

**TRIMBLE OFFERING TERMS**  
**(For Software and Subscriptions)**  
**Version 3.1 (Last updated: October 7, 2023)**

These Trimble Offering Terms (the “**Agreement**”) are entered into by and between Trimble and Customer. Certain capitalized terms are defined in Section 1 (Definitions), and others are defined contextually in the Agreement.

**BY INDICATING ACCEPTANCE OF THE AGREEMENT OR INSTALLING, ACCESSING OR USING THE OFFERING, CUSTOMER AGREES TO BE LEGALLY BOUND BY THE TERMS AND CONDITIONS OF THE AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THE AGREEMENT, CUSTOMER MUST NOT INSTALL, ACCESS OR USE THE OFFERINGS.**

*Notwithstanding anything to the contrary herein, if Customer has executed a separate signed agreement with Trimble which expressly governs use of the Offering, the terms of that agreement shall supersede the terms of the Agreement, and Customer shall have no rights under the Agreement either during or after the term of such other written agreement.*

Purchase from Reseller. **IF CUSTOMER (1) HAS ORDERED THE OFFERING THROUGH A RESELLER, (2) HAS NOT SEEN THE AGREEMENT PRIOR TO ORDERING THE OFFERING FROM THE RESELLER, AND (3) NOW DOES NOT AGREE TO THE AGREEMENT, THEN CUSTOMER MAY RETURN THE OFFERING TO THE RESELLER FOR A FULL REFUND, PROVIDED CUSTOMER (A) HAS NOT INSTALLED, ACCESSED, OR USED THE OFFERING AND (B) RETURNS THE OFFERING WITHIN 14 DAYS OF THE INITIAL ORDER.** Otherwise, Customer’s use of the Offering is governed by the terms of the Agreement as modified by Section 9.3 (Purchase from Reseller) below.

The Agreement consists of the terms and conditions set forth below, any applicable Supplemental Terms, any applicable Support Terms, and the Order. If Customer is an individual accessing or using the Offering on behalf of an entity, Customer represents that he or she is authorized to accept the Agreement on behalf of such entity, and all references to “Customer” reference such entity. Any conflict or inconsistency will be resolved in the following order of precedence: (1) the Order, (2) the Supplemental Terms, (3) the Support Terms, and (4) the body of the Agreement. The Agreement will govern Customer’s initial Order and as any renewals thereof (unless different terms are specified upon renewal).

**1. Definitions**

- 1.1.** “**Affiliate**” means an entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with a party, where “ownership” means the direct or indirect ownership of more than fifty percent (50%) of an entity’s outstanding voting rights or other equivalent voting interests.
- 1.2.** “**Anonymized Data**” means any data collected in connection with the Offering (including Customer Data) that has been aggregated and/or de-identified in such a manner that neither Customer nor any of its Authorized Users or any other individual can be identified from the data when it is shared outside of Trimble or its Affiliates.
- 1.3.** “**Authorized User**” means any employee of Customer or third-party user authorized by Customer to access and use the Offerings on Customer’s behalf in accordance with the Agreement, including, without limitation, Section 7.5 (Third-Party Access).
- 1.4.** “**Correction Services**” means subscription-based services that provide GNSS position correction data.
- 1.5.** “**Concurrent User**” means any type of Authorized User authorized by Customer to access and use the Offering on Customer’s behalf simultaneously at a given point in time.
- 1.6.** “**Customer**” is the entity or person that or who has downloaded, accessed, or otherwise procured the Offering.
- 1.7.** “**Customer Data**” means any information, documents, materials, or other data of any type that is input by or on behalf of Customer into the Offering or that is created or generated by Customer through Customer’s use of the Offering, including without limitation information or data that is submitted manually by Authorized Users or through a Third-Party Platform. For clarity, Customer Data expressly excludes Usage Data.
- 1.8.** “**Dispute(s)**” means any dispute, claim, or controversy arising from or related to the Agreement.
- 1.9.** “**Documentation**” means Trimble’s then-current usage guidelines, standard technical documentation, acceptable use policies, support policies, service level commitments, or other policies referenced in the Agreement.
- 1.10.** “**High Risk Activities**” means any mission critical, hazardous, strict liability, or other activity(ies) where use or failure of the Offering could lead to death, personal injury, or physical or environmental damage. Examples of High Risk Activities include, but are not limited to: aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, autonomous vehicles, air traffic control, emergency services, or weaponry systems. High Risk Activities do not include utilization of Offering for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or physical or environmental damage. These non-controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function.
- 1.11.** “**Intellectual Property Rights**” means any and all right, title and interest in and to any and all trade secrets, patents, copyrights, service marks, trademarks, know-how, trade names, rights in trade dress and packaging, moral rights, rights of privacy, publicity, database rights and similar rights of any type, including any applications, continuations or other registrations with respect to any of the foregoing, under the laws or regulations of any foreign or domestic governmental, regulatory or judicial authority, and the right to sue for, settle and release past, present and future infringement of any of the foregoing.

