



Agreement Number	
Effective Date	March 31, 2020
Client Name	REGENTS OF THE UNIVERSITY OF CALIFORNIA

## Clarivate Analytics Terms

This Master Client Agreement ("Terms") between Clarivate Analytics (US) LLC and the Client listed above creates a framework of contract terms that govern your use of the products and services in each order you place with us. For any order forms between us, these Terms will be incorporated into such order form unless we have mutually agreed in writing otherwise. From time to time, a current affiliate of either of us may provide or receive services (as the case may be) by entering into an order form that refers to these Terms. "We", "our", "us" and "Clarivate" means the Clarivate entity identified in the order form and, where applicable, its affiliates; "you" and "your" means the Client or Client affiliate identified in the order form. The "Parties" shall refer to both Clarivate and the Client collectively. These Terms will continue until you choose to cancel them, after which you cannot place any new orders under these Terms. Cancellation of these Terms will not cancel any outstanding orders, which will continue to be subject to these Terms unless we mutually agree in writing otherwise.

Your order form identifies the products and services, the quantities, charges, number of users, authorized sites and other details of your order. The order form also refers to documents which may apply to the products or services you selected. The order form, any applicable referenced documents (such as the product/service terms and operational materials), as updated by us from time to time and these Terms constitute the complete agreement and supersede any prior discussions or representations regarding your order, unless fraudulent. Other terms and conditions you seek to incorporate in any purchase order - are excluded.

### 1. Our products and services

**(a) Grant of License.** We hereby grant to you a non-exclusive, non-transferable, worldwide, systemwide right to access and use the products and services listed in your order form, and to provide the same products and services to Authorized Users (which are defined in below) in accordance with these Terms. Where products and services are licensed to you with perpetual rights, we shall include such rights in the Order Form.

**(b) Authorized Users.** Authorized Users are full and part time employees (including faculty, staff, and independent contractors) and students of the Client, regardless of the physical location of such persons. Authorized Users also include patrons not affiliated with the Client who are physically present at the Client's authorized site(s).

**(c) Access by and Authentication of Authorized Users.** You and your Authorized Users shall be granted access to the products and services pursuant to the following:

**IP Addresses.** Authorized Users shall be identified and authenticated by the use of Internet Protocol ("IP") addresses provided by you. The use of proxy servers is authorized as long as any proxy server IP addresses provided limit remote or off-campus access to Authorized Users. Authorized IP Addresses are listed in Appendix B. You and Clarivate. The Parties shall cooperate with each other in the implementation of new authentication protocols and procedures (such as Shibboleth) as they are developed during the term of the agreement.

**Clarivate-Administered Authentication.** Where Clarivate provides alternative methods of access and authentication beyond the Client-administered methods described herein, e.g. by allowing users to establish a personal login from an on-campus IP address (thereby enabling access via username and password when logging in to a vendor website) or device authentication, which affiliates the device or application by use of a token, cookie, or vendor-managed proxy prefix, you will not be responsible nor liable for claims of breach or validity of such use

**(d) Authorized Uses.** You and Authorized Users may make all use of the products and services as is consistent with United States copyright law, which under such copyright law cannot be limited by agreement, including its Fair Use Provisions. In addition, the products and services may be used for purposes of research, education or other non-commercial use as follows:



**Display.** You and Authorized Users shall have the right to electronically display the materials within the products and services.

**Digitally Copy.** You and Authorized Users may download and digitally copy a reasonable portion from the individual units of materials within the products and services.

**Print Copy.** You and Authorized Users may print a reasonable portion of the individual units of materials within the products and services.

**Classroom Use.** You and Authorized Users may distribute single copies of individual articles or items from the products and services in print or electronic form to Authorized Users. For the avoidance of doubt, classroom handouts shall include the distribution of a copy for teaching purposes to all individual Authorized Users in a class at authorized sites.

**Collections of Information.** You and Authorized Users shall be permitted to use information contained in the products and services for educational, scientific, or research purposes, including extraction and manipulation of information for the purpose of illustration, explanation, example, comment, criticism, teaching, research, or analysis.

**Course Packs (Print and Electronic).** You and Authorized Users may use a reasonable portion of the products and services in the preparation of Course Packs or other educational materials.

**Course Reserves (Print and Electronic).** You and Authorized Users may use a reasonable portion of the products and services for use in connection with specific courses of instruction offered by you.

