

TERMS OF USE

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Thank you for using the CykoMetrix service. These Terms of Use (the “**Terms of Use**”) and the CykoMetrix’ [Privacy Policy](#) (the Terms of Use and Privacy Policy, together are referred to as the “**Agreement**”) govern your use of: (a) the CykoMetrix website located at www.CykoMetrix.com, and any subdomains thereof (collectively, the “**Site**”), (b) any off-line software components made available to you by or on behalf of CykoMetrix, collectively called the “**Desktop**”, (c) any web-based services made available to you by or on behalf of CykoMetrix via the Site (each, a “**Web-based Offering**”), (d) any downloadable or cloud based software tools made available to you by or on behalf of CykoMetrix (each, a “**Tool**”), and (e) all data, text, graphics, sound or video clips, flash animations, user interfaces, visual interfaces, trademarks, logos, and computer code, whether on the Site, in the Desktop, in a Web-based Offering, or in a Tool (other than User Content (as defined below), collectively, the “**Content**”), including but not limited to the design, structure, selection, coordination, “look and feel,” and arrangement of that Content. The Site, the Desktop, Web-based Offerings, Tools, and the Content (collectively or any part thereof, the “**Service**”) are the property of CykoMetrix, and its affiliates and subsidiaries (collectively, “**CykoMetrix,**” “**we,**” “**us,**” or “**our**”) and our licensors, and are protected by applicable intellectual property rights.

By clicking the “I accept” or similar button and/or using, downloading, or accessing the Service, you are unconditionally consenting to be bound by and are becoming a party to the Agreement either for yourself or, if you are using, downloading or accessing the Service on behalf of your employer or another entity, you are accepting on behalf of your employer or another entity, and you represent and warrant that you have the full legal right, power, and authority to bind your employer or that entity to these terms and conditions. If you do not have that legal authority, or you do not agree with the Agreement, you must press the “I do not accept” or similar button when prompted and you may not use or access the Service and you must remove any CykoMetrix-provided software and content from your computer or other device.

REVISIONS

CykoMetrix reserves the right, at its sole discretion, to change, modify, add, or remove portions of these Terms of Use and the Privacy Policy at any time. The most current version of these Terms of Use may be found at www.CykoMetrix.com/PDF/CykoMetrix-Terms-of-Use.pdf (or any successor URL as CykoMetrix may provide). You should visit this page periodically to review the most current Terms of Use, because you are bound by them. The most current version of the Privacy Policy may be found at www.cykometrix.com/PDF/CykoMetrix-Privacy-Policy.pdf (or any successor URL as CykoMetrix may provide). Your continued use of the Service indicates your acceptance and agreement to the changes. As long as you comply with the Agreement, CykoMetrix grants you a personal, non-exclusive, non-transferable, limited right to access the Site and use the Service as further described below.

The terms of the Agreement will govern any updates provided to you by CykoMetrix that replace and/or supplement the Desktop, a Web-based Offering, a Tool, or any other portion of the Service, unless that upgrade is accompanied by a separate license or revised agreement, in which case the terms of that license or revised agreement will govern.

PERSONAL, INTERNAL BUSINESS, OR LIMITED COMMERCIAL USE ONLY

Except as otherwise set forth herein, the Service is made available to you for: (a) your personal use; (b) your internal business use; or (c) if you are a Managed Service Provider (“**MSP**”), or Value Added Reseller (“**VAR**”), use in connection with the commercial support of your customers, in compliance with all applicable laws, rules, and regulations. If you want to make any other commercial use of the Service, including but not limited to selling, distributing, or providing access to the Service for payment, you must enter into a separate written agreement with CykoMetrix or obtain CykoMetrix’ written permission in advance.

If you are asked to register for the Service, you must provide complete and accurate identification, contact, and other information required as part of the registration process, and accurately and promptly update that information if it changes. CykoMetrix reserves the right, in its sole discretion, to refuse or discontinue participation or access to any or all of the Service to any user or member at any time.

Except as expressly provided in these Terms of Use, no part of the Service may be copied, reproduced, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted, or distributed in any way (including “mirroring” and “framing”) to any other computer, server, website, or other medium for publication or distribution or for any commercial enterprise, without CykoMetrix’ express prior written consent.

At CykoMetrix, we are constantly innovating to try to provide the best possible experience for our members. As part of this on-going innovation, we may from time-to-time stop (permanently or temporarily) providing the Service or any part thereof, without notice. You may stop using the Service at any time and are under no obligation to inform CykoMetrix when you stop using the Service. You acknowledge and agree that if CykoMetrix disables access to your account, you may be prevented from accessing the Service, your account details, or any files or other content contained in your account.

