

IMPORTANT: Please read this Subscription Agreement (this “Agreement”) carefully. This is a legal agreement between RapDev, LLC (“RapDev”) and the entity or other user (“Subscriber”) for whose benefit you are purchasing use of the RapDev integration software (the “Software”). By using clicking the Start 14 Day Trial button or activating the Software, you are binding Subscriber to this Agreement, and you are representing personally to RapDev that the you have authority to do so. If Subscriber does not wish to be bound by this Agreement, please do not click Start 14 Day Trial and do not use the Software.

Subscription Agreement

1. LICENSE GRANT; RELATED PROVISIONS.

1.1. License; License Term. RapDev, subject to this Agreement, grants Subscriber a nonexclusive, nontransferable, personal license (with no right of sublicense) during the Term (as defined below) to install, activate and use the Software in connection with the single Datadog account for which Subscriber originally purchased this license. For the first fourteen (14) days after the earlier of the acceptance of this Agreement and the date on which Subscriber first uses the Software (the “Trial Period”), this license is free of charge. At the end of the Trial Period, this license will renew for consecutive one-month periods (each, a “Monthly Term”) at RapDev’s then-current license fee, unless before the first day of the Monthly Term (a) Subscriber terminates the license by clicking the Cancel button on the Pricing tab of the subscribed marketplace integration tile and removing the RapDev integration configuration to no longer submit metrics, or (b) RapDev gives Subscriber notice of termination by email, in which case this Agreement, and the license granted by this Section 1.1, will expire immediately before the beginning of the next Monthly Term. This Agreement refers to the Trial Period and all Monthly Terms as the “Term.”

1.2. Support. RapDev during the Term will provide Subscriber’s authorized representatives with support services in accordance with RapDev’s then-current support policy, which is available [here](#). This Agreement will govern any releases of the Software that RapDev provides that upgrade, replace or supplement the original Software, unless the release is accompanied by a subscriber agreement, in which case that subscriber agreement will govern the release.

1.3. Restrictions. Subscriber must not, and must not permit anyone else to (a) duplicate the Software for any purpose other than as necessary to use it as contemplated by this Agreement; (b) use the Software in connection with any software or service other than Subscriber’s Datadog account for which Subscriber originally purchased it; (c) publish resell, distribute, broadcast, transmit, communicate, transfer, pledge, rent, share or sublicense the Software; (d) grant any third party access to or use of the Software on a service bureau, timesharing, application service provider, hosted service or cloud service basis or other similar basis; (e) change, modify or otherwise alter the Software; (f) use the Software for any purpose other than as described in Section 1.1; or (g) use the Software for any purpose after this Agreement expires or is terminated. For the avoidance of doubt, if Subscriber wishes to use the Software for use with any Datadog account other than the account for which Subscriber originally purchased the Software, Subscriber must purchase a separate, additional license.

2. TERMINATION

2.1. Termination. RapDev, in addition to any other rights available at law or equity, may terminate this Agreement immediately by email notice if Subscriber (a) fails to pay the monthly license fee when due; (b) commits a material breach of the restrictions imposed by Section 1.3; or (c) commits a material breach of another provision of this Agreement.

2.2. Effect of Termination. On the expiration or termination of this Agreement, Subscriber must cease using the Software. Sections 1.3, 3, 4.3, 5 and 6 will survive the expiration or termination of this Agreement.

3. **OWNERSHIP**. RapDev reserves all rights in the Software not expressly granted by this Agreement. All copyrights, trademarks and other intellectual property rights in and to the Software are owned by RapDev or its licensors, and are protected by United States and foreign copyright laws, international treaties and other applicable laws.

4. WARRANTY DISCLAIMERS; LIABILITY LIMITATIONS.

4.1. Trial Period. During the Trial Period, RapDev provides the Software solely on an “as is”, “as available” basis, without warranty of any kind.

4.2. Monthly Terms. RapDev warrants during each Monthly Term that the Software will perform substantially in accordance with RapDev’s documentation for the Software, provided, that Subscriber’s sole and exclusive remedy for breach of this warranty is to terminate this Agreement and receive a refund for the fees Subscriber paid for the then-current Monthly Term.

