



Master Subscription Agreement

January 30, 2019

This Agreement permits Customer to license and use Velosimo's Products and Services (as applicable) pursuant to a Velosimo order form referencing this Agreement ("Order Form(s)") and sets forth the basic terms and conditions. This Agreement shall govern Customer's initial purchase as well as any future purchases made by Customer which reference this Agreement. Velosimo provides the Products and Services listed on an Order Form on a subscription basis. The term of each Subscription is designated in the applicable Order Form.

1. Definitions.

- 1.1. "Confidential Information" means all code, inventions, know-how, business, technical and financial information that one party ("Receiving Party") obtains from the other party ("Disclosing Party"); provided that such information is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure; and provided further that any software, documentation or technical information provided by Velosimo (or its agents), performance information relating to the Product, shall be deemed Confidential Information of Velosimo without any marking or further designation.
- 1.2. "Customer Data" means electronic data submitted by Customer to a Velosimo Product or created by Customer in the course of using a Velosimo Product.
- 1.3. "Documentation" means the online documentation and user guides provided by Velosimo in connection with the license of a Velosimo Product.
- 1.4. "Materials" means any materials provided by Velosimo to Customer in connection with the provision of Services.
- 1.5. "Order Form" means a Velosimo standard ordering document referencing this Agreement and reflecting the Products and Services provided to Customer.

- 1.6. "Order Form Effective Date" means the later to occur of (i) Order Form signed by Customer and Velosimo, and (ii) the date of access granted to the Velosimo Product, if any.
- 1.7. "Product" means Velosimo's proprietary web-based products and services that may be set forth on an Order Form and subsequently made available by Velosimo to Customer via the means designated by Velosimo including associated offline components, as described in the Documentation (but excluding Third Party Components or infrastructure).
- 1.8. "Services" means professional consulting services purchased by Customer in the applicable Order Form or SOW and relating to training and assistance with the installation, deployment, or usage of Velosimo Products.
- 1.9. "SOW" means a Statement of Work between Velosimo and Customer with respect to Services.
- 1.10. "Subscription" means the Customer's right to access and use the relevant Velosimo Product and Support and Maintenance on a subscription basis, as and to the extent listed on a mutually executed Order Form.
- 1.11. "Subscription Term" means the duration of a Subscription as set forth on an Order Form or as specified in Section 3.1.
- 1.12. "Support and Maintenance" means the applicable support and maintenance services as identified in the Order Form.
- 1.13. "Term" means the period commencing as of the Order Form Effective Date and expiring on the day that the last Subscription Term under this Agreement terminates.
- 1.14. "Third Party Components" means online applications and offline software that are provided by entities or individuals other than Velosimo and that interoperate with the Velosimo Product.
- 1.15. "Users" means the Customer's employees and contractors which are authorized by Customer to access and use the Velosimo Product purchased under an Order Form.
- 1.16. "Warranty Period" means a period of thirty (30) days following the commencement of the relevant Subscription Term.

2. License(s); Ownership.

- 2.1. License and Use. Velosimo will make the Product available to Customer and its users pursuant to this Agreement and the relevant Order Forms during the Subscription Term. Subject to the terms and conditions of this Agreement and the relevant Order Form(s), Velosimo grants Customer a

limited, worldwide, non-assignable and non-exclusive license during the relevant Subscription Term to access and use the Products and Services in accordance with the terms of this Agreement.

