

## PRODUCT / SERVICE TERMS

These Product/Service Terms apply to certain products 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**”) and supplement the Markmonitor Terms which apply to all of our products. If you have ordered or are accessing a product that is not listed below, then these Product/Service Terms do not apply to your order. “**We**”, and “**our**” means Markmonitor; “**you**” and “**your**” means the Client entity identified in the order form. Any other terms not defined in these Product/Service terms have the meaning given to them in the Markmonitor Terms.

The Markmonitor Product Terms apply to the products and/or services as set forth herein.

**1. Premium DNS Services.** If you elect to purchase Premium DNS Services, the following terms shall apply:

(a) 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.

(b) **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 laws; (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).

(c) **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.

(d) **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.

(e) **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 the 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 PDNS 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 the agreement.

(f) **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 and

*exclusive 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.

(g) **Suspension.** Provider shall have the right to immediately suspend, without notice or any liability to you, the PDNS services if, 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.

**2. Ultra DNS Service:** If you elected to purchase Ultra DNS Services, the End User License (EULA) located [HERE](#) shall apply to such Ultra DNS Services.

**(a) Markmonitor provides Ultra DNS Services (“UDNS”) to its customers through a third party vendor 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 UDNS services.”**

**3. Magnify+ Services.** If you elect to purchase the Magnify+ Services the following terms shall apply:

**a. Object, Systems and Services.** IP Metro (“Provider” or “We”) provides technical solutions aimed at (i) monitoring internet resources in general for intellectual property uses and infringement, and (ii) technologies that assist users to enforce intellectual property rights online. As such, IP Metro’s systems (“Systems”) and services (“Services”) imply that certain information, including public information and personal data (whether or not publicly available) are collected, analyzed, and/or processed, which data may or may not be associated to with information in which the customer and/or customer’s registered users (“Registered User” or “You”) may or may not have any rights or legitimate interests. It is entirely up to the Registered User, acting on behalf of the Customer, to determine whether or not it is appropriate and/or allowed to use the Systems and/or the Services for its intended purposes.

**b. Availability.** The Services and Systems shall be made available by IP Metro subject to (i) any unavailability caused by circumstances beyond IP Metro’s reasonable control, including any force majeure events and any computer, communications, Internet Service or hosting facility failures or delays involving hardware, software, power or other systems not with IP Metro’s possession or reasonable control, and denial of service attacks, (ii) third party sources monitored and analyzed being publicly available, and (iii) any (emergency) downtime planned or caused by IP Metro. In relation to the latter, the Services or access to the Systems may be temporarily or permanently limited, interrupted, or curtailed due to maintenance, repair, updates, upgrades, relocation, adaptation to and/or conformation with any third-party provider decision to (no longer) make certain Content (as defined below) publicly available. You acknowledge and accept that the provision of the Services and the functionalities of the System are subject to changes, improvements, modifications, inactions or actions by IP Metro and in particular following third-party provider decisions. “Content” shall mean any and all text, files, images, photos, video, sounds, musical works, works of authorship, or any other information, data, and other content contained in and derived, or available to be derived from, the Systems and / or Services however and by whomever it is posted or made accessible thereon.

**c. Representations and Warranties; Exclusions.** Without prejudice to the provisions of the Core Terms and without prejudice to a significant deterioration of the Services and/or Systems following a third-party decision, action

or inaction, IP Metro shall take all reasonable efforts to maintain and improve where necessary the current standard of the Services and Systems. IP Metro warrants that its Systems do not infringe any intellectual property right and/or contractual right of any third party, and shall hold harmless and defend You against any claim lodged against on the basis of any infringement or alleged infringement of any intellectual property and/or contractual right of a third party. This article is subject to the conditions that You (i) promptly notifies IP Metro of any such claims, (ii) permits IP Metro to control the defense and settlement of such claims, and (iii) assists IP Metro in defending or settling such claims. IP Metro shall not be liable for any settlement arrangements and/or amounts entered into by You without IP Metro's prior written approval. IP Metro shall have no liability for a claim of infringement or misappropriation to the extent caused by (i) the combination of Services with any other service, software, data or products not provided by IP Metro, which claim would have been avoided if the Services had not been so combined; or (ii) the use of any material provided by Markmonitor, Customers or Registered Users; or (iii) any breach by Customers or Registered User of Core Terms and/or procedures.