CHILDREN'S USE OF THE SERVICE

No part of the Service is directed to persons under the age of 18. If you are under 18 years of age, you must not use or access the Service at any time or in any manner. By using the Service, you represent and warrant you are at least 18 years of age.

RESTRICTIONS AND PROHIBITED ACTIONS

The Service is intended for the use described above and in any documentation provided by CykoMetrix in connection with the applicable portion of the Service only and may not be used in connection with any other commercial endeavors except those that are specifically allowed, endorsed, or approved by CykoMetrix.

You may not change, reorganize, modify, copy, reverse engineer, decompile, disassemble, attempt to derive the source code of, or create derivative works from the Service, any updates, or any part thereof for any purpose, including in order to: (a) build a competitive product or service, (b) build a product using similar ideas, features, functions, or graphics of the Service, (c) remove, change, or replace any trademarks, logos, copyrights, or any other branding elements of CykoMetrix or its licensors, (d) modify, hide, obscure, disable, or otherwise render inoperable any portion of the user interface including, but not limited to, the display of advertisements and promotions within the Service, or (e) copy any ideas, features, functions, or graphics of the Service. If you wish to request CykoMetrix' written approval to do any of the above, please contact CykoMetrix by sending an email to info@CykoMetrix.com. You may not use the Service to process Prohibited Data.

You may not use any "deep-link", "page-scrape", "robot", "spider", or other automatic device, program, algorithm, or methodology, or any similar or equivalent manual process, to access, acquire, copy, or monitor any portion of the Service, or in any way reproduce or circumvent the navigational structure or presentation of the Service to obtain or attempt to obtain any materials, documents, or information

through any means not purposely made available through the Service by CykoMetrix.

You may not attempt to gain unauthorized access to any portion or feature of the Service, or any other systems or networks connected to the Service or to any CykoMetrix server, or to any of the services offered on or through the Service, by hacking, password “mining,” or any other illegitimate means. You may not harvest or collect user names, email addresses, or any other member identifying information by electronic or other means for the purpose of sending unsolicited email or other communications. Unauthorized commercial advertisements, affiliate links, and other forms of solicitation may be removed from member profiles and/or community postings without notice and may result in termination of member privileges.

You may not probe, scan, or test the vulnerability of the Service or any network connected to the Service, nor breach the security or authentication measures of the Service or any network connected to the Service. You may not reverse look-up, trace, or seek to trace any information on any other user of or visitor to the Service, or any other customer of CykoMetrix, including any CykoMetrix account not owned by you, to its source, or exploit the Service or any service or information made available or offered by or through the Service, in any way where the purpose is to reveal any information, including but not limited to personal identification or information, other than your own information, as provided for by the Service.

You agree not to use any device, software, or routine to interfere or attempt to interfere with the proper working of the Service or any transaction being conducted on the Service, or with any other person’s use of the Service. You may not forge headers or otherwise manipulate identifiers in order to disguise the origin of any message or transmittal you send to CykoMetrix on or through the Service or any service offered on or through the Service. You may not pretend that you are, or that you represent, someone else, or impersonate any other individual or entity. You may not use the Service or any Content for any purpose that is unlawful or prohibited by these Terms of Use, to solicit the performance of any illegal activity, or for other activity that infringes the rights of CykoMetrix or others.

You will comply with all applicable laws, and with all industry standards or self-regulatory programs to which you are contractually bound, regarding the collection, processing, transfer, safeguarding, security, and other use of all

information and content processed by or used in connection with your use of the Service.

You agree not to attempt to do, or assist or permit any third party in doing, any of the acts described above or otherwise prohibited by the Agreement.

If you breach these restrictions, or otherwise exceed the scope of the licenses or other rights granted in the Agreement, then you may be subject to prosecution and damages, as well as liability for infringement of intellectual property rights.

ACCOUNT INFORMATION AND SECURITY

Access to and use of portions of the Service may require you to open an account (including setting up a CykoMetrix ID and password). To register, you must provide a valid email address as a CykoMetrix ID. You are entirely responsible for maintaining the confidentiality of your account information, including your password, and for any and all activity that occurs under your account. You agree to notify CykoMetrix immediately of any unauthorized use of your account or password, or any other breach of security. However, you will be responsible for losses incurred by CykoMetrix or any other user of the Service due to someone else using your CykoMetrix ID, password, or account.

