

Good-To-Go!

Test Requirements Agile Metric Subscription Agreement

Good-To-Go! Software Process Consulting Company ("Good-To-Go!") has developed a process, The Test Requirements Agile Metric ("TRAM"), as further described below, is useful for project management, estimation, risk analysis, functional and defect prioritization and can save weeks of development time and cost. The company identified during registration ("Customer") desires to subscribe to at least one edition of the TRAM and Good-To-Go! desires to provide access to the TRAM and provide the TRAM on the terms and conditions set forth herein.

Good-To-Go! is willing to provide access to the documentation described below to Customer only on the condition that Customer accepts all of the terms in this Subscription Agreement ("Agreement"). You hereby agree that you enter into this Agreement on behalf of Customer and that you have the requisite authority to bind Customer to the terms and conditions of this Agreement.

By checking the "Yes" box on the subscription/partnership page, Customer acknowledges that it has read this Agreement, understands it, and agrees to be bound by it. If Customer does not agree to any of the terms below, Good-To-Go! is unwilling to provide access to the TRAM to Customer.

TERMS AND CONDITIONS

1. Definitions. As used in this Agreement:

1.1 "Customer Data" means any electronic data or information contained in any database, template or other similar document submitted by Customer through the Good-To-Go! website or via email.

1.2 "Documentation" means the user manuals, handbooks, online materials, specifications or forms provided by Good-To-Go! that describe the features, functionality or operation of the TRAM.

1.3 "Fees" means any applicable fees paid by Customer prior to accessing the TRAM. ~~So long as Customer does not use the TRAM past the three (3) month trial, there shall be no Fees.~~

1.4 "Order Form" means a signed order form which specifies certain terms related to Customer's access to the TRAM, including Fees, number of Users, and Term.

1.5 "TRAM" means the Test Requirement Agile Metric methodology delivered by Good-To-Go! to Customer using the Good-To-Go! System. Good-To-Go! may make other services available to Customer for additional Fees from time to time.

1.6 "Good-To-Go! System" means the technology, including hardware and software, used by Good-To-Go! to deliver the TRAM to Customer in accordance with this Agreement.

1.7 "Term" means the duration of this Agreement.

1.8 This has been intentionally left blank.

1.9 "Users" means Customer's employees, representatives, consultants, contractors or agents who are authorized to use the TRAM on behalf of Customer.

2. TRAM

2.1 Subscription to TRAM. Subject to Customer's compliance with the terms of this Agreement, ~~Good-To-Go! is making its TRAM available to Customer for up to three (3) months at no charge.~~ As a result of the TRAM being offered at no charge, Good-To-Go! hereby reserves the right to modify, cancel or suspend its offering of the TRAM at any time, in its sole discretion. Customer shall have no expectation of the continuation or availability of the TRAM methodology.

2.2 Subscription to the TRAM. Subject to the terms of this Agreement, Good-To-Go! hereby grants to Customer a non-sublicensable, non-transferable, non-exclusive ~~three (3) month trial~~ subscription to access and use the TRAM, in accordance with the Documentation and solely for Customer's internal business purposes of managing its software design, development, maintenance and support.

2.3 Additional Users. Access to the TRAM cannot be shared with anyone other than a User. If Customer wishes to add additional Users ("Additional Users") or if Customer wishes to order additional services from Good-To-Go! ("Additional Services", Customer must submit a new executed Order Form ("New Order Form"). Upon mutual execution of a New Order Form, Good-To-Go! shall make the TRAM available to the Additional Users or make the Additional Services available to Customer on the terms and conditions set forth in this Agreement and the approved New Order Form. With respect to Additional Users: (i) the term will be coterminous with the preexisting subscription term (either initial term or renewal term); and (ii) Customer will be responsible for any additional Fees for the Additional Users in full for the month in which the New Order Form is approved by Good-To-Go!.

