



Version: February 1st, 2023

## 1. Definitions

The terms contained in the Agreement and these Terms and Conditions initially capitalized are defined and have the meaning as set out in this clause:

**Agreement:** each agreement and/or “Order Form” entered into by and between CM.com and the Client, to which these Terms and Conditions shall apply.

**Applicable Data Protection Laws:** all applicable laws and regulations that apply to the processing of personal data by CM.com and/or Client.

**Applicable Law:** then-current national, local or other law, rule, regulation, enforceable regulatory guidance, order, judgment, decree, or ruling in any jurisdiction in which Client accesses and uses the Services, including but not limited to, data protection and privacy regulations, guidelines, conditions, policy rules and/or regulations, guidelines, conditions of Operators applicable to the Service and/or End User Service.

**Client:** the Party with whom CM.com enters into an Agreement.

**Client Materials:** all information, data, content, and other materials, in any form or medium, that is provided by or on behalf of Client to CM.com.

**CM.com:** the CM.com group company entering into the Agreement with Client as identified in the applicable Agreement.

**CM.com IP:** the Service, software and CM.com Platform, and all improvements, modifications, or enhancements to, or derivative works of, the foregoing, and all Intellectual Property Rights in and to any of the foregoing.

**CM.com Platform:** the computing environment of CM.com designed to provide the Service, and to create the connection between an Operator network and the system of the Client.

**DPA:** the Data Processing Addendum available on <https://www.cm.com/en-gb/app/legal/cpaas-saas/data-processing-addendum-dpa/>, which forms an integral part of these Terms and Conditions and the Agreement between Client and CM.com covering Client’s use of the Services.

**Intellectual Property Rights:** all intellectual property rights of any nature whatsoever throughout the world and for the full duration of any and all intellectual property protection afforded to the same including all: (a) patents, registered trademarks, service marks, copyright, designs and any and all applications for registration of any of the same wheresoever made; (b) unregistered trademarks, service marks, designs, design right and copyright; and (c) know how, trade secrets howsoever arising and any right or interest in any of the foregoing.

**Effective Date:** means the date on which a particular Agreement comes into effect.

**End User:** a natural person or entity authorized by Client to make use of the Client’s End User Services.

**End User Service:** the service provided by Client to its End Users.

**Operator:** a (mobile) electronic communications service provider, or provider of over the top (OTT) communication services that provides (wireless) messaging, voice and data communication and other related services to its customers including CM.com, its subscribed end users and other Operators.

**Order Form:** means an Agreement.

**Personal Data:** any information relating to an identified or identifiable natural person ("data subject"); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**Service(s):** the service CM.com provides to Client under the Agreement, which may include electronic communications, professional services, providing access to applications as software as a service, services that provide both platform services, including access to and use of the CM.com Platform, any application programming interface (CM.com API) and/or communications services used in connection with the CM.com Platform or CM.com APIs.

**Traffic:** electronic communication and/or data traffic from and to a mobile telephone and/or fixed line, mobile device, or online application, including but not limited to any data being exchanged. Traffic includes without limitation SMS, MMS, Push, OTT, RCS, voice and/or data.

**Working Day:** Monday to Friday from 8.30 a.m. to 5.00 p.m., in accordance with the time zone per the CM.com entity providing the Service, excluding generally recognized public holidays.

## 2. Scope

2.1 These Terms and Conditions apply to all Agreements between CM.com and Client unless the Parties have expressly agreed otherwise in writing.

2.2 The applicability of any general (purchasing) terms and conditions used by Client, or any other terms and conditions other than included in the Agreement and these Terms and Conditions, is hereby expressly excluded.

2.3 The Parties hereby agree that any electronic signature shall have the same legal validity and enforceability as a manually executed signature to the fullest extent permitted by law. For the purpose of these Terms and Conditions, any reference to "written" or "in writing" means any form of written communication, including, without limitation, electronic signatures, and any such written communication may be transmitted by electronic transmission.

