

I. Placement of Order

Orders shall be accepted in writing. An order shall only be definite if the client receives a written confirmation stating details about the type and scope of the order (topic, type of medium, fees, etc.). Client shall undertake to check all information thoroughly and to contact contractor immediately in case of any deviations.

II. Duration

If the order is placed until 2 p.m. of a working day, the media monitoring shall commence the following working day. Minimum term of a media monitoring contract shall be two months. It shall be automatically extended by one month, unless the contract is terminated in writing one week before its expiry. This shall not apply to time contracts. Orders may be terminated after the expiry of the minimum term and with a period of notice of 14 days before the date of the next invoicing. Orders comprising a periodic Media Impact Analysis may not be terminated earlier than 14 days before the end of the penultimate delivery period of the Media Impact Analysis. Client shall undertake to accept extracts researched right up to the end of the contract within a period of 3 weeks following the end of the contract at the most. Invoicing shall be done with the final account. The terms of contract for Media Impact Analyses and Press Summaries shall be agreed upon individually. Periodic orders for Media Impact Analyses or Press Summaries may be terminated with a period of notice of two weeks to the end of the penultimate delivery period. The right of termination for exceptional reasons shall remain unaffected. Any terminations shall be in written form.

III. Type and Scope of Performance

A. Media Monitoring

The performance to be rendered shall be the research according to client's instructions in the media stated in the contractor's offer and which are contracted by client according to the confirmation sent to client. The existing media from the day of commencement of order on shall be evaluated. In order to ensure topicality and effectiveness of the media, contractor shall reserve the right to change the contents of its media list at any time. The client shall be informed in writing about important changes to the contractor's media list. Client may change the contents of its monitoring order (topic, number of key words, media circle, etc.) at any time during the term of its contract by notice to contractor. Client shall receive a written confirmation about the change. Any such changes can be effected only as of the following working day, if such request for a change is received by contractor not later than 2 p. m. The change shall not apply to extracts that are already in production.

B. Media Impact Analysis & Press Summaries

Quantitative and/or qualitative Media Impact Analyses or Press Summaries respectively shall be prepared according to client's instructions and to contractor's possibilities. Client shall receive a preparation deadline together with the order confirmation. This deadline shall be regarded as a guide deadline. Contractor shall endeavour to keep this deadline. Missed deadlines shall only lead to default if client has set an appropriate grace period. The media extracts either directly delivered by client or resulting from a parallel Media Monitoring order of client existing at the time of preparation of the Press Summaries or for the duration of the analysis shall be used. Media extracts delivered only after the preparation of the Media Impact Analysis or after the preparation of the Press Summaries may only be integrated subsequently against payment of an additional fee. Client shall receive the result of the Media Impact Analysis in form of tables and if ordered in form of diagrams and a descriptive booklet, either in analogue or in digital form. On request, the media extracts that formed the basis of the analyses and Press Summaries shall be provided to client. In case of periodic Media Impact Analyses and Press Summaries, client may change the type and scope of its order. The change of order shall carry a fee and shall be effective on written confirmation by contractor.

C. AUSSCHNITT Web Portal

The AUSSCHNITT Web allows the client to examine the results of the contractor's services in a web-based form independent of time and place and it allows the client to further process the information provided.

Client shall also have the option to upload its own data on the AUSSCHNITT Web Portal. Utilisation of this option by client shall require that any copyrights, ownership rights and industrial property rights as well as any contractual and other rights of third parties are not violated. It shall be in the sole responsibility of client to provide any necessary rights. Any licence agreements shall be complied with by client. In particular, client shall be responsible for the compliance with any turnaround times admissible pursuant to applicable licence agreements.

If contractor uploads its own data on the AUSSCHNITT Web Portal, its contents may result in damage to its computers (viruses, etc.). This is out of the sphere of influence of client. Therefore, client shall neither be liable for any damage nor for any consequential damage resulting.

Client shall be provided by contractor with a user name and a password for utilisation of the AUSSCHNITT Web Portal. Contractor shall be obliged to protect login and password against unauthorised access of third parties. Due to security reasons, the password shall be changed periodically. Contractor shall be notified immediately about any loss of user name or password.

IV. Prices

The prices as published in the price-list valid at the time of placing of the order shall be applicable. This shall be subject to change. Changes shall become effective 4 weeks after their announcement. In case of a price increase, client shall have the right to terminate the contract within two weeks from the time of the price increase. Invoices shall be placed at monthly intervals after commencement of the order or in case of once-only orders the invoice shall be placed after completion of the analyses or the Press Summaries. Any Credit notes shall be settled separately within the current accounting period. The invoice shall be payable on receipt without any deductions. Prices shall be quoted net without value-added tax. Any extracts/recordings, Media Impact Analyses and Press Summaries supplied shall remain the sole property of contractor until the invoice is paid in full. Losses due to unforeseeable events, force majeure or strike shall not release client from the duty to pay basic fees.