- 2.2. Restrictions. Customer will not (i) permit any third party to access the Products except as permitted herein and in the relevant Order Form, (ii) create derivative works based on the Products, (iii) copy, frame or mirror any part or content of the Products, (iv) decompile, disassemble, translate, reverse engineer or otherwise attempt to derive source code from the Products, in whole or in part, nor will Customer use any mechanical, electronic or other method to trace, decompile, disassemble, or identify the source code of the Products or encourage or permit others to do so (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions), (v) access the Products in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Products, (vi) sell, resell, rent or lease the Products beyond the scope of the applicable Order Form, (vii) use the Products to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights (or otherwise use the Products in violation of the Documentation or any Velosimo terms of service), (viii) store or transmit virus or other malicious code through the Products, (ix) interfere with or disrupt the integrity or performance of the Products or third-party products or data contained therein, or (x) attempt to gain unauthorized access to the Products or their related systems or networks. Customer acknowledges that Customer is solely responsible for complying with, and covenants to comply with, all laws applicable to Customer and to Customer's use of the Products, including without limitation all laws and regulations relating to the protection and non-disclosure of Customer Data. Without limiting the generality of the foregoing, the Customer is solely responsible for using the Products in compliance with any applicable data privacy or personally identifiable information laws and regulations.
- 2.3. AWS Terms. Velosimo uses the Amazon Web Service ("AWS") cloud infrastructure for its Products. Customer acknowledges the use of Velosimo Products is subject to the terms and limitations set forth in the AWS Customer Agreement: <http://aws.amazon.com/agreement/>.
- 2.4. Ownership. Notwithstanding anything to the contrary contained herein, except for the limited license rights expressly provided under a fully paid Subscription, Velosimo and its suppliers have and will retain all right, title and interest in and to the Products (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) and all copies, modifications and derivative works thereof. Customer acknowledges that it is obtaining only a limited license right to access and use (as the case may be) the Products and that irrespective of any

use of the words “purchase,” “sale,” or like terms hereunder no ownership rights are being conveyed to Customer under this Agreement or otherwise. In addition, Velosimo will have a royalty-free, worldwide, irrevocable, perpetual license to use for any purpose any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including Users, relating to the Products.

- 2.5. Services Work Product. Customer shall have a license right to use or access any work product or Materials delivered as part of the Services, solely for its internal business purposes and solely in connection with the Products regarding which the Services were commissioned. Other than the limited license described in the prior sentence, Velosimo shall retain all right, title and interest in and to any such Materials and Services work product and any derivative, enhancement or modification thereof and Customer maintains ownership of its Confidential Information.

3. Subscription Term; Payment.

- 3.1. Subscription Term and Renewals. Unless otherwise designated in the Order Form, the term of any Subscription shall be one (1) year commencing on the Order Form Effective Date of the applicable Order Form. Each Subscription Term shall automatically renew for subsequent periods of the same length as the initial Subscription Term unless either party gives the other written notice of termination at least thirty (30) days prior to expiration of the then-current Subscription Term. The rates for any Subscription Term are as specified on the applicable Order Form, and renewals or additional Subscriptions shall be at Velosimo’s then-current list Subscription rates, unless specifically provided in an Order Form.
- 3.2. Payment Terms. All fees are as set forth in the applicable Order Form and SOW are due upon receipt of invoice and shall be paid by Customer thirty (30) days from invoice unless otherwise specified in the applicable Order Form or SOW. Customer shall be responsible for all taxes, withholdings, duties and levies arising from the order (excluding taxes based on the net income of Velosimo). Fees are non-refundable upon payment. Payments will be made without right of set-off or chargeback. Any late payments shall be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less. If payment of any fee is overdue, Velosimo may also suspend provision of (as the case may be) the Products or Services until such delinquency is corrected.

4. Support & Maintenance.

During the time that Customer has paid the applicable Subscription fees, Velosimo shall provide Support and Maintenance during the Subscription Term in accordance with Velosimo's then-current standard support policies. Customer agrees to provide Velosimo with such cooperation, materials, information, access and support which Velosimo deems to be reasonably required to allow Velosimo to successfully provide the Products, and Support and Maintenance. Customer understands and agrees that Velosimo's obligations hereunder are expressly conditioned upon Customer providing such cooperation, materials, information, access and support.

