

Terms of Service

Updated on 30-06-2021

Applicability

These terms of service (“Terms”) constitute the agreement (“Agreement”) between Parties: Coverstories B.V., with its address at Keizersgracht 555, 1017 DR in Amsterdam, registered with the Dutch Trade Register with number 73402729 (“we”, “us”, “Coverstories”) and any user of our Services (“you” or “User”). If applicable, any specific proposal by Coverstories accepted by User (“Proposal”) is an integral part of this Agreement and shall have the same force and effect as set out in this Agreement. Any reference to this Agreement shall include the accepted Proposal (if applicable).

Services

We offer publishing and advertising software in the form of Software as a Service (the “Service”) which enables you to create stories with your content and branding and promote them in external apps and websites.

Fees

The applicable fee to make use of our Services are set out on our website (see: ‘Tarieven’ or ‘Pricing’), unless Parties have agreed on another fee as further specified in the Proposal. All amounts as mentioned are expressed in Euros and are provided excluding VAT and possible other imposed charges by the government, unless mentioned differently.

Licence

Subject to the provisions of the Agreement and payment of the applicable fees, we hereby grant you a non-exclusive, non-transferable and non-

sublicensable license to use our Service. This license is granted to you only for the term of this Agreement.

User obligations

The User undertakes to provide all necessary information and cooperation which Coverstories requires in order to provide the Services. Coverstories may suspend the activities as long as Commissioning Party does not comply to the obligation in this provision. Coverstories shall never be liable for any damage and/or delay caused by not, not timely, or flawed complying to the duty of disclosure and obligation to cooperate as referred to in this article.

The User agrees to use Service solely for the publication and promotion of high-quality branded stories.

Publication of content promoting the following goods and services is prohibited and triggers immediate termination of the Agreement: illegal drugs, gambling, sports betting, online casino games, cryptocurrencies, quick-win financial schemes, lotteries and prize-draws, political hate speech and messages condoning racism, weapons or devices designed to cause serious harm or injury, tobacco or tobacco-related products, escort services, prostitution and other adult sexual services or websites.

We respect your rights and demand that you respect our rights, the rights of other Users, and of third parties. This includes privacy and intellectual property rights, such as trademarks, service marks, trade names and logos. You guarantee that the content placed on our Service is not unlawful and does not infringe any third party rights. You are not allowed to use our Service to infringe on any rights, including privacy or intellectual property rights or to promote, enable or facilitate others to infringe on any (third

party) rights. In addition, you agree not to:

- A. impersonate or pretend affiliation with any person or entity;
- B. access any non-public areas of our website or Service;
- C. spread viruses, worms, malware, junk mail, spam, chain letters, phishing mails, unsolicited promotions or advertisements of any kind and for any purpose;
- D. attempt to probe, scan, compromise or test the security of our website or Service or any related services.

Term

This Agreement shall enter into effect on the date of registration to the Service for an indefinite period of time and may be terminated by User at any time upon written notice, unless Parties have agreed otherwise in writing, for example in the Proposal.

Termination

Each Party may terminate the Agreement with immediate effect, without any notice being required and without being liable for any damages as a result of the termination, if the other Party:

- A. is in default or negligent in the performance of its duties and obligations pursuant to this Agreement, and has not remedied such non-performance within 14 (fourteen) days after having been notified in writing;
- B. has been dissolved or liquidated, or is in dissolution or liquidation;
- C. has been granted suspension of payments;
- D. or has been declared bankrupt.

Effects of termination

In the event of termination of this Agreement for any cause:

A. the rights granted by one Party to the other Party under this Agreement will immediately cease;

B. and all fees owed by a Party to the other Party are immediately due upon receipt of the final electronic bill.

Intellectual property rights

The Service and any part thereof is the sole and absolute property of Coverstories B.V. and is protected by copyright, trademark and other intellectual property laws and treaties. The Coverstories format is an original work protected by copyright owned by Coverstories.

Replication of the integrated and combined form of the elements mentioned above as well as any individual design features for any other design, system or service of the User is prohibited. The User shall not copy, emulate, lease, rent, lend, sublicense, process, adapt, translate, modify, reproduce, map out, reverse engineer, decompile, unlock, reverse compile, disassemble or create derivative works of the Services except as expressly agreed herein.

All rights related to the Service are owned solely by Coverstories or its licensors and this Agreement does not convey any title or ownership rights to the User. Except as provided herein, Coverstories B.V. retains all right, title and interest in and to the Service and related marks, logos and content, including without limitation any derivatives, improvements and modifications thereto, and all intellectual property rights therein.

