

General terms and conditions ArtikelPro

1. DEFINITIONS

In these General Terms and Conditions, the following words written with a capital letter have the meanings indicated:

"General Terms and Conditions"	the present general terms and conditions of ArtikelPro;
"Agreement"	the agreement that ArtikelPro enters into (partly) on behalf of the Publishers with MMO concerning access to the Database and purchase of Content, including its annexes;
"Aggregator site"	A website that aggregates Content from other websites and makes it publicly available through its own website through linking;
"Article"	Each separate article from one of the Titles, which ArtikelPro makes available through the Database, including the accompanying image;
"Article link"	the link provided by ArtikelPro for access to an Article within the Database. The Article link is linked to the End User's account;
"ArtikelPro"	ArtikelPro B.V., having its registered office in Almere and principal place of business at Randstad 21-30, 1314 BM in Almere, registered in the trade register of the Chamber of Commerce under number 81214820;
"Backsearch"	The search on behalf of an End Customer of Content originated before the start date of the Content Contract.
"Content"	The collection of Articles from print, and online sources of affiliated publishers;
"Content Contract"	The contractual obligation that the MMO enters into with ArtikelPro on behalf of the End User. This stipulates the duration, number of End Users, number of Articles in the Staff and any automatic renewal;
"Database"	ArtikelPro's online content database, in which the Content is made available to the MMOs in standardized formats via the Portal;
"End Customer"	the Customer of the MMO who purchases certain Content, subject to the limitations referred to in article 5;
"End User Agreement"	the agreement that ArtikelPro enters into (partly) on behalf of the Publishers with End Users concerning the use of the Content by it and its End Users, which is made available to them via the MMO;
"End Users"	those who are employed by or on behalf of the End User and have access to an Article or an Article link;
"Intermediary"	A facilitating party between MMO and End Customer who has signed an ArtikelPro Content Processing Agreement. When talking about MMO, this also means Intermediary unless explicitly stated otherwise;

"MMO"	the Media Monitoring Organisation that purchases content from ArtikelPro as part of its services to its End Customers;
"Portal"	the online environment of ArtikelPro in which the MMO can create End Users, enter Content Contracts and handle all other matters himself. Access to the Database is arranged via the Portal;
"Snippet"	an introduction of an Article created by ArtikelPro, consisting of the title + the first 150 characters of an Article, an Article link, and possibly associated metadata, such as the title's name, page and position of the Article, and so on;
"Rate"	the fee that the MMO owes to ArtikelPro for access to the Portal and purchase of Content;
"Territory."	the Territory in which the Content may be used, as per Publisher in the Agreement;
"Tier"	a content price compiled by one of the five groups by DPG Media, Mediahuis, other newspaper publishers, magazine publishers and trade journal publishers.

2. APPLICABILITY AND MODIFICATION

- 2.1. These General Terms and Conditions apply to every Agreement and every use of Content by MMOs, Intermediary, End customers and End-users.
- 2.2. Any (general) conditions of the MMO are explicitly not applicable.
- 2.3. Any deviations or additions to the Agreement are only valid if they are explicitly confirmed in writing by ArtikelPro.
- 2.4. In the event of any conflict between these General Terms and Conditions and the Agreement, the provisions of the Agreement shall prevail.
- 2.5. ArtikelPro is entitled to change these General Terms and Conditions unilaterally. ArtikelPro shall inform the MMO in advance in writing (including by e-mail and through the Portal) of such a change. As of the effective date of the alteration, the altered Terms and Conditions are also applicable to all existing Agreements.
- 2.6. Where these General Terms and Conditions refer only to End Customer, this shall also mean all End Users at this End Customer.

3. PORTAL ACCESS

- 3.1. End Customer does not have access to ArtikelPro's Portal.

4. END CUSTOMER, END USERS AND CONTENT CONTRACT

- 4.1. End Customer may provide access to the Content to no more than the number of End Users as specified by MMO.
- 4.2. End User means anyone who has access to an Article or Article Link. When sending a newsletter, clippings or any other form of distribution, sharing or forwarding, each recipient counts as an End User. If the Article or Article Link is made available via an intranet, at least 10% of the number of users with access to the intranet must be counted as Users. Employees of the Intermediary who have access to the Content count as End Users.
- 4.3. Upon termination of a Content Contract, End Customer must then remove all Content received from its systems without keeping copies or transcripts thereof and cease all use of the Content. Excluded from this are the newsletters received by End Users from the End Customer.

5. USE OF CONTENT

- 5.1. The End Customer is not entitled to store Snippets and Article Links, this excludes newsletters received by End Users from the End Customer.
- 5.2. When an End User purchases an Article via the Article Link, the relevant End User acquires a non-exclusive, non-transferable and non-sublicensable right to view the Article. The End User is not permitted to copy or distribute the Article on this basis.
- 5.3. All Articles received by the MMO count towards the End Use on which payment is made.
- 5.4. All rights not mentioned by name shall at all times remain reserved to the respective Publisher and this license shall always be interpreted restrictively and in favor of the respective Publisher in case of disputes. The End Customer acknowledges in this respect that all Content disclosed by the Publishers in any way whatsoever, whether for payment or free of charge, is subject to copyright and any other rights, and that the End Customer and End Users are therefore not permitted to reproduce, disclose or otherwise use such Content without the permission of the rights holder.
- 5.5. The End Customer shall ensure that the use of the Content does not in any way harm the moral rights and/or the honor and reputation of ArtikelPro, the Publisher and the authors.
- 5.6. The End Customer is expressly not permitted to make any changes to the Content.
- 5.7. At the first request by email from ArtikelPro or Publisher, the End Customer and its End Users will immediately cease using the Articles designated by ArtikelPro or Publisher.
- 5.8. ArtikelPro and Publisher are at all times entitled to change the content of the Database as they see fit, including the right to no longer make certain Content available. ArtikelPro and Publisher are not liable for any consequences for the End Customer.

