

RQ4 Subscription Agreement

GENERAL TERMS AND CONDITIONS

The following General Terms and Conditions shall apply to and form part of all RQ4 Subscription Agreements entered into by iQmetrix USA Inc. or iQmetrix Software Development Corp. with Subscribers from and after **November 1, 2012** and shall govern the use of all iQmetrix Software and the provision of all Software Services, Integrated Solutions, Implementation Services, Support Services and Training in relation to the Software. Your agreement to these General Terms and Conditions is required in order to receive and be entitled to use the Service(s). If you do not agree to these General Terms and Conditions, then any agreement established by your execution of the Specific Terms and Conditions and your license of the Service(s) shall be deemed to have been revoked.

Definitions:

1. All capitalized words and phrases used in these General Terms and Conditions, if not herein defined, shall have the meaning attributed to them in the Specific Terms and Conditions and the Appendices thereto entered into by iQmetrix and Subscriber.
2. In this Agreement the following terms shall have the following meanings:
 - a. "Agreement" means the Specific Terms and Conditions, the General Terms and Conditions and all Appendices and attachments thereto;
 - b. "Documentation" means all user manuals and related documentation issued from time to time by iQmetrix in relation to the Software and the Service;
 - c. "Endpoint" means any device on which the Software operates and/or information derived from the Software, or the Service, is accessed, including but not limited to any workstation, laptop computer, tablet and smart phone;
 - d. "Fees" means all fees to be paid by Subscriber in relation to the licensing of the Software Service and for any additional services provided by iQmetrix under this Agreement;
 - e. "Implementation Services" means the services provided by iQmetrix to enable Subscriber to use the Service;
 - f. "Integrated Solutions" means any third party product or service delivered through the RQ4 Service including but not limited to Bill Payment, Handset Protection, Payment Processing, Prepaid Products, Handset Trade-in and Vendor Managed Inventory;
 - g. "Location" means each separate physical location at which the Software Service is used or accessed in any manner;
 - h. "RQ4 Service(s)" or "Service(s)" means the Software Services, the Implementation Services, the Support Services and any other service iQmetrix agrees to provide pursuant to this Agreement;
 - i. "Scorecard Program" means the program pursuant to which iQmetrix will provide Subscriber with information that compares Subscriber's business results to industry benchmarks determined using aggregated, non-personally identifiable data obtained by iQmetrix from its licensees;
 - j. "Software" means RQ4, all parts thereof and updates thereto;
 - k. "Software Services" means the license to use the Software and all services related thereto;
 - l. "Training" means the training provided by iQmetrix in relation to the use of the Software.

License:

3. License Grant. Commencing from the Effective Date and conditional on the payment of all applicable Fees, iQmetrix grants to Subscriber, for Subscriber's internal business purposes only, a non-exclusive, non-transferable, non-assignable right and license to (i) use, execute and display the Software and (ii) use the Documentation. Subscriber acknowledges that the Software and Documentation may only be used by Subscriber. Subscriber may not copy the Documentation without iQmetrix' prior written approval.
4. Use Restrictions. Except as expressly permitted in this Agreement, Subscriber may not (i) copy, distribute, modify, translate, reverse engineer, decompile, disassemble, upload or post the Software on a network, bulletin board, intranet, extranet or web site, create derivative works based on the Software, or merge the Software into any other software; (ii) assign, sublicense, rent, lease, grant a security interest in, or otherwise transfer any rights in the Software; (iii) allow any third party to have access to the Software; or (iv) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Software. The Software is licensed as a single product. Its component parts may not be separated for use on more than one computer.
5. Delivery Subject to Credit Approval. If any portion of the Software or Services, licensed, purchased or otherwise acquired by Subscriber hereunder is subject to credit approval for purchase or lease financing, iQmetrix shall not be obligated to provide any Software or Services until such credit approval has been confirmed in writing to iQmetrix in a manner satisfactory to iQmetrix.