V. Copyright and Other Regulations

Contractor shall provide the extracts/recordings supplied based on applicable licence agreements and/or on the basis of applicable copyright laws. These licence agreements and laws provide that the extracts/recordings supplied may only be used for intra-company documentations and for other internal purposes as defined in section 53 of the copyright law. Therefore, client shall only be allowed to use the supplied information in this scope. This shall also apply to extracts/recordings delivered in connection with analyses and/or Press Summaries. An additional contract of client with PMG Presse-Monitor GmbH shall be required for extracts delivered electronically or by fax. Contractor shall be entitled to communicate to PMG the name of the client who receives items electronically which are to be licensed via PMG. It may also communicate the scope and content of the order. After receipt of the extracts/recordings as well as for the uploading of its own items and data, client shall be solely responsible for meeting and complying with copyrights, ownership rights and industrial property rights and for complying with any rights of third parties and will exclusively be held liable for any violations of these rights. Client shall undertake to release contractor as well as its legal representatives and employees from any third party claims that may result from violations committed by client. Apart from claims for damages, this release from liability shall comprise also the complete costs of legal proceedings.

VI. Complaints / Warranty

A. Media Monitoring

As it is impossible to completely exclude human failure in the course of a media research, it shall not be possible to give a warranty for completeness. Further, contractor shall not guarantee that any on-line articles which are the subject of the monitoring are still available on the internet under the link provided at the time of call by client. Client shall be obliged to check immediately any extracts received. If the amount delivered exceeds the client's expectations and if client wishes to reduce this amount in future, client shall be obliged to contact contractor immediately to make appropriate changes to the research contract. Any extracts found until this change shall be charged. In case client is provided with defective or erroneously delivered extracts that do not conform to the specifications set in its order, client shall lodge a complaint within a period of 14 days from the receipt of the delivery. The complaint shall be made in writing by returning such extracts. If any extracts that are the subject of the complaint have been altered by client (furnished with annotations, cut or similar) they cannot be recognised as complaints and will be charged. If the complaint is legitimate, the monetary value of the extract will be credited to the client's account and settled with the following invoice. If any proofs are missing and indicated by client then follow-up research shall be done. If this turns out unsuccessful, any accruing research expenses shall be borne by client. Any further warranty claims shall be excluded.

B. Media Impact Analysis & Press Summaries

Client shall notify in writing about an erroneous Media Impact Analysis or Press Summary within 14 days of its receipt. If such claim is legitimate (Media Impact Analysis with miscoding in excess of 5%) contractor shall have the right to correct the faults within a period of ten days after receipt of the erroneous Media Impact Analysis. If the corrections fail, client shall be entitled to demand a reasonable reduction of the fee. Any further warranty claims shall be excluded. The contents and the degree of textual or graphic interpretation and the textual phrasing shall not be subject of this warranty. As it is impossible to completely exclude human failure in the media research and coding of the extracts a Media Impact Analysis or a Press Summary is based on, no warranty can be given for the completeness of such Media Impact Analysis or Press Summary.

C. AUSSCHNITT Web Portal

The AUSSCHNITT Web Portal shall be provided by contractor in 7/24/365 operation. In case of failures, contractor shall endeavour quick recovery. Yet, there shall be no legal claim of client to continuous access. When using the data provided in the AUSSCHNITT Web Portal, client shall be obliged to do a plausibility check. In case of unusual deviations, client shall request a confirmation of such data from contractor prior to using it.

VII. Liability

Contractor shall only be liable if a distinctive feature that has been guaranteed is missing as well as in cases of intent or gross negligence. In cases of slight negligence, contractor shall only be liable if substantial contractual duties have been violated. In such cases, contractor shall not be liable for indirect loss such as additional expenses or lost profit. These limitations of liability shall also apply to legal representatives and auxiliary persons of contractor.

VIII. Limitation

Any claim directed against contractor shall fall under the statute of limitations after a period of one year from the time the claim arises. If the contractor becomes liable for reasons of intent or fraudulent concealment of a defect known to it, statutory rules shall apply.

IX. Delivery

Any deliveries are effected at client's risk and expense. No claims of compensation can be made if the delivery fails due to force majeure.

X. Changes to the General Business Conditions

Any changes to these business conditions shall be communicated to client in writing. If client is communicating electronically with contractor, changes may also be communicated electronically if the type of communication allows client to save and print the changes in a readable form. Changes shall be considered accepted, unless client lodges a protest in writing or – by agreement – electronically. Contractor shall inform client in its announcement specially about this consequence. Client shall have to send its protest to contractor within six weeks from the announcement of the changes.

XI. Legal Venue / Applicable Law / Miscellaneous

Place of performance shall be the place of business of contractor. Any disputes arising hereunder will be settled before a competent Berlin court of law. This agreement shall be governed by the law of the Federal Republic of Germany. If any part of these general business conditions turns out to be invalid, the legal validity of the contract as a whole shall not be affected. No further agreements have been concluded and no verbal arrangements have been made. Any future alterations to this contract need to be made in writing.