5. Third Party Components.

Under this Agreement Velosimo provides only the Products and Services and Support and Maintenance with respect to each of the Products. Velosimo does not provide any warranty on, and does not provide Support and Maintenance on, the Third Party Components. Customer may need to license, modify and install Third Party Components. Velosimo may provide Customer with links and instructions for obtaining Third Party Components or provide access to them (e.g., through Velosimo cloud connectors), but it is Customer's sole responsibility to properly license and install any required Third Party Components from the relevant third party providers. Velosimo will have no liability with respect to any Third Party Components. If applicable, prior to Velosimo starting any Services that require the use of Third Party Components, Customer will provide documentation to Velosimo confirming that Customer can provide the rights necessary to allow Velosimo to modify the Third Party Solution Component software if necessary.

6. Services.

Velosimo shall provide the Services purchased in the applicable Order Form or SOW, as the case may be. Services may be ordered by Customer pursuant to an SOW describing the work to be performed, fees and any applicable milestones, dependencies and other technical specifications or related information. Each SOW must be signed by both parties before Velosimo shall commence work under such SOW. If the parties do not execute a separate Statement of Work, the Services shall be provided as stated on the Order Form.

7. Term and Termination.

7.1. Term and Termination. This Agreement is effective during the Term. Either party may terminate this Agreement (including all related Order Forms) if the other party: (a) fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach; (b) ceases operation

without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within 60 days thereafter)).

- 7.2. Effects of Termination. Upon expiration or termination of this Agreement for any reason: (a) any amounts owed to Velosimo under this Agreement before such termination will be immediately due and payable; (b) Customer shall cease any and all use of the Products, and destroy all copies of the latter and so certify to Velosimo in writing; (c) each party will return to the other party the Confidential Information of the other party that it obtained during the course of this Agreement; and (d) Customer must certify in writing to Velosimo that it has returned or destroyed all Velosimo Confidential Information.
- 7.3. Suspension of Products. In addition to its other rights under this Section 4, Velosimo may suspend or terminate Customer's access to the Products upon written notice in order to: (a) prevent damage to or degradation of, the Products caused by Customer; or (b) comply with any law, regulation, court order, or other governmental request or order which requires immediate action. If suspended, Velosimo will promptly restore use of the Products to Customer as soon as the event giving rise to the suspension has been resolved to Velosimo's satisfaction.
- 7.4. Survival. Sections 2.2, 2.4, 8, 9, 10, 11 and 12 shall survive any termination or expiration of this Agreement.

8. Warranties.

- 8.1. Limited Warranties. Velosimo warrants, for Customer's benefit only, that during the Warranty Period, the Product shall perform materially in accordance with the Documentation. If during the Warranty Period the Products do not perform materially in accordance with the Documentation, Velosimo's sole liability (and Customer's sole and exclusive remedy) for any breach of this warranty shall be for Velosimo to correct the defects in the Products. Customer acknowledges that the Products are subscription-based and that, in order to provide improved customer experience, Velosimo may make changes to the Products and that in such event, Velosimo will update the Documentation accordingly.
- 8.2. With respect to Services, Velosimo warrants only that the relevant Services will be performed consistent with generally recognized commercial practices and standards for similar services. If the Services do not conform to such warranty, Velosimo will re-perform the non-conforming Services.

These remedies are Customer's sole and exclusive remedies for breach of the relevant warranty and are Velosimo's sole and exclusive liability for breach of such warranty.

8.3. **Warranty Exclusions.** The limited warranties set forth above, are made to and for the benefit of Customer only. The warranties will apply only if (a) the relevant Velosimo product has been properly installed and used in accordance with the instructions in the applicable Documentation; (b) no modification, alteration or addition has been made to the relevant Velosimo product by anyone other than Velosimo; and (c) Velosimo receives written notification of the breach during the Warranty Period, and in the case of Services, within ten (10) days following the performance of the relevant Services. The above warranties shall not apply: (i) to defects in the Velosimo product due to negligence, abuse or improper use by Customer; or (ii) items provided on a no charge or evaluation basis.