Fees:

6. Subscriber agrees to pay to iQmetrix all Fees as set forth in the Specific Terms and Conditions, along with any other fees or costs agreed upon between the parties.
7. Other than as expressly set out in this Agreement, all Fees paid under this Agreement are non-refundable.
8. Any services related to the development, support or maintenance of customizations and Software specifically requested or required by Subscriber are not covered by this Agreement and additional fees shall be charged for such services.
9. All Fees payable by Subscriber to iQmetrix pursuant to this Agreement are stated exclusive of any taxes. If any authority imposes any duty, tax, levy, or fee, excluding those based on iQmetrix' net income, upon any transaction under this Agreement, Subscriber agrees to pay that amount as specified in an invoice or to supply such documentation as iQmetrix may reasonably require to confirm an exemption from the payment of such taxes.
10. At iQmetrix' option, all or any part of the Service(s) may be withheld and this Agreement may be terminated without further notice upon any Fee becoming delinquent and continuing delinquent for more than 15 days thereafter. Reinstatement of the Service(s) following any such suspension or termination, shall be on such terms, and subject to personal guarantees, reinstatement fees and/or security deposits, as iQmetrix may determine in its sole discretion.
11. Interest on any outstanding Fees shall accrue at a rate of 1.5% per month commencing on the date such Fees become due to and continuing to the date the Fees are paid in full.
12. Subscriber agrees to pay iQmetrix an administrative fee of \$50 as a result of any payment that is refused as a result of insufficient funds, a closed account, a failure to process an ACH Debit or any other similar reason.

Service Delivery:

13. Subscriber hereby authorizes iQmetrix to access Subscriber's personnel, facilities, information, data, computers, and computer software as required by iQmetrix to allow iQmetrix to perform its obligations under this Agreement.
14. Subscriber hereby agrees to provide such good faith cooperation and information as requested by iQmetrix from time to time.
15. iQmetrix shall have full discretion to assign personnel and/or to engage independent contractors to perform its services under this Agreement.
16. Subscriber shall comply with and access the Software Services according to any policies, terms of use and legal notices concerning access to the Software as iQmetrix may in its full discretion, adopt or change from time to time.
17. Subscriber agrees to notify iQmetrix immediately if Subscriber suspects the iQmetrix Service is or may become unavailable to Subscriber. Subscriber agrees to provide reasonable information as requested by iQmetrix for proper diagnosis/repair.
18. iQmetrix will back up Subscriber's data from the system on a daily basis using reasonable back-up and redundancy/recovery procedures.
19. The Subscriber acknowledges that the Service may be materially modified or upgraded by iQmetrix from time to time, provided that such material modifications and upgrades do not detract from the performance levels of the Services. iQmetrix also reserves the right to discontinue the Service or any part thereof, temporarily or permanently, by providing the Subscriber with notification in writing. Subscriber agrees that iQmetrix shall not be liable to any customer or other third party for any modification or discontinuance of the Service.

Privacy and Subscriber Data:

20. iQmetrix agrees that all data stored on the Service remains the property of Subscriber and that in collecting, using or otherwise dealing with Subscriber's data it will not disclose any personally identifiable information of any Subscriber customer or employee or that identifies or is identifiable to Subscriber or its business.
21. iQmetrix shall comply with all privacy and data protection laws applicable to the gathering, processing, storing and transmitting of information received from or in relation to Subscriber.
22. Subject to iQmetrix complying with 20 and 21 above, Subscriber authorizes iQmetrix to collect, use and otherwise deal with all Subscriber data stored by iQmetrix as part of the Service or otherwise received by iQmetrix from Subscriber to create aggregated general information, (including databases, reports, compilations or other versions of such information) and to use such aggregated general information in such a manner as iQmetrix may determine, including but not limited to for the creation of the Scorecard to be provided to Subscriber under this Agreement.
23. Subscriber agrees that all aggregate general information (including any databases, reports, compilations or other versions of such information) collected and created by iQmetrix is and at all times will be the exclusive property of iQmetrix.

Credit Card Processing

24. Subscriber may use iQmetrix' credit card and debit card integration program and / or other third party credit card processing software and services provided by iQmetrix (collectively, the "Credit Card and Debit Card Services") to accept payments from its customers.
25. Subscriber shall be responsible for paying all use, maintenance and licensing fees charged by iQmetrix or any other of iQmetrix' third party service providers of Credit Card and Debit Card Services. The fees and program details for Credit Card and Debit Card Services are subject to change without notice, and iQmetrix accepts no responsibility for any such changes.
26. Subscriber acknowledges and agrees that iQmetrix shall not be responsible for (i) any damages or losses incurred by Subscriber or the customers of Subscriber in connection with Subscriber's use or inability to use the Credit Card and Debit Card Services, (ii) the accuracy of any credit card charges, amounts, calculations and/or data produced using the Credit Card

and Debit Card Services or (ii) the security of any data accessed, submitted, reported or transmitted using the Credit Card and Debit Card Services.

27. Subscriber indemnifies and holds iQmetrix harmless from any liability that may accrue to iQmetrix in relation to iQmetrix providing or Subscriber using the Credit Card and Debit Card Services.

