



Mediametrie

## LICENSE AGREEMENT ("CONTRACT")

### **SPECIFIC CONDITIONS OF SUBSCRIPTION TO THE SERVICE(S)**

**Subscription to the Service(s):** One TV Year in the World Report

**Description of the Data:** The One TV Year in the World report provides audience results and global TV viewing in more than 100 countries (120 territories).

**Access to the Service(s):** pdf file

**Effective Date:** On the day of the purchase

**Term of the Contract:** One year starting from the purchasing date

**Price of the Service(s) ("Subscription Price"):** 5 000 Euros ex-tax (five thousand euros ex-tax)

**Payment terms:** 100% of the Price (or Subscription Price) is invoiced at the date of the signature of the Agreement by the Subscriber

## GENERAL CONDITIONS OF SUBSCRIPTION TO THE SERVICE

### **1. OBJECT**

The purpose of the General Conditions is to define the general terms and conditions under which the Subscriber shall be granted access to the(s) Service(s) and the Results as defined in the Specific Conditions.

These General Conditions and the Specific Conditions are collectively called the "Contract" or the "Agreement."

The signature of this Contract implies the Subscriber's full acceptance with no reservations. The Contract shall apply to the exclusion of all other conditions and shall prevail if such is the case over any other version or any other contradicting document.

Within the performance of this Contract, Médiamétrie and the Subscriber are referred to individually as "the Party" and collectively as "the Parties".

### **2. PRICE AND CONDITIONS OF PAYMENT**

#### **2.1. Price:**

The Subscriber hereby agrees to the payment terms specified in the Agreement. The Subscriber shall pay, for the provision of Services, the Subscription Price invoiced according the payment schedule specified in the Specific Conditions of Subscription to the Service(s) without any deduction of charge (hereinafter "the Subscription Price").

Any service requested by the Subscriber, outside the scope of the Agreement, will be subject, if previously accepted by Médiamétrie, to a quotation.

#### **2.2. Conditions of Payment:**

Any invoice shall be paid in full within thirty (30) days of the invoice date. If the invoice is not paid in the specified time, Médiamétrie may suspend the Service(s) and the delivery of the Data



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within forty-eight (48) hours, after the receipt of a written notice by registered letter with acknowledgment of receipt to rectify the default remained unheeded, and may charge the Subscriber interest on the Subscription Price at the rate of 1,5 % per month from the day following the due date of the invoice.

Médiamétrie may also charge the Subscriber, as of right, a fixed fee of forty (40) euros, not subject to VAT, as a compensation, for recovery. The Subscriber is responsible for all value-added, goods and services, sales, use and similar taxes due with respect to the Service(s).

### **3. AUTHOR RIGHTS AND DATABASE AUTHOR RIGHTS**

All the Data provided by Médiamétrie under this Agreement are the copyright of several producers of the Data (the "Data Providers") and/or Médiamétrie. For the purposes of the Agreement, Data Providers shall mean related and/or unrelated third parties providing TV audience results, metadata or other data related to TV programs to Médiamétrie for inclusion in the Service(s).

The databases, graphics, software, the Médiamétrie trademark and any other element included in the Service(s) are the exclusive property of Médiamétrie.

The Data and databases are protected under the EU Directive 96/9/CE of March 11, 1996 relating to the legal protection of databases, which prevents the reuse or extraction of a substantial part of data base on which you may have access or the repeated and systematic reuse or extraction of a non-substantial part of such data base is strictly forbidden.

### **4. LICENSE – USE OF THE DATA**

#### **4.1. Principle:**

Subject to the Subscriber's compliance with the Contract's conditions, Médiamétrie grants to the Subscriber, for the entire legal length of copyright protection, a limited, personal, non-exclusive, non-transferable license to reproduce and represent the Data, and any related information provided within the framework of the Service, for internal use and for the forms of communication authorized in article 5 of the General Conditions.

In the event the Data are available through a software, the access to the software will end at the end of the Contract.