**(d) Data Provisioning, as part of a functionality of any of the Systems.** You accept and acknowledge that IP Metro is in no way responsible for third party content, and cannot guarantee the availability, accuracy, completeness, appropriateness, fitness for the Customer's particular use of public data sources, third party data sources, recent or real-time changes that affects the data provided. You acknowledge and accept that IP Metro's processing and provisioning of sources, information and content may include sources, information and content of an offensive, infringing, abusive, and/or adult-oriented nature. Bearing in mind the purpose of the Services and Systems, You accept that IP Metro's processing of such explicit sources, information and content form an intrinsic and inherent part of the Services and Systems, and expressly discharges IP Metro from pre-screening such sources, content or information.

**(e) Data Classification (including assessments).** You accept and acknowledge that (i) IP Metro uses pre-defined criteria which may or may not be useful, appropriate or relevant for You; and (ii) in so far the geolocation of the Systems and Services do not allow IP Metro's uses geolocation based results which may or may not be useful, appropriate or relevant for the case at hand. You accept and acknowledge that: (i) human quality assurance is essential for the provision of document generation services, which assessment shall be made by You or by a third party appointed by You; and (ii) the person responsible for such quality assurance shall have the appropriate knowledge or qualifications on the matter. 6. Proprietary Rights to Content: In so far and to the extent this would be necessary in the performance of the Services, IP Metro may use and display all data (including but not limited to Content that You submit to IP Metro to or give access to by using the Systems and Services). The Systems and deliverables as output of the Services are protected by copyright, trademark, patent, trade secret and other laws. You acknowledge and accept that IP Metro and its licensees own and retain all rights in relation thereto. IP Metro hereby grants You a limited, revocable, non-sublicensable license to reproduce and display any information and data generated by IP Metro following Your use of the Systems and Services (excluding any and all software code) solely for Your personal use.

**(f) Commercial Rights to Content.** By posting Content, uploading files, inputting data, enabling access to data or Content, or engaging in any other form of communication through the Systems, You grant IP Metro a royalty free, perpetual, non-exclusive, unrestricted, worldwide license to: (1) use, copy, sublicense, adapt, transmit, publicly perform, or display any such communication or Content; and (2) sublicense to third parties the unrestricted right to exercise any of the foregoing rights granted, in so far and to the extent this would be necessary in the performance of the Services. The foregoing grants shall include the right to exploit any proprietary rights in such communication, including but not limited to rights under copyright, trademark, service mark, or patent laws under any relevant jurisdiction. Using the Services or Systems does not give You ownership of any intellectual property rights on the Content or data used in the Systems or Services, neither does it give You the right to use, copy, sublicense, adapt, transmit, publicly perform, sublicense, or display any such Content or data.

**(g) Liability Disclaimer.** Except as specifically set forth in Section 3 hereof, the Systems and Services are provided "as is" and without any representations, warranties and/or conditions of any kind. IP Metro and its licensors and/or suppliers make no representations and give no other warranties or interruptions conditions, express, implied, statutory, or otherwise regarding the Systems and Services except as provided under this Core Terms and IP Metro specifically disclaims any and all implied representations, warranties and/or conditions of merchantability, merchantable quality, non-infringement, durability, title and fitness for a particular purpose. Additionally, acknowledge that IP Metro does not represent or warrant or provide any conditions that the IP Metro's Systems or Services will be error-free or work without interruptions. IP Metro cannot guarantee and does not promise any specific results from use of the Services or system. The exclusion of warranties does not affect Your right of withdrawal. If You integrate or connect the Systems in Your own systems or any third-party systems, IP Metro shall not be responsible for any negative outcome, result or activity unless IP Metro has approved such integration or connection in writing. IP Metro is not responsible for any incorrect or inaccurate Content or data provided through the System or in connection with the Services, whether caused by any user or by any of the equipment or programming associated with or utilized with the Services. The System and Services may contain links to other websites. IP Metro is not responsible for the content, accuracy or opinions expressed on such websites, and such IP Metro does not review or fact-check any content or data, nor does IP Metro confirm the accuracy or validity of information provided on the internet. IP Metro is not responsible for the conduct, whether online or offline, of any user of the Services. In addition, IP Metro assumes no responsibility for any error, omission, interruption, deletion, defect, delay in operation or transmission, communication failure, theft or destruction or unauthorized access to, or alteration of any Content or communication



provided by or to Customer or Registered User. IP Metro is not responsible for any problems or technical malfunction of any communication networks or lines, computer online systems, servers or providers, computer equipment, software, failure of any email due to technical problems or traffic congestion on the internet or on any of the Systems or Services or any combination thereof.

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