4.3. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED BY SECTION 4.2, RAPDEV DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THE SOFTWARE, MEDIA AND ANY OTHER SUBJECT MATTER OF THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTY OF NONINFRINGEMENT. RAPDEV DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

5. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL RAPDEV BE LIABLE TO THE USER OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES WHATSOEVER, WITHOUT REGARD TO CAUSE OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, DAMAGES INCURRED FOR LOSS OF BUSINESS PROFITS OR REVENUE, LOSS OF PRIVACY, LOSS OF USE OF ANY COMPUTER OR SOFTWARE INCLUDING THE SOFTWARE, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION OR OTHER PECUNIARY LOSS) ARISING OUT OF THIS AGREEMENT OR THE SOFTWARE PROVIDED UNDER THIS AGREEMENT, EVEN IF RAPDEV HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL RAPDEV’S LIABILITY RELATED TO THE SOFTWARE EXCEED THE FEE THE USER PAID TO RAPDEV FOR THE MONTH IN

WHICH THE LOSS OCCURRED. THE FOREGOING LIMITATION WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

6. MISCELLANEOUS.

6.1. No Other Beneficiaries. This Agreement is solely for the benefit of RapDev and Subscriber, and neither party intends to create any rights in favor of any other person as a party or third party beneficiary of this Agreement or otherwise.

6.2. Subscriber Relationship. Subscriber acknowledges that: (a) RapDev, not Datadog, is the seller of record and provider of the Software; (b) nothing in Subscriber Agreement affects Subscriber's obligations under its Customer Agreement with Datadog; and (c) Datadog does not assume, and expressly disclaims, any and all liability for the acts and obligations of RapDev relating to the Software and this Agreement.

6.3. Assignment. This Agreement and the licenses granted by this Agreement, which are personal to Subscriber, may not be assigned, sub-licensed, sold or otherwise transferred without the prior written consent of RapDev. Any attempt to transfer without such consent will be void. If RapDev consents to the assignment, sublicense or transfer, this Agreement will be binding on Subscriber's successors and assigns.

6.4. Force Majeure. Neither party will be liable for any failure or delay in performance due in whole or in part to any cause beyond the reasonable control of such party or its contractors, agents or suppliers, including but not limited to utility or transmission failures, failure of phone lines or phone equipment, power failure, strikes or other labor disturbances (including without limitation a strike or other labor disturbance arising in respect of the work force of the party taking advantage of the provisions of this Section 6.4), Acts of God, acts of war or terror, floods, sabotage, fire, natural or other disasters.

6.5. Governing Law and Jurisdiction. Except with respect to that body of law relating to choice of law, this Agreement will be governed by and construed under the substantive laws of the Commonwealth of Massachusetts without regard to conflict of laws principles. The parties will submit to the exclusive jurisdiction and venue in state and federal courts sitting in the Commonwealth of Massachusetts. Any award made by a court in conjunction with litigation between the parties regarding this Agreement will include an award of all reasonable attorneys' fees and legal costs incurred by the party in whose favor the final decision is rendered.

6.6. Complete Agreement. This Agreement constitutes the complete and entire Agreement between the parties and supersedes all previous communications and representations or agreements, either oral or written, with respect to its subject matter.

6.7. Severability. If any provision of this Agreement or the application of this Agreement to any person or circumstances will to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of this Agreement to any person or circumstances other than those as to which it is invalid or unenforceable, will not be affected, and each provision of this Agreement will be valid and enforced to the fullest extent of the law.

6.8. Waiver and Amendment. This Agreement may be amended, modified, superseded, canceled, renewed or extended, and the provisions of this Agreement may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. The waiver by either party of a breach of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach.

6.9. Interpretation. In this Agreement, (a) any words or phrases defined in this Agreement may, unless the context otherwise requires, be used in the singular or the plural, (b) any use of the masculine, feminine or neuter will be deemed to include a reference to each of the other genders, (c) the words “includes” or “including” will be construed as followed by the words “without limitation,” and (d) references to section numbers or schedules are to sections of and schedules to this Agreement unless the context otherwise requires.