The Subscriber also undertakes to adopt and enforce any required provisions, namely ones pertaining to confidentiality and security, with a view to avoiding any unauthorized reproduction, use and/or distribution of the Data, both within and outside the company.

Compliance with this requirement is essential, to avoid the Data becoming accessible to non-subscribing third parties; in this regard, the Subscriber acknowledges and accepts that the price of the Service was determined in consideration of the fact that the Data are reserved to subscribing parties alone, and in consideration of the usage rules defined in this Contract.

#### **4.2. Restrictions:**

The Subscriber agrees it shall not:

- Decompile, reverse engineer, disassemble, sublicense, distribute (except where otherwise permitted in article 5), modify, adapt the Data and create derivative works from the Data and Service(s);
- Merge, transform, combine the Data with other data from the Subscriber and/or from any third party;
- Re-sell, make, have made, sell, rent, lease and offer to sell, to rent, to lease products using the Data and Service(s);
- Remove or modify any proprietary or copyright legend or trademark from the Data and Service(s);
- Store the Data in information systems located outside the Subscriber or to make available the Data and Service(s) to third parties except as expressly permitted by the Agreement.



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## **5. COMMUNICATION OF THE DATA**

Notwithstanding the above, the Subscriber is authorized to disclose the Data in certain cases described hereinafter and under the conditions defined in articles 5.1 and 5.2. The non-compliance with the following terms and conditions may lead Médiamétrie to terminate this Agreement and the Subscriber's responsibility may be sought.

### **5.1. General rules applicable to any form of communication of the Data:**

For all possible forms of communication of the Data, as defined in article 5.2., the Subscriber undertakes to comply with the following rules:

- any reference made to the Data must be followed by the statement *""SOURCE GLANCE / relevant partner - reproduction forbidden, all rights reserved by MEDIAMETRIE""* as well as any other details required to properly understand the said Data (name and time of the study, specific nature of the indicator(s), criteria, reference operation periods, population concerned, measurement types, etc.);
- the presentation of the Data can in no way mislead those to whom they are distributed in terms of origin, content, purpose or scope;
- all communication should not have the purpose or effect of denigrating the Service(s);
- the Subscriber shall not transmit any of the TV audience results, part of the Data, in a country of the TV audience result's origin as indicated by Médiamétrie (particularly German TV audience results where the obligation of non-usage extends to Austria and Switzerland) with the exception of United Kingdom TV audience results which can also be used and stored in the United Kingdom.

### **5.2 Specific rules applicable to each type of communication of the Data:**

#### **5.2.1. Disclosure to the Subscriber's existing clients and prospects:**

The Subscriber may communicate the Data to its existing clients and prospects under the respect of the conditions set forth in article 5.1 and under the following terms and conditions:

- the Data communicated must be limited only to the data required for the Subscriber to justify its rates and business proposals to its clients and prospects;
- the nature of the information disclosed should not, either because of the quantity disclosed or the repetition of such disclosures, be such that it may enable an existing or potential client (much less any other non-subscriber) to acquire information that it can use in its own professional activities, other than those directly pertaining to its relations with the Subscriber who disclosed it;
- all communication of the Data must be free of charge, and the Subscriber agrees not to sell any part of the Data to its existing or prospective clients, much less to any third party;
- the Subscriber must inform its existing and prospective clients to whom the Data have been furnished that they cannot use the Data for their own purposes.

#### **5.2.2. Disclosure to the Media and Advertisements:**

The Subscriber may broadcast for press release or insert advertisements its TV audience results, under its sole responsibility, (audience results related to the Subscriber) contained in the Data. These advertisements and communications must meet the following the conditions set forth in article 5.1 and the following terms and conditions:

- such communication should not be such they lead the person(s) to whom they are communicated into error. For advertisements in the press (except for specialised journals), as well as those broadcast by radio stations, television channels, Internet, these Data should be reproduced or broadcast in such a way that the Data thus communicated should be comprehensible to a reader or a listener with an average education paying reasonable attention to what is being communicated;



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- the audience results could only be compared to older audience results from the same source and directly comparable (same indicators, same time period, same population).