2.4 Applicable Law applies to the End User Services offered by Client to its End Users in the country where the End User Service is delivered. Client shall familiarize itself with such Applicable Law (including by procuring independent legal advice if needed) applicable to the End User Service. CM.com does not provide any warranties nor shall it be responsible in this regard.

2.5. Services are rendered and made available in accordance with the CM.com Service Level Agreement ("SLA") as published on <https://legal.cmtelecom.com/en/cm-com/service-level-agreement>, which SLA is explicitly incorporated herein by reference.

2.6 The DPA, Services Specific Terms, Country Specific Terms and the Governing Law & Dispute Terms available on <https://www.cm.com/en-gb/app/legal/cmcom-legal/>, form an integral part of these

Terms and Conditions and the Agreement between Client and CM.com covering Client's use of the Services.

2.7 If there is any conflict or inconsistency between the various documents forming the Agreement, the following order of precedence shall apply (the first mentioned documents prevailing over the later mentioned documents): (i) the Agreement, (ii) these Terms and Conditions, and (iii) any other document incorporated or referenced in any of the foregoing.

### **3. Prices, payment and taxes**

3.1 Client shall pay all fees as stated in the Agreement. Fees shall be paid in the currency specified in the Agreement. The fees are exclusive of value added tax (VAT) and/or any other taxes, charges or levies imposed by any governmental authority.

3.2 The Client shall be charged for all Traffic that is sent to or from and received by the CM.com Platform. The applicable fees for Traffic are listed on the CM.com website. CM.com reserves the right to change these without prior notice. The billing period of the CM.com Platform is based on CE(S)T time zone. The fees shall be calculated by reference to the records of CM.com, and not by reference to any record of Client. CM.com is always entitled to change its Traffic fees following from changes to Applicable Law, and/or from rate changes effected by Operators.

3.3 Traffic fees are exclusive of any applicable government, regulatory, or Operator fees or surcharges that may apply for certain destinations. Client shall pay all such surcharges in addition to the Traffic fees.

3.4 CM.com shall have the right to index the fees annually on the basis of changes in the consumer price index (CPI) over the past year. The indexation will be notified by CM.com by simple notification and/or on the invoice to Client.

3.5 The account(s) of Client has a standard credit limit in the amount of five thousand euros (€5,000). CM.com will send Client an email notification when Client is about to reach the credit limit. Client may request an increase in the applicable credit limit from CM.com which requires CM.com's written approval.

3.6 Notwithstanding clause 3.5, Client hereby agrees that CM.com may, at its sole discretion and without notification and with immediate effect, modify (increase or decrease) or cancel the credit limit at any time, and request Client to pay the outstanding invoices. Until the credit limit is increased by CM.com or the invoices are paid by Client, CM.com has the right, but not the obligation, to unilaterally suspend the Services without further notice and/or any liability. increased.

3.7 Client shall pay all invoices without suspension, set-off or deduction within fourteen (14) days of the invoice date, unless the Agreement explicitly contains different payment terms.

3.8 In the event that Client fails to pay CM.com the amounts due within the agreed payment term, interest equal to the maximum amount allowed by Applicable Law shall be payable on the outstanding invoice amount without further notice of default by CM.com. Client will reimburse CM.com for all reasonable costs and expenses incurred (including, but not limited to, reasonable attorneys' fees) in collecting any late payments or interest.

3.9 For international, non-SEPA transactions banking fees may be applied by the bank handling the transaction. In such case Client shall bear the costs imposed by its own bank, any intermediate bank and the bank of CM.com as indicated on the invoice when making payments under the Agreement. The net amount received by CM.com shall correspond to the amount invoiced. In this regard, Client remains

liable to pay any shortfall.

3.10 CM.com shall be entitled to set off any amount the Client owes to CM.com against any amount CM.com owes to the Client.