Ownership and Intellectual Property:

28. All right, title and interest in and to the Software, and any copies thereof, and all documentation, code and logic which describes and/or comprises the Software and related Services are and shall at all times remain the sole property of iQmetrix, including all ownership rights to patents, copyrights, trademarks, trade names, goodwill and trade secrets in connection therewith. Subscriber's right to use the Software and Documentation is conditional upon and limited by the terms and conditions of this Agreement. No modification by the Subscriber of the Software or any part thereof will in any way reduce or eliminate iQmetrix' ownership rights in and to the Software and its components.
29. Subscriber hereby acknowledges that the Software shall not be deemed "works made for hire" under the U.S. Copyright Act [17 U.S.C. § 101 et seq.]. Subscriber hereby assigns, transfers and conveys any and all rights, title and interests, Subscriber may have or accrue in connection with development or use of the Software and Services, including (without limitation) any and all ownership rights to patents, trademarks, copyrights and trade secrets in connection therewith.
30. iQmetrix owns all patent, trademark, copyright, trade secret or other intellectual property rights in the Software and Documentation as delivered, as well as in any Subscriber-specific customizations or alternations or customizations to the Software made at the request of, or in conjunction with, Subscriber and Subscriber agrees to take any action or deliver any document required to confirm such ownership rights on the part of iQmetrix.

Source Code Escrow

31. iQmetrix agrees to deliver to its attorneys a copy of the source code for all Software. iQmetrix attorney shall be authorized to release the escrow source codes to Subscriber upon iQmetrix becoming insolvent, filing or having filed against it a petition (or other document under any bankruptcy law) proposing and dissolution, liquidation, composition, financial reorganization or recapitalization or in any other event the results in iQmetrix ceasing to carry on active business and upon Subscriber paying the applicable processing fee. iQmetrix agrees to update the source code in escrow as may be required from time to time as a result of changes, additions or enhancements to the Software.

Warranties:

32. iQmetrix hereby warrants to Subscriber that iQmetrix is the owner of the Software or otherwise has the right to grant to Subscriber the rights set forth in this Agreement. As Subscriber's sole remedy, in the event of any breach or threatened breach of the foregoing warranty, iQmetrix shall, at its option, either: (i) procure, at iQmetrix' expense, the right for Subscriber to use the Software and all parts thereof, (ii) replace the Software or any part thereof that is in breach with Software of comparable functionality that does not cause any breach, or (iii) refund to Subscriber the full amount of any Fees or other amounts paid by Subscriber to iQmetrix during the then current term of the Agreement.
33. iQmetrix warrants to Subscriber that the Software will perform substantially in accordance with its accompanying Documentation from and after it has been fully implemented (the "Warranty Period"), in accordance with the following:

- a) If iQmetrix receives notice of such non-performance during the Warranty Period, iQmetrix will, at its option, either repair or replace the Software that proves to be defective.
 - b) If iQmetrix is unable, within 90 days of notification, to correct a defect that Subscriber has notified iQmetrix of during the Warranty Period, which error renders the Software incapable of performing in accordance with its accompanying Documentation, Subscriber will be entitled to terminate this Agreement upon written notice and request a full refund of any Fees or other amounts paid by Subscriber to iQmetrix during the 90 day period.
 - c) This warranty does not apply to defects resulting from improper or inadequate implementation, maintenance or configuration of Software performed by anyone other than authorized representatives of iQmetrix or from any inadequate or improperly installed hardware.
 - d) Subscriber acknowledges that iQmetrix is not liable, among other things, if the Software does not meet Subscriber's requirements or if the Software will not operate in Subscriber's hardware or software environment or if Subscriber has modified the Software.
34. The warranties set forth in sections 32 and 33 are in lieu of all other warranties, express or implied, including but not limited to, implied warranties of merchantability and fitness for a particular purpose. iQmetrix (including officers, directors, agents and associates of iQmetrix) hereby disclaims and users hereby waive all warranties, express or implied, including, but not limited to, all implied warranties of fitness for a particular purpose and all implied warranties of merchantability, except as set forth herein to the contrary.
35. iQmetrix does not warrant and Subscriber hereby waives any warranty that use of or access to the Software by Subscriber will be uninterrupted or error free. Except as set forth herein to the contrary, iQmetrix does not make any warranty and Subscriber hereby waives any and all warranties as to the results obtained from use of the Software or as to the accuracy, completeness, timeliness or reliability of the Software. Subscriber hereby acknowledges and agrees that use of the internet and Software shall be at the sole and exclusive risk of Subscriber and subject to the restrictions, terms and conditions, rules, regulations, policies, applicable laws and codes of conduct governing the Internet, the Software or otherwise applicable.