**1.12.** “**Law(s)**” means all applicable local, state/provincial, federal and international laws, rules, regulations, directives, ordinances and conventions, including, but not limited to, those related to data privacy and data transfer, international communications and export of technical or personal data.

**1.13.** “**License Keys**” means electronic passwords, authorization codes, or other enabling mechanisms provided for use with the Offering.

**1.14.** “**Licensed Software**” means the object code form of Trimble’s proprietary installed software product for deployment on premises or on a device, as well as any Documentation, maintenance releases, and features and functionality enhancements, and application programming interfaces (“**APIs**”), in each case as as may be made available pursuant to the Order. For clarity, Licensed Software excludes firmware.

**1.15.** “**Named User**” means any type of Authorized User designated by Customer by name or other identifier to access and use the Offering on Customer’s behalf.

**1.16.** “**Order**” means any Trimble-issued entitlement confirmation or online order acknowledgment.

**1.17.** “**Offering**” means any Software or Subscription.

**1.18.** “**Prohibited Data**” means any (a) patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (as amended and supplemented) (“**HIPAA**”); (b) credit, debit, or other payment card data subject to the Payment Card Industry Data Security Standards (PCI DSS); (c) information subject to regulation or protection under the Children’s Online Privacy Protection Act or Gramm-Leach Bliley Act; or (d) any other information which is regulated under Laws and is not required for use of the Offering for its intended purpose.

**1.19.** “**Provision Date**” means the date on which Trimble first provides access to the Offering. For a bundle comprised of multiple Offerings, the Provision Date will be the date on which the entire bundle becomes fully provisioned.

**1.20.** “**Reseller**” means an authorized dealer, distributor or reseller of Trimble.

**1.21.** “**Software**” means the Licensed Software and/or Software-as-a-Service specified on an Order.

**1.22.** “**Software-as-a-Service**” or “**SaaS**” means a Trimble proprietary cloud service, as well as any Documentation, features and functionality enhancements, and application programming interfaces, in each case as may be made available pursuant to the Order.

**1.23.** “**Subscription**” means access to any Software, Support, Correction Services, content, data, or other information , in each case made available for the applicable Subscription Term(s).

**1.24.** “**Supplemental Terms**” means the terms and conditions on Schedule 1, if any.

**1.25.** “**Support**” means support and/or maintenance for Offering, and as may be further described in the applicable Supplemental Terms, Documentation, or otherwise as specified by Trimble in writing.

**1.26.** “**Support Terms**” means the terms and conditions on [Exhibit C](#).

**1.27.** “**Term**” means the applicable period set forth in the Order.

**1.28.** “**Third-Party Materials**” means any third-party data, content, or proprietary software. Third-Party Materials are not part of the Offering.

**1.29.** “**Trimble**” means (i) for purchases directly from Trimble: (A) Trimble Inc. or its Affiliate identified on the Order or SOW, or (B) if none is specified, the Trimble entity identified in [Exhibit A](#) (Trimble Entities; Governing Law and Venue) based on the Customer’s location, and (ii) for purchases made through a Reseller located in the United States, “Trimble” means Trimble Inc., and for purchases made through a Reseller located outside the United States, “Trimble” means Trimble Europe B.V.

**1.30.** “**Trimble IP**” means the Offering, Documentation, and any written and electronic materials, proprietary information, documentation, code, technology, systems, infrastructure, equipment, and trade secrets developed, provided or used by Trimble or its subcontractors to produce and provide the Offering together with all Intellectual Property Rights therein, together with all modifications, improvements, changes thereto or derivative works thereof, including without limitation: (a) proprietary electronic architecture and other non-literal elements of the Offering developed by Trimble, (b) functional and technical specifications and other technical, training, reference or service information, documentation and manuals and updates thereto, (c) APIs, customized applications and computer programs, (d) processes, methods, algorithms, ideas, and other “know how,” (e) data and information provided or sourced by Trimble, (f) Offering which Customer has the right to use via a subscription, and (g) network equipment and architecture.