3.11 Client may dispute an invoice in writing and in good faith during the payment term applicable to the invoice, provided client timely pays any undisputed part of the invoice.

3.12 If Client has a pre-paid account, charges shall be incurred for the use of certain Services, which shall be debited from Clients' pre-paid account balance. Services subject to such charges can only be used if the applicable minimum amount has been pre-paid into the Clients' account.

3.13 Pre-paid credits and balance can be used by the Client the day following the day the amount is received by CM.com. Pre-paid credit is non-refundable and will expire twelve (12) months after the date on which the Client purchased the prepaid balance.

3.14 The Client is in default if a credit card payment is being charged back. In such a case, CM.com is entitled to set off the amount of the charge back against the remaining balance. If no balance remains CM.com is entitled to terminate Client's pre-paid account.

3.15 CM.com is entitled to refuse Client's registration for a pre-paid account and to terminate an existing account for any reason. The pre-paid account will be deleted if the account balance is not supplemented within three (3) months of registration, or within three (3) months after all credit has been used.

#### **4. Obligations**

4.1 Upon written request, Client shall provide reasonable cooperation regarding information requests from law enforcement, regulators or Operators or requests for information from CM.com to comply with its legal obligations.

4.2 Client shall ensure that access to the account of Client on the CM.com Platform and the Services shall be limited to authorized persons of Client and that log-in credentials are stored securely. Client is responsible for the access to the account of Client on the CM.com Platform and Services, including but not limited to all activity occurring on its account, even if not authorized by Client, all Traffic send/delivered through Client's account, the lawfulness of Traffic and legal relation with End Users, including as to whether End Users have provided a valid consent to receive Traffic. Client guarantees that the End User Service complies with Applicable (Data Protection) Law and does not infringe any third-party rights. Client will maintain up to date records of End User consent. Client will not send any spam, unsolicited Traffic, nor other unethical, illegal, punishable, or otherwise fraudulent or illicit Traffic or content and will not violate the CM.com anti-spam policy.

4.3 Client shall solely use the Services for their intended and normal purpose and/or purposes as agreed upon and described in the Agreement. Without limitation, Client shall not: (i) reverse engineer or otherwise attempt to gain unauthorized access to any component of the Service; (ii) resell the Service or otherwise use or allow any person to use Service for any purpose other than for the benefit of Client in accordance with the Agreement; (iii) interfere with or (attempt to) disrupt the integrity or performance of the Service, or any data or content contained therein or transmitted thereby; (iv) collect data from or regarding the Service, except for Service features provided by CM.com used expressly for such purposes; or (v) use the Service, or any CM.com Confidential Information for benchmarking or competitive analysis with respect to competitive or related products or services, or to develop, commercialize, license or sell any product, service or technology that could, directly or indirectly, compete with the Service.

## **5. Warranty and indemnification**

5.1 Client represents and warrants that (i) it has obtained all necessary rights, authorizations and licenses for the access to and the use of the Client Materials; (ii) CM.com's use of the Client Materials in accordance with the Agreement will not violate any Applicable (Data Protection) Law or cause a breach of any agreement or obligations between Client and any third party; and (iii) the promotion of the End User Service will not infringe nor violate any Intellectual Property Rights of any third party.

5.2 Unless unenforceable under Applicable Law and notwithstanding clause 8 and without any limitation, Client will indemnify, defend and hold CM.com harmless for all losses, damages, liabilities and costs (including reasonable attorneys' fees) ("Losses") incurred by CM.com resulting from any claim, suit or proceeding brought by a third party against CM.com arising from (i) Client's use of the Service, the End User Service, or Client Materials, including, without limitation, any claim that the Client's use of the Service, the End User Service or Client Materials infringe, misappropriate or otherwise violate any third party's Intellectual Property Rights, privacy or other rights; (ii) any claim that the use, provision, transmission, display or storage of the Client Materials is in violation of Applicable (Data Protection) Law and / or (iii) use of the Service by Client in a manner that is not in accordance with the Agreement. CM.com will promptly notify Client of any claim for which indemnity is being sought and will reasonably cooperate with Client in the defense and/or settlement thereof., Client and CM.com shall make all reasonable efforts to co-ordinate their course of action in connection with the defense of such claim.