### **5.2.3. Broadcasting of online Data:**

It is understood between Médiamétrie and the Subscriber that the broadcasting on the Internet of the Data provided in accordance with the Agreement does not enter into the scope of the license granted, and corresponds to a specific use of the Data, which must be subject to a special agreement between the Parties.

Consequently, the Subscriber cannot, under this Agreement, broadcast the Data provided on the Internet, except for:

- communication of Data to the clients and prospects under article 5.2.1. of the Agreement, on the condition that this communication is within the framework of an Internet site for which the access is exclusively reserved for its clients and prospects and in the respect of the fixed conditions set forth in article 5.2.1. ;
- communication for the press and advertising messages of audience data related to its media which line within the limits and conditions specified in the article 5.2.2. of the Agreement.

For avoidance of doubt, the communication of the Data by the Subscriber on social networking website is strictly forbidden such as but not limited to Facebook, Instagram, Pinterest, Twitter etc.

## **6. ACCESS TO THE SERVICES**

In the event the Subscriber has access to the Data through an Interface or a software, Médiamétrie will provide username(s) and passwords to the Subscriber.

The Subscriber may have access to the Service(s) on-line by means of passwords provided by Médiamétrie.

The passwords provided are strictly personal and confidential and can be used solely for the purpose of the Agreement.

Médiamétrie may modify these passwords during the Term as long as a prior written notice of at least thirty (30) days is given to the Subscriber.

The Subscriber shall ensure the confidentiality of the passwords. Médiamétrie may terminate the Agreement in the event of any transfer of the passwords to a third party.

The Subscriber is solely responsible for the use of the Service(s) by its employees and its consequences, regardless of the user.

If the Subscriber loses his passwords or in the event of the change of the user of the passwords, the Subscriber shall immediately (and before the next delivering of Data) send written notice to Médiamétrie in order to modify or cancel the passwords. In this case, the new passwords will be invoiced to the Subscriber at the going rate.

However, access to the Service(s) may be suspended, for legal, technical or maintenance reasons or for any reason beyond Mediametrie control. No liability may be sought of Médiamétrie for the unavailability of the Service(s).

## **7. SECURITY**

During the Term, the Subscriber shall maintain reasonable security procedures and practices appropriate to protect the Data and Service(s) from unauthorized access, use, modification or disclosure. Without limiting the generality of the foregoing, each Party will ensure that the Data or Service(s), as applicable are accessed only by the minimum number of such Party's employees who have a need to access it to enable such Party to perform its obligations hereunder, and who are bound in writing by obligations of confidentiality sufficient to protect such Data and Service(s) in accordance with the terms hereof.

The Subscriber will be responsible for defining the access rights applicable to the Data and Service(s) under their control relating to the appropriate segregation of duties and in order to regularly review which individuals have access to those Data and Service(s).



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## **8. SPECIAL SORTING AND REPROCESSING OF THE DATA**

The Subscriber may, under the conditions specified below, appoint a third party ("the Data Processor") with the task of sorting, analysing and/or reprocessing the Data on behalf of the Subscriber.

The Subscriber may only re-export or communicate the Data for processing and/or analysis after the prior written consent of Médiamétrie and upon signing of a direct agreement between Médiamétrie and the Data Processor, in accordance with the terms set forth herein, and containing an undertaking to use the Data only to meet the requirements of the Subscriber.

The Data Processor must also agree to take direct and indirect measures to prevent the Data from becoming accessible, voluntarily or involuntarily, to any other third party than the Subscriber.

## **9. AUDIT**

Médiamétrie shall have the right to appoint an independent auditor, during the Term of this Agreement and one (1) year after the term of this Agreement, to audit the compliance by the Subscriber with its obligations regarding the Agreement.

Prior to the audit, the auditor will enter into a non-disclosure agreement prohibiting the auditor from disclosing to any third party any information obtained or otherwise learned by the auditor in connection with such audit.

Médiamétrie shall inform the Subscriber, with a one (1) month prior notice, of the audit and will support the cost of such audit.

