9.1. Term. This Agreement commences on the date Customer accepts it and expires when the Subscription Term has ended.

9.2. Termination or Modification. Cleafy may terminate or modify Customer's use of Cleafy Prevent (e.g. changing service limits under Art. 3.4 above) for any reason whatsoever, at its sole discretion and without any liability to Customer, giving the Customer 30 days prior notice.

## **10. Ownership and IP**

Except as expressly set out in this Agreement, neither party grants the other any rights or licenses to its intellectual property under this Agreement. As between the parties, Customer owns all intellectual property and other rights in Customer Data provided to Cleafy or used with the Product. Cleafy and its licensors retain all intellectual property and other rights in the Product, any Support deliverables and related source code, Cleafy technology, templates, formats and dashboards, including any modifications or improvements.

## **11. Limitations of Liability**

11.1. Damages Waiver. Except for Excluded Claims, to the maximum extent permitted by Law, neither party will have any liability arising out of or related to this Agreement for any loss of use, lost data, lost profits, interruption of business or any indirect, special, incidental, reliance or consequential damages of any kind, even if informed of their possibility in advance.

11.2. Excluded Claims. “Excluded Claims” means: (a) Customer’s breach of Section 2.2 (Restrictions) or Section 4 (Customer Obligations), (b) either party’s breach of Section 13 (Confidentiality) but excluding claims relating to Customer Data.

11.3. Nature of Claims and Failure of Essential Purpose. The exclusions and limitations in this Section 11 (Limitations of Liability) apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy in this Agreement fails of its essential purpose.

## **12. Indemnification by Cleafy**

12.1. IP Indemnification. Cleafy must: (a) defend Customer from and against any third-party claim to the extent alleging that the Product, when used by Customer as authorized by this Agreement, infringes any intellectual property right of a third party (an “Infringement Claim”), and (b) indemnify and hold harmless Customer against any damages, fines or costs finally awarded by a court of competent jurisdiction (including reasonable attorneys’ fees) or agreed in settlement by Cleafy resulting from an Infringement Claim.

12.2. Procedures. Cleafy’s obligations in Section 12.1 (IP Indemnification) are subject to Customer providing: (a) sufficient notice of the Infringement Claim so as to not prejudice Cleafy’s defence of the Infringement Claim, (b) the exclusive right to control and direct the investigation, defence and settlement of the Infringement Claim, and (c) all reasonably requested cooperation, at Cleafy’s expense for reasonable out-of-pocket expenses. The Customer may participate in the defense of an Infringement Claim with its own counsel at its own expense.

12.3. Settlement. The Customer may not settle an Infringement Claim without Cleafy’s prior written consent. Cleafy may not settle an Infringement Claim without Customer’s prior written consent if the settlement would require Customer to admit fault or take or refrain from taking any action (other than relating to the use of the Product).

12.4. Mitigation. In response to an actual or potential Infringement Claim, Cleafy may, at its option: (a) procure rights for Customer’s continued use of the Product, (b) replace or modify the alleged infringing portion of the Product without reducing the overall functionality of the Product, or (c) terminate the affected Subscription Term and refund to Customer any pre-paid, unused fees for the terminated portion of the Subscription Term.

12.5. Exceptions. Cleafy’s obligations in this Section 12 (Indemnification by Cleafy) do not apply to the extent an Infringement Claim arises from: (a) Customer’s modification or unauthorized use of the Product, (b) use of the Product in combination with items not provided by Cleafy (including third-party product), (c) any unsupported release of the Product, or (d) third-party products or Customer Data.

12.6. Exclusive Remedy. This Section 12 (Indemnification by Cleafy) sets out Customer's exclusive remedy and Cleafy's entire liability regarding infringement of third-party intellectual property rights.

### **13. Confidentiality.**

13.1. Definition. "*Confidential Information*" means information disclosed by one party to the other under or in connection with this Agreement that: (a) is designated by the disclosing party as proprietary or confidential, or (b) should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. Cleafy's Confidential Information includes any source code and technical or performance information about the Product. Customer's Confidential Information includes Customer Data and end-user personal data.

13.2. Obligations. Unless expressly permitted by the disclosing party in writing, the receiving party must: (a) hold the disclosing party's Confidential Information in confidence and not disclose it to third parties except as permitted in this Agreement, and (b) only use such Confidential Information to fulfil its obligations and exercise its rights in this Agreement. The receiving party may disclose such Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know (including, for Cleafy, the subcontractors referenced in Section 15.10 (Subcontractors and Affiliates)), provided the receiving party remains responsible for their compliance with this Section 13 (Confidentiality) and they are bound to confidentiality obligations no less protective than this Section 13 (Confidentiality).