**Electronic Links.** You and Authorized Users may provide hyperlinks from yours and/or Authorized Users' web page(s) or web site(s) to individual units of content within the products and services.

**Scholarly Sharing.** Authorized Users may transmit to a third party in hard copy or electronically, minimal, insubstantial amounts of the information within products and services for personal use or scholarly, educational, or scientific research or professional use but in no case for resale or commercial purposes. You may also distribute our data: i) amongst authorized users; ii) to government and regulatory authorities investigating you, if specifically requested; and iii) to persons acting on your behalf, to the extent required to provide legal or financial advice to you, provided they are not competitors of Clarivate.

**Bibliographic Citations.** You and Authorized Users may use, with appropriate credit, figures, tables, and brief excerpts from the products and services in the Authorized User's own scientific, scholarly, and educational works provided you appropriately cite and credit Clarivate Analytics as the source.

**No Diminution of Rights.** Nothing in this Agreement, including but not limited to Authorized Uses, shall be interpreted to diminish your rights and privileges or the rights and privileges of the Authorized Users with respect to any of the products and services, including exceptions or limitations to the exclusive rights of copyright owners, such as fair use, under Section 107 of the U.S. Copyright Act. In the event that any content included in the products and services is in the public domain or has been issued under a Creative Commons or other open license, we shall not place access, use or other restrictions on that content beyond those found in the open license, where applicable.



**(e) Limited License.** Together with our licensors, we maintain all ownership, tangible or intangible, of our products, services, and data. You may access, view, install, use, copy, modify and distribute our property only as expressly specified in the agreement and must promptly notify us if you become aware of any unauthorized use of our property. Each of us shall at all times act in accordance with applicable laws, rules, regulations, export controls and economic sanctions that apply to us in connection with the agreement.

**(f) Updates.** See Section 7(h) below **(g) Passwords.** Where access to the products and services is to be controlled by use of passwords, you will use reasonable efforts to inform Authorized Users that they should not divulge their numbers and passwords to any third party and that sharing passwords is strictly prohibited. You will also use reasonable efforts to maintain the confidentiality of any institutional passwords provided by us. Each of us shall maintain industry standard computing environments to ensure that our property is secure and inaccessible to unauthorized persons.

**(h) Unauthorized Technology.** You must not run or install any artificial intelligence, computer software or hardware on our products, services or network; or use any technology to automatically download, text mine or index our data without our prior written consent. Neither of us shall introduce any malicious software.

**(i) Usage Information.** See Section 7 (k) below. **(j) Documentation.** You may print or download PDF copies of our documentation for use with our products and services. Copies of our property must always include a copyright or proprietary rights notice.

**(k) Terms of Use.** All users are subject to the licenses and restrictions set out in the agreement and in the user agreement attached hereto. The user agreement will neither differ materially from nor be more restrictive than the terms of this agreement. In the event of a conflict between such terms and this agreement, the terms of this agreement will govern.

**(l) Third Party Providers.** Our products and services may include data, software and services from third parties. Some third party providers require us to pass additional terms through to you. The third party providers change their terms occasionally and new third party providers are added from time to time. To see the current third party additional terms for our products and services visit <https://clarivate.com/terms-of-business>.

**(m) Supplemental Technology.** You may be required to install supplemental technology (such as Adobe or Excel) prior to accessing our products and services. Additional terms may apply to that technology. If you do not agree with those terms you must promptly notify us and must not download and/or use that technology.

**(n) Limitations.** Unless expressly permitted elsewhere in the agreement, you may not: (i) sell, sublicense, distribute, display, store, copy, modify, decompile or disassemble, reverse engineer, translate or transfer our property in whole or in part, or as a component of any other product, service or material; (ii) use our property to create any derivative works or competitive products; or (iii) allow any third parties to access, use or benefit from our property in any way whatsoever. Exercising legal rights that cannot be limited by agreement is not precluded.

## 2. Information services

**(a) License.** In the ordinary course of your business you may view, use, download and print our data for scholarly or educational use and may on an infrequent and irregular basis, distribute limited extracts of our data in accordance with the Authorized Uses listed in section 2(d) below and that have no independent commercial value and could not be used as a substitute for any service (or a substantial part of it) provided by us, our affiliates or third party providers.