Limitation of Liabilities:

36. iQmetrix shall have no responsibility or be liable for any products or services accessed by Subscriber through iQmetrix' Software or web site but sold or provided by any iQmetrix preferred partner the sale of whose products or services is integrated with iQmetrix' Software or web site.
37. iQmetrix shall not be liable for any lost profits, consequential, exemplary, incidental or punitive damages in connection with or relating to, without limitation, (i) this Agreement, the services and use, performance and operation of the Software, (ii) use, performance or operations of the Internet or use of the Internet by Subscriber; (iii) loss of data; and (iv) content, products and services offered through the Software regardless of the form of action, whether in contract or in tort, including negligence, regardless of whether iQmetrix has been advised of the possibility of such damages in advance or whether such damages are reasonably foreseeable.
38. Without limiting the generality of the foregoing, iQmetrix' liability for claims, costs, losses, damages of any kind or any other cause, including but not limited to liability for any fundamental breach of this Agreement and regardless of the form of action, shall not exceed the cumulative Fees paid by Subscriber hereunder during the current term of the Agreement..

39. iQmetrix shall indemnify Subscriber, its employees, directors, shareholders and agents for any damages, liabilities, obligations, losses, injuries, claims, demands, penalties, costs and expenses (including reasonable legal costs) on account of or arising out of from a claim due to or connected with a violation or infringement of a third-party's intellectual property rights related to the Software; provided, however, that iQmetrix is promptly notified of any and all threats, claims, and proceedings related thereto and given reasonable assistance and, if iQmetrix agrees that Subscriber is entitled to indemnification and if there is no material conflict of interest, the opportunity to assume sole control over the defense and all negotiations for a settlement or compromise. The foregoing indemnification obligations shall not apply with respect to Software or portions or components thereof (i) that are not supplied by iQmetrix; (ii) that are made in whole or in part in accordance with Subscriber specifications; (iii) that are modified after shipment other than by any party other than iQmetrix or its contractors or agents, if the alleged infringement relates to such modification; or (iv) that are combined with other products, processes, or materials where the alleged infringement relates to such combination other than approved in writing by iQmetrix.

Indemnities:

40. Subscriber shall indemnify iQmetrix, its employees, directors, shareholders and any entities whose products are provided as integrated parts of or through the Software and Services or who provide any part of the Service (the "Indemnified Parties) for any damages, liabilities, obligations, losses, injuries, claims, demands, penalties, costs and expenses arising from a claim due to, or connected with any act of Subscriber or its employees or agents in relation to the use or misuse by Subscriber of the Software or Services. This indemnity shall include any reasonable legal costs incurred by the Indemnified Parties in defense of such claims and shall survive termination of the Agreement.

Termination:

41. iQmetrix shall have the right to terminate this Agreement on 15 days notice if the Subscriber fails to render payment of any amount owed hereunder.
42. Subject to section 41, if a party violates its obligations hereunder, the other party may cancel the Agreement by sending written notice of cancellation to the other party describing the non-compliance. Upon receiving such cancellation notice, the non-complying party shall have 30 days from the date of such notice to cure any such non-compliance. If such non-compliance is not cured within the required 30 day period, the party providing cancellation notice shall have the right to cancel this Agreement as of the 31st day after the date of such cancellation notice as specified in such cancellation notice.
43. Either party shall have the right to immediately terminate this Agreement upon the written notice to the other party if the other party:
- a) ceases to carry on active business;
 - b) become insolvent;
 - c) files or has filed against it a petition (or other document) under any bankruptcy law or similar law;
 - d) proposes any dissolution, liquidation, composition, financial reorganization or recapitalization with creditors; or
 - e) its assets are taken into the possession of a receiver, trustee, custodian or similar agent.
44. Termination or cancellation of this Agreement or a service order shall not terminate or cancel any payment obligation of Subscriber under this Agreement or such service order.

45. Upon termination or expiration of this Agreement and the payment by Subscriber of any Fees or other amounts outstanding, iQmetrix will deliver to Subscriber a copy of Subscriber's data held on iQmetrix' system in Microsoft Access Format.
46. The terms outlined in the following sections of the Agreement shall survive any expiration or termination of this Agreement: 4, 20, 21, 22, 23, 26, 27, 28, 29, 34, 35, 36, 37, 38, 39, 44, 48, 50 and 58.

