



## PRODUCT / SERVICE TERMS

These Product/Service terms apply to certain products and services that you access through our platform(s), website(s) or are otherwise identified in your order form, statement of work or other ordering document (collectively “order form”). If you have ordered or are accessing a product or service that is not listed below, then this document does not apply to your order. “We”, “our” and “Clarivate” means the Clarivate entity that is providing the product(s) or service(s) concerned and, where applicable, its affiliates.

### MarkMonitor

The MarkMonitor Product Terms apply to the MarkMonitor Professional Services as set forth herein.

#### MarkMonitor Domain Services

**1. Registration and Usage Information.** We may use your registration and usage information within our business and may make that information publicly available or directly available to third parties, for inspection or for other purposes as required or permitted by applicable laws, but not for marketing purposes, except for our product-related uses.

**2. Personal Data.** If we collect any personal data for any reason other than ICANN or Registry WHOIS requirements, we will inform you (i) why the information is being collected; (ii) the intended recipients of the information; (iii) which information is required and which is voluntary; and (iv) how you can access or rectify any of the personal data held about you.

**3. Fees. (a) Changes.** We may change the charges at any time upon notice to you to reflect changes to applicable registry costs.

**(b) Refunds.** You will not be credited or refunded for any (i) fraudulent or bad faith registration; (ii) loss of a domain dispute via ICANN’s Uniform Domain Name Dispute Resolution Policy or legal action taken by a third party; or (iii) reversal decision by a registry.

**(c) Non-Payment.** If you do not pay our undisputed charges and related costs and expenses within 30 days of notice of non-payment from us, each affected domain registration and all associated legal rights will be transferred to us.

**4. Mandatory Changes.** We may suspend, cancel, reverse, transfer, modify or disclose registrations (i) pursuant to any applicable laws, rules, regulations or policies; (ii) to correct registration mistakes by us or the registry operator; (iii) to resolve or avoid disputes concerning registered domain names; or (iv) if you do not remedy your material breach of the agreement within 30 days after receiving our written notice to do so.

**5. Client Warranties.** You warrant and represent that (i) you will promptly provide the information we reasonably require to perform the services; (ii) that all information you provide to us will at all times be current, complete and accurate; (iii) following your instructions will not infringe or violate any third party rights; (iv) when requesting a domain name transfer, you either own the domain name or have the owner’s consent to the transfer; (v) you have the proper authority to bind any third party on whose behalf you are using the service to all the terms and conditions of the agreement and ICANN’s Uniform Domain Name Dispute Resolution Policy and have received their express consent to all those terms and conditions; and (vi) you will at all times comply with the applicable rules and regulations of the domain name registry operators.

**6. Client Indemnity.** You must defend, indemnify and hold harmless us, our affiliates and third party providers and each of our respective subsidiaries, affiliates, successors, assigns, licensees, directors, officers, employees and agents, against third party claims arising out of the registration, transfer and/or use of each domain name by you or on your behalf.

**7. Disclaimers. (a) Third Parties.** We accept no liability for the acts or omissions of registry operators or third party registrars.

**(b) No Guarantee.** We do not guarantee you will be able to register, transfer or renew any particular domain name.

**(c) Ownership.** We may process transfer requests without requiring proof of ownership and accept no liability in respect thereof.

**(d) Termination.** We are not responsible for your domain names after termination of these services.

**(e) Registry Operators.** Registry operators accept no liability to you in connection with domain name registration.

**8. Disputes. (a) Disputes Policies.** You are bound by ICANN’s Uniform Domain Name Dispute Resolution Policy, (<http://www.icann.org/dndr/udrp/policy.htm>), as amended from time to time, and any domain name dispute policies



that may be adopted at any time by any registry.

**(b) Jurisdiction.** Disputes concerning or arising from use of your domain names registered with us may be submitted to the jurisdiction of the courts (i) of your domicile; or (ii) to any jurisdiction where we are located (currently, Boise, Idaho and London, United Kingdom).

**9. ICANN Accreditation.** Under the ICANN Registrar Accreditation Agreement (RAA), we are required to pass certain terms through to you and section 3.7.7 of the RAA (currently available at <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>) takes priority to the extent of any conflict with the agreement.

**10. Premium DNS Services Provided Through Dynamic Network Services, Inc.** MarkMonitor provides Premium DNS (“PDNS”) services to its customers through a third party provider (“Provider”) whereby assigned portions of the DNS Nameserver infrastructure respond to DNS inquiries. We reserve the right at any time upon thirty (30) days’ written notice to you to replace a Provider with another third party provider which we determine to have substantially the same capability of providing PDNS services.

**(a) Terms of Use.** The PDNS service may only be used for your internal business purposes and you may not resell or otherwise permit access to the services to anyone other than your authorized employees, agents or representatives, as to whose use of such services in compliance with these requirements shall be your sole responsibility. You and your end users agree not to use the PDNS services for any of the following impermissible purposes: (a) use of the PDNS services in a manner that is prohibited by any applicable law or regulation; (b) use of the PDNS services in a manner that violates the rights of any third party (including but not limited to intellectual property rights); (c) use of the PDNS services for any invasive, infringing, defamatory or unlawful purpose; or (d) use of the PDNS services in a manner that, in Provider’s reasonable discretion, directly or indirectly, produces a negative effect on Provider’s systems or network (including, without limitation, overloading servers on the Provider network or causing portions of the Provider network to be blocked).

**(b) Data** You represent that you will have the right to use any data which you upload or otherwise supply to Provider or MarkMonitor in connection with the services, and that all information and data you provide will be accurate and updated on a timely basis. You will retain ownership of all such data, but Provider is permitted to use that data for any purpose necessary to provide the PDNS services. You agree that Provider may make use of your traffic data for any reason, so long as such data is in an aggregated form and is not identifiable to you.