13.3. Exclusions. These confidentiality obligations do not apply to information that the receiving party can demonstrate: (a) is or becomes publicly available through no fault of the receiving party, (b) it knew or possessed prior to receipt under this Agreement without breach of confidentiality obligations, (c) it received from a third party without breach of confidentiality obligations, or (d) it independently developed without using the disclosing party's Confidential Information. The receiving party may disclose Confidential Information if required by Law, subpoena or court order, provided (if permitted by Law) it notifies the disclosing party in advance and cooperates, at the disclosing party's cost, in any reasonable effort to obtain confidential treatment.

13.4. Remedies. Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or anticipated breach of this Section 13 (Confidentiality).

### **14. Feedback**

If Customer provides Cleafy with feedback or suggestions regarding the Product, Cleafy may use the feedback or suggestions without restriction or obligation.

### **15. General Terms**

15.1. Compliance with Laws. Each party must comply with all Laws applicable to its business in its performance of obligations or exercise of rights under this Agreement.

15.2. Assignment. Customer may not assign or transfer any of its rights or obligations under this Agreement without Cleafy's prior written consent. However, Customer may assign this Agreement in its entirety to its successor resulting from a merger, acquisition, or sale of all or substantially all of Customer's assets or voting securities, provided that Customer provides Cleafy with prompt written notice of the assignment and the assignee agrees in writing to assume all of Customer's obligations under this Agreement and complies with Cleafy's procedural and documentation requirements to give effect to the assignment. Any attempt by Customer to transfer or assign this Agreement, except as expressly authorized above, will be null and void. Cleafy may assign its rights and obligations under this Agreement (in whole or in part) without Customer's consent.

15.3. Governing Law, Jurisdiction, and Venue. This Agreement is governed by the laws of Italy, with jurisdiction and venue for actions related to this Agreement in the courts of Italy. Such law will apply without regard to conflicts of laws provisions, and both parties submit to the personal jurisdiction of the applicable courts. The United Nations Convention on the International Sale of Goods does not apply to this Agreement.

15.4. Notices. Except as specified elsewhere in this Agreement, notices under this Agreement must be in writing and are deemed given on: (i) personal delivery, (ii) when received by the addressee if sent by a recognized overnight courier with receipt request, (iii) the third business day after mailing, or (iv) the first business day after sending by email, except that email will not be sufficient for notices regarding Infringement Claims, alleging breach of this Agreement by Cleafy, or of Customer's termination of this Agreement in accordance with Section 12.3 (Termination for Cause). (b) Notices to Cleafy must be provided according to the details provided [here](#), as may be updated from time to time. (c) Notices to Customer must be provided to the billing or technical contact provided to Cleafy, which may be updated by Customer from time to time in Customer's account portal. However, Cleafy may provide general or operational notices via email, on its website or through the Product. Customer may subscribe to receive email notice of updates to this Agreement, as described [here](#).

15.5. Entire Agreement. This Agreement is the parties' entire agreement regarding its subject matter and supersedes any prior or contemporaneous agreements regarding its subject matter.

15.6. Other Cleafy Offerings. Cleafy makes available other offerings that can be used with the Product which, in some cases, are subject to separate terms and conditions, available [here](#). These other offerings include training services, developer tools and the Cleafy Marketplace. For clarity, this Agreement controls over any such terms and conditions with respect to Customer's use of the Product (including any Cleafy Apps).

15.7. Interpretation, Waivers and Severability. In this Agreement, headings are for convenience only and "including" and similar terms are to be construed without limitation. Waivers must be granted in writing and signed by the waiving party's authorized representative. If any provision of this Agreement is held invalid, illegal or unenforceable, it will be limited to the minimum extent necessary so the rest of this Agreement remains in effect.

15.8. Changes to this Agreement. (a) Cleafy may modify this Agreement without prior notification to the Customer, by posting the modification of this Agreement on Cleafy's website.

15.9. Force Majeure. Neither party is liable for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) due to events beyond its reasonable control and occurring without that party's fault or negligence.

15.10. Subcontractors and Affiliates. Cleafy may use subcontractors, but Cleafy remains responsible for its overall performance under this Agreement and for having appropriate written agreements in place with its subcontractors to enable Cleafy to meet its obligations under this Agreement.

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