

# HEADSPACE TECHNOLOGIES PROPRIETARY LIMITED

## Terms Of Service (Self-Service Clients)

### 1. PREVAILING TERMS OF SERVICE

1.1. Before you use the Commspace service, which is subject to these terms of service and the confidentiality obligations in the Confidentiality and Non-Disclosure Agreement ("**NDA**"), please read this document and the NDA carefully. This is a legal agreement (the "**Agreement**" or "**these Terms of Service**") between Headspace Technologies Proprietary Limited ("**our**", "**us**", "**we**", the "**Company**" or "**Commspace**"), and you and/or the entity that you represent ("**you**", "**your**" or "**yourself**") which governs your use of the Commspace internet-based commission tracking and referral management services (the "**Service**") and comes into force automatically when you start using the Service (the "**Effective Date**"). You warrant to us that you are lawfully able to enter into contracts (e.g., you are not a minor). If you are entering into this Agreement for an entity, such as the company you work for, you warrant to us that you have legal authority to bind that entity.

1.2. This Agreement shall prevail over any term and condition contained in any documentation you may supply or any other documentation.

### 2. THE COMMSPACE SERVICE

2.1. By paying a monthly Service Fee and as long as you are a client of the Company, you are granted a right to use the Service subject to the restrictions set forth in this Agreement and any other restrictions stipulated to you by us in writing.

2.2. Any and all information which you at any time provide to us, or otherwise provide us access to, or which you upload directly onto the Service shall be referred to in this Agreement as "**Your Content**". This shall include, without limitation:

2.2.1. The initials, name, surname, identity number, date of birth of your clients;

- 2.2.2. product information including policy numbers, provider names and policy types, and any other client portfolio information;
- 2.2.3. advisor details and any other master data;
- 2.2.4. your address and VAT number;
- 2.2.5. information relating to the earning of commission, and splitting of commission between your advisors.

### 3. TERM

These Terms of Service will commence on the Effective Date and will remain in effect until terminated by you or us in accordance with clause 17. You will be a client of the Company for as long as these Terms of Service are in effect between us.

### 4. YOUR RESPONSIBILITIES

- 4.1. You are solely responsible for the development, content, operation, maintenance, and use of Your Content. For example, you are solely responsible for:
  - 4.1.1. the technical operation of Your Content, including ensuring that commission allocations are correctly set-up and any other information submitted is accurate;
  - 4.1.2. compliance of Your Content with the applicable laws;
  - 4.1.3. any claims relating to Your Content;
  - 4.1.4. properly handling and processing commission statements and other information sent to you (or any of your affiliates);
  - 4.1.5. keeping up-to-date backups of Your Content;
  - 4.1.6. drawing your own reports from the Service.
  
- 4.2. While the Company backs up Your Content on a daily basis, you are responsible for properly configuring and using the Service and taking your own steps to maintain appropriate security, protection and backup of Your Content, which may include the use of encryption technology to protect Your Content from unauthorized access, and routine archiving of Your Content.
  
- 4.3. Commspace log-in credentials and private keys generated by the Service (“**System User Accounts**”) are for your internal use only and you may not sell, transfer or sublicense them to any other entity or person, or permit any other entity or person to

use them, except that you may disclose details of your System User Accounts to your agents and subcontractors performing work on your behalf, subject to the provisions of the NDA and clause 8.2.

4.4. We will provide the necessary training to your staff or Users.

## 5. SUPPORT

5.1. The Company offers online support in respect of the Service during the hours of 08h00 to 17h00 (South African time), Monday to Friday. Although we do our best to provide online support outside of these hours, we cannot guarantee that this is possible.

5.2. This web-based support is included in the Service Fee, unless your requirement for support becomes excessive, in which case the Company will notify you and engage with you to discuss a solution for your needs.

5.3. In the event of termination of the Service in accordance with the provisions of these Terms of Service, we agree to provide you with a detailed historical record of all your content in a .csv or other appropriate format to enable you to migrate the historical data to another provider.

## 6. SERVICE FEES

6.1. By selecting the Service and utilising it, you agree to pay the monthly service fees in accordance with our prevailing price list ("Service Fee") and to continue to pay the Service Fee each month, in accordance with the provisions of this clause 6, while these Terms of Service are in effect.

6.2. Payment of the Service Fee must be made monthly in advance, without deduction or set-off, on or before the 1st day of every month.