2.4 Support. Support to Customers using the free TRAM services shall be limited to Good-To-Go!'s online support resources which Good-To-Go! may modify or terminate in its sole discretion from time to time. Support services provided by Good-To-Go! and available for additional Fees in connection with the TRAM under this Agreement are set forth at <http://www.Good-To-Go.us/contact.html>. Good-To-Go! reserves the right to modify the support services in its reasonable discretion from time to time, which modifications shall become effective upon posting to the above URL.

2.6 Security. Good-To-Go! cannot and does not guarantee the privacy, security or authenticity of any information so transmitted over or stored in any system connected to the Internet.

3. CUSTOMER'S USE OF THE TRAM.

3.1 Access and Security Guidelines. ~~Customer's System Administrator will be provided (i) the number of User Licenses corresponding to the number of Users for which Customer has paid the applicable Fees. User Licenses may be shared within Customer's organization, provided that User Licenses may not be provided to any individual who is not a User (other than the Subscription Administrator) and each User License may be assigned to and used by only one individual User.~~ Customer will use commercially reasonable efforts to prevent unauthorized access to, or use of, the TRAM, and will notify Good-To-Go! promptly of any such unauthorized use. Customer will not use its access to the TRAM to: (a) knowingly interfere with or disrupt the integrity or performance of the TRAM or the data contained therein; or (b) harass or interfere with another user's use and enjoyment of the TRAM. Customer will, at all times, comply with all applicable local, state, federal, and foreign laws in its use of the TRAM.

3.2 Customer Data. Customer is solely responsible for the Customer Data and will not provide, post or transmit any Customer Data or any other information, data or material that: (a) infringes or violates any intellectual property rights, publicity/privacy rights, law or regulation; or (b) contains any viruses or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or personal information. Good-To-Go! may take remedial action if Customer Data violates this Section 3.2; however, Good-To-Go! is under no obligation to review Customer Data for accuracy or potential liability.

3.3 Use Restrictions. Customer is responsible for all activities that occur in conjunction with using the TRAM. Customer will not, and will not attempt to: (a) reverse engineer, disassemble or decompile any component of the TRAM System; (b) interfere in any manner with the operation of the TRAM or the Good-To-Go! System; (c) allow a third party to access the TRAM or transfer to a third party any of Customer's rights under this Agreement, except as otherwise provided in this Agreement, or otherwise use the TRAM for the benefit of a third party or to operate a service bureau; (d) copy, modify or make derivative works based on any part of the TRAM or the Good-To-Go! System; or (e) otherwise use the TRAM in any manner that exceeds the scope of use permitted under Section 2.2 hereof.

3.4 Suspension of Termination of Service. Good-To-Go! reserves the right to suspend or terminate Customer's User Licenses if in Good-To-Go!'s discretion, Customer has violated any of the terms of this Agreement including, but not limited to this Section 3.

4. FEES, PAYMENT.

In the event that Customer orders Additional Users or Additional Services beyond those included in the TRAM service, as consideration for the subscription to the TRAM provided by Good-To-Go! under this Agreement, Customer will pay Good-To-Go! the Fees set forth in the applicable Order Form. All applicable Fees will be billed in advance and are due within thirty (30) days of receipt of invoice, unless stated otherwise in the Order Form. Overdue amounts shall accrue interest at the rate of 1.5% per month, or at the highest legal interest rate, if less. Customer shall reimburse Good-To-Go! for all expenses (including reasonable attorneys' fees) incurred by Good-To-Go! to collect any amount that is not paid when due. All Fees owed by Customer in connection with this Agreement are exclusive of, and Customer shall pay, all sales, use, excise and other taxes that may be levied upon Customer in connection with this Agreement, or other transactions contemplated under this Agreement, except for employment taxes and taxes based on Good-To-Go!'s net income. Good-To-Go! reserves the right (in addition to any other rights or remedies Good-To-Go! may have including but not limited to those in Section 3, above) to discontinue the TRAM and suspend all User Licenses and Customer's access to the TRAM if any Fees set forth in an Order Form are more than thirty (30) days overdue, until such amounts are paid in full. Customer shall maintain complete, accurate and up-to-date Customer billing and contact information at all times.

