

## General Terms and Conditions

### Media Focus Schweiz GmbH

A company of GfK Switzerland AG and AGB Nielsen Media Research B.V. – (version of February 2021)

These General Terms and Conditions of Business (hereinafter referred to as the GTC) regulate the business relationship between Media Focus Schweiz GmbH, which collects communications data and provides analysis systems, consulting services and client-specific services (hereinafter referred to as "Media Focus"), and the "client", which operates as a manufacturer, service provider, retailer, advertising space provider / media company, agency, marketer or broker (hereinafter referred to as the "client"). These GTC form an integral part of all offers and contracts between the client and Media Focus. Any additional arrangements, amendments or additions to these GTC shall only become effective upon written confirmation.

#### 1. The conclusion of the contract / contract parties

Upon the conclusion of a data use agreement or written commissioning of an analysis or client-specific service on the basis of an offer of Media Focus, the client and/or a company commissioned by the client shall be enabled to access defined data via system access or provided with the analysis results electronically or in writing. The client shall be a contract partner.

#### 2. The subject of the contract

These GTC form an integral part of the contract concluded with the client and/or with the arrangements made with the client upon the written acceptance of an offer. They therefore regulate the terms and conditions of the business cooperation where products / services of Media Focus are used. Any information previously communicated orally, in writing, electronically or otherwise is superseded by this contractual relationship.

#### 3. Use / Disclosure of the communication data / services

The client shall be provided, in accordance with the data use agreement or in accordance with the acceptance of the offer, with systemic access to Media Focus's data to enable it to independently carry out analyses.

As a rule, the data provided may only be used internally within the client's company. Any disclosure of the data is excluded and in breach of contract. Exceptions are regulated in section 3 of these GTC.

The client may transfer the right to use the data to third parties. Such data use by third parties takes place in any case by order of and exclusively for the customer and must be agreed upon in writing with Media Focus in advance. Any other passing on of the system access to third parties is absolutely excluded and in breach of contract. Media Focus shall also provide client-specific services, analyses and/or advice or services through the use of specific software (SaaS) on the basis of a written order, by order of and exclusively for the client.

#### 4. Impermissible disclosure of communications data

Examples in which impermissible disclosure is deemed to have occurred include instances in which unauthorised third parties:

- are enabled to access Media Focus's analysis systems
- the results of client-specific services and/or analyses are made available
- an order is placed for the use of the communications data without written notification of Media Focus.

In the event of a breach of the prohibition on impermissible disclosure of data, Media Focus will be able to demand a contractual penalty in the amount of CHF 10,000. Payment of the contractual penalty shall not release the client from its obligation to comply with the respective contract and/or agreement or from additional payment of possible further compensation for losses, particularly the value of the improperly disclosed communications data.

#### 5. Updating communications data

Communications data shall be updated monthly, no later than by the 25th day of the following month. Advertising creations will be updated daily, and online monitoring data will be updated in "real time". The times of delivery of all other products / services of Media Focus are subject to the respective contractual / written arrangements. Media Focus cannot accept any liability for late updates.

#### 6. Changing the structure of communications data

Due to market requirements, Media Focus may adjust the market or media classification or the universe or structure of any communications data. The client shall be notified of such measures in good time before they are implemented.

#### 7. Data security and data control

Access to Media Focus's communications data is secured with user names and passwords. Media Focus shall notify the client of these. Media Focus is able to track data access in the database and furnish its analyses of communications data and the associated results tables, as well as data exports, with digital watermarks or similar technologies. Media Focus is also permitted to create a "log file" which lists and summarises the key features of analyses, for example the user name, time, the client filter used, analysed market sectors and media, as well as data depths, the time of export etc. The client agrees to Media Focus having access, through the use of various security technologies, to the data accessed by it and storing relevant information during the term of the contract.