The auditor will communicate the results of the audit to each Party through an audit report. Should any such audit report reveal that the Subscriber does not comply with the Agreement, Médiamétrie should have the right to terminate the Agreement without prejudice to any other rights and remedies.

## **10. REPRESENTATION AND WARRANTIES**

Médiamétrie represents and warrants to the Subscriber that:

- it has obtained appropriate rights to provide the Data and Service(s) under the terms and conditions contained in this Agreement;
- the execution, delivery and performance of the Agreement by Médiamétrie does not and will not materially conflict with, violate, or result in a breach of any provision of any government or court order, judgement or decree, or with any other contract or agreement or other legal obligation to which Médiamétrie is a party or by which it may be bound;
- it will perform the Service(s) with reasonable skill and care and in accordance with the loyal practices applied by the industry and with the CCI/ESOMAR's instructions, including article C-12 of a such instructions providing that "*the operator should always make its best effort to design surveys with satisfactory quality and good quality/price ratio, and conduct the survey according the specifications agreed upon with the client*";
- it will deliver the Data or part of the Data once the Data or part of the Data are received from the Data Providers. The Subscriber is informed that Médiamétrie is highly dependent on the delivery of the Data by the Data Providers and it shall use its commercially reasonable efforts at all times to provide the Subscriber in respect of the delay indicated in the Agreement;
- in the event of a technical error in the collection, processing, processing or publication of the Results, Médiamétrie shall use its commercially reasonable effort to make the appropriate corrections as soon as possible.

## **11. INDEMNITY**

### **11.1. Indemnity by Médiamétrie:**

Médiamétrie shall indemnify, defend and hold harmless the Subscriber against all claims, liabilities, damages, losses and expenses, including reasonable attorneys' fees, arising out of any claim by any third party against the Subscriber alleging that the Data and/or the Service(s)



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provided under the Agreement infringes a third party's patent, copyright, trademark, trade secret, privacy or other proprietary right and awarded by a definitive decision issued by the competent court; provided, however, (i) that the Subscriber shall provide to Médiamétrie with prompt written notice of such claim (ii) assistance that Médiamétrie may request and (iii) that Médiamétrie shall have the sole authority to defend or settle such claim provided that any settlement entered into by Mediametrie requires the prior written approval of Subscriber.

In such case, Médiamétrie may at its sole discretion (a) procure to the Subscriber the right to continue using the Data; or (b) terminate the Agreement. Notwithstanding the foregoing, Médiamétrie assumes no liability for infringement claims arising from (i) use or combination of the Service(s) and/or Data with products or services not provided by Médiamétrie to the Subscriber; or (ii) unauthorized modification of the Service(s) and/or Data by the Subscriber or (iii) use of Data and Service(s) not in compliance with this Agreement.

TO THE FULLEST EXTENT POSSIBLE BY APPLICABLE LAW, THE EXPRESS REPRESENTATIONS AND/OR WARRANTIES SET FORTH IN THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE REPRESENTATIONS AND WARRANTIES OF MEDIAMETRIE. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, MEDIAMETRIE DISCLAIMS, ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, REGARDING THE PRODUCTS AND SERVICES CONTEMPLATED BY THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND THOSE ARISING BY LAW, STATUTE, USAGE OF TRADE OR COURSE OF DEALING.

## **11.2. Indemnity by Subscriber:**

The Subscriber shall indemnify, defend Médiamétrie and keep Médiamétrie indemnified against all liabilities, claims, damages, losses and expenses, including expenses and reasonable attorneys' fees arising out of any third party (including Data Providers) claims as a result of a breach by the Subscriber of the Agreement.

## **12. LIMITATION OF LIABILITY**

Médiamétrie is bound by an obligation of means in the exercise of its activity and undertakes to provide all the necessary care to produce the Service(s) and the Data within the limits of the means at its disposal.

The total cumulative liability and from all causes, whatever the basis of liability action and whatever the number of claims incurred by Médiamétrie relating to the Agreement cannot exceed the amount actually paid by the Subscriber to Médiamétrie at the date of the claim pursuant to this Agreement for the Service(s) during the twelve (12) month period preceding the event giving rise to such liability.

