

Landau Media GmbH & Co. KG Terms General and Conditions

§ 1 General provisions, scope, definitions

All current and future services rendered by Landau Media GmbH & Co. KG (hereinafter 'Contractor') shall be subject to the following conditions, which the contracting authority (hereinafter 'Customer') expressly acknowledges when placing an order. The Contractor provides its contractual services in the fields of media monitoring, press review and media analysis. The following Contractor Terms and Conditions shall apply exclusively. Differing, conflicting or supplementary Terms and Conditions are not part of this contract, even if the Customer provides notice of such Terms and Conditions and even if the Contractor does not expressly object to them.

'Customer', in the sense of these Terms, shall be commercial and freelance users (companies). 'Entrepreneur' shall be any natural or legal person or legal partnership that acts in its commercial or professional capacity to carry out a legal transaction. 'Legal partnership' shall be a company with the ability to acquire rights and pay debts.

§ 2 Contract formation

a) Media monitoring

By issuing a written order for media monitoring, the Customer enters into a media research contract (consisting of the monitoring order and the individual search terms, keywords or subject areas contained therein) with the Contractor. The Customer is also the invoice recipient. If the Customer names an invoice recipient other than itself, the Customer remains the Contractor's contract partner unless the designated invoice recipient expressly enters into the contractual relationship with the Contractor. The Contractor accepts the contract offer by initiating the media research after reviewing the offer. The Customer receives a written confirmation of this acceptance. The Contractor is not obligated to accept individual orders.

The Customer will be informed immediately if an order is rejected. At any time during the term of the contract, the Customer may change the subject (search terms, keywords or subject areas) of its research order by sending the Contractor a written change request, acceptance of which is confirmed by the Contractor. However, the modified search order may be instituted not earlier than one working day after receipt of the request. The Customer shall receive a written confirmation of the order change by email. The date of modification stated by the Contractor in the confirmation shall apply.

b) Press review

The press review is initiated after the Customer issues a written order to the Contractor. The precondition for the creation of electronic press reviews for the Customer is the existence of a valid contract with PMG Presse-Monitor GmbH, Berlin, for digital delivery.

c) Media analysis

Media analysis is initiated after the Customer issues a written order to the Contractor. Clause a), sentence 3 shall apply mutatis mutandis.

§ 3 Customer portals

a) Single-user license

The Customer obtains access to the Contractor's electronic customer portals with a single-user license. The Customer is informed of search results through this portals.

b) Previews

For selected media, previews of media content found for the Customer is made available to the Customer in customer portals. The copy-protected previews shall be used only for the purpose of informing the Customer of the media found. For reproduction and distribution beyond the display in customer portals, additional licensing is required.

c) Digital distribution

If the Customer has issued an order for a press review or has commissioned a digital delivery in the field of media monitoring and has purchased licenses for electronic press reviews, the search results shall be made available in digital form in customer portals.

d) Order placement

Orders for individual services may be placed online through customer portals after the Customer has agreed to and signed the terms of use. The Contractor shall provide the Customer with an access code and password, which will enable the Customer to gain access to customer portals and to request services from the Contractor. If a Customer loses the access code and/or password for customer portals, the loss must be reported to the Contractor immediately; fax or email is sufficient for this purpose.

The same condition applies if persons who have been given an access code and/or password leave the Customer's company. If such notification is not provided, the Contractor shall assume no liability for damage resulting from further use of the access code and/or password. The Customer also shall ensure that the access code and/or password cannot be used by unauthorized persons.

The Contractor shall accept no liability for damage resulting from the loss of the access code and/or password or from persons who are not or are no longer part of the Customer's company. The same condition applies if the access code and/or password are used by unauthorized persons. A contract becomes effective in customer portals when the Customer expressly waives a statement of acceptance by the Contractor. The Customer may revoke an order in writing (also by email) within one hour after the order has been placed. After the ordered service has been rendered, revocation is no longer possible.

e) Creation of own Messages

Customers who have created their own messages in their customer portals must ensure that they have the necessary copyright and trademark rights. The contractor is exempted from all claims of third parties that could be claimed on the basis of the customer's notifications.

§ 4 Term of contract, transfer of risk

Either contracting party may terminate the media monitoring contract, the press review contract and/or the media analysis contract in any month. Termination will take effect at the end of the following month. Contracts have a minimum term of two months.

The above provision does not apply to 'annual contracts' or other contracts with an alternative term. The minimum term of annual contracts is one year. These contracts may only be terminated at the end of the contract term, with notice given three months prior to the end of the term. If an annual contract is not terminated on time and in writing (letter or fax is sufficient), the annual contract is automatically extended by another year. For contracts with alternative terms, the periods of notice agreed upon therein shall apply.

If media content (article clippings, radio/TV reports, etc.) is delivered to the Customer after expiry of the agreed contract period and the content was published during the contract period and sent to the customer in a timely manner, this does not affect the date of the agreed contract termination. The Contractor's right to remuneration for these reports shall apply without restriction. The right to extraordinary termination for good cause remains unaffected. 'Good cause' shall include a breach of contractual obligations, such as a payment delay of more than six weeks. The Contractor is not obligated to provide notice of default. Non-annual contracts that do not have an alternative term may be terminated by simple or registered letter, by fax or by email.

The risk of accidental loss and accidental deterioration of the Contractor's service shall be transferred to the Customer upon handover or delivery of the service to the forwarding agent, carrier, or person or institution otherwise appointed to carry out the dispatch. The handover shall be deemed to have taken place even if the Customer fails to accept delivery.