**(b) Further Distribution.** See Scholarly Sharing clause under section 2 (d).

**(c) Attribution.** As reasonably required for these purposes, you may quote and excerpt our data in your work, provided you appropriately cite and credit Clarivate Analytics as the source



### 3. Installed software

**(a) License.** You may install our software and documentation only for your own business purposes. Software licenses include updates (bug fixes, patches, maintenance releases) but do not include upgrades (releases or versions that include new features or additional functionality) or APIs unless expressly stated in the order form. Your order form details your permitted installations, users, locations, the specified operating environment and other permissions. You may use our software in object code only. You may make necessary copies of our software only for backup and archival purposes.

**(b) Delivery.** We deliver our software by making it available for download. You may first need to provide us with certain identifying information about your system administrator and you may be required to confirm availability or installation of our software.

**(c) Acceptance.** When you download our software and documentation, you are accepting it for use in accordance with the agreement.

### 4. Clarivate hosted software

**(a) License.** You may use our hosted software only for your own business purposes. Your order form details your permitted users, locations and other permissions.

**(b) Delivery.** We deliver our hosted software by providing you with online access to it. When you access our hosted software, you are accepting it for use in accordance with the agreement.

**(c) Content.** Our hosted software is designed to protect the content you upload. You grant us permission to use, store and process your content in accordance with applicable law. Access and use of your content by us, our employees and contractors will be directed by you and limited to the extent necessary to deliver the hosted software, including training, research assistance, technical support and other such services. We will not disclose your content except to support the hosted software or unless required by law when we will use our reasonable efforts to provide notice to you. We may delete or disable your content if required under applicable laws or regulations when we will use our reasonable efforts to provide notice to you.

**(d) Security.** We will inform you in accordance with applicable law if we become aware of any unauthorized third party access to your content and will use commercially reasonable efforts to remedy identified security vulnerabilities. If your content is lost or damaged, we will assist you in restoring the content to the hosted software from your last available back up copy.

### 5. Professional services

**(a) License.** To the extent required for the proper benefit of our professional services, you may use deliverables for your business purposes unless otherwise provided in your order form. If deliverables include configuration or modifications to our standard products, services or data, you may use those deliverables in the same way as those products, services or data. You agree deliverables are deemed accepted upon delivery unless agreed otherwise in your order form.

**(b) Client Obligations.** If you order professional services, you must provide reasonable access to your sites, equipment and systems and ensure the health and safety of our personnel on your premises and full cooperation from your qualified and experienced personnel as reasonably required. You must (i) provide detailed, accurate and sufficiently complete information, specifications and instructions; (ii) ensure you are permitted to allow us to use and modify equipment, systems and software; and (iii) perform any additional obligations specified in your order form. We will not be liable under the agreement to the extent our failure is caused by you not performing your obligations on time.

**(c) Changes.** Either of us may make written (including email) requests to change any aspect of the professional services, provided that no change will take effect unless and until we have each signed a formal change order. You must reasonably assist us in assessing your change requests and, if we agree, we will without undue delay prepare a formal change order detailing the scope and impact of the change and any consequential changes required to the agreement for the Parties' joint review and approval.

**(d) Acquired Knowledge.** We may develop future materials and work products which are similar to the deliverables and we may freely use our general knowledge, skills and experience, and any ideas, concepts, processes, know-how





and techniques developed by us while performing the professional services, provided we do not use your confidential or other proprietary information.

**(e) Site Rules.** We will take reasonable steps to ensure that while on your site our personnel comply with reasonable security, health and safety and confidentiality requirements that are notified to us in advance.

## 6. API license

You may use our APIs to enable Authorized Users to use our products and services in accordance with the agreement in conjunction with your own technology systems provided Clarivate approved accreditations remain visible at all times. You must make reasonable efforts to inform Authorized Users that our API keys must not be: (i) shared in any way; (ii) used for multiple interfaces; or (iii) used to create products or services detrimental to Clarivate, our affiliates or third party providers. You must demonstrate interfaced systems if reasonably requested by us.

## 7. Clarivate's Obligations

Clarivate will use reasonable efforts to ensure that its performance will meet or exceed industry standards and practices. Additionally, we agree to the following performance standards.