**1.31.** “**Usage Limitations**” means Customer’s authorized scope of use for the Offering as specified in the applicable Order, Supplemental Terms, or Documentation, which may include any user (e.g., Named User, Concurrent User, etc.), seat, copy, instance, data storage, CPU, computer, field of use, location, project, or other restrictions.

**1.32.** “**Usage Data**” means Trimble’s technical logs, data, and learnings about Customer’s use of the Offering, excluding Customer Data.

## **2. Generally.**

### **2.1. Offerings.**

a) Subscriptions (other than Licensed Software). Customer may access and use the Subscriptions during the Subscription Term only for its internal business purposes in accordance with the Documentation, Usage Limitations, and the Agreement. Unless otherwise specified by Trimble, any Licensed Software provided with a Subscription is subject to the terms applicable to Licensed Software under the Agreement.

b) Licensed Software. Trimble hereby grants Customer a non-transferable, non-sublicensable, non-exclusive license, during the Term, to install, copy, and use the Licensed Software on systems or devices under Customer’s control only for its internal business purposes in accordance with the Documentation, Usage Limitations, and the Agreement. Licensed Software is licensed, not sold. Any Licensed Software deployed through hosting services delivered by Trimble are subject to the terms and conditions applicable to Licensed Software.

**2.2. Authorized Users.** Only Authorized Users may access or use the Offering. User IDs are granted to individual, named persons, and each Authorized User will keep login credentials confidential and not share them with anyone else. Customer is responsible for its Authorized Users' compliance with the Agreement and actions taken through their accounts. In the event an Authorized User is no longer authorized to use the Offering on Customer's behalf, Customer will promptly de-activate such Authorized User's access. Unless expressly permitted in the Order, Supplemental Terms, or Documentation, Customer may not transfer Authorized User status from one individual to another. Customer will promptly notify Trimble if it becomes aware that any of its Authorized User login credentials have been compromised.

**2.3. Restrictions.** Customer will not (and will not permit, encourage, or assist anyone else to) do any of the following: (a) provide access to, distribute, sell, or sublicense the Offering to a third party; (b) use the Offering on behalf of, or to provide any product or service to, third parties; (c) use the Offering to develop a similar or competing product or service; (d) reverse engineer, decompile, disassemble, or seek to access the source code or non-public APIs to any element of the Offering, except to the extent expressly permitted by Law (and then only after providing prior written notice to Trimble); (e) modify or create derivative works of the Offering or copy any element of the Offering (other than in connection with making copies of Licensed Software authorized under the Agreement); (f) remove or obscure any proprietary notices in the Offering; (g) publish benchmarks or performance information about the Offering, except to the extent expressly permitted by Law; (h) interfere with the Offering's operation or its use by others, circumvent its access restrictions or, without the prior written permission of Trimble, conduct any security or vulnerability test of the Offering; (i) transmit any viruses or other harmful materials to the Offering; (j) submit to the Offering any information that is inappropriate, defamatory, obscene, salacious, or unlawful, or use the Offering to defame, harass, stalk, threaten, or otherwise violate the rights of others; (k) use the Offering to advertise, offer to sell or buy goods, or otherwise for business promotional purposes; (l) for Licensed Software, unless expressly permitted in the Order, Supplemental Terms, or the Documentation, use or host any Licensed Software in a virtual server environment; or (m) for Corrections Services, re-broadcast the Corrections Services without the prior written consent of Trimble.

**2.4. Free Versions: Trials and Betas.** "Free Versions" means any Offering made available to Customer for use without a fee. "Trials and Betas" means any Offering or any features thereof made available on an evaluation or trial basis or as an alpha, beta, or early access offering, in any case free or otherwise. Unless otherwise set forth in the Documentation or the Agreement, Customer may only use Free Versions in a non-production environment and for non-commercial purposes, and Trials and Betas may only be used solely for Customer's internal evaluation to determine whether to purchase a license or subscription to the Offering. The evaluation term for Trials and Betas shall be 30 days unless otherwise designated by Trimble in writing. Free Versions and Trials and Betas are optional, and Trimble may cease making available such Offering at any time for any reason. Trials and Betas may be inoperable, incomplete, or include features that Trimble may never release, and their features and performance information are Trimble's Confidential Information. **Notwithstanding anything else in the Agreement: (a) Trimble has no obligation to retain Customer Data used with Free Versions and Trials and Betas; (b) Trimble provides the Free Versions and Trial and Betas "AS-IS" with no warranty, indemnity, service levels, or support; (c) Trimble's liability for Free Versions and Trials and Betas will not exceed US\$50, and (d) either party may terminate access to a Free Version or Trial and Beta, for any reason or no reason, immediately upon written notice to the other party.**