You will not knowingly send or store spam, unlawful, infringing, obscene, or libelous material, or viruses, worms, Trojan horses, and other harmful code.

You may not use anyone else's CykoMetrix ID, password, or account at any time without the express permission and consent of the holder of that CykoMetrix ID, password, or account. CykoMetrix cannot and will not be liable for any loss or damage arising from your failure to comply with these obligations.

By providing us with your email address, you agree to receive all required notices electronically, to that email address. CykoMetrix will use this email address in accordance with our Privacy Policy which can be found at www.cykometrix.com/PDF/CykoMetrix-Privacy-Policy.pdf. You agree that any notices, agreements, disclosures, or other communications that we send to you

electronically will satisfy any legal communication requirements, including that those communications be in writing.

If you chose to complete a CykoMetrix user profile, or an assessment, you agree to accurately represent yourself, your background and experience, your work history and company affiliation, your certifications and areas of expertise, and any other personal or company information you chose to share. You also agree not to impersonate any person, company, or entity, or falsely state or otherwise misrepresent yourself, your age, or your affiliation with any person, company, or entity.

We care about the security of our users. While we work diligently to protect the security of your account and related information, CykoMetrix cannot guarantee that unauthorized third parties will not be able to defeat our security measures. Please notify us immediately of any compromise or unauthorized use of your account by emailing support@CykoMetrix.com.

Upon written request, CykoMetrix may host all information under a partner or VAR account within a certain jurisdiction to satisfy specific requirements. Otherwise, account data and any other data collected from accounts may be stored at locations CykoMetrix chooses.

INTELLECTUAL PROPERTY OWNERSHIP

You acknowledge that, as between you and CykoMetrix, CykoMetrix owns all rights, title, and interest in and to the Service, portions thereof, or software or content provided through or in conjunction with the Service, including without limitation, all Intellectual Property Rights in and to the Service and any protectable suggestions, ideas, enhancements, requests, feedback, and recommendations or other information provided by you or any other party relating to the Service. **“Intellectual Property Rights”** means any and all rights existing from time to time under patent law, copyright law, trade secret law, trademark law, unfair competition law, and any and all other proprietary rights, and any and all applications, renewals, extensions, and restorations thereof, now or hereafter in force and effect worldwide. You agree not to (and agree not to allow third parties to) modify, adapt, translate, prepare derivative works from, decompile, reverse engineer, disassemble, or otherwise attempt to derive source code from the Service, or to extract significant portions of Service’s files for use in other applications. You also agree to (and will require third

parties to) not remove, obscure, or alter CykoMetrix' or any third party's copyright notice, trademarks, or other proprietary rights notices affixed to or contained within or accessed in conjunction with or through the Service.

NO IMPLIED RIGHTS

There are no implied licenses granted in these Terms of Use. All rights not granted herein are expressly reserved by CykoMetrix, our licensors or the copyright owner of any User Content.

DESKTOP AND TOOLS TERMS

If you download, install, or access the Desktop or Tools, the following provisions apply to you.

License. The Desktop and Tools are licensed, not sold, to you for use only under the terms of the Agreement. Subject to the terms and conditions of and your ongoing compliance with the Agreement, including without limitation payment of the applicable fees (if any), CykoMetrix hereby grants you a personal, limited, revocable, non-exclusive, non-transferable license to download, install, and use the Desktop or Tools on equipment or compatible devices owned or controlled by you or your Consenting Users, and in each case solely for your personal, non-commercial use, or, if you are an entity rather than an individual, to allow your employees and contractors to use the Desktop for the sole benefit of you and your Consenting Users, if each of those employees or contractors has agreed to and is bound by the Agreement. “**Consenting Users**” means individuals who have authorized you to use the Desktop or Tools in connection with and install any related components on equipment or compatible devices that they own or control for the purposes of collecting Collected Data and who have agreed to be bound by the terms of the Agreement.

The scope of the license granted under the preceding paragraph does not include the right to use the Desktop or Tools in connection with, in any manner, the following types of information: (a) payment card information or any information governed under the Payment Card Industry Data Security Standard; (b) “nonpublic personal information” or other information subject to any applicable financial privacy law; (c) protected health information; (d) Social Security numbers; or (e) with regard to the processing of personal data subject to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals

with regard to the processing of personal data and on the free movement of such data, “sensitive” personal data. The foregoing data constitutes “Prohibited Data.”