**(a) Discovery of Licensed Materials.** We shall make the products and services available through your Discovery Service System(s) for indexing and discovery purposes. We shall provide to your discovery service vendors on an ongoing basis the citation and complete descriptive metadata (including all subject headings, abstracts, and keywords), and full-text content necessary to facilitate optimal discovery and accessibility of the content for the benefit of Authorized Users. Discovery Service Systems are defined as user interface and search systems for discovering and displaying content from local, database and web-based sources.

**(b) Support.** We will provide activation and installation support, including assisting you and Authorized Users with the implementation of any Clarivate software. We will offer reasonable levels of continuing support to assist you and Authorized Users in use of the products and services. Clarivate will make its personnel available by email and/or phone during its regular business hours, Monday through Friday, for feedback, problem-solving, or general questions and will respond in a timely manner.

**(c) Training.** We will provide to you and Authorized Users appropriate training relating to the use of the products and services. We also will provide additional training to your staff if made necessary by any updates or modifications to the products and services.

**(d) Quality of Service.** We shall use commercially reasonable efforts to ensure that the our server or servers have sufficient capacity and rate of connectivity to provide you and Authorized Users with a quality of service comparable to current standards in the on-line information provision industry in your locale. We shall use reasonable efforts to provide continuous service seven (7) days a week.

**(e) Problems with Products and Services.** If the products and services fail to operate, display, load, or render in conformance with the terms of the agreement, you shall immediately notify us, and we shall promptly use best efforts to restore access to the products and services as soon as possible. In the event that the non-conformity materially affects the your or Authorized Users' use of the products and services, and we fail to repair the nonconformity within -seven (7) continuous business days, we shall reimburse you for such problems in an amount that is proportional to the total Fees owed by you under the agreement.

**(f) Notification of Modifications of products and services.** From time to time we may add, change, update or modify portions of the products and services, or migrate the products and services to other formats. When such changes, modifications, or migrations that fundamentally change the product or service - we shall give notice of any such





changes to you as soon as is practicable, but in no event less than thirty 30 days after the modification. If any of the changes, modifications, or migrations renders the products and services substantially less useful to you or Authorized Users, you may seek to terminate the effected products or services for breach pursuant to the termination provisions below.

**(g) Withdrawal of products and services.** We reserve the right to withdraw from the products and services any item or part of an item for which we no longer retain the right to publish, or which we have reasonable grounds to believe infringes copyright or is defamatory, obscene, unlawful, or otherwise objectionable. We shall give written notice of the withdrawal to you as soon as is practicable.

If any such withdrawal renders the products and services less useful to you or Authorized Users, we shall reimburse you for the withdrawal in an amount proportional to the total Fees owed by you for the products and services under the agreement. If any such withdrawal renders the products and services substantially less useful to you or Authorized Users, you may seek to terminate the effected products or services for breach pursuant to the termination provisions below.

**(h) Itemized Holdings/Title List.** We will provide to you, prior to the beginning of the calendar year within the current term, an itemized holdings report that specifies the titles included in the products and services for the next subscription term. We will use reasonable efforts to update itemized holdings reports as soon as is practicable when holdings information changes, and will provide this information to Discovery Service Systems in a timely manner and to you on request. If the products and services include content covered by the NISO Knowledge Bases And Related Tools (KBART) Recommended Practice, we will provide itemized holdings lists for the products and services in KBART-compliant format, including a column/field for dates (YYYY-MM) of additions.

**(i) Usage Statistics.** We shall provide both composite systemwide use data and itemized data for individual campuses and labs, on a monthly basis. Statistics shall meet or exceed the most recent project Counting Online Usage of Networked Electronic Resources (COUNTER) Code of Practice Release, including but not limited to its provisions on customer confidentiality. When a release of a new COUNTER Codes of Practice is issued, we shall comply with the implementation time frame specified by COUNTER to provide use statistics in the new standard format.

We shall not provide your usage statistics in any form to any third party without your written authorization, unless the third party owns rights in the products and services. In all cases, the disclosure of such data shall fully protect the anonymity of individual users and the confidentiality of their searches and will comply with all applicable privacy laws. We shall not disclose or sell to other parties usage data or information about you or its Authorized Users without your written permission or as required by law.