6.3. Payment must be made by way of debit order or similar automatic deduction. Electronic transfer into a bank account nominated by us in writing is acceptable in our sole discretion, only after prior arrangement.

6.4. If payment is not received by Us by the 7<sup>th</sup> day of a month, we are entitled to suspend your access to the Service. Our approval for you to pay via electronic funds transfer may also be revoked, and in such a case, access to the Service will be reinstated immediately once payment of any arrear Service Fee is made and a signed debit order authorisation has been received for the collection of subsequent monthly Service Fee payments.

6.5. We may revise our Service Fees from time to time, provided prior notice has been given in writing.

6.6. Prices established in terms of this Agreement are exclusive of VAT.

## 7. MODIFICATION TO THE SERVICE

7.1. We may change, suspend, or discontinue any part of the Service at any time in order to improve the Service overall, or if our relationship with a third party partner who provides software or other technology we use to provide the Service requires us to change the way we provide the software or other technology as part of the Services.

7.2. We have no obligation (other than as may be required by applicable laws) to continue producing or releasing new versions of the Service.

## 8. SERVICE IMPLEMENTATION, REGISTRATION

8.1. You agree to provide true, accurate, current and complete information about yourself as prompted by the Service registration process (such information being the "**Registration Data**") to register for the Service. You further agree that, in providing such Registration Data, you will not knowingly omit or misrepresent any material facts or information and that you will promptly enter corrected or updated Registration Data via the Service, or otherwise advise us promptly in writing of any changes or updates to the Registration Data. You further consent and authorise us to verify your Registration Data as maybe required by applicable legislation, or as otherwise determined reasonably necessary by us in our sole discretion for your use of and access to the Service. We shall not be liable for any inaccuracy or incompleteness of any information which you provide to us.

8.2. Once you subscribe to the Service, you shall receive a unique username and password in connection with your account per user (collectively referred to herein as "System User Accounts" as referred to in clause 4.3). You agree that you will not allow any unauthorised person to use any of your System User Accounts to access and use the Service under any circumstances; nor will you allow multiple people to use a single System User Account. You are solely and entirely responsible for maintaining the confidentiality of your System User Accounts and for any charges, damages, liabilities or losses incurred or suffered as a result of your failure to do so. We are not liable for any harm caused by or related to the theft of your System User Accounts, your disclosure of your System User Accounts, or your authorisation to allow any unauthorised person to access and use the Service using your System User Accounts or in allowing more than one person to use a single System User Account. Furthermore, you are solely and entirely responsible for any and all activities that occur through accessing or using any of your System User Accounts, including for any access to or use of the Service by way of any of your System User Accounts and are liable for any loss or damage arising therefrom. You agree to notify us of any unauthorised use of any of your System User Accounts or any other breach of security known to you as soon as practically possible. You undertake to provide all reasonable assistance required to address the effect of any such breach.

## 9. DATA PROTECTION AND PRIVACY

9.1. We draw your attention to our Privacy Policy, POPIA Compliance Policy and Data Protection Policy (all of which are available on our website and which are updated from time to time) which govern the way in which we process information which you provide to us or which you upload directly onto the Service, and which describe our commitments and obligations for data protection in terms of the Protection of Personal Information Act 4 of 2013 (POPIA).

9.2. The Service will store and process financial and client information that you submit to the Service, provided that the data submitted complies to the format and size limitations as indicated by the Service.

9.3. By accepting these Terms of Service, you warrant that all End Users (and all of your customers whose personal information you provide to us) have consented to the processing of such information (as contemplated in POPIA) for the purposes set out in these Terms of Service and to comply with any obligation under applicable laws.

9.4. We are not liable for any losses relating to missing or incorrect information provided by you, or other actions or omissions by you or your agents or representatives that are unlawful, deceptive, fraudulent, in breach of any provision of this Agreement or otherwise invalid ("**Fraudulent Actions**"). By using the Service, you hereby release us from any liability arising from any such Fraudulent Actions. You will also use best efforts to promptly notify us of any Fraudulent Actions which may affect the Service. Commspace reserves the right, in its sole discretion, to suspend or terminate your account if you engage in, or enable any other user or client to engage in, Fraudulent Actions.

## 10. SERVICE USE AND LIMITATIONS

10.1. It is necessary from time to time for us to carry out work to maintain the Service and to correct defects. The Service will not be operational during planned downtime for scheduled maintenance, upgrades or bug fixing (of which we will provide at least 8 hours prior notice and which will not be scheduled at key processing times);

10.2. You acknowledge that Commspace is a commission tracking and referral management software service and not a salary or compensation payment service.