8.4. **DISCLAIMER OF WARRANTIES.**

VELOSIMO'S WARRANTIES IN THIS SECTION 8 ARE EXCLUSIVE, AND VELOSIMO EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, AS TO THE TRANSACTIONS CONTEMPLATED HEREBY AND THE TECHNOLOGY AND SERVICES TO BE PROVIDED HEREUNDER (OR ANY RESULTS TO BE OBTAINED FROM THE USE THEREOF), INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, ACCURACY, NON-INFRINGEMENT, COMPLETENESS AND ORIGINALITY AND ALL WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING AND USAGE OF TRADE OR THEIR EQUIVALENTS UNDER THE LAW OF ANY JURISDICTION.

9. **Limitation of Liability and Damages.**

VELOSIMO SHALL NOT BE LIABLE FOR (I) ANY COST OF COVER OR ANALOGOUS COSTS RELATED TO THE PROCUREMENT OF REPLACEMENT SERVICES; OR (II) ANY LOSS OF USE, LOST DATA, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, VELOSIMO'S TOTAL AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO PROVEN DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO VELOSIMO UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM.

10. Indemnification.

- 10.1. Indemnity by Velosimo. Subject to the remainder of this Section 10, Velosimo shall defend Customer against any third party claim that the Product(s) infringes such third party's patent or copyright (an "Infringement Claim"), and indemnify Customer from the resulting costs and damages awarded against Customer to the third party making such Infringement Claim, by a court of competent jurisdiction or agreed to in settlement; provided that Customer: (i) notifies Velosimo promptly in writing of such Infringement Claim, (ii) reasonably cooperates in response to a Velosimo request for assistance. Velosimo will have the exclusive right to defend any such Infringement Claim and make settlements thereof at its own discretion, and Customer may not settle or compromise such Infringement Claim, except with prior written consent of Velosimo.
- 10.2. Options. Should any Products become, or in Velosimo's opinion be likely to become, the subject of such an Infringement Claim, Velosimo shall, at its option and expense, (a) procure for Customer the right to make continued use of Products, (b) replace or modify such so that it becomes non-infringing, or (c) request termination of the access to the Products and upon such request the corresponding licenses shall be terminated and Velosimo shall refund the price paid by Customer for the Subscription Term in which the Infringement Claim was asserted, less a pro rata portion of the Subscription fee reflecting that portion of the Subscription Term that was fulfilled prior to termination.
- 10.3. Exclusions. Velosimo will have no obligation for claims of infringement resulting from (i) any modification of the Software by a party other than Velosimo if such infringement would have been avoided in the absence of such modifications; (ii) Customer's failure, within a reasonable time frame, to implement any replacement or modification of the Products provided by Velosimo; (iii) any combination, operation, or use of the Products with any products, equipment, software, hardware, data, or business processes not supplied by Velosimo, including without limitation Third Party Components and Customer Data, if such infringement would not have occurred without the combination (iv) use for a purpose or in a manner for which the Products were not designed, (v) any intellectual property right owned or licensed by Customer, excluding the Products, (vi) Customer using the Products after Velosimo notifies Customer to discontinue using due to such a claim.
- 10.4. Limitation. THIS SECTION STATES THE PARTIES SOLE AND EXCLUSIVE REMEDY AND ENTIRE LIABILITY FOR INFRINGEMENT CLAIMS.