**WE MAY COLLECT NON-PERSONALLY IDENTIFIABLE, ANONYMIZED INFORMATION RELATED TO YOUR USE OF OUR PRODUCTS, SERVICES AND DATA. WE MAY USE THIS INFORMATION TO TEST AND IMPROVE OUR PRODUCTS AND SERVICES AND TO PROTECT AND ENFORCE OUR RIGHTS UNDER THE AGREEMENT AND MAY PASS THIS INFORMATION TO OUR THIRD PARTY PROVIDERS FOR THE SAME PURPOSES.**

**(j) Notice of the Use of Digital Rights Management Technology.** In the event that we utilize or implement any type of digital rights management (DRM) technology to control the access to or usage of the products and services, we will provide to you a description of the technical specifications of the DRM and how it impacts access to or usage of the products and services. In no event may such Digital Rights Management Technology be used in such a way as to limit your usage rights or the usage rights of any Authorized User as specified in the agreement or under applicable law. If the use of DRM renders the products and services substantially less useful to you or its Authorized Users, you may seek to terminate the agreement for breach pursuant to the termination provisions below.

**(k) Use of Digital Watermarking Technology.** In the event that we utilizes any type of watermarking technology for any element of the products and services, we agree that watermarks will not reduce readability of content and will not degrade image quality. These watermarks shall not contain user-related information, including but not limited to an





account number, IP address, and usernames. If digital watermarking technology is implemented, we will notify you at least thirty (30) days in advance of implementation, and we will provide the technical specifications for the technology used. If the use of the watermarking technology renders the products and services substantially less useful to the you or Authorized Users, you may seek to terminate the agreement for breach pursuant to the termination provisions below.

**(I) Transfer or Acquisition of Product or Service.** If any portion of the products and services is transferred to or acquired from another party, we shall use best efforts to ensure that you does not lose access to content subject to the agreement as a result of the transfer or acquisition. Any archival and perpetual access rights that have been granted shall be honored, whether we are acting as the transferring or acquiring party. If we are transferring any portion of the products and services to another party, we will use best efforts to assign all rights and obligations to the assignee. We agree to communicate with the party from which it is acquiring works to exchange such relevant payment and rights information.

## 8. Charges

**(a) Payment and Taxes.** You must pay our charges and reasonable expenses without deduction within 45 days of the date of invoice but no earlier than thirty (30) days before renewal, unless otherwise provided on your order form. Payment must be in the currency stated on your order form. You are responsible for 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. If such taxes are due, your payment to us is exclusive of such taxes unless you provide valid proof that you are exempt. Invoice disputes must be notified within 30 days.

**(b) Changes.** We may change the charges for our products and services with effect from the start of each renewal term by giving you at least 60 days' written notice.

**(c) Excess Use.** You must pay additional charges if you exceed the scope of use specified in your order form, based on the rates specified on the order form or our current standard pricing, whichever is greater.

**(d) M&A.** The charges remain payable notwithstanding your mergers, acquisitions or divestitures. We may change the charges if your mergers, acquisitions or divestitures give additional access to our products, services or data.

## 9. Personally Identifiable Information

We agree that no personally identifiable information, including but not limited to log-ins recorded in system logs IP addresses of patrons accessing the system, saved searches, usernames and passwords, will be shared with third parties, except in response to a subpoena, court order, or other legal requirement. If we are compelled by law or court order to disclose personally identifiable information of Authorized Users of patterns of use, we shall provide you with adequate prior written notice as soon as is practicable, so that you or Authorized Users may seek protective orders or other remedies. We will notify you and Authorized Users as soon as is practicable if our systems are breached and the confidentiality of personally identifiable information is compromised. For the sake of clarity, the storage of personal data in a third-party environment will not be deemed "sharing" for the purposes of this section.



## 10. Confidentiality

You agree that you will not publicly share any pricing information that is subject to this Agreement except in accordance with the California Public Records Act or other applicable law.

## 11. Compliance – Intentionally Omitted

## 12. Warranties, Disclaimers, and Indemnities

(a) WE WARRANT THAT WE HAVE ALL NECESSARY LEGAL AND EQUITABLE RIGHTS, PERMISSIONS, AND CLEARANCES TO LICENSE THE PRODUCTS AND SERVICES THAT ARE SUBJECT TO THE AGREEMENT TO YOU FOR THE PURPOSES OUTLINED IN THE AGREEMENT, AND THAT USE OF THE PRODUCTS AND SERVICES BY AUTHORIZED USERS IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT SHALL NOT INFRINGE THE COPYRIGHT OR OTHER RIGHTS OF ANY THIRD PARTY.