10.3. You acknowledge and agree that:

10.3.1. we will not be liable for remunerating you or your commission sharers based on information provided by Commspace; and

10.3.2. we are not liable for any incorrect payments, salary or commission payment disputes that may arise from the information obtained from the Service:

10.3.2.1. that result from your equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within our direct control); or

10.3.2.2. arising from a suspension and/or termination of your right to use the Service in terms of this Agreement.

## 11. PROPRIETARY RIGHTS

11.1. The Service contains content and technology of the Company and third party providers that is protected by copyright, trademark, patent, trade secret and other laws. The Company owns all intellectual property rights to any protectable part of the Service, alternatively warrants that (to the extent necessary) it has the appropriate rights or licences to use the software in place from its providers, including but not limited to the design, artwork, logos, functionality, and documentation (collectively, the "**Company Property**"). You may not copy, modify, or reverse engineer or otherwise use (whether on your own, or jointly with any other person) any part of the Service, which is (and will at all times be) owned by the Company or the relevant third party provider, or any Company Property, other than for the purposes contemplated in this Agreement.

11.2. Subject to your continued compliance with these Terms of Service, and for so long as these Terms of Service are in effect, the Company hereby grants you a limited, non-exclusive, revocable, non-transferable and non-sublicensable license to access and use the Company Property (excluding any software code) solely for use in connection with accessing and using the Service in accordance with these Terms of Service. Such license will terminate immediately upon termination of these Terms of Service.

11.3. Notwithstanding such permitted uses and license, you acknowledge that all derivative designs and artwork which utilise the Commospace logo or other Company Property (collectively, "**Derivative Works**") are the sole property of the Company. No other rights are granted to you with respect to the Company Property other than those rights granted explicitly herein, including with respect to any Derivative Works.

11.4. All right, title and interest in any text, images, or other information, including information relating to Your Content, shall remain your sole property. You may use Your Content in any way without restriction, subject to applicable laws and the provisions of these Terms of Service.

11.5. In providing your Content to us, you consent to our use of Your Content in order for

us to provide the Service to you. From time to time we use Your Content, only on an aggregated anonymised basis (with any personal information being de-identified), for market research and analysis purposes.

11.6. The provisions of this clause survive termination of this Agreement, and will continue in perpetuity.

## 12. ACKNOWLEDGEMENTS AND DISCLAIMER

12.1. You expressly understand and agree that Your use of the Service is at your sole risk. The Service is provided on an "as is" and "as available" basis. The Company and its subsidiaries, affiliates, officers, employees, agents, partners and licensors expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose or application and non-infringement, subject to and to the extent permissible under the Consumer Protection Act, No 68 of 2008. You should make your own enquiries to make sure that your use of the Service is suitable for your purposes. If at any time you are dissatisfied with the suitability of the Service for your purposes, your sole and exclusive remedy is to discontinue use of the Service.

12.2. The company makes no warranty that:

12.2.1. your access to or use of the Service will be uninterrupted, timely, secure or error free,

12.2.2. any defects in the Service will be corrected in a particular manner or time frame. You are responsible to let us know of any defects which you may encounter in your use of the Services, or

12.2.3. the Service or any server through which you access the Service is free of viruses or other harmful components (without detracting from any obligation on us in terms of applicable law to take steps to mitigate this risk).

12.3. Even though we commit to taking all reasonable measures as required of us by law and in accordance with industry best practice to protect your data and ensure its privacy, you understand that inherent to the nature of the Service (which is a web-based service), and in using the Service, sensitive information will travel through



third party infrastructures which are not under Commspace's control (such as third party servers). We perform thorough due diligence on the information security posture of all our suppliers, but cannot give any warranty with respect to the security of such third party infrastructures, and accordingly cannot be responsible for and cannot guarantee the complete privacy of your data and messages transmitted while using the Service, save as otherwise (and to the extent) required by applicable law.

12.4. Any material downloaded or otherwise obtained through the use of the Service is accessed at your own discretion and risk, and you will be solely responsible for any damage to your computer system or loss of data that results from the download of any such material.

12.5. No advice or information, whether oral or written, obtained by you from the Company or through or from the Service shall create any warranty not expressly stated in this agreement.