All Intellectual Property Rights that rest on documents or materials that the User delivers to Coverstories in the framework of the execution of the Agreement, remain at all times with the User, including any liability for copyright or other intellectual property infringement related to these materials. The User provides a worldwide, non-exclusive and sublicensable

license to Coverstories in order to use the delivered materials for the execution of the Agreement.

The Intellectual Property Rights which lie with Coverstories when entering into the Agreement, remain with Coverstories.

If and to the extent that with the execution of the Agreement, Intellectual Property Rights arise on the outcome of the Services, these Intellectual Property Rights shall rest with Coverstories.

On condition that the User has complied to all of its (payment) obligations under the Agreement, the User will obtain a limited, non-transferrable, non-exclusive license in order to make use of the Intellectual Property Rights on the outcome of the services.

Liability

The Service is made available on an “as is” and “as available” basis.

Coverstories makes no representation or warranty of any kind express or implied, regarding the content, availability or use of our Service, or that it will be error-free or that defects will be corrected. Coverstories shall not be liable to you or to any third party for any kind of direct or indirect damages or losses, including without limitation, damages based upon loss of good will, lost sales or profits, work stoppage, production failure or otherwise, except for damages and losses arising as a result of gross negligence and/or wilful misconduct. Coverstories’ liability for any and all claims for damages arising out or in connection with the Service and the access, application and use thereof, shall under no circumstances exceed the price paid by you to use the Service that is subject of the claim.

Security Level and Data Transfer

All facilities used to store and process Personal Data will adhere to reasonable security standards no less protective than the security standards at facilities where Coverstories processes and stores its own information.

New Applications and Services

Coverstories may make new applications, tools, features or functionalities available for the Service from time to time, the use of which may be contingent upon User's agreement to additional terms.

Modifications to the Service

Coverstories may make commercially reasonable updates to the Service and may modify the functionality or features of the Service at any time, provided that such updates and modifications do not materially denigrate the functionality of the Service. Coverstories will not be liable to User or any third-party for any such update or modification. From time to time, Coverstories may change the location where the Service is hosted; provided, however, that the hosting will only be subcontracted to a party that complies with the relevant European privacy and that Coverstories will remain responsible for the delivery of the Service.

Repairs or Maintenance

It may be necessary for Coverstories to perform scheduled or unscheduled repairs or maintenance, or remotely patch or upgrade the Service, which may temporarily degrade the quality of the Service or result in a partial or complete outage of the Service. Although Coverstories cannot guarantee that User will receive advance notice of repairs or maintenance, Coverstories will endeavour to provide reasonable notice of scheduled repairs and maintenance.

Suspension of Service

Coverstories may suspend all or part of the Services or the access to or use of Personal Data stored in the Service (i) if User is delinquent on payment obligations for 12 (twelve) days or more; (ii) upon receipt of a subpoena or law-enforcement request; or (iii) when Coverstories has a commercially reasonable belief that User has breached this Agreement or that User's use of the Service poses an imminent security risk or may subject Coverstories to liability. Coverstories will use commercially reasonable efforts to give User at least 72 (seventy-two) hours' notice of a suspension unless Coverstories determines in its commercially reasonable judgment that a suspension on shorter or contemporaneous notice is necessary to protect Coverstories.

We have taken appropriate technical and organisational security measures with the objective to protect your information against loss, misuse and unauthorized access, alteration, disclosure or destruction. All information transferred between you and us, or between you and other users, is shared with us only on a strictly need to know basis (e.g. to help you retrieve access to your account), and is treated as strictly confidential.

Modifications to the Terms:

Coverstories reserves the right to change these Terms and will notify the User of any significant changes by e-mail.

Governing Law & Jurisdiction

This Agreement is governed by Dutch law. The exclusive jurisdiction and venue of any action with respect to any subject matter relating to this Agreement will be the courts located in Amsterdam, the Netherlands.

Data processing agreement

This Data processing agreement is part of the principal agreement and the Terms of Service.

(A) The User acts as a Data Controller.

(B) The User wishes to subcontract certain Services, which imply the processing of personal data, to the Data Processor (Coverstories).

(C) The Parties seek to implement a data processing agreement that complies with the requirements of the current legal framework in relation to data processing and with the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

(D) The Parties wish to lay down their rights and obligations.