(b) LIMITED WARRANTY. WE WARRANT THAT WE PROVIDE OUR PRODUCTS AND SERVICES USING COMMERCIALY REASONABLE SKILL AND CARE THAT OUR SERVICES WILL NOT BE INTERRUPTED FOR AN UNREASONABLE PERIOD OF TIME AND THAT OUR SOFTWARE WILL SUBSTANTIALLY CONFORM TO ITS DOCUMENTATION FOR 90 DAYS AFTER DELIVERY. WE DO NOT OTHERWISE WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF OUR PRODUCTS OR SERVICES. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAWS, WARRANTIES IN THE AGREEMENT ARE THE EXCLUSIVE WARRANTIES FROM US AND REPLACE ALL OTHER WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS, INCLUDING OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS AND CURRENTNESS.

(c) REMEDIES. IF (I) A SERVICE IS INTERRUPTED FOR A CONTINUOUS PERIOD OF 7 DAYS, OR (II) IF SERVICE IS INTERRUPTED THREE OR MORE TIMES DURING THE TERM FOR CONTINUOUS PERIODS OF 48 HOURS OR MORE DURING EACH INTERRUPTION THEN WE WILL EITHER (X) REFUND THE CHARGES IN RESPECT OF THAT SERVICE FOR THE PERIOD OF INTERRUPTION OR (Y) ADD THE PERIOD OF INTERRUPTION TO THE END OF THE SERVICE AT NO ADDITIONAL COST. THESE ARE YOUR EXCLUSIVE REMEDIES IN THESE CIRCUMSTANCES AND WE WILL HAVE NO FURTHER LIABILITY TO YOU.

(d) SOFTWARE. IF WE CANNOT RECTIFY ANY VALID SOFTWARE WARRANTY CLAIM WITHIN A REASONABLE PERIOD YOU MAY CANCEL YOUR LICENSE OF THE AFFECTED SOFTWARE BY WRITTEN NOTICE TO US. WE WILL WITHOUT ANY FURTHER LIABILITY REFUND ALL APPLICABLE CHARGES.

(e) PROFESSIONAL SERVICES. WE WILL RECTIFY PROFESSIONAL SERVICES IF YOU GIVE US WRITTEN NOTICE OF A VALID WARRANTY CLAIM WITHIN 30 DAYS OF DELIVERY. IF WE CANNOT RECTIFY ANY VALID WARRANTY CLAIM WITHIN A REASONABLE PERIOD, WE WILL WITHOUT ANY FURTHER LIABILITY REFUND ALL APPLICABLE CHARGES AND WE MAY TERMINATE THE AFFECTED SERVICES BY WRITTEN NOTICE TO YOU.

(f) NO ADVICE. WE ARE NOT PROVIDING ANY ADVICE BY ALLOWING YOU TO ACCESS AND USE OUR PRODUCTS, SERVICES OR DATA (INCLUDING PERSONAL DATA AND THE OPINION OF THIRD PARTIES). YOUR INTERPRETATIONS OF OUR DATA AND DELIVERABLES ARE YOUR OWN FOR WHICH YOU HAVE FULL RESPONSIBILITY. AS SUCH, YOU ACKNOWLEDGE THAT WE ARE NOT RESPONSIBLE FOR ANY DAMAGES RESULTING FROM ANY DECISIONS YOU OR ANY OTHER PARTY ACCESSING THE PRODUCTS, SERVICES OR DATA THROUGH YOU, MAKE IN RELIANCE ON SUCH PRODUCTS, SERVICES OR DATA.

(g) LINKED CONTENT. WE DO NOT ACCEPT ANY RESPONSIBILITY FOR THIRD PARTY CONTENT ACCESSIBLE VIA LINKS IN OUR PRODUCTS OR SERVICES.