§ 5 Contractual service

a) Prices

Unless otherwise agreed, the prices specified in the current price list at the time of order placement shall be deemed binding. The prices may be adjusted by the Contractor with a notice period of one month. A price increase does not entitle the Customer to a right of extraordinary termination. Prices stated do not include applicable value-added tax. If the Contractor incurs additional costs as a result of a price increase for third-party services, the Contractor is entitled to pass these price increases on to its customers.

These third-party services are legally independent of the remainder of the contract entered into with the Contractor, and performance disruptions resulting from these third-party services do not affect this contract. This applies first and foremost to the issue of default and the claim for performance. In the event that such third-party services are later withdrawn wholly or in part, the remainder of the contract entered into with the Contractor shall remain in force.

b) Payment

The Customer will receive monthly invoices. The invoice amount is payable within 7 days after the invoice date. The Customer's payment is considered made when the invoice amount is credited to the Contractor's account.

The exercise of a right of retention or set-off by the Customer is only permissible if the counterclaim is not disputed by the Contractor or if it has been legally established.

For each overdue notice sent by the Contractor to the Customer within the default period, a fee of €5.00 will be charged.

c) Exclusion of services

The Customer is always supplied with media content in the fields of media monitoring, press review and media analysis in compliance with the terms of the contract, provided that the Contractor receives a correct and prompt delivery of the appropriate media content (e.g., newspaper and magazine material, web content, TV and radio broadcasts) from the Contractor's supplier, and only in the event that the Contractor is not responsible for any non-delivery. The Customer will be informed promptly if the service is not available.

§ 6 Guarantee

For copyright and technical reasons, the Contractor depends on the fact that its contractual obligation is based on media monitoring, press review and media analysis performed by researchers, i.e., that it is the product of human performance. No guarantee can be made with respect to the completeness of the media evaluation.

The Customer may not assert any rights based on the fact that the Contractor could not research all references to the search terms specified in the order.

If the Customer receives media content that does not comply with the terms of the contract, it may submit a written complaint, along with the defective media content, to the Contractor within a period of 30 days. For justified complaints, the Customer will receive a credit note equal to the applicable media price, which is offset against future claims of the Contractor.

No other claims for subsequent delivery are permitted, provided that subsequent delivery is impossible for factual reasons and the Contractor is not responsible for this impossibility.

§ 7 Exclusion of liability

In the event of minor breaches of contract, the Contractor's liability shall be limited to the average loss typical for such a contract. The same condition shall apply in the event of minor breaches of contract by the agents or vicarious agents of the Contractor. With the exception of claims of malicious intent, damage claims for a defect expire one year after contractual services are provided.

The Customer shall be liable for all damage arising from unauthorized use of the customer portal access code and/or password.

§ 8 Copyright

a) Paper deliveries

Media sheets delivered with articles/clippings (or other evaluation documents) are protected by copyright. They may be used only in compliance with copyright laws. Any further use of the material provided, in particular its reproduction and distribution without corresponding license agreements, is prohibited. In the event of a claim by third parties, the Contractor shall be entitled to indemnification by the Customer if the claim is due to an infringement of copyrights caused by the non-contractual use of the media contents.

b) Electronic delivery

The electronic delivery of media content to the Customer can take place on the basis of corresponding license agreements with the rights holders. Unless there are bilateral agreements between the Customer and rights holder, a contract must be entered into with PMG Presse-Monitor GmbH (PMG) for digital delivery. The Customer must ensure compliance with the terms of the contract. The TV and radio recordings delivered by the Contractor are protected by copyright. Any processing, transfer to third parties - including of excerpts - and public performance or reproduction is contrary to copyright regulations and may have both civil law and criminal law consequences.

The media resources made available by the Contractor may only be used by the Customer for its own internal documentation or for informational purposes in accordance with copyright laws. Any public performance, screening or other transfer to third parties of the media resources delivered by the Contractor is prohibited. Furthermore, the use of media resources for advertising, public relations or training purposes is expressly prohibited.

Editing the media resources delivered by the Contractor is not permitted. Media resources that were not ordered must be returned to the Contractor immediately. If these provisions are violated, the Customer shall fully indemnify the Contractor against claims resulting from an infringement of the rights of third parties. The Contractor hereby advises the Customer that TV and radio broadcasting recordings that contain the search results specified in the contract can be delivered only if there is a contractual agreement between the Contractor and the broadcasting corporations enabling the recording and/or reuse of these recordings (licenses or recording agreements).

§ 9 Force majeure

The Contractor shall not be responsible for unforeseeable events or force majeure that result in an incomplete or total omission of the evaluation of the media program, the preparation of press reviews or the production of media analyses. The same condition applies in the event of a strike for which the Contractor is not directly responsible.

§ 10 Final provisions

The law of the Federal Republic of Germany shall apply to all services rendered by the Contractor. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply. The place of jurisdiction shall be Berlin. To be valid, verbal agreements must be made in written form. This condition also applies to any agreement to deviate from the requirement of written form. The place of performance shall be the Contractor's current place of business.

§ 11 Data protection

The Customer has been fully informed of the nature, scope, location and purpose of the collection, processing and use of the personal data necessary for the execution of orders and registration for the email notification service. The Customer expressly agrees to this collection, processing and use of personal data. The Contractor's website and customer portals are analyzed using analytics software. When the websites are accessed, the Customer's anonymized IP address is collected, stored, used and transmitted to third parties so that use of the Landau Media websites can be analyzed. The Customer hereby agrees that its anonymized IP address may be stored, used and transmitted to third parties for these purposes.

§ 12 Severability clause

If one of the above clauses is or becomes invalid, the remaining provisions remain unaffected. The ineffective clause shall be replaced automatically with the legal regulation which most closely approximates the legal and economic interests of both parties.

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Note: The official language of this contract is German. If any part of this English translation conflicts with the original German version or contains terms in addition to or different from the German version, the German version shall prevail.