5. CONFIDENTIAL INFORMATION.

5.1 Obligation. Each party agrees (a) to hold the other party's Confidential Information in strict confidence, (b) to limit access to the other party's Confidential Information to those of its employees or agents having a need to know and who are bound by confidentiality obligations at least as restrictive as those contained herein, and (c) not to use such Confidential Information for any purpose except as expressly permitted hereunder. Notwithstanding the foregoing, the receiving party will not be in violation of this Section 5.1 with regard to a disclosure that was in response to a valid order or requirement by a court or other governmental body, provided that the receiving party gives the other party with prior written notice of such disclosure in order to permit the other party to seek confidential treatment of such information.

5.2 Exceptions. The restrictions on use and disclosure of Confidential Information set forth above will not apply to any Confidential Information, or portion thereof, which (a) is or becomes a part of the public domain through no act or omission of the receiving party, (b) was in the receiving party's lawful possession prior to the disclosure, as shown by the receiving party's competent written records, (c) is independently developed by the receiving party without reference to the disclosing party's Confidential Information, as shown by the receiving party's competent written records, or (d) is lawfully disclosed to the receiving party by a third party without restriction on disclosure.

6. OWNERSHIP.

6.1 Good-To-Go! System and Technology. Customer acknowledges that Good-To-Go! retains all right, title and interest in and to the TRAM and the Good-To-Go! System and all software, materials, formats, interfaces, information, data, content and Good-To-Go! proprietary information and technology used by Good-To-Go! or provided to Customer in connection with the TRAM and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or learned as a result of Customer's use of the TRAM (the "Good-To-Go! Technology"), and that the TRAM is protected by intellectual property rights owned by or licensed to Good-To-Go!. Other than as expressly set forth in this Agreement, no license or other rights in the TRAM are granted to the Customer, and all such rights are hereby expressly reserved by Good-To-Go!.

6.2 Customer Data. Customer retains all right, title and interest in and to the Customer Data. Customer grants to Good-To-Go! all necessary licenses in and to such Customer Data solely as necessary for Good-To-Go! to provide the TRAM to Customer or as required by law. Customer will be solely responsible for providing all Customer Data required for the proper operation of the TRAM. Good-To-Go! will not knowingly use or access any Customer Data unless authorized to do so by Customer and, in such circumstances, Good-To-Go! will access and use such Customer Data only as required to perform services on behalf of Customer.

7. TERM AND TERMINATION.

7.1 Term. Term will begin on the Effective Date ~~and continue for three (3) months for the Trial subscription or for the period of time specified in an Order Form.~~ In the event that Customer purchases Additional Terms, Additional Users or Additional Services, upon expiration of the initial Term, thereafter, this Agreement will automatically renew for additional Terms, unless one of the parties gives written notice of non-renewal at within sixty (60) days prior to the expiration of the then-current Term. Good-To-Go! reserves the right to increase the Fees applicable to any renewal term upon prior written notice to Customer. Three (3) month terms will renew for three (3) months. One (1) year terms will renew for one (1) year. Five (5) year terms will be renewed for one (1) year unless written confirmation of a five (5) year term renewal is received from the customer. Terms may be increased by written request and paying the difference in cost between the old and new term.

7.2 Termination. Either party may terminate this Agreement upon written notice if the other party materially breaches the Agreement and does not cure such breach (if curable) within thirty (30) days after written notice of such breach. Upon the termination of this Agreement for any reason: (a) any amounts owed to Good-To-Go! under this Agreement before such termination will become immediately due and payable; and (b) each party will return to the other all property of the other party in its possession or control. Upon any early termination of this Agreement, all Customer use of the TRAM will be immediately suspended. The rights and duties of the parties under Sections 4, 5, 6, 7.2, 8, 9, 10 and 11 will survive the termination or expiration of this Agreement for any reason.