**(c) Disclaimers.** THE PDNS SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS BY PROVIDER AND NEITHER PROVIDER NOR MARKMONITOR (NOR THEIR EMPLOYEES OR AFFILIATES) MAKES ANY WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE PDNS SERVICES OR THE RESULTS TO BE OBTAINED FROM USE OF THE PDNS SERVICES, INCLUDING ANY WARRANTY OR GUARANTEE THAT THE SERVICES WILL BE SECURE, UNINTERRUPTED OR ERROR FREE. NOTWITHSTANDING ANY PROVISIONS IN YOUR AGREEMENT WITH MARKMONITOR TO THE CONTRARY, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY FAILURE BY PROVIDER TO PROPERLY PERFORM THE SERVICES WILL BE THE SERVICE CREDITS DESCRIBED BELOW.

**(d) PDNS Services.** During your service period, Provider is obligated to provide access to the nameserver infrastructure controlled or deployed by Provider in connection with your PDNS services (“Nameserver Infrastructure”). The Nameserver Infrastructure does not include any application protocol interfaces, zone transfer mechanisms, update systems, and other customer-accessible data access or manipulation methods (collectively, “Peripheral Infrastructure”) provided by Provider in connection with the PDNS services. You acknowledge and agree that as between you and Provider, the PDNS services are the property of Provider and that the domain name server, software, and all data (excluding data provided by you or your end users that pass through the PDNS services) and know-how used, developed or derived by Provider in the provision and operation of the PDNS services are owned exclusively by Provider and, where applicable, are protected by copyright and other applicable intellectual property laws and you claim no ownership interest therein. Nothing in this Agreement grants you any rights to, and you agree not to modify, adapt, alter, copy, reverse engineer (except to the extent permitted by applicable law) or disassemble the PDNS Services, including without limitation any software or data contained therein, in any way. The PDNS services can be altered or discontinued, in whole or in part, including changes to the pricing, by Provider at its sole discretion and your continued use of the PDNS services after a change will be deemed acceptance of the changes by you. In any event, however, you always have the right to terminate all or any portion of the services for any reason upon at least thirty (30) days’ prior written notice. Provider is bound by confidentiality obligations protecting your confidential information in a manner which is consistent with the existing confidentiality obligations in our agreement.

**(e) Service Credits.** Any failure by Provider to provide the services for periods which exceed the Outage periods



defined below (“Outages”) will result in the issuance of a credit to you (“Service Credit”), which will be your sole remedy for any such Outages. Any Service Credits will be applied to the month following issuance, or, where your services are terminating, will be applied to extend your service period for an additional period equivalent to the fees for such additional period. Claims for Service Credits must be made by you via email to [customer.service@markmonitor.com](mailto:customer.service@markmonitor.com) as soon as possible after the occurrence of an Outage, but in no event more than three (3) days after the Outage, and must be accompanied by relevant details and supporting documentation. *Claims made more than three (3) days after an Outage will not be eligible for a Service Credit.* The following constitute an “Outage” for purposes of determining the availability of Service Credits:

If Provider determines in its reasonable commercial judgment that the Service Outage event lasted for more than one (1) minute, but fewer than four (4) consecutive hours during a calendar month, we, upon your request, will credit your account for such month the pro-rated charges for one (1) day's service.

If Provider determines in its reasonable commercial judgment that the Service Outage event lasted for four (4) or more consecutive hours during any calendar month, we, upon your request, will credit your account for such month the pro-rated charges for one week's service.

*Provided, however,* that any error, delay, downtime or unavailability of the PDNS services resulting from the following (“Exclusions”) will be excluded from the determination of any Outage: (i) any suspension or termination of the PDNS services by Provider or MarkMonitor in accordance with the agreement; (ii) any actions or inactions by you or a third party; (iii) any failure to comply with any usage limits applicable to the PDNS services; (iv) any inaccurate or insufficient information or configurations provided or set by you or your authorized users; (v) the failure to use all four (4) DNS nameserver hostnames if provided by Provider; (vi) any misuse of the PDNS services; (vii) any errors, delays, downtime or unavailability from your or a third party's equipment, application programming, software, systems or networks; (viii) any network unavailability outside the Nameserver Infrastructure or the Peripheral Infrastructure; (ix) malicious acts by a third party against you, MarkMonitor, their respective agents or suppliers; (x) any scheduled maintenance or emergency maintenance by Provider; (xi) acts of terrorism, cyber terrorism, or God, or any other event of force majeure; or (xii) any other event outside Provider's reasonable control.

**(f) Fees.** Non-refundable service fees for the PDNS services will be invoiced to you monthly based upon your actual usage at a rate of Twenty-Five US Dollars (\$25.00) per million queries per month, rounded to the nearest whole million. The fee will be adjusted to reflect the relevant currency. There are no extra fees for zones or records, both of which are unlimited to you. Additional service add-ons which are offered by MarkMonitor may be provided at your request for additional applicable monthly fees. All fees are subject to applicable withholding tax and other applicable taxes and duties (including but not limited to value added tax and other similar sales taxes), other than taxes on our income.

**(g) Suspension.** Provider shall have the right to immediately suspend, without notice or any liability to you, the PDNS services, in its sole and reasonable determination, a breach of your obligations under the agreement; or a violation of third party rights or applicable laws, rules or regulations, has or is likely to occur. Such suspension will remain in effect until such time as you correct the cause of the suspension. Charges remain payable in full during periods of suspension.

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