(h) INDEMNITY. CLARIVATE SHALL INDEMNIFY AND HOLD HARMLESS YOU AND AUTHORIZED USERS FOR ANY LOSSES, CLAIMS, DAMAGES, AWARDS, PENALTIES, OR INJURIES INCURRED, INCLUDING REASONABLE ATTORNEY'S FEES, THAT ARISE FROM ANY THIRD PARTY CLAIM THAT ALLEGES COPYRIGHT INFRINGEMENT OR OTHER INTELLECTUAL PROPERTY INFRINGEMENT ARISING FROM THE USE OF OUR PRODUCTS AND SERVICES BY YOU OR ANY AUTHORIZED USER, PROVIDED YOU (I) PROMPTLY NOTIFY US IN WRITING OF THE CLAIM; (II) SUPPLY





INFORMATION WE REASONABLY REQUEST; AND (III) ALLOW US TO CONTROL THE DEFENSE AND SETTLEMENT. WE HAVE NO LIABILITY FOR CLAIMS TO THE EXTENT CAUSED BY ITEMS NOT PROVIDED BY US. IN RELATION TO LIABILITY ARISING SOLELY FROM THIRD PARTY PROVIDERS' DATA, SOFTWARE OR OTHER MATERIALS, OUR LIABILITY WILL BE LIMITED TO THE AMOUNT WE RECOVER FROM THAT THIRD PARTY SUPPLIER DIVIDED BY THE NUMBER OF CLAIMS BY OUR CUSTOMERS, INCLUDING YOU. NO LIMITATION OF LIABILITY SET FORTH ELSEWHERE IN THE AGREEMENT IS APPLICABLE TO THIS INDEMNIFICATION. THIS SECTION SHALL SURVIVE THE TERMINATION OF THE AGREEMENT.

### 13. Liability

**(a) Unlimited Liabilities.** Neither of us excludes or limits liability where not permitted to do so under applicable laws and nothing in the agreement shall be interpreted to do so.

**(b) Excluded Losses.** Neither of us will be liable for special, incidental or exemplary damages, indirect or consequential losses, anticipated savings, lost profits, lost business, lost revenue, lost data or lost goodwill.

**(c) Limitation.** The entire liability of each of us (and of any of Clarivate's third party providers) for all claims arising out of or in connection with the agreement, including for negligence, will not exceed the amount of any actual direct damages up to the amounts payable in the prior 12 months (or where the claim arose in the first 12 months of the agreement, the amounts that would have been payable in the first 12 months) for the product or service that is the subject of the claim. This clause does not apply to claims for payment, reimbursement or indemnification.

**(d) Claims Period.** Claims must be brought within 12 months of arising.

**(e) No Liability.** We will not be responsible if our product or service fails to perform because of (i) your or a third party's technology or network; (ii) your actions or inaction (other than use in accordance with the Agreement of the product or service), such as failing to follow the usage instructions or adhering to the minimum recommended technical requirements; (iii) modifications you make to our product or service; (iv) your failure to implement and maintain proper and adequate virus or malware protection and proper and adequate backup and recovery systems; (v) your failure to install updates we have provided to you; or (vi) other causes not attributable to us.

**(f) Third Party Intellectual Property.** Intentionally Omitted

**(g) Your Responsibilities.** You are responsible for any violation of law or regulation, or violation of our or any third party rights related to (i) your material or your instructions to us; (ii) your combination of our products, services or other property with any materials; (iii) your modification of any of our property; (iv) your failure to install updates we have provided to you; or (v) your breach of the agreement. Notwithstanding any other provisions of this agreement, you will not be liable for a breach of these terms by any user provided that you did not cause, knowingly assist or condone the continuation of such breach after becoming aware of an actual breach having occurred.

### 14. Term, Termination

**(a) Term.** The term and any renewal terms for the products and services are described in your order form. If either of us does not wish to renew, they must provide the other with at least 30 days' written notice before the end of the then current term.

**(b) Suspension.** We may on notice suspend or limit your use of our products, services or other property, or terminate the agreement, (i) if required to do so by a third party provider, court or regulator; (ii) if you become or are reasonably likely to become insolvent or affiliated with one of our competitors; or (iii) if there has been or if we reasonably believe there has been: a material breach of security (such as suspicious pings or denial of service attacks); we reasonably believe that there has been a breach of your license rights under the agreement; or a violation of third party rights or applicable laws, rules or regulations. For the avoidance of doubt, any suspension will be limited to the applicable users or institutions to the extent possible. Our notice will specify the cause of the suspension or limitation. Upon receipt of such notice, the parties shall convene to determine a reasonable remedy. If you do not take the actions to implement the agreed upon remedy or the cause cannot be remedied within 30 days, we may terminate the agreement. Charges remain payable in full during periods of suspension or limitation arising from your action or inaction.





