

ReviewMetrix User Agreement

This ReviewMetrix User Agreement (the “**Agreement**”) governs use of the ReviewMetrix™ product (“**ReviewMetrix**”). This Agreement is a legal agreement between the individual or entity on whose behalf you are subscribing to ReviewMetrix (“**Customer**”) and Market Metrix of Delaware LLC (“**Market Metrix**”). You represent and warrant to Market Metrix that you have been authorized by Customer to subscribe to ReviewMetrix on Customer’s behalf (including to make use of the credit or debit card to which subscription fees will be charged) and that you have full legal authority, as Customer’s agent, to bind Customer to this Agreement.

1. SUBSCRIPTIONS

Registration. When Customer registers to become a subscriber to ReviewMetrix, Market Metrix collects certain information about Customer. Customer agrees to: (a) provide true, accurate, current, and complete information as prompted by the registration form; and (b) maintain and update such information to keep it true, accurate, current, and complete at all times. Customer agrees that Market Metrix may use any information Market Metrix obtains about Customer through registration in accordance with the provisions of Market Metrix’s Privacy Policy.

Passwords and Security. When Customer registers to become a subscriber to ReviewMetrix, Customer will be asked to provide a user name and password through which Customer’s authorized number of users (the number of which is based on the subscription level selected by Customer) will be able to access ReviewMetrix. Customer’s subscription is personal to Customer and Customer is prohibited from sharing Customer’s user name and password. Customer is responsible for maintaining the confidentiality of Customer’s password, and Customer is solely responsible for all activities that occur under Customer’s password. Customer agrees immediately to notify Market Metrix of any unauthorized use of Customer’s password or any other breach of security related to ReviewMetrix of which Customer becomes aware. Market Metrix reserves the right to require Customer to change Customer’s password if Market Metrix believes that Customer’s password is no longer secure. Market Metrix will not be liable for any loss or damage arising from Customer’s failure to adequately safeguard Customer’s password.

Fees. By subscribing to ReviewMetrix, Customer agrees to pay the subscription fee identified at the time Customer subscribes or upgrades for the subscription type Customer has selected. Customer’s subscription will be for the time period selected (currently only monthly) or as stated in the Service Order agreed between Customer and Market Metrix (the “**Subscription Period**”). At the end of the Subscription Period, Customer’s subscription will automatically renew for successive Subscription Periods and, (upon renewal) if paying with credit card, Customer’s credit card will be charged the then-applicable subscription fee for Customer’s Subscription Period. Market Metrix reserves the right at any time to change the fees it charges for subscriptions to ReviewMetrix (or any portion thereof). However, in no event will Customer be charged for access to ReviewMetrix unless Market Metrix obtains Customer’s prior agreement to pay such charges. Details regarding the access Customer will receive in exchange for the payment of fees, as well as any additional payment terms and conditions that apply, will be disclosed to Customer prior to Customer’s agreement to pay such fees. All such terms shall be deemed to be a part of (and are hereby incorporated by reference into) this Agreement.

Refund Policy. It is Customer’s responsibility to determine if Customer would like to use ReviewMetrix BEFORE subscribing. Once Customer has paid a subscription fee, a refund cannot be given. If, however, Customer is having problems accessing ReviewMetrix, has contacted Market Metrix, has exhausted all support options that Market Metrix provides to assist Customer with technical problems, and is still unable to access ReviewMetrix, Market Metrix will refund Customer’s subscription fee for the Subscription Period. These are the ONLY circumstances under which Customer will receive a refund of

Customer's subscription fee. In no event will Customer receive a refund if Market Metrix terminates Customer's membership under Section 4 of this Agreement.

Cancellations. Customer may cancel Customer's subscription at any time, at least one business day before the end of the Subscription Period. To do so, please login using Customer's user name and password and visit the Administration area of ReviewMetrix. If Customer does cancel, Customer will not receive a refund of Customer's subscription fee but Customer will continue to have access to ReviewMetrix for the remainder of Customer's Subscription Period. If Customer cancels, and thereafter again wishes to subscribe, Customer will need to register again.