Media Focus does not as a rule store any personal data. However, through the use of the systems made available by Media Focus a personal reference may under certain circumstances be established via the company-related data, in particular with access data/user names that consist of business email addresses. These data, whether with or without a personal reference, are stored in the CRM system of Media Focus, which is managed by means of individual access rights for employees. Further information on the processing of personal data may be found in the [data protection declaration](#).

#### 8. The use of data after the end of the contract

After the end of the term of the contract, the right to further analysis of the data or to the system access shall expire. Data analyses already carried out or exported from the respective system or analyses delivered by Media Focus may be further used internally at any time. Where data is used by third parties, these provisions also apply, though still on behalf of and exclusively for the client.

#### 9. Integration into third-party systems

Communications data or analysis results may not be integrated into third-party systems or made available in them in any form or at any time. An explicit exception to this are agreements on access via data interfaces.

#### 10. Transferability

The rights arising from or related to this contract may not be transferred by the client without the prior written consent of Media Focus. Media Focus may transfer its rights and obligations under this contract to its business or legal successors, either partially or entirely. The client shall be notified of this in good time.

#### 11. Limitation of liability

Media Focus will refund the fees of the Services it fails to provide and will use reasonable efforts to correct errors Client identifies in the Services. If Media Focus does not provide a Service or is unable to correct erroneous Information or Software, it will reimburse Client for fees paid for the affected part of the Service. Media Focus' total aggregate liability for direct loss, damage or expense under or in connection with an order whether in contract, tort (including negligence) or otherwise shall be limited to an amount equal to the annual fees paid by the Client under the order. Media Focus will not otherwise be liable, in contract, tort (including negligence) or otherwise, for any direct, indirect, consequential or other loss, expense or damage of any kind. Unless otherwise prohibited by applicable law, neither party shall be liable for any claim brought after the shorter of 1 year after the cause of action has accrued or more than 2 years after the termination of the applicable order. Nothing in these General Terms shall exclude or in any way limit a party's liability for fraud, death or personal injury caused by its negligence or any other liability that may not be legally excluded or limited. The limitations of liability will not apply in case of gross negligence or willful misconduct.

#### 12. Force majeure

Lasting operational disruptions, particularly due to events of force majeure, natural disasters, industrial disputes, measures of governmental authorities, unforeseen transport or energy failures, damage to machinery for which it is not responsible or other unavoidable events, whether at Media Focus itself or within the spheres of suppliers or partners, which are significant for the determination, analysis or transmission of the communications data, shall entitle Media Focus to rescind the contract insofar as it has not yet been fulfilled or restrict the contractually assured performances and/or data properties. Any liability for losses stemming from the above-mentioned lasting operational disruptions is excluded.

#### 13. Multi-annual contracts

The prices are subject to the Swiss Consumer Price Index (Federal Office for Industry, Trade and Labour – BIGA). The starting point is the status of the index upon the conclusion of the contract. Media Focus has the right to adjust the price as of 1 January of each year according to the status of the index.

#### 14. Preservation of the Status Quo

In case the client participates in other companies, which are users of "Media Focus creations / data" or cooperates in any way with such companies and if such companies then cancel the "Media Focus creations / data" service they have been using or the advertising research data they obtained, the amounts charged to such company minus the savings for the production costs that do not incur anymore as of the effective date of the cancellation are assumed by the user and added to the previously agreed remuneration.

#### 15. Publication right

The client does not acquire any publication right whatsoever upon the conclusion of a contract / the acceptance of an offer for services and analyses. The publication of communications data of Media Focus always requires written approval.

#### 16. Severability clause

Should one or more provisions of this contract be or become void or ineffective for legal reasons, the effectiveness of the other provisions hereof shall not be affected. The ineffective or unenforceable provision shall be replaced, with retroactive effect, with an effective provision which comes closest to what the parties intended upon the conclusion of the contract. The same applies in the event of an unintended gap/omission in the respective contract.

#### 17. Applicable law / place of jurisdiction

The legal relationship between Media Focus and the client is exclusively subject to Swiss law. The place of jurisdiction is Zurich (the location of the registered office of Media Focus Schweiz GmbH).