Automatic Updates. The Desktop or Tools may communicate with CykoMetrix’ servers to check for available updates to the software, such as bug fixes, patches, enhanced functions, missing plugins and new versions. During this process, the Desktop or Tools may send CykoMetrix a request for the latest version information. By installing the Desktop or Tools, you hereby agree to automatically request and receive updates from CykoMetrix’ servers.

Some personal firewall programs may be configured in such a way as to prevent the Desktop or Tools from receiving these updates. If the computer on which you install the Desktop or Tools is so configured, it may be necessary for you to make an exception entry in the configuration of the personal firewall program to allow the Desktop or Tools to successfully install and receive these updates.

WEB-BASED OFFERING TERMS

If you subscribe to or access a Web-based Offering, the following provisions apply to you.

Grant of Right to Use Web-based Offering. Subject to the terms and conditions of and your ongoing compliance with the Agreement, including without limitation payment of any applicable fees, CykoMetrix hereby grants you a personal, limited, non-exclusive, revocable, non-transferable, non-sublicensable right during the period for which you have paid all applicable fees to permit each user for whom you have purchased a user subscription to access the applicable Web-based Offering solely for your internal business purposes. You must ensure that each of your users has agreed to and is bound by the Agreement.

INFORMATION PRACTICES

Open communication about our users’ privacy and how we use their information is very important to CykoMetrix. As a condition of downloading or using any part of the Service, you agree to the terms of the [CykoMetrix Privacy Policy](#), which may be updated from time to time, as expressed in the most recent version that exists at the

time of your use. The most current version of the CykoMetrix Privacy Policy may be found at www.cykometrix.com/PDF/CykoMetrix-Privacy-Policy.pdf. Information collected by CykoMetrix may be stored and processed in the United States or any other country in which CykoMetrix or its agents maintain facilities. By using the Service you consent to any transfer of that information outside of your country.

THE SERVICE MAY CONTAIN A FEATURE THAT IS USED TO AUTOMATICALLY TRANSMIT CERTAIN CONTENT AND INFORMATION COLLECTED VIA ONE OR MORE TOOLS TO SERVERS OPERATED BY OR ON BEHALF OF CYKOMETRIX, INCLUDING INFORMATION ABOUT EQUIPMENT ON WHICH THE TOOLS ARE INSTALLED AND THE SERVICE IS USED TO ANALYZE, OR THROUGH WHICH THE SERVICE IS OTHERWISE ACCESSED OR USED, AND THE SYSTEMS, PROGRAMS, OR CONTENT ON THAT EQUIPMENT, INCLUDING EQUIPMENT, SYSTEMS, AND PROGRAMS OF YOUR CONSENTING USERS (“**Collected Data**”).

The technical processing and transmission of Collected Data through the Service may involve: (a) transmissions over various networks, including networks not owned by you or CykoMetrix and (b) changes to conform and adapt to technical requirements of connecting networks, devices, or products. You acknowledge and agree that CykoMetrix may use any Collected Data as provided in the CykoMetrix Privacy Policy.

You represent and warrant that you have all necessary rights to permit CykoMetrix to engage in this processing of data relating to your use of the Service and Tools and that, where appropriate, you have provided notice to all of your Consenting Users and have obtained appropriate and valid consents from all Consenting Users regarding the collection, processing, and use of their data by you and by or on behalf of CykoMetrix.

Additionally, by using the Service, you acknowledge and agree that Internet transmissions are never completely private or secure. You understand that any message or information you send to the Service may be read or intercepted by others, even if there is a special notice that a particular transmission (for example, credit card information) is encrypted.

While CykoMetrix actively adheres to security best practices when handling sensitive data such as Personal Data, our users also need to follow common sense practices when using our Service. As discussed above, users should not post sensitive data in any part of the Service that can be seen by others.

FEES AND PAYMENTS

CykoMetrix reserves the right to charge for the Service or any portion thereof, modify the pricing of, add to, or discontinue the Service or any portion thereof without prior notice.

From time to time CykoMetrix makes available certain value-added services for a fee, such as a Web-based Offering. Should you elect to use those services, you agree to pay the required fee, if applicable, as specified in the services product, services, registration or purchase pages. If you elect not to pay any fees charged by CykoMetrix, CykoMetrix has the right to cease providing those services to you. CykoMetrix reserves the right to modify the pricing of these services at any time without prior notice.