2. CUSTOMER'S RESPONSIBILITIES. Customer is responsible for obtaining and maintaining all equipment and services needed for access to and use of ReviewMetrix and for paying all charges related thereto. Customer agrees not to use ReviewMetrix to: (a) violate any local, state, national, or international law or regulation; (b) transmit any material that is abusive, harassing, tortious, defamatory, vulgar, pornographic, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically, or otherwise objectionable; (c) transmit any unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of solicitation; (d) transmit any material that contains adware, malware, spyware, software viruses, or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (e) stalk, harass, or harm another individual; (f) impersonate any person or entity, or otherwise misrepresent Customer's affiliation with a person or entity; or (g) interfere with or disrupt ReviewMetrix or servers or networks connected to ReviewMetrix, or disobey any requirements, procedures, policies, or regulations of networks connected to ReviewMetrix.

3. PROPRIETARY RIGHTS

Content. The content (including without limitation all text, data, images, numerical scores and benchmarks) available on ReviewMetrix ("**Content**") may be copied solely for Customer's own internal business use. Content may not be republished, posted, transmitted, sold, offered for sale, or redistributed in any way without the prior written permission of Market Metrix. Customer must abide by all copyright notices, information, or restrictions contained in or attached to any Content.

Marks. "ReviewMetrix" and the Market Metrix logo, as well as certain other of the words and logos displayed in ReviewMetrix, constitute trademarks, trade names, or service marks ("**Marks**") of Market Metrix or other entities. Customer is not authorized to use any such Marks. Ownership of all such Marks and the goodwill associated therewith remains with Market Metrix or those other entities.

Restrictions. Customer agrees not to (a) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit ReviewMetrix in any way; (b) modify or make derivative works based upon ReviewMetrix; or (c) reverse engineer or access ReviewMetrix in order to (i) build a competitive product or service, (ii) build a product using similar ideas, features, functions or graphics of ReviewMetrix, or (iii) copy any ideas, features, functions or graphics of ReviewMetrix.

Confidential Information. From time to time Market Metrix may furnish to Customer certain information or data relating to Market Metrix's or its partners' products or business that Market Metrix identifies as confidential ("**Confidential Information**"). Customer shall keep confidential, and shall not reveal or disclose to any third party, any Confidential Information. Customer shall not use any Confidential Information for any purpose not expressly permitted by this Agreement. The provisions of this paragraph shall not apply to information that (a) is or becomes publicly available other than as a result of Customer's failure to comply with this paragraph or (b) is independently developed by Customer. In addition, Customer will be allowed to disclose Confidential Information to the extent that such disclosure is required by law or by the order of a court of similar judicial or administrative body,

provided that Customer notifies Market Metrix of such required disclosure promptly and in writing and cooperates with Market Metrix, at Market Metrix's request and expense, in any lawful action to contest or limit the scope of such required disclosure.

4. TERMINATION. Customer agrees that Market Metrix may terminate Customer's subscription or suspend Customer's access to all or part of ReviewMetrix, without notice, if: (a) Customer violates this Agreement; (b) Market Metrix is unable to verify or authenticate any information that Customer provides; or (c) Customer engages in any conduct that Market Metrix, in its sole and absolute discretion, believes is in violation of any applicable law or regulation or is otherwise harmful to the interests of Market Metrix, any other ReviewMetrix user, or any third party. Further, Customer agrees that Market Metrix shall not be liable to Customer or any third party for suspending or terminating Customer's access to ReviewMetrix (or any portion thereof) under this Section.

5. MODIFICATIONS. Market Metrix may, in its sole and absolute discretion, change this Agreement from time to time. Market Metrix will post notice of such changes on ReviewMetrix. If Customer objects to any such changes, Customer's sole recourse shall be to cancel Customer's subscription to ReviewMetrix. Continued use of ReviewMetrix following notice of any such changes shall indicate Customer's acknowledgement of such changes and agreement to be bound by the terms and conditions of such changes. Market Metrix reserves the right, in its sole and absolute discretion, to modify or discontinue ReviewMetrix with or without notice to Customer. Market Metrix shall not be liable to Customer or any third party should Market Metrix exercise its right to modify or discontinue ReviewMetrix. If, however, Market Metrix discontinues ReviewMetrix, Market Metrix will refund to Customer any subscription fees Customer has pre-paid for the period after which Market Metrix has discontinued ReviewMetrix.