8. DISCLAIMER.

Good-To-Go! makes no warranty concerning the Good-To-Go! System or TRAM and Customer acknowledges that Good-To-Go!'s sole obligation with regard to the TRAM is to provide availability to the full, unabridged version of the methodology. ACCORDINGLY, THE TRAM, THE GOOD-TO-GO! SYSTEM AND ALL OTHER DATA, MATERIALS, AND DOCUMENTATION PROVIDED IN CONNECTION WITH THIS AGREEMENT BY GOOD-TO-GO! AND ITS SUPPLIERS ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND. GOOD-TO-GO! AND ITS SUPPLIERS MAKE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. GOOD-TO-GO! DOES NOT WARRANT THAT THE TRAM WILL BE PROVIDED ERROR-FREE, UNINTERRUPTED, COMPLETELY SECURE OR VIRUS-FREE.

9. INDEMNITY.

9.1 By Good-To-Go! If any action is instituted by a third party against Customer based upon a claim that the TRAM or Good-To-Go! System, as delivered, infringes a United States patent, copyright or trademark, Good-To-Go! will defend such action at its own expense on behalf of Customer and will pay all damages attributable to such claim which are finally awarded against Customer or paid in settlement of such claim. Good-To-Go! may, at its option and expense, and as Customer's exclusive remedy hereunder: (a) procure for Customer the right to continue using the TRAM; (b) replace or modify the Good-To-Go! System or TRAM so that it is no longer infringing but continues to provide comparable functionality; or (c) terminate this Agreement and Customer's access to the TRAM and refund any amounts previously paid for the TRAM attributable to the remainder of the then-current term of this Agreement. Good-To-Go! will have no liability to Customer for any infringement action that arises out of a breach of the terms and conditions of this Agreement by Customer or of the use of the TRAM or Good-To-Go! System (i) after it has been modified by Customer or a third party without Good-To-Go!'s prior written consent, or (ii) in combination with any other service, equipment, software or process not provided by Good-To-Go! where the combination is the basis for the infringing activity. THIS SECTION SETS FORTH THE ENTIRE OBLIGATION OF GOOD-TO-GO! AND THE EXCLUSIVE REMEDY OF CUSTOMER AGAINST GOOD-TO-GO! OR ANY OF ITS SUPPLIERS FOR ANY INFRINGEMENT CLAIM.

9.2 By Customer. If any action is instituted by a third party against Good-To-Go!: (a) arising out of or relating to the use of the Good-To-Go! System or TRAM (including claims by any customer or business partner of Customer) by Customer or any third party; or (b) alleging that the Customer Data, or the use of Customer Data pursuant to this Agreement, infringes the intellectual property or other right of a third party or otherwise causes harm to a third party, Customer will defend such action at its own expense on behalf of Good-To-Go! and shall pay all damages attributable to such claim which are finally awarded against Good-To-Go! or paid in settlement of such claim. Customer shall have no obligation under this Section for any claim or action that is described in Section 9.1 above or arises out of a breach of this Agreement by Good-To-Go!.

9.3 Conditions. As a condition of the foregoing indemnification obligations, the indemnified party will: (a) inform the indemnifying party of a claim as soon as reasonably practicable after the indemnified party receives notice of the claim; (b) permit the indemnifying party to assume direction and control of the defense of the claim (including the right to settle solely for monetary consideration); and (c) cooperate as requested by the indemnifying party (at its expense) in the defense of the claim. The indemnified party shall have the right to participate, at its expense, in the defense of any claim that is subject to indemnification as set forth in this Section 9.

10. LIMITATION OF LIABILITY.

GOOD-TO-GO!'S TOTAL CUMULATIVE LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT (UNDER ANY LEGAL THEORY INCLUDING CLAIMS IN CONTRACT OR TORT), THE TRAM AND THE GOOD-TO-GO! SYSTEM, WILL NOT EXCEED: (A) ONE DOLLAR (\$1) IN THE CASE OF CUSTOMERS USING THE FREE TRIAL TRAM SUBSCRIPTION OR (B) IN THE CASE OF CUSTOMERS PURCHASING ADDITIONAL SERVICES OR ADDITIONAL USERS, 50% OF THE AMOUNTS ACTUALLY PAID TO GOOD-TO-GO! BY CUSTOMER FOR THE CURRENT SUBSCRIPTION PERIOD IMMEDIATELY PRECEDING THE CUSTOMER'S FORMAL WRITTEN NOTICE OF THE CLAIM FOR LIABILITY HEREUNDER. ALL CLAIMS THAT CUSTOMER MAY HAVE AGAINST GOOD-TO-GO! WILL BE AGGREGATED TO SATISFY THIS LIMIT AND MULTIPLE CLAIMS WILL NOT ENLARGE THIS LIMIT. IN NO EVENT WILL GOOD-TO-GO! BE LIABLE FOR SPECIAL, INCIDENTAL, DIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (UNDER ANY LEGAL THEORY INCLUDING CLAIMS IN CONTRACT OR TORT).