Médiamétrie shall not be liable to the Subscriber or deemed to be in default for any loss, damage or expense resulting from the Subscriber's use of the Service(s), arising directly or indirectly out of the use of, access to the Service(s) not exclusively caused by Médiamétrie, nor shall Médiamétrie be liable for any interruptions, delays or non-performance of the Agreement due to any delivery stoppage of the audience results and/or the metadata by the Data Providers or other occurrence beyond the control of Médiamétrie and/or resulting from "force majeure" as specified in Article 15.3.

Médiamétrie shall not be liable for any immaterial, incidental, consequential, liquidated, special, punitive, exemplary or indirect damages or penalties, including but not limited to loss of goodwill, loss of profit, loss of business, revenue or anticipated profits, loss of turnover or harm to reputation.

Notwithstanding the above, nothing in this Agreement excludes or limits the liability of Médiamétrie for death, personal injury caused by its negligence, for fraud, fraudulent misrepresentation, gross negligence or wilful misconduct or for any matter that it would be illegal for Médiamétrie to exclude or attempt to exclude his liability.



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## **13. TERM**

The Contract is concluded for the period specified in the Specific Conditions.

## **14. TERMINATION**

### **14.1. Termination for cause:**

Without prejudice to any other rights or remedies available to either Party, either Party shall have the right, in its sole discretion, to immediately terminate this Agreement upon written notice to the other Party in the event that (a) the other Party makes any assignment for the benefit of creditors or files a petition in bankruptcy or is adjudged bankrupt or becomes insolvent or is placed in the hands of a receiver or if the equivalent of any of the proceedings or acts referred to in this clause, though known and/or designated by some other name or term, shall occur; or (b) the other Party breaches any material term or provision of this Agreement and fails to cure such breach within the thirty (30) days notice period delivered by the non-breaching Party.

Upon termination of the Agreement by Médiamétrie due to breach of the Contract by the Subscriber, the Subscriber will immediately cease to use Data and Service(s) and shall delete all Confidential Information belonging to Médiamétrie in its possession within thirty (30) days of the expiration or termination of this Agreement.

### **14.2. Other cases :**

Should the Subscriber unilaterally terminate this Agreement before its expiry date, for reasons that are not exclusively attributable to Médiamétrie, the Subscriber shall pay Médiamétrie, within one (1) month after the notification of early termination, a compensation amount equal to all amounts outstanding in pursuance of the Agreement until its initial term ("termination fees"). As from the notification of the termination of the Contract, the Subscriber will no longer have access to the Results for the period running until the termination of the Contract but may continue to use the Results, to which he will have had access until the effective date of termination, subject to its compliance with the conditions of use of the Data and the payment of the termination fees.

## **15. MISCELLANEOUS**

### **15.1. Integrity:**

The Contract covers all the parties' commitments with respect to each other. It cancels and replaces all previous agreements between the Parties, written or oral, having the same purpose.

### **15.2. Reconduction of the Contract:**

In the event that the Subscriber wishes to continue to access to the Service after the end of the Contract, after having informed Médiamétrie at the latest on (1) month before its expiry, and failing the conclusion of a new subscription contract, access to the Service will be made in accordance with the terms of this contract and the commercial proposal sent by Médiamétrie and accepted by the Subscriber.

The invoicing of the Service will be continued taking into account the scope of the Service agreed in the commercial proposal sent by Médiamétrie and accepted by the Subscriber.

The invoicing of the Service will take into account any revision of the Price notified in writing to the Subscriber and accepted by the latter.

In return, Médiamétrie undertakes to make the Results available until the conclusion of a new subscription contract for the Service for the following period.

This period may not exceed three (3) months from the end of this Contract. After this period, the Parties will necessarily have to sign an agreement for the renewal period.

### **15.3. Force Majeure:**



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Neither Party may be held liable for any breach of any of its obligations if such breach results from a case of force majeure or a fortuitous event making it impossible, temporarily or permanently, to perform its obligations within the meaning of Article 1218 of the Civil Code and the definition adopted by French case law including but not limited to the delivery stoppage of the audience results by the Data Providers.

