

# **Terms and Conditions of XAD spoteffects GmbH for the use of spotresearch**

## **1. Scope**

By registering as a customer, the user accepts the general terms and conditions of XAD spoteffects GmbH. These terms and conditions apply exclusively; XAD spoteffects GmbH does not recognize any conflicting or deviating conditions of the user, unless XAD spoteffects GmbH has explicitly agreed to those in writing or by email. The terms and conditions also apply to all future business transactions, even if they are not expressly agreed again. XAD and spotresearch are Trademarks of the XAD spoteffects GmbH, Saarstraße 7, 80797 Munich, which signs the contract with the user.

## **2. Contract subject**

XAD spoteffects is a media monitoring company for advertising campaigns. The generated data is processed and made available on <https://spotresearch.xad.tv/login> and various partner platforms. spotresearch offers its registered customers free and paid usage account alternatives. With the completion of the registration process, the user agrees to the terms of a legally binding agreement for the use of the spotresearch Services offered on the website. XAD spoteffects GmbH accepts this offer by activating the user for the offer on the XAD spoteffects website. As a result, XAD spoteffects GmbH and the user conclude a binding contract. XAD spoteffects GmbH is entitled to reject user's contract enquiries without justification. Each user can only register once.

## **3. Prices, terms of payment**

Details about the paid services, in particular about their scope and prices, can be found on the respective spotresearch pages. All listed prices are binding. Taxes are not included in the price information. Statutory tax is charged separately. Depending on the desired scope of use, the customer can choose between various price and contract models. The chargeable service fees are due immediately upon invoicing for the entire term of the contract. The accepted Payment methods debit procedure, direct debit and bank transfer. If the charged fees cannot be collected, the user is obliged to cover all resulting costs. These costs include bank fees that arise by returned or denied direct debits and further bank and transaction fees and costs resulting from the failed payment. The users receive invoices and other payment requests via email and/or can download these documents within a period of 12 months after invoicing from their user settings menu.

#### **4. Right of withdrawal for consumers**

For all users whose registration with XAD spoteffects GmbH does not serve the purpose of a commercial or independent professional activity, apply the following provisions of Section 13 of the German Civil Code: - Revocation policy - You can cancel your contract within two weeks in text form (e.g. letter , email) without giving revoke reasons. The period begins after receipt of this instruction in text form, however not before the contract is concluded and also not before fulfilling our information obligations in accordance with § 312 c (2) BGB in conjunction with § 1 (1), 2 and 4 BGB- InfoV and our obligations in accordance with § 312 paragraph 1, S 1 BGB in conjunction with § 3 BGB- InfoV . For consumers to withdraw, it is enough to send the revocation notice in time. The revocation must be sent to: XAD spoteffects GmbH, Saarstraße 7, 80797 Munich, Tel.: +49 (89) 8 90 57 39 - 0, E-Mail: contact@xad.tv

Consequences of revocation: In the event of an effective revocation, the mutually received services must be returned and any benefits drawn (e.g. interest) must be repealed. If you cannot return the services received, in whole or in part, or only in a deteriorated condition, you may have to compensate XAD spoteffects GmbH accordingly. This may oblige you to fulfill the contractual payment obligations for the period up to the revocation. Obligations to reimburse payments must be fulfilled within 30 days. The period begins as soon as you send the revocation notice to us upon receipt. - End of revocation policy -

#### **5. Rights, obligations and assurances**

The XAD spoteffects GmbH services are aimed exclusively at adults. The user assures that he is of legal age at the time of registration. The offer is also aimed exclusively at commercial users. The customer bears the costs of establishing the connection himself. XAD spoteffects GmbH endeavors to ensure permanent and complete access to the offers on the spotresearch website, especially during core working hours (on weekdays from 9 a.m. to 6 p.m.). However, it cannot be ruled out that due to maintenance work - usually outside of core working hours - due to security concerns or as a result of capacity bottlenecks as well as events for which XAD spoteffects GmbH is not responsible for, as well as for occasional or temporary service interruptions on the spotresearch website. Before using the spotresearch offer, registration by the user is required. The user assures that all information provided upon registration is correct and complete. In the event of changes to the information provided, the user is obliged to notify XAD spoteffects GmbH immediately. The use of fantasy and artist names is not permitted. Every customer receives access authorization from XAD spoteffects GmbH in the form of confidential login data. The user is obliged to record and keep this confidential data, especially the password, in

a safe manner. It is not permitted to pass this data on to third persons or parties for the joint use of the XAD spoteffects services. If the use of spotresearch by third parties becomes possible due to a breach of confidentiality, the user owes the membership fees and bears the damage caused by the breach. This also applies to the targeted transfer of login data to third parties. This obligation continues even after the contract has ended. In the event of a breach of contract information /including login data/ by the user, XAD spoteffects GmbH is entitled to block access to the offer at any time. XAD spoteffects GmbH will not pass on, transfer or share user's password to third parties nor it will ask the user for it. The data and information provided are intended solely for the user's own use. These terms of use also apply to the scope of necessity of the user's business needs. In addition, the same restrictions apply for the business unit's/department's needs within the user's company. There are no additional rights to use and share the information and files with third parties. The same restriction applies in particular to the duplication, permanent data storage or generation of a databases. Such abuse will particularly be suspected if a user calls up or downloads a lot of data within a short period of time. In these cases, XAD spoteffects is entitled to restrict the functionality of the user's account and to check the facts. The user agrees not to misuse the spotresearch website and to observe all applicable laws and the rights of third parties.