6. AUDIT

- 6.1. ArtikelPro and Publishers may verify compliance with the Agreement. The End Customer agrees to fully cooperate with this audit free of charge, including the provision of all information requested by ArtikelPro or the Publisher and access to all relevant records, insofar as this information and/or access is reasonably necessary to verify compliance with the Agreement. ArtikelPro is entitled to make the data and results of an audit available to the Publisher insofar as they relate to the Content of that specific Publisher.
- 6.2. The End Customer must reimburse all costs incurred by ArtikelPro or Publishers related to the audit if it is found during the audit that the End Customer has acted in breach of the Agreement. In addition, the End Customer is obliged to pay an infringement fee of 300% of the applicable rate for each detected unauthorized use of the Content by the End Customer.
- 6.3. If the End Customer refuses the check, ArtikelPro and the Publishers are entitled to terminate the Agreement with immediate effect, without further notice of default and without prior legal intervention, without prejudice to its right to damages and payment of outstanding claims against the End Customer. In that case, ArtikelPro and the Publishers are not obliged to refund fees already paid.

7. TERM AND TERMINATION

- 7.1. The Agreement runs as long as the End Customer has a contract with an MMO and such MMO has entered into a Content Contract for End Customer with ArtikelPro.
- 7.2. Upon termination of the Agreement, End Customer will no longer have access to the Articles and Article Links.

8. LIABILITY

- 8.1. ArtikelPro makes every effort to ensure that the Database and the Content are available. MMO and End Customer/End Users accept however that delays or faults in the availability of the Database and the Content cannot be completely excluded. ArtikelPro is therefore not liable for damages suffered by MMOs and End Customer/End Users or delays or failures in the availability of the Database and/or the Content.
- 8.2. ArtikelPro has no influence on the Content. ArtikelPro is therefore not responsible for the accuracy, completeness or legality of the Content. It is not liable in this respect.
- 8.3. Any liability of ArtikelPro and Publishers is always limited to a maximum of the amount owed by MMO in the previous six (6) months to ArtikelPro in connection with delivery of Content to the relevant End Customer. Liability of ArtikelPro and Publishers for consequential or indirect damages including, but not limited to, loss of turnover and/or profit, reputational damage, immaterial damage and missed savings, is excluded.
- 8.4. The exclusions and limitations stated in this article do not apply if the damage is the result of intent or gross negligence.

9. INDEMNITY

- 9.1. Each Publisher indemnifies the End Customer against all copyright claims arising from use of the Content of the respective Publisher insofar as the End Customer complies with the agreements made in the Agreement and on condition that the End Customer:
- (a) Notifies ArtikelPro as soon as reasonably possible in writing of the existence and content of such a claim;
 - (b) leaves the handling of the claim, including entering into any obligations towards the entitled party, entirely to the Publisher; and
 - (c) provides all reasonably necessary cooperation to Publisher for the settlement of the claim.
- 9.2. If MMO does not immediately comply with a request from ArtikelPro in accordance with article 9.1 of these General Terms and Conditions, then the indemnification as referred to in article 9.1 is not applicable on the concerning Content.

10. CONFIDENTIALITY

- 10.1. The Parties shall treat all information that they obtain from each other in the context of the Agreement, in whatever way, as well as the Agreement, both during and after the termination of the Agreement in strict confidence, shall not disclose it to third parties and shall only make it available to their employees and/or third parties engaged by them, if and insofar as this is necessary for the performance of the Agreement, on the understanding that ArtikelPro is entitled to share the information it obtains in the context of the Agreement with the specific Publishers.
- 10.2. Article 10.1 does not apply in respect of:
- (a) use, reproduction and publication of the information to the extent necessary for the normal conduct of business;
 - (b) if and to the extent that disclosure is required by applicable law or rules of any governmental authority, but in such case, only after consultation, to the extent possible, with the other Party regarding the timing and content of the disclosure;
 - (c) if and to the extent that the information has become publicly available other than through unauthorized disclosure by the receiving party.

11. MISCELLANEOUS

- 11.1. End Customer acknowledges that ArtikelPro is entering into the Agreement on behalf of the Publishers and that each Publisher can therefore directly enforce the Agreement on behalf of MMO or End Customer.
- 11.2. End Customer acknowledges that the list of Publishers and Titles, as well as the specific agreements per Publisher, as listed on www.artikelpro.eu are subject to change. ArtikelPro will inform MMO in writing (including by e-mail or through the Database) of such changes. As of the effective date of the amendment, this new, amended list and specific agreements shall form an integral part of the Agreement.
- 11.3. If any provision of the Agreement is void or destroyed, the remaining provisions will remain in full force and effect. The void or nullified provision will be replaced by a legally permissible provision that is as close as possible to the intention of the void or nullified provision.

- 11.4. If the End Customer or Service Users structurally act contrary to the General Terms and Conditions, the End Customer will owe an immediately payable penalty of € 5,000 (in words: five thousand euros) for each conflicting act.
- 11.5. The Agreement will be governed by Dutch law.
- 11.6. Any disputes arising from the Agreement will be submitted exclusively to the competent court in Amsterdam.