The Party invoking force majeure is obliged to inform the other party of the occurrence of the event by registered letter with acknowledgment of receipt within a period of three (3) days from the occurrence of the event.

In the event of a temporary impossibility, the deadlines for performance of the obligations of each of the Parties under the Contract shall be extended according to the duration of the event (s) of force majeure and their execution shall be again to be performed upon the cessation of the event (s) obstructing such execution. If applicable, the Contract will be extended for a period equivalent to the interrupted period.

In the event that the execution of the Contract is rendered impossible for a period of more than two (2) months, the termination of the Contract will be legally binding.

### **15.4 Confidentiality obligations:**

“Confidential Information” means (i) this Agreement and all discussion and, negotiations related thereto; (ii) all information regarding or reflecting payments earned under this Agreement; (iii) any information that would reasonably be considered to be confidential information of either Party in light of the circumstances surrounding the disclosure; and (iv) any other confidential information provided by one Party to the other Party hereunder such as: trade secrets, financial information, including pricing, technical information, including research, development, procedures, algorithms, data, designs, and know-how, business information, including operations, planning, marketing interests, and products.

Except with the prior written consent of the other Party, neither Party shall (i) use or disclose any Confidential Information other than to employees and contractors who have a need to know and any disclosure to contractors may only be to contractors who have signed a non-disclosure agreement to protect the confidential information of third parties; or (ii) make copies or allow others to make copies of such Confidential Information except as is necessary for internal business purposes.

The Agreement shall be treated by the Parties as confidential even after termination and shall not be disclosed by either Party other than in the normal course of its business to its staff and professional advisers on a need-to-know basis. The Subscriber’s name, address and other contact details shall be entered into and stored on Médiamétrie’s administrative database.

The Subscriber shall not use the name or any trademark of Médiamétrie in any manner, including, without limitation, in any press release or other advertising materials of the Subscriber, without the prior written consent of Médiamétrie. Neither Party will issue any public statement, including but not limited to any press release or other advertising materials, regarding the existence of this Agreement without the prior written consent of the other Party for a period of five (5) years.

### **15.5 Independent contractors:**

The relationship of Médiamétrie and the Subscriber established by this Agreement is that of independent contractors and nothing herein shall be deemed to create a partnership or joint venture between the Parties hereto. Médiamétrie may engage subcontractors to perform any of its obligations and will be responsible for all such subcontracted obligations.

### **15.6 Assignment:**

This Agreement or the rights and obligations may not be assigned (directly or indirectly, in whole or in part) by either Party, whether by operation of law or otherwise, without the prior written consent of the other Party. Upon any permitted assignment, the permitted assignee shall agree in writing to be bound by the terms of this Agreement and this Agreement shall inure to the





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benefit of such permitted assignee. Any assignment or attempted assignment in violation of this provision shall be null and void.

### **15.7 Entire Agreement:**

The Agreement constitutes the entire understanding of the Parties concerning the subject matter hereof, and supersedes all prior term sheets, proposals, communications, or understandings, written or oral, between the Parties concerning the subject matter hereof. This Agreement may not be modified except in a writing signed by both Parties.

### **15.8 Delegation of payment:**

In the event that the Subscriber should delegate the payment of the Price due to a different company, the delegate company must accept this delegation by signing this Contract.

In the event of default of payment from the delegate company, the Subscriber will not be waived from the initial debt and will remain the principal debtor in the same way as the delegate company.

### **15.9 Governing law and Jurisdiction:**

The Agreement and the Parties' rights and duties shall be interpreted and applied in accordance with the laws of France and be subject to the exclusive jurisdiction of the Tribunal de Commerce of Paris.

### **15.10 Survival :**

In addition, and without limiting the generality of the preceding sentence, article 4, 5, 9, 10, 12, 15.2, 15.4 and 15.9 shall survive the expiration or termination of the Agreement for any reason.