**2.5. Educational Versions.** For any version of the Offering designated as "educational," or a similar term, Customer may use the Offering solely for educational purposes - e.g., by an instructor or a student at an educational institution and while engaged in educational work. Such educational versions may not be used (a) by any other person; (b) by any educational institution for any non-educational purposes; or (c) for any for-profit purpose, including professional work or training offered for a fee, or by commercial entities.

**2.6. Delivery.** Offering and License Keys, if any, will be delivered by electronic means unless otherwise specified on the applicable Order. Delivery is deemed to occur on the date on which the Offering and License Key, if any, are first made available to Customer.

**2.7. Offering Activation and Metering; Audits.**

- (a) Offering may gather and transmit to Trimble license usage, compliance, and activation data. Customer will not disable, modify, or interfere with the operation of any such functionality of the Offering. Trimble may use the foregoing information to validate the authenticity of Authorized Users, to confirm Customer's compliance with the Agreement, to register the Offering, to monitor and validate compliance with Usage Limitations, for license metering, and to protect Trimble against unlicensed or illegal use of the Offering.
- (b) Upon Trimble's written request, Customer shall certify in writing that its use of the Offering is in full compliance with the Agreement (including any Usage Limitations). In addition to the other license compliance monitoring rights in the Agreement, Trimble, or its authorized representative, may, upon prior reasonable notice of at least ten (10) days, inspect and audit Customer's records and use of the Offering to confirm Customer's compliance with the Agreement. All such inspections and audits will be conducted during regular business hours and in a manner that does not unreasonably interfere with Customer's business activities. Customer is responsible for such audit costs only in the event the audit reveals that the use is not in accordance with the Usage Limitations or other licensed scope of use and for unpaid fees. Customer shall promptly pay all unpaid fees.

**3. Data Usage and Ownership.**

- (a) Ownership. Except for Trimble's limited rights set forth in the Agreement, as between the parties, Customer retains all Intellectual Property Rights in Customer Data. Trimble owns Intellectual Property Rights in Anonymized Data and Usage Data.
- (b) Limited Usage Rights. Customer hereby grants to Trimble and its Affiliates the non-exclusive, worldwide, irrevocable, royalty-free right: (i) to use Customer Data during the Term to provide the Offering, Support, and Services to Customer; (ii) to use and disclose Customer Data as otherwise permitted pursuant to the Agreement or any written consent or instructions of Customer; and, (iii) on a perpetual basis: (A) subject to Trimble's confidentiality obligations in Section 15 (Confidentiality) and all applicable Data Protection Legislation, to use Customer Data in perpetuity to develop, maintain, and improve the Offering and any

other products, software, and services of Trimble or its Affiliates, including, without limitation, analytics, model training, and machine learning.

(c) Customer will not have access to Customer Data after termination or expiration of the Term, unless otherwise indicated in the Order, Supplemental Terms, or the Documentation, or the parties agree otherwise in writing.

(d) In the event of any conflict between the terms of Section 15 (Confidentiality) and this Section 3 (Data Usage and Ownership), the terms of this Section 3 (Data Usage and Ownership) will control.

**4. Personal Information; Data Protection.** The following section applies if Customer is an entity.

- (a) This Section 4 (Personal Information; Data Protection) applies if Customer is a legal person (i.e., a business or legal entity). All Laws relating to the protection of privacy and data protection are referred to as “**Data Protection Legislation**”. “**Personal Information**” is defined as in the Applicable Data Protection Legislation, or if no definition is provided, any personally identifiable information which is either (a) provided by Customer or on its behalf, or (b) automatically collected through the Offering on Customer’s behalf. “**Applicable**”, in this context, means the Data Protection Legislation applicable to Customer at Customer’s principal place of business or to Trimble at Trimble’s principal place of business, and such Laws that the parties mutually agree apply.
- (b) Each party will comply with all Applicable requirements of the Data Protection Legislation. This