## **6. Confidentiality and publicity**

6.1 As used herein, "Confidential Information" means any information that one Party (the "Disclosing Party") provides to the other Party (the "Receiving Party") in connection with the Agreement, whether orally or in writing, that is designated as confidential or that reasonably should be considered to be confidential given the nature of the information and/or the circumstances of disclosure. For clarity, the Service will be deemed Confidential Information of CM.com. However, Confidential Information will not include any information or materials that: (i) were, at the date of disclosure, or have subsequently become, generally known or available to the public other than as a result of a breach of the confidentiality terms of the Agreement; (ii) were rightfully known by the Receiving Party prior to receiving such information or materials from the Disclosing Party; (iii) are rightfully acquired by the Receiving Party from a third party who has the right to disclose such information or materials without breach of any confidentiality obligation to the Disclosing Party; or (iv) are independently developed by or for the Receiving Party without use of or access to any Confidential Information of the Disclosing Party. Without limiting the foregoing, nothing in these Terms and Conditions will limit or restrict CM.com's ability to use or disclose any general know-how, experience, concepts and/or ideas that CM.com or its personnel acquire or obtain in connection with the performance of CM.com's obligations

hereunder.

6.2 The Receiving Party will maintain the Disclosing Party's Confidential Information in strict confidence and will not use the Confidential Information of the Disclosing Party except as necessary to perform its obligations or enforce its rights under these Terms and Conditions. The Receiving Party will not disclose any Confidential Information of the Disclosing Party, except (i) to those employees, representatives, or contractors of the Receiving Party who have a bona fide need to know such Confidential Information and who are bound by written agreement with use and nondisclosure restrictions at least as protective as those set forth in these Terms and Conditions, or (ii) as such disclosure may be required by the order or requirement of a court, administrative agency, stock market or governmental body, subject to the Receiving Party providing to the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or otherwise contest the disclosure.

6.3 Each Party's obligations with regard to Confidential Information are effective as of the Effective Date and will expire three (3) years after termination of the Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under Applicable Law), such obligations will survive the termination or expiration of the Agreement for as long as such Confidential Information remains subject to trade secret protection under Applicable Law.

6.4 The Terms and Conditions of the Agreement will constitute Confidential Information of each Party, but may be disclosed on a confidential basis to a Party's advisors, attorneys, actual or bona fide potential acquirers, investors or other sources of funding (and their respective advisors and attorneys) for due diligence purposes.

6.5 Client hereby grants to CM.com the right and permission to use Client's name, trade mark(s) and company logo in marketing, sales, financial, and public relations materials, and other communications of CM.com to identify Client as a Client of CM.com. Subject to CM.com's prior written approval, CM.com hereby grants to Client the express right to use CM.com's name and logo solely to identify CM.com as a provider of Services to Client. All goodwill and improved reputation generated by Client's use of CM.com's name and logo inure to the exclusive benefit of CM.com; and all goodwill and improved reputation generated by CM.com's use of Client's name and logo inures to the exclusive benefit of CM.com. Other than as expressly stated herein, neither Party shall use the other Party's name(s), marks, logo's, URL's, or specifications without the prior written permission of the other Party.

## **7. Intellectual Property**

7.1 Subject to the limited rights expressly granted hereunder, the Parties expressly reserve all rights, title and interest in and to the Parties Intellectual Property. No rights are granted by a Party to the other Party other than as expressly set forth in these Terms and Conditions.