1. Definitions and Interpretation

1.1 Unless otherwise defined herein, capitalized terms and expressions used in this Agreement shall have the following meaning:

1.1.1 “Agreement” means this Data Processing Agreement and all Schedules;

1.1.2 “Company Personal Data” means any Personal Data Processed by a Contracted Processor on behalf of Company pursuant to or in connection with the Principal Agreement;

1.1.3 “Contracted Processor” means a Subprocessor;

1.1.4 “Data Protection Laws” means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;

1.1.5 “EEA” means the European Economic Area;

1.1.6 “EU Data Protection Laws” means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced

or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

1.1.7 “GDPR” means EU General Data Protection Regulation 2016/679;

1.1.8 “Data Transfer” means:

1.1.8.1 a transfer of Company Personal Data from The User to a Contracted Processor; or

1.1.8.2 an onward transfer of Company Personal Data from a Contracted Processor to a Subcontracted Processor, or between two establishments of a Contracted Processor, in each case, where such transfer would be prohibited by Data Protection Laws (or by the terms of data transfer agreements put in place to address the data transfer restrictions of Data Protection Laws);

1.1.9 “Services” means the services The User provides.

1.1.10 “Subprocessor” means any person appointed by or on behalf of Processor to process Personal Data on behalf of The User in connection with the Agreement.

1.2 The terms, “Commission”, “Controller”, “Data Subject”, “Member State”, “Personal Data”, “Personal Data Breach”, “Processing” and “Supervisory Authority” shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

2. Processing of Company Personal Data

2.1 Processor shall:

2.1.1 comply with all applicable Data Protection Laws in the Processing of Company Personal Data; and

2.1.2 not Process Company Personal Data other than on the relevant Company’s documented instructions.

2.2 The User instructs Processor to process Company Personal Data.

3. Processor Personnel

Processor shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to The User Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Company Personal Data, as strictly necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

4. Security

4.1 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Processor shall in relation to The User Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

4.2 In assessing the appropriate level of security, Processor shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

5. Subprocessing

5.1 Processor shall not appoint (or disclose any Company Personal Data to) any Subprocessor unless required or authorized by The User.

6. Data Subject Rights

6.1 Taking into account the nature of the Processing, Processor shall assist The User by implementing appropriate technical and organisational

measures, insofar as this is possible, for the fulfilment of The User obligations, as reasonably understood by Company, to respond to requests to exercise Data Subject rights under the Data Protection Laws.

6.2 Processor shall:

6.2.1 promptly notify Company if it receives a request from a Data Subject under any Data Protection Law in respect of Company Personal Data; and

6.2.2 ensure that it does not respond to that request except on the documented instructions of Company or as required by Applicable Laws to which the Processor is subject, in which case Processor shall to the extent permitted by Applicable Laws inform Company of that legal requirement before the Contracted Processor responds to the request.

7. Personal Data Breach

7.1 Processor shall notify Company without undue delay upon Processor becoming aware of a Personal Data Breach affecting Company Personal Data, providing Company with sufficient information to allow The User to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.

7.2 Processor shall co-operate with The User and take reasonable commercial steps as are directed by Company to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

8. Data Protection Impact Assessment and Prior Consultation Processor shall provide reasonable assistance to The User with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Company reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Company Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

9. Deletion or return of Company Personal Data

9.1 Subject to this section 9 Processor shall promptly and in any event within

10 business days of the date of cessation of any Services involving the Processing of Company Personal Data (the “Cessation Date”), delete and procure the deletion of all copies of those Company Personal Data.

10. Audit rights

10.1 Subject to this section 10, Processor shall make available to The User on request all information necessary to demonstrate compliance with this Agreement, and shall allow for and contribute to audits, including inspections, by The User or an auditor mandated by The User in relation to the Processing of The User Personal Data by the Contracted Processors.

10.2 Information and audit rights of The User only arise under section 10.1 to the extent that the Agreement does not otherwise give them information and audit rights meeting the relevant requirements of Data Protection Law.

11. Data Transfer

11.1 The Processor may not transfer or authorize the transfer of Data to countries outside the EU and/or the European Economic Area (EEA) without the prior written consent of The User. If personal data processed under this Agreement is transferred from a country within the European Economic Area to a country outside the European Economic Area, the Parties shall ensure that the personal data are adequately protected. To achieve this, the Parties shall, unless agreed otherwise, rely on EU approved standard contractual clauses for the transfer of personal data.

12. General Terms

12.1 Confidentiality. Each Party must keep this Agreement and information it receives about the other Party and its business in connection with this Agreement (“Confidential Information”) confidential and must not use or disclose that Confidential Information without the prior written consent of the other Party except to the extent that:

(a) disclosure is required by law;

(b) the relevant information is already in the public domain.