11. GENERAL PROVISIONS.

11.1 Publicity. Good-To-Go! and Customer may make public announcements, including but not limited to, press releases and media announcements, of the existence of this Agreement and the relationship between the parties. All public announcements by either party concerning this Agreement are subject to prior written approval by Customer and Good-To-Go!, which approval shall not be unreasonably withheld. The parties will use reasonable efforts to review and approve public announcements within three (3) days of submittal. Customer agrees to allow Good-To-Go! to use Customer's name in customer lists and other promotional materials describing Customer as a customer of Good-To-Go! and a user of the TRAM.

11.2 Modification to Terms. Good-To-Go! reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Good-To-Go! System and the TRAM at any time, effective upon posting of an updated version of this Agreement on the Good-To-Go! website. You are responsible for regularly reviewing this Agreement. Continued use of the Service after any such changes shall constitute your consent to such changes.

11.3 Assignment. Neither party may assign any rights or obligations arising under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other; except that either party may assign this Agreement without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets whether by merger, sale of assets, sale of stock, or otherwise. Any attempted assignment or transfer in violation of the foregoing will be void. Customer agrees that Good-To-Go! may subcontract certain aspects of the TRAM to qualified third parties, provided that any such subcontracting arrangement will not relieve Good-To-Go! of any of its obligations hereunder. Subject to the foregoing limitation, this Agreement shall inure to the benefit of and shall be binding on the parties' permitted successors and assignees.

11.4 Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Texas without giving effect to principles of conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement must be brought in a federal or state court sitting in Dallas, Texas (provided, however, that nothing in this Agreement will prevent Good-To-Go! from seeking injunctive relief to enforce the terms of this Agreement in any competent venue or jurisdiction), and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding.

11.5 Remedies. Except as provided in Section 9.1, the parties' rights and remedies under this Agreement are cumulative. Customer acknowledges that the TRAM contains valuable trade secrets and proprietary information of Good-To-Go!, that any actual or threatened breach of Section 3 will constitute immediate, irreparable harm to Good-To-Go! for which monetary damages would be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach, and waives any requirement by Good-To-Go! for posting bond. If any legal action is brought to enforce this Agreement, Good-To-Go! will be entitled to receive its attorneys' fees, court costs, and other collection expenses, in addition to any other relief it may receive.

11.6 Notices. Any notice or other communication required or permitted under this Agreement and intended to have legal effect must be given in writing to the other party at the physical and/or email address set forth in the initial Order Form (each party may change its address from time to time upon written notice to the other party of the new address). Notices will be deemed to have been given upon receipt (or when delivery is refused) and may be (a) delivered personally, (b) sent via certified mail (return receipt requested), (c) sent via email, cable, telegram, telex, telecopier, fax (all with confirmation of receipt) or (d) sent by recognized air courier service.

11.7 Severability and Waiver. In the event that any provision of this Agreement is held to be invalid or unenforceable, the valid or enforceable portion thereof and the remaining provisions of this Agreement will remain in full force and effect. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion. All waivers must be in writing. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

11.8 Relationship of the Parties. The parties to this Agreement are independent contractors, and no agency, partnership (other than possible delivery partnership), franchise, joint venture or employee-employer relationship is intended or created by this Agreement.

11.9 Entire Agreement. This Agreement, together with any related Order Forms is the entire understanding and agreement of the parties, and supersedes any and all previous and contemporaneous understandings, agreements, proposals or representations, written or oral, between the parties, as to the subject matter hereof.