Miscellaneous:

47. All capitalized words and phrases used in these General Terms and Conditions, if not herein defined, shall have the meaning attributed to them in the Specific Terms and Conditions entered into by iQmetrix and Subscriber.
48. In the event of an inconsistency between any provision contained in the Specific Terms and Conditions and any provision contained in these General Terms and Conditions, the provision contained in the Specific Terms and Conditions shall prevail. In the event of any inconsistency between a provision contained in the Specific Terms and Conditions and any Appendix thereto, the provision contained in the Specific Terms and Conditions shall prevail.
49. The Specific Terms and Conditions, the Appendices thereto and these General Terms and Conditions shall constitute the entire agreement between Subscriber and iQmetrix with respect to the matters referred to therein and shall supersede all previous agreements, proposals, oral and written, and all other communications between the parties in relation to the subject matter of this Agreement.
50. iQmetrix shall not be liable for any failure to perform its obligations under this Agreement or any failure of the Software because of circumstances beyond the control of iQmetrix, which such circumstances shall include (without limitation) natural disaster, terrorism, riot, sabotage, labour disputes, war, any acts or omissions of any government or governmental authority, declarations of governments, laws, court orders, rejection of domain name by a Registration Company, transportation delays, power failure, computer failure, failure of Subscriber's computer systems, iQmetrix' system reasonable downtime for routine maintenance, network problems, telecommunications failure, failure of users to cooperate with the reasonable requests of iQmetrix, misuse of the Software by Subscriber or a third party and Subscriber's breach of its obligations.
51. Nothing herein shall be construed as creating a partnership relationship, employment relationship, or agency relationship between the parties, or as authorizing either party to act as agent for the other. Each party maintains its separate identity.
52. All notices required pursuant or relating to this Agreement shall be in writing and will be sent by registered mail, postage prepaid, addressed to the party's address included in the Specific Terms and Conditions. Either party may change its address by notice given to the other in the manner set forth in this paragraph. Notices shall be deemed given and received 5 calendar days after they are mailed.
53. Waiver of breach of this Agreement shall not constitute waiver of another breach. Failing to enforce a provision of this Agreement shall not constitute a waiver or create an estoppel from enforcing such provision. Any waiver of a provision of this Agreement shall not be binding unless such waiver is in writing and signed by the party waiving such provision.
54. Alterations, modifications or amendments of provisions of this Agreement shall not be binding unless such alterations, modifications or amendments are in writing and signed by authorized representatives of iQmetrix and Subscriber.
55. The provisions of this Agreement shall be deemed severable. In the event that any provision of this Agreement is determined to be unenforceable or invalid, such provision shall nonetheless be enforced to the fullest extent permitted by applicable law, and such determination shall not affect the validity and enforceability of any other remaining provisions of this Agreement.

56. All of the terms and provisions of this Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of each of the parties hereto.
57. Subscriber shall have no right to assign the benefit of this Agreement without express written permission of iQmetrix. In the event that Subscriber merges with another company or sells or assigns its entire business to another company, iQmetrix will not withhold unreasonably its permission to assign the benefits of this Agreement to that other company provided that iQmetrix shall have the right without restriction to renegotiate Fees.
58. a. If the Agreement has been entered into by iQmetrix USA Inc., this Agreement will be governed by and construed in accordance with the laws of the State of North Carolina. Any dispute arising out of this Agreement shall be submitted to binding arbitration pursuant to the Wireless Industry Arbitration Rules and under the auspices of, the American Arbitration Association, shall be conducted before one (1) arbitrator and any arbitration shall be conducted in Charlotte, NC. Subscriber expressly consents to (i) the exclusive jurisdiction of such arbitration ousting the jurisdiction of any state, provincial or federal court, and (ii) service of process being effected upon Subscriber by registered mail.
- b. If the Agreement has been entered into by iQmetrix Software Development Corp., this Agreement shall be governed by and construed in accordance with the laws of the Province of Saskatchewan. Any dispute arising out of this Agreement shall be submitted to binding arbitration before one arbitrator and such arbitration shall be carried out pursuant to the rules set forth in *The Arbitration Act, 1992* (Saskatchewan). The arbitration shall be conducted in Regina, Saskatchewan. Subscriber expressly consents to (i) the exclusive jurisdiction of such arbitration ousting the jurisdiction of any provincial or federal court, and (ii) service of process being effected upon Subscriber by registered mail.
59. The Agreement may be executed in any number of counterparts. The parties may exchange copies of the counterparts executed by them by facsimile, email or in any other form, for the sake of parties as required having copies of the originals on file.