## **8. Liability**

8.1 Client acknowledges that access to the internet, telecommunication networks and other communication media is subject to uncertainties, including, but not limited to, availability of services, the reliability of transmission, authorizations, authenticity and data security. CM.com does not warrant that the Services are, or will be completely error-free, bug-free or uninterrupted. CM.com shall not be liable for any stoppages, slowdowns, interruptions of the Service, performance problems or any other problems that are due to circumstances beyond its control, including, but not limited to, disturbance of telephone and/or telecom transmissions and/or Operator networks, deficiencies or limitations in Client's hardware, systems, software, or processes, deficiencies or limitations in internet or wireless connections. In the event of an error, bug or interruption, CM.com shall use its reasonable efforts to

restore the Service in accordance with proper practices recognized in the industry.

8.2 The Service and the CM.com Platform are provided on an “as is” basis. CM.com makes no warranties or representations to Client or any other party regarding the CM.com Platform, including the Service or any other services provided hereunder. To the maximum extent permitted by applicable law, CM.com hereby disclaims all warranties and representations, whether express or implied, including, but not limited to, any implied warranties of merchantability, fitness for a particular purpose. Without limiting the foregoing, CM.com hereby disclaims any warranty that the use of the CM.com Platform will be error-free, bug-free or uninterrupted.

8.3 Without prejudice to clause 5, neither Party shall be liable to the other under the Agreement for any of the following: (i) loss of profits, revenues or sales; (ii) loss of bargain; (iii) loss of opportunity; (iv) the cost of substitute services or other economic loss, (v) loss of use of any service or any computer equipment; (vi) loss of time on the part of management or other staff; (vii) professional fees or expenses; (viii) business interruption (ix) damage to or loss of data; (x) loss of goodwill or reputation, or (xi) any indirect, special, incidental, exemplary, punitive or consequential damages of any type or kind arising under the Agreement, even if advised of the possibility of such damages, whether arising from any claim based on tort (including negligence), breach of contract, strict liability or otherwise.

8.4 Without prejudice to clause 5, in no event shall the aggregate liability of CM.com arising out of or related to the Agreement exceed the total amount paid by Client in the twelve (12) months preceding the first incident out of which the liability arose, with a maximum of fifty thousand euro (€50.000) or equivalent in the local currency, for the total duration of the Agreement. In no event shall the total compensation by CM.com for any and all claims under the Agreement exceed fifty thousand euro (€ 50.000), or equivalent in the local currency.

8.5 To the maximum extent permitted by Applicable Law, the limitations on liability and exclusions specified in this clause 8 shall not apply in the event of death or personal injury caused by a Party's willful misconduct or gross negligence.

## **9. Force majeure**

9.1 A Party is not bound to meet any obligation under the Agreement (except for the obligation to pay amounts due under the Agreement) if it is prevented from doing so as a consequence of force majeure. In the context of the Agreement the term 'force majeure' includes, but is not limited to, the following: government interventions, strikes, disease, pandemic, epidemic, acts of terrorism or threat thereof, interruption of operations, energy disruptions, interruptions in telecommunications facilities of third parties, as well as every other circumstance that a Party could not reasonably have avoided or prevented, which creates an obstacle to the normal performance of the Agreement.

9.2 If a Party is prevented from complying with its obligations due to force majeure, it shall make this known to the other Party within ten (10) Working Days following the day on which the situation of force majeure arose.

## **10. Duration, suspension, and termination of the Agreement**

10.1 The initial term of the Agreement begins on the Effective Date and expires at the end of the initial term specified in the Agreement (the “Initial Term”). If the Initial Term is not specified in the Agreement, then the Initial Term will expire one (1) year from the Effective Date.

10.2 Following the Initial Term, the Agreement will automatically renew for additional periods of one (1) year (each, a “Renewal Term,” and together with the Initial Term, the “Term”), unless either Party terminates the Agreement in writing by giving three (3) months' notice to the other Party before the

end of then-current Initial Term or Renewal Term.