**(c) Termination.** We may terminate the agreement, in whole or in part, in relation to a product or service which is being discontinued, on 90 days' written notice. Either of us may terminate the agreement immediately upon written notice if the other commits a material breach and fails to cure the material breach within 30 days of being notified to do so. Unless we terminate for breach or insolvency, pre-paid charges will be refunded on a pro-rated basis for terminations in accordance with the agreement.

**(d) Early Termination for financial hardship.** You may terminate the agreement without penalty if sufficient content acquisitions funds are not allocated to enable you, in the exercise of its reasonable administrative discretion, to continue the agreement. In the event of such financial circumstances, you will notify us of the intent to terminate the agreement as soon as is reasonably possible, but in any case, no less than 60 days prior to next payment date, and this transaction shall terminate on the last day of the subscription period for which payment has been made without penalty of expense to you of any kind whatsoever, except as to the portions of payments herein agreed for which funds shall have been appropriated and budgeted or otherwise available.

**(e) Effect of Termination.** Except to the extent a perpetual license has been granted by us to you for a given product or service, or we have agreed otherwise on the Order Form, upon termination, all your usage rights end immediately and each of us must use reasonable efforts to return all property of the other or destroy it and, if requested, confirm this in writing. Termination of the agreement will not (i) relieve you of your obligation to pay us any amounts you owe up to and including the date of termination; (ii) affect other accrued rights and obligations; or (iii) terminate those parts of the agreement that by their nature should continue.

## 15. Force majeure

Each of us performs the agreement subject to interruption and delay due to causes that cannot be reasonably controlled by us, such as acts of God, acts of any government, war or other hostility, civil disorder, the elements, fire, explosion, power failure, equipment failure, industrial or labor dispute, inability to obtain necessary supplies, and the like.

## 16. Third party rights

Our affiliates and third party providers benefit from our rights and remedies under the agreement. No other third parties have any rights or remedies under the agreement.

## 17. General

**(a) Assignment.** You may not assign or transfer the agreement to anyone else without our prior written consent. We will provide you with written notice if we assign or transfer the agreement, in whole or in part, as part of our business reorganization, which we may do provided the products or services will not be adversely affected.

**(b) Feedback.** Any comments, suggestions, ideas or recommendations you provide related to any of our products or services are our exclusive property.

**(c) MARKETING. EACH OF US AGREES NOT TO USE THE OTHER'S NAME OR TRADEMARKS IN CONNECTION WITH ANY ADVERTISING, MARKETING OR OTHER PROMOTIONAL EFFORTS OR MATERIALS WITHOUT PRIOR WRITTEN APPROVAL**

**(d) Amendment.** No modification or claimed waiver of any provision of the agreement shall be valid except by written amendment signed by authorized representatives of both Clarivate and the Client.

**(e) Enforceability.** The agreement will always be deemed modified to the minimum extent necessary for it to be enforceable, unless modification fundamentally changes the agreement.

**(f) Non-Solicitation.** Clarivate is an independent contractor. You must not directly or indirectly employ or engage or solicit for employment or engagement any personnel of Clarivate during the term and for 12 months thereafter. Employment resulting from a general public advertisement or search engagement not specifically targeted at the relevant personnel is not precluded.





(g) **Headings and Summaries.** Headings and summaries shall not affect the interpretation of these Terms.

(h) **Waiver.** Neither of us waives our rights or remedies by delay or inaction.

(i) **Equitable Remedies.** Each of us may seek immediate relief to restrain breaches of the agreement.

(j) **Governing Law.** These terms and the agreement shall be interpreted and construed according to, and governed by, the laws of California, excluding any such laws that might direct the application of the laws of another jurisdiction.

(k) **Precedence.** In the event of any conflict within the agreement, the descending order of precedence is: clause 1; the order form; the referenced documents; the remaining provisions of these Terms.

(l) **Notices.** Notices for Clarivate must be directed to [contract.admin@clarivate.com](mailto:contract.admin@clarivate.com). Notices for you will be directed to the Client entity and address identified in the order form. Each of us may update our notice information upon prior written notice to the other.

## SIGNATURE

Signed on behalf of Clarivate Analytics (US) LLC

Signature

Print Name

Title

Date

March 30, 2020

Signed on behalf of REGENTS OF THE UNIVERSITY OF CALIFORNIA

Signature

Print Name

Title

Date

March 30, 2020