11. Confidential Information.

- 11.1. Non-Disclosure and Non-Use. Each party (a) shall treat as confidential all Confidential Information of the other party; (b) shall not disclose such Confidential Information to any third party, except on a “need to know” basis to third parties that have signed a non-disclosure agreement containing substantially the terms of this Agreement; and (c) shall not use such Confidential Information except in connection with performing its obligations or exercising its rights under this Agreement.
- 11.2. Exceptions. Confidential Information will not include any information which (i) was publicly known and made generally available prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party’s obligations of confidentiality; (v) is independently developed by the receiving party without use of or reference to the disclosing party’s Confidential Information; or (vi) is required by law to be disclosed by the receiving party, provided that the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure. Notwithstanding the foregoing, Licensor acknowledges that Licensee is a municipal corporation subject to certain public disclosure laws, including but not limited to the California Public Records Act, which may require Licensee to disclose certain Confidential Information. Licensor agrees that disclosure of Confidential Information as required by such laws in Licensee’s sole discretion, shall not constitute a breach of this Agreement.
- 11.3. For the Products, Velosimo does not directly store, monitor, track, or inspect Customer Data, including personally identifiable information (PII), and personal healthcare information (PHI). Customer may configure the appropriate software settings based on Customer’s use and security standards. Velosimo will not (a) modify Customer Data, (b) disclose Customer Data except as compelled by law or as expressly permitted in writing by Customer, or (c) access Customer Data, except to access to address service or technical problems. Any exchange of data between Customer and any Third-Party Components Components (or by Customer between two or more Third Party Components), is solely between Customer and the applicable provider of the Third-Party Components.

12. General

- 12.1. Severability. If a provision of this Agreement is deemed unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect.
- 12.2. Governing Law; Jurisdiction and Venue. This Agreement shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof. The jurisdiction and venue for actions related to the subject matter hereof shall be the California state and United States federal courts located in San Diego, California, and both parties irrevocably consent to such personal jurisdiction of such courts and waive all objections thereto. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.
- 12.3. Notices. Any notice hereunder shall be in writing to the notice address set forth above and shall be deemed given: (i) upon receipt if by personal delivery; (ii) upon receipt if sent by certified or registered U.S. mail (return receipt requested); or (iii) one day after it is sent if by next day delivery by a major commercial delivery service.
- 12.4. Amendments; Waivers. No supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to exercise rights under this Agreement. No provision of any purchase order or other business form employed by Customer will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect.
- 12.5. Injunctive Relief. Both parties acknowledge that the disclosure of any aspect of the confidential information of the other party shall immediately give rise to continuing irreparable injury to the non-disclosing party inadequately compensable in damages at law and without prejudice to any other remedy available to the non-disclosing party, and shall entitle the non-disclosing party to seek injunctive relief.
- 12.6. Assignment, Subcontracting. Neither party may assign this Agreement in whole or in part without the prior written consent of the other party except to the acquirer of substantially all of the assigning party's assets and business by merger or purchase who assumes that party's obligations under this Agreement. Velosimo reserves the right to delegate or subcontract its obligations under this Agreement to third parties but remains responsible for the acts and omissions of its subcontractors. Customer may not assign its rights under the Agreement to a new or different

agency entity which has the effect of creating a substantive change or increase in use or capacity requirements or creates use is a new jurisdiction.

- 12.7. Force Majeure. No delay or failure of Velosimo to perform any of its obligations under the Agreement may be considered a breach of this Agreement if it results from any cause beyond its control including, without limitation, any act of God, earthquake, hurricane, flood, fire, natural catastrophe, severe weather, public emergency, accident, third party strike, lock-out or other dispute, riot, civil commotion, insurrection, or third party equipment or system failure (including any failure of access circuits (other than those caused solely by Velosimo), the unavailability of, or interruption or delay in, telecommunications, power or other third party system, or any failure of third party software (in each case, a "Force Majeure Event").
- 12.8. Relationship of the Parties. No agency, partnership, joint venture, or employment relationship is created or may be inferred by the existence or performance of this Agreement, and neither party has any authority to bind the other in any respect whatsoever.
- 12.9. Customer Acknowledgement. Customer agrees that Velosimo may from time to time identify Customer (with Customer's name, logo, or trademark) as a Velosimo customer in or on Velosimo's website, sales and marketing materials, or press releases. Velosimo may not use Customer's name, logo, or trademark for any other purpose without obtaining Customer's prior written consent.