10.3 If Client materially breaches any provision(s) of this Agreement, CM.com is entitled to suspend provision of the Service without notice or limitation to any other remedy available to CM.com, including cancellation of the Agreement and/or a claim for specific performance and/or damages. During any such suspension Client shall remain liable for payment of any fees due under the Agreement.

10.4 As soon as the reasons for suspension in accordance with the provisions of this clause no longer exist, CM.com shall resume delivery of the Service unless CM.com believes that the nature and/or frequency of Client's non-compliance is such that the provision of the Services should be cancelled permanently.

10.5 Either Party shall have the right to terminate the Agreement upon written notice to the other Party, if the other Party materially breaches the Agreement and fails to cure such breach within ten (10) Working Days after written notice of such breach.

10.6 Either Party may further terminate the Agreement on written notice to the other Party:

- a. if the other Party becomes the subject of a voluntary or involuntary petition in bankruptcy or proceedings relating to insolvency, receivership, liquidation, or composition for the benefit of creditors;
- b. if the situation of force majeure as referred to in clause 9 lasts longer than twenty (20) Working Days;
- c. if such termination is required by the authorities or because of changes to the terms and conditions of Operator(s).

10.7 If at the time of such termination as referred to in clauses 10.5 and 10.6 Client has already received any performance in the execution of the Agreement, any amounts invoiced by CM.com before the termination in connection with that received performance shall remain fully due and shall become immediately payable upon termination.

10.8 Provisions which by their nature are intended to survive termination of the Agreement shall continue to apply after the end of the Agreement, including, but not limited to, the provisions of clauses 5 (Warranty and Indemnification), 6 (Confidentiality and Publicity), 7 (Intellectual Property), 8 (Liability), 9 (Force Majeure), 10 (Duration, suspension, and termination of the Agreement), 12 (Applicable Law and disputes) of the Agreement.

## **11. Transfer of rights and obligations**

11.1 The Agreement may not be assigned by either Party without the written consent of the other Party, in whole or in part, such consent not to be unreasonably withheld; provided, however, that either Party may assign the Agreement, in whole or in part, without prior notice or permission to; (i) any of its affiliates or to a third party that succeeds all or substantially all of its business and assets relating to the subject matter of the Agreement, whether by merger, acquisition, sale of a majority of its equity, sale of substantially all of its assets, or a similar transaction; or (ii) to a financial institution in the event of an assignment of receivables. Any prohibited assignment shall be null and void. Subject to the foregoing, the Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns.

## **12. Applicable Law and disputes**

12.1 The Agreement (and any matters arising from or related hereto), shall be governed by and construed in accordance with the laws of the applicable state or country as defined in the Governing Law and Dispute Terms, without regard to conflicts of laws and principles that would cause the laws of



another jurisdiction to apply. The Parties hereby expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.

12.2 Any disputes arising out of or in connection with the Agreement, including any question regarding its existence, validity, or termination, shall be subject to the exclusive jurisdiction of the competent courts as defined in the Governing Law and Dispute Terms.

### **13. Miscellaneous provisions**

13.1 The Agreement constitutes the entire agreement, and supersedes any and all prior or contemporaneous representations, understandings and agreements, between the Parties with respect to the subject matter of the Agreement.

13.2 Failure to promptly enforce a provision of the Agreement will not be construed as a waiver of such provision. Nothing contained in the Agreement will be deemed to create, or be construed as creating, a joint venture or partnership between the Parties.

13.3 Neither Party is, by virtue of the Agreement or otherwise, authorized as an agent or legal representative of the other Party. Neither Party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf or in the name of the other Party, or to bind such other Party in any manner. Nothing contained in the Agreement will be deemed to create any third party beneficiary right upon any third party whatsoever, except that CM.com's parent company and affiliates will be third-party beneficiaries of the provisions in the Agreement and such provisions will apply to such parent company and affiliates, including, but not limited to, those relating to intellectual property, indemnity, disclaimers, liability and waivers.