6. LINKS. Market Metrix's provision of a link in ReviewMetrix to any other Web site or Internet resource is for Customer's convenience only and does not signify Market Metrix' endorsement of such other Web site or resource or its contents. Market Metrix shall have no responsibility or liability for any information, software, or materials found at any other Web site or Internet resource.

7. DISCLAIMER OF WARRANTIES. CUSTOMER UNDERSTANDS AND EXPRESSLY AGREES THAT USE OF REVIEWMETRIX IS AT CUSTOMER'S SOLE RISK. REVIEWMETRIX IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. MARKET METRIX EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO REVIEWMETRIX (INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, AND NON-INFRINGEMENT). MARKET METRIX MAKES NO WARRANTY THAT REVIEWMETRIX WILL MEET CUSTOMER'S REQUIREMENTS, OR THAT REVIEWMETRIX WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. MARKET METRIX MAKES NO WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF REVIEWMETRIX, OR AS TO THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH REVIEWMETRIX, OR THAT DEFECTS IN REVIEWMETRIX WILL BE CORRECTED. CUSTOMER UNDERSTANDS AND AGREES THAT ANY MATERIAL AND/OR INFORMATION DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF REVIEWMETRIX IS DONE AT CUSTOMER'S OWN DISCRETION AND RISK AND THAT CUSTOMER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE ARISING THEREFROM. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY CUSTOMER FROM MARKET METRIX OR THROUGH REVIEWMETRIX SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

8. LIMITATION OF LIABILITY. CUSTOMER UNDERSTANDS AND EXPRESSLY AGREES THAT TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL MARKET METRIX OR ITS OFFICERS, EMPLOYEES, DIRECTORS, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS, OR LICENSORS BE LIABLE UNDER ANY THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT, STATUTORY, OR OTHERWISE) FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY

DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF REVENUES, PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF SUCH PARTIES WERE ADVISED OF, KNEW OF, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM CUSTOMER'S (OR ANYONE USING CUSTOMER'S ACCOUNT) USE OF REVIEWMETRIX.

9. EXCLUSIONS AND LIMITATIONS. Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental or consequential damages. Accordingly, some of the limitations and disclaimers in this Agreement may not apply to Customer. To the extent that Market Metrix may not, as a matter of applicable law, disclaim any implied warranty or limit its liabilities, the scope and duration of such warranty and the extent of Market Metrix's liability shall be the minimum permitted under such applicable law.

10. INDEMNIFICATION. Customer agrees to indemnify, defend, and hold harmless Market Metrix, its parents, subsidiaries, affiliates, officers, directors, employees, consultants, and agents from and against any and all claims, liabilities, damages, losses, costs, expenses, and fees (including reasonable attorneys' fees) that such parties may incur as a result of or arising from (a) any information Customer (or anyone using Customer's account) submits, posts, or transmits through ReviewMetrix, (b) Customer's (or anyone using Customer's account) use of ReviewMetrix, (c) Customer's (or anyone using Customer's account) violation of this Agreement, and (d) Customer's (or anyone using Customer's account) violation of any rights of any other person or entity.

11. MISCELLANEOUS. This Agreement constitutes the entire and exclusive and final statement of the agreement between Customer and Market Metrix with respect to the subject matter hereof, superseding any prior agreements or negotiations between Customer and Market Metrix with respect to the subject matter hereof. This Agreement and the relationship between Customer and Market Metrix shall be governed by the laws of the State of California as applied to agreements made, entered into, and performed entirely in California by California residents, notwithstanding Customer's actual place of residence. All lawsuits arising from or relating to this Agreement or Customer's use of ReviewMetrix shall be brought in the Federal or State courts located in San Francisco County, California, and Customer hereby irrevocably submits to the exclusive personal jurisdiction of such courts for such purpose. The failure of Market Metrix to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, Customer nevertheless agrees that the court should endeavor to give effect to the intentions of Market Metrix and Customer as reflected in the provision, and that the other provisions of this Agreement remain in full force and effect. Customer agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of ReviewMetrix or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred. The section titles in this Agreement are for convenience only and have no legal or contractual effect. The terms of Sections 3 and 7 through 11 of this Agreement, as well as any limitations on liability explicitly set forth herein, shall remain in full force and effect notwithstanding any termination of Customer's use of ReviewMetrix.