### 13. LIMITATION OF LIABILITY

13.1. YOU EXPRESSLY UNDERSTAND AND AGREE THAT THE COMPANY AND ITS SUBSIDIARIES, AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, PARTNERS AND LICENSORS SHALL NOT BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, ANY BUSINESS LOSSES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFIT, INCOME OR OPPORTUNITIES; GOODWILL; USE; LOSS OR CORRUPTION OF ANY SOFTWARE OR DATA) OR OTHER INTANGIBLE LOSSES; AND ANY LOSS OR DAMAGE ARISING FROM AN EVENT(S) OUTSIDE OF OUR REASONABLE CONTROL (EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES); OR OTHERWISE RESULTING FROM:

13.1.1. THE USE OR THE INABILITY TO USE THE SERVICE;

13.1.2. THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICE RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICE PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE;

13.1.3. UNAUTHORISED ACCESS TO OR ALTERATION OF YOUR CONTENT;  
13.1.4. ANY OTHER MATTER RELATING TO THE SERVICE IN ALL INSTANCES  
SUBJECT TO AND TO THE EXTENT PERMISSIBLE UNDER THE CONSUMER  
PROTECTION ACT.

13.2. Except for the indemnification and confidentiality obligations of the parties set out herein and in clause 14, and the intellectual property rights protected in terms of clause 11, in no event shall either party's liability exceed an amount equal to the Service Fees paid by you under this Agreement, during the last 6 months prior to termination of the Service

13.3. The limitations and exclusions in this clause 13 govern all liabilities that may arise under or in relation to these Terms of Use, howsoever arising.

13.4. The Company does not limit or exclude liability for: loss or damage resulting from gross negligence, wilful misconduct, fraud or fraudulent misrepresentation. Nothing in these Terms of Use is intended to limit or exclude any liability which is not permitted under Applicable Law.

#### 14. INDEMNITY

**You hereby indemnify us and undertake to keep us indemnified against any and all costs, expenses, damages (whether direct or consequential), loss, liability, claims, actions or proceedings of whatever nature, which the Company may suffer or incur arising from or attributable to your use of the Service, including, without limitation a breach by you of these Terms of Use or a claim that you have breached any provision of these Terms of Use.**

#### 15. FORCE MAJEURE

15.1. Although we do our best to ensure that the Service is always available, there will be times when availability will be interrupted, or the Service may from time to time encounter technical or other problems (for example, emergency repairs; circumstances that result from your equipment, software or other technology and/or third party equipment, software or other technology, other than third party equipment within our direct control; or due to failures that are beyond our reasonable control); and

may not necessarily continue uninterrupted or without technical or other errors; or we may no longer be able to provide the Service (for example, if our relationship with a third party partner who provides software or other technology we use to provide the Service terminates).

15.2. We will not be liable to you or others for such interruptions, errors, problems, any delay or non-performance of the Service or any part thereof or any provision under these Terms of Service, or as a result of which we are required to discontinue the provision of the Service or any part thereof or for any inconvenience, loss or damage suffered as a result of such interruptions if and to the extent such delay or non-performance results or arises from any event beyond our reasonable control (including, without limitation, acts of God, labour disputes or other industrial disturbances, systemic, electrical, telecommunications or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism or war) and which could not reasonably be planned for or avoided.

## 16. SUSPENSION

16.1. We may suspend your or any End User's right to access or use any portion or all of the Service immediately upon notice to you if

16.1.1. Your Content, or your or an End User's use of or registration for the Service (i) poses a security risk to the Service, Us or any third party, (ii) may adversely impact the Service or the systems or content of any other Commspace client, (iii) may subject us, our affiliates, or any third party to liability, or (iv) is unlawful or fraudulent;

16.1.2. so required in terms of applicable law, by a court of law or any legitimate request from a government, regulatory or other authorised body or official.

16.2. If we suspend your right to access or use any portion or all of the Service in accordance with clause 16.1:

16.2.1. you remain responsible for all Service Fees and/or charges you have incurred up to the date of suspension;

16.2.2. you will not be entitled to any credits for any period of suspension; and

16.2.3. we will not delete any of Your Content as a result of your suspension, and will continue to retain a copy of Your Content as may be required by Applicable Law,

although Your Content or any part thereof may be removed from the Service platform.

16.3. Our right to suspend your or any End User's right to access or use the Service is in addition to our right to terminate this Agreement pursuant to clause 17.