13.4 Upon request of CM.com, Client shall provide any reasonable requested information that CM.com deems necessary for the fulfilment of its reporting obligations, including the reporting obligations stemming from the Corporate Sustainability Reporting Directive. CM.com is not required to assert materiality. The Client shall provide within twenty (20) Working Days the requested information or a detailed explanation on the reasons why the information is not available and when the information is expected to become available. The Client shall, to the extent reasonably possible, include similar provisions in agreements with its third parties where it can reasonably be expected that information from these third parties may be requested under this clause.

13.5 Each of the Parties acknowledges that it has had the opportunity to have the Agreement reviewed by independent legal counsel of its choice. If any one or more of the provisions of the Agreement should be ruled wholly or partly invalid or unenforceable, then the provisions held invalid or unenforceable will be deemed amended, and the court or other government body is authorized to reform the provision(s) to the minimum extent necessary to render them valid and enforceable in conformity with the Parties' intent as manifested herein.

13.6 All notices required or permitted under the Agreement will be in writing and will reference the Agreement. All notices to CM.com shall be sent to the address of the relevant CM.com entity, and all notices to Client will be sent to the address set forth in the relevant Agreement; or to such other address as may be specified by the relevant Party to the other Party in accordance with this clause 13.6. Such notices shall be deemed to be given: (i) when delivered personally; (ii) one (1) Working Day after deposit with a nationally recognized express courier, with written confirmation of receipt; or (iii) three (3) Working Days after having been sent by registered or certified mail, return receipt requested, postage prepaid.

13.7 CM.com is authorized to modify the Agreement and these Terms and Conditions at any time.

CM.com will inform Client of any material modifications. If Client doesn't object in writing within a month from the date of sending the modification notification, the modifications to the Terms and Conditions shall be deemed to be accepted by Client. If Client objects, the previous Terms and Conditions shall remain applicable. However, CM.com then alternatively has the right to terminate the Agreement with Client by giving one (1) month written notice.

#### **14. Processing of Personal data**

14.1 CM.com may process Personal Data both as an independent Controller or as a Processor on behalf of Client. Where CM.com is processing Personal Data on behalf of Client, the DPA shall apply. Where CM.com is processing Personal Data as a Controller this clause 14 shall apply.

14.2 Where CM.com processes Personal Data relating to Client's relationship with CM.com, including the names and contact information of employees of Client or persons authorized by Client to access Client's account, or Personal Data required for customer due diligence, CM.com determines the goals and means of processing and CM.com qualifies as an independent Controller under Applicable Data Protection Laws. Such processing includes Personal Data processed for account and relationship management, marketing financial and billing data related to Client's use of the Services, customer support, credit checks, prevention of fraud and criminal activities, identification and 'know your customer' ('KYC') processes.

14.3 Where CM.com is processing Personal Data as a public electronic communication service provider, under the applicable telecommunication laws and Applicable Data Protection Laws it shall act as an independent Controller with respect to the processing of Personal Data which is necessary for the operation of the electronic communication service. Such processing includes Personal Data processed for Traffic, billing, fraud, anti-spam and compliance purposes.

14.4 When processing Personal Data under clauses 14.2 and 14.3 above, CM.com shall comply with its obligations under Applicable (Data Protection) Laws.

14.5 Notwithstanding anything in this clause 14 and/or the DPA, CM.com has the right to collect, extract, compile, synthesize and analyze non-personally identifiable data or information resulting from Client's use or operation of the Services including, by way of example and without limitation, information relating to volumes, frequencies, bounce rates, or any other information regarding the use of the Services ("Service Data") Client, its End Users or recipients generated using the Services. To the extent any Service Data is collected or generated by CM.com such data will be solely owned by CM.com and may be used by CM.com for any lawful, internal or external, business purpose without a duty of accounting to Client, provided that such data is used only in an aggregated and de-identified form.