## **6. Termination**

The paid member packages initially run over the contract periods booked by the user. The minimum contract period for basic is 6 months and for all other packages - Basic Flex, Select brand and Premium – 12 months. After the expiry of the contract period, the fee-based member package is extended by a period of the same duration unless the contract is not canceled within a period of 14 (fourteen) working days immediately before the end of the existing contract period. No specific reasons are required for the termination. The termination notice can be given via e-mail using the contact@xad.tv address or by letter containing user's e-mail address and or the customer number. The right to terminate the contract for an important reason remains unaffected by these terms. The following misconduct by the user are to be considered as important reasons:

- 6.1. He violates the regulations from point 5) Rights, obligations and assurances
- 6.2. He violates legal regulations
- 6.3. He damages one or more other users or
- 6.4. He is a member of one in Germany forbidden sect or denomination.

If XAD spoteffects GmbH terminates the contract for an important reason, the user has no claim to reimbursement of membership fees already paid in advance.

## **7. Extraordinary measures**

If one of the malpractices listed under point 6.3 has been committed by the user, XAD spoteffects GmbH can, regardless of termination, also immediately block access to the services of the XAD websites

## **8. Data correctness and completeness**

XAD spoteffects GmbH assumes no responsibility towards the users for the completeness and correctness of the data made available. The use of the requested data is the sole responsibility of the user. If the user discovers errors in the content of the spotresearch database, he is required to notify XAD spoteffects GmbH immediately.

## **9. Liability**

Claims for compensation against XAD spoteffects GmbH are excluded irrespective of the legal basis, unless XAD spoteffects GmbH has acted intentionally or through gross negligence, or the claims for compensation result from the lack of a guaranteed service feature. Identical liability terms apply if one of the legal representatives or senior employees violate a contractual obligation with slight negligence. XAD spoteffects GmbH is not liable for indirect damage, consequential damage caused by a defect, lost profit or failure to make savings, unless this is attributable to intent or gross negligence on the part of departments or senior employees of XAD spoteffects GmbH. Insofar as XAD spoteffects GmbH is basically liable, the claim for damages is limited to the foreseeable damage. This limitation of damage does not apply if the event causing the damage was caused by gross negligence or willful misconduct by a legal representative or a manager of XAD spoteffects GmbH. Insofar as the liability of XAD spoteffects GmbH is excluded, this also applies to the personal liability of the employees, representatives and vicarious agents of XAD spoteffects GmbH.

## **10. Data protection**

XAD spoteffects GmbH is aware about its responsibility towards users to be particularly sensitive and cautious about all personal data that users of XAD spoteffects GmbH transmit. XAD spoteffects GmbH therefore complies with all relevant statutory data protection requirements (German data protection laws, European data protection guidelines and any other applicable data protection law). XAD spoteffects GmbH will in particular not pass on the personal data of the users to third parties without authorization or otherwise make such information known to third parties. Details on the processing of user data are regulated in the data protection regulations of XAD spoteffects GmbH, which can be reached from any of the XAD spoteffects websites.

## **11. Retrieve and download of videos and data**

When downloading or streaming data, in particular videos or sending data over the Internet, the risk of data loss and / or data change passes to the user when the network interface is exceeded. XAD spoteffects GmbH does not guarantee the quality of the data. The term "High Quality" refers to visual motifs with the best possible video resolution available on the spotreaserach web site. In the case of older videos, it may be that the source materials do not meet today's quality standards and / or videos cannot be reproduced in some cases. In these cases, the user is not entitled to a replacement delivery, even if the quality does not meet his requirements.

## **12. Copyrights and intellectual property**

XAD spoteffects GmbH reserves all rights on publication, duplication, processing and exploitation to of data made available. The user may only use the data provided for their own use. Any other use requires a written agreement. These obligations continue even after termination of the contract term. The membership fees collected in connection with the use of copyright-protected documents, files or their protected content are only collected for the services of providing this data, but not for the data itself.

## **13. Changes to the offers and services on the XAD spoteffects websites**

XAD spoteffects GmbH reserves the right to change the service and product description for reasons of quality optimization and to increase the prices to be paid by the user for the recurring services. XAD spoteffects GmbH will announce such changes in services and prices to the user with a period of six weeks. If changes are made to the disadvantage of the customer, the customer can terminate the contractual relationship within four weeks after receipt of the change notification for the time the changes take effect. If the customer does not cancel or does not cancel in due time, the contract will continue at the new price for the time specified in the notification.

## **14. Final provisions**

14.1. Changes to the terms and conditions: XAD spoteffects GmbH can change or redraft individual parts of the terms and conditions without giving reasons, provided that these changes are reasonable for the user. XAD spoteffects GmbH will inform the users within a reasonable time period. If the user does not object to the changed terms and conditions within a period of 4 weeks from the notification, the new terms and conditions are deemed to have been accepted.

14.2. Applicable law and place of jurisdiction: German law applies, excluding international private law and the United Nations Convention on Contracts for

the International Sale of Goods. Place of performance and exclusive place of jurisdiction for all disputes is Munich.

14.3. Partial nullity: Should one of these provisions be or become ineffective, the effectiveness of the remaining provisions remains unaffected.

14.4. Written form requirement: The contract and its amendments must be in writing. There are no side agreements.

February 2020