## 17. TERMINATION

17.1. You may terminate this Agreement for any reason by providing us 30 days advance notice. We may terminate this Agreement for any reason by providing you 90 days advance notice.

17.2. Unless a clause in these Terms of Service specifically provides its own remedy, if either Party ("Defaulting Party") commits a breach of this Agreement, and/or fails to comply with any of the provisions hereof, and:

17.2.1. if such breach is capable of remedy, and the Defaulting Party fails to remedy such breach and/or failure within 30 (thirty) days of receipt of a written notice from the other Party ("Aggrieved Party") requiring such remedial action; or

17.2.2. if such breach constitutes a material breach and is incapable of remedy,

then the Aggrieved Party shall forthwith be entitled, but not obliged, without prejudice to any other rights or remedies which the Aggrieved Party may have in terms of this Agreement (but subject to any limitations in terms of this Agreement) or in law to claim immediate performance and/or payment of all the Defaulting Party's obligations in terms hereof and/or cancel this Agreement and/or claim damages.

17.3. We may also terminate this Agreement immediately upon notice to you:

17.3.1. you have ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of your assets, or become the subject of any insolvency, business rescue, liquidation, dissolution or similar proceeding.

17.3.2. in any of the circumstances contemplated in clause 15 if the relevant circumstance cannot be remedied or becomes permanent.

## 18. EFFECT OF TERMINATION

18.1. Upon termination of this Agreement for any reason contemplated in this Agreement:

18.1.1. your account, and all System User Accounts will be deactivated and your right to access and use the Service immediately terminates;

18.1.2. you remain responsible for all Service Fees and/or charges you have incurred up to the date of termination;

18.1.3. we will continue to store Your Content in accordance with the provisions of clause 9 and our obligations in terms of applicable laws;

18.1.4. you may retrieve Your Content from the Service only if you have paid all amounts due; and

18.1.5. we will provide you with post-termination data retrieval assistance including collating Your Content and archiving it into a zipfile (should you specifically request this).

18.2. Any additional post-termination assistance from us is subject to mutual agreement by you and us.

18.3. The expiration or termination of these Terms of Service shall not affect such of the provisions of these Terms of Service as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

## 19. CONFIDENTIALITY

The Parties attention is drawn to the confidentiality obligations contained in the NDA, the terms of which all Parties have agreed to.

## 20. MISCELLANEOUS

20.1. This Agreement constitutes the entire agreement between you and the Company and supersedes any and all previous agreements, written or oral, between you and the Company, including previous versions of the Terms of Service.

20.2. We may revise these Terms of Service from time to time by posting (i) a notice on the Commspace website. and (ii) sending a message to the email address then associated with your account. Any changes will become effective on the day the revised Terms of Service are posted on the Commspace website unless indicated otherwise. You should check this page occasionally to ensure you are happy with any changes. If you continue to use the Services after changes have become effective, this will mean that you accept those changes. If you do not accept any new version of these Terms of Service, you may give us written notice of your intention to discontinue using the Services, and this Agreement shall terminate with effect from the last business day of the month in which you give us such notice.

20.3. The Company may assign this Agreement in whole or part at any time. You may not assign your rights and obligations in terms of this Agreement without our prior written consent, which shall not be unreasonable withheld.

20.4. This Agreement and the relationship between you and the Company shall be governed by the laws of the Republic of South Africa. Any dispute relating to or arising from these Terms of Service will be subject to the jurisdiction of the Western Cape High Court, Cape Town.

20.5. Any failure or delay of either party to enforce or exercise a right provided in these terms is not a waiver of that right.

20.6. Should any provision of these terms be found invalid, unlawful or unenforceable, then that provision (or part of it, as appropriate) will be deemed to be deleted to the extent necessary to remove the invalid, unlawful and/or unenforceable part, and the validity and enforceability of the other provisions of these Terms of Service will be unaffected.

20.7. In addition to the clauses which specifically record that they will survive the expiration or termination of this Agreement, any other provision that, in order to give proper effect to its intent, should survive such expiration or termination, will survive the expiration or earlier termination of this Agreement.

20.8. Notices:

20.8.1. We may provide any notice to you under this Agreement by sending a message to the email address then associated with your account. It is your responsibility to keep your email address current. You will be deemed to have received any email sent to the email address then associated with your account when we send the email, whether or not you actually receive the email.

20.8.2. To give us notice under this Agreement, you must do so by way of e-mail to e-mail address: martha@headspacetech.com.