The Service may include functionality for activating, updating, or cancelling recurring payments for periodic charges, such as a portion of the Service that requires a subscription fee. If you activate or update recurring payments through the Service, you authorize CykoMetrix to periodically charge, on a going-forward basis and until cancellation (by us or you) of either the recurring payments or your account, all accrued sums on or before the payment due date for the accrued sums. To cancel your access of any portion of the Service that requires a subscription fee or other recurring payment, you must notify us by telephone or email (support@CykoMetrix.com) to Customer Service of your decision to terminate your use of that portion of the Service. If you use the Service to update or cancel any existing authorized one-time or recurring payment, it may take up to 10 business days for the update or cancellation to take effect. All fees and charges are nonrefundable and there are no refunds or credits for partially used periods. If payment is made via a purchase order or check, you agree to remit the payment before the date specified on the invoice.

All monetary transactions on the Service take place in U.S. currency unless otherwise indicated.

The Service may use third parties to process payments. Our third-party payment processors accept payments through methods detailed on the applicable payment screen, which may include various credit cards. You agree to pay for all products and services that you purchase through the Service and you agree that we may charge

your selected payment method, either directly or through the services of a third-party payment processor, for any of those payments. Only those payment methods accepted by our third-party payment processor can be used to purchase products, goods, or services through the Service.

You are responsible for determining and paying the appropriate government taxes, fees, and service charges resulting from a transaction occurring through or arising as a result of use of the Service. We are not responsible for collecting, reporting, paying, or remitting to you any of those taxes, fees, or service charges, except as may otherwise be required by law.

TRADEMARKS

CykoMetrix' trademarks may not be used, including as part of trademarks and/or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion and may not be copied, imitated, or used, in whole or in part, without CykoMetrix' prior written permission.

INTERNATIONAL USE

You will abide by all applicable laws and regulations regarding use of the Service. CykoMetrix and its licensors make no representation that the Service is appropriate or available for use in any location. The Service is controlled and operated from within Canada. CykoMetrix makes no representations that materials contained within the Service are appropriate or available for use in other locations, and access to the Service from locations where that activity is illegal is prohibited. Those who choose to use the Service from other locations do so on their own initiative and are solely responsible for compliance with all applicable laws.

By accessing the Service, you agree that you are responsible for complying with all applicable laws, export and trade and economic sanctions regulations. You further certify that you are not a proscribed end-user or the Service for a proscribed end use or other unauthorized end use.

INTERNET DELAYS

THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC

COMMUNICATIONS. CYKOMETRIX IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, DATA LOSS, OR OTHER DAMAGE RESULTING FROM THOSE PROBLEMS.

INDEMNIFICATION

To the fullest extent permitted under applicable law, you are responsible for your use of the Service, and you will defend and indemnify CykoMetrix from and against every claim, liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or in any way connected with: (a) your access to, and use of, the Service, including use of any portion of the Service with or for Consenting Users or other individuals or entities; (b) your violation of any portion of these Terms of Use, any representation, warranty, or agreement referenced in these Terms of Use, or any applicable law or regulation; (c) your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or (d) any dispute or issue between you and any third party. CykoMetrix reserves the right, at CykoMetrix' own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of that claim.

DISCLAIMER OF WARRANTIES

CykoMetrix and any third party who makes its software or content available in conjunction with or through CykoMetrix disclaim any responsibility for any harm resulting from your use (or use by your employees, agents or contractors) of the Service and/or any third-party software or content accessed in conjunction with or through the Service.

CYKOMETRIX DOES NOT PROMISE THAT THE SERVICE OR ANY CONTENT, COMPONENT, OR FEATURE OF THE SERVICE WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT ANY DEFECTS WILL BE CORRECTED, OR THAT YOUR USE OF THE SERVICE WILL PROVIDE SPECIFIC RESULTS. THE SERVICE IS DELIVERED ON AN "AS-IS" AND "AS-AVAILABLE" BASIS. ALL INFORMATION PROVIDED ON OR VIA THE SERVICE IS SUBJECT TO CHANGE WITHOUT NOTICE. CYKOMETRIX CANNOT ENSURE THAT ANY FILES OR OTHER DATA YOU DOWNLOAD FROM THE SERVICE WILL BE FREE OF VIRUSES OR CONTAMINATION OR DESTRUCTIVE FEATURES. CYKOMETRIX, ITS LICENSORS, AND SUPPLIERS EXPRESSLY DISCLAIM TO THE FULLEST EXTENT PERMITTED BY LAW ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF

ACCURACY, MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. CYKOMETRIX AND ANY THIRD PARTY THAT MAKES ITS SOFTWARE OR CONTENT AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SERVICE DISCLAIM ANY WARRANTIES REGARDING THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SERVICE AND THAT THIRD-PARTY SOFTWARE OR CONTENT. CYKOMETRIX DISCLAIMS ANY AND ALL LIABILITY FOR THE ACTS, OMISSIONS, AND CONDUCT OF ANY THIRD PARTIES IN CONNECTION WITH OR RELATED TO YOUR USE OF THE SERVICE.

YOU ASSUME TOTAL RESPONSIBILITY FOR YOUR USE OF THE SERVICE AND ANY LINKED SITES. YOUR SOLE REMEDY AGAINST CYKOMETRIX FOR DISSATISFACTION WITH THE SERVICE IS TO STOP USING THE SERVICE. THIS LIMITATION OF REMEDY IS A PART OF THE BARGAIN BETWEEN THE PARTIES. YOU UNDERSTAND AND AGREE THAT YOU DOWNLOAD AND/OR USE THE SERVICE AND CONTENT MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SERVICE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM OR OTHER DEVICES OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF THE SERVICE. SOME STATES OR OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES WILL CYKOMETRIX OR ANY THIRD PARTY WHO MAKES ITS SOFTWARE OR CONTENT AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SERVICE BE LIABLE TO YOU OR ANY OTHER USER ON ACCOUNT OF ANY USE OR MISUSE OF THE SERVICE OR CONTENT. NEITHER CYKOMETRIX OR CONTENT PROVIDER WILL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE (EVEN IF CYKOMETRIX AND/OR A THIRD-PARTY SOFTWARE OR CONTENT PROVIDER HAVE BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES).

THIS LIMITATION OF LIABILITY WILL APPLY WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF AND RELIANCE ON THE SERVICE AND CONTENT MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SERVICE, FROM INABILITY TO USE THE SERVICE OR CONTENT MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SERVICE, OR FROM THE

INTERRUPTION, SUSPENSION, OR TERMINATION OF THE SERVICE AND CONTENT MADE AVAILABLE IN CONJUNCTION WITH OR THROUGH THE SERVICE, OR THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES.

Without limiting the generality of the foregoing, you agree that CykoMetrix is not responsible for any loss arising out of, or in any way connected with: (a) delay or inability to access or use the Service; (b) the transmission of any computer virus, however occurring; (c) any transaction entered into through the Service; (g) any infringement of rights, including Intellectual Property Rights; (d) termination of your user account or membership; or (e) any delays, interruptions, inaccuracies, errors, omissions, or cessation of the Service.

If, notwithstanding the provisions of this section, a court of competent jurisdiction holds CykoMetrix liable in respect of any matters arising under or incidental to the Agreement, CYKOMETRIX' TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION ARISING OUT OF OR RELATING TO THE AGREEMENT OR YOUR USE OF THE SERVICE (WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, WARRANTY, OR OTHERWISE), INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES ARISING OUT OF OR RELATED TO YOUR USE OR INABILITY TO USE THE SERVICE, WILL IN NO EVENT EXCEED THE AMOUNT PAID BY YOU FOR USING THE SERVICE DURING THE 12 MONTHS PRECEDING YOUR CLAIM, OR, IF NO AMOUNT WAS PAID, THAT LIABILITY WILL BE LIMITED TO \$500.

THE FOREGOING LIMITATIONS OF LIABILITY WILL APPLY NOTWITHSTANDING A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND TO THE FULLEST EXTENT PERMITTED BY LAW. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CERTAIN DAMAGES, SO SOME OF THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

GOVERNING LAW; DISPUTES

The Agreement and any dispute that may arise related to the Agreement are governed by Canadian law. All claims arising out of or relating to the Agreement

must be litigated exclusively in the federal or provincial courts of Ontario, Ontario and you consent to venue and personal jurisdiction there for the purposes of litigating all claims related to the Agreement. If for any reason a court of competent jurisdiction finds any provision or portion of the Agreement to be unenforceable, the remainder of the Agreement will continue in full force and effect.

MISCELLANEOUS

The Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersede and replace all prior or contemporaneous understandings or agreements, written or oral, regarding that subject matter. Any waiver of any provision of the Agreement will be effective only if in writing and signed by CykoMetrix.

FEEDBACK

If you have comments on the Service or ideas on how to improve it, please send email to support@CykoMetrix.com. Please note that by doing so, you also grant CykoMetrix permission to use and incorporate your ideas or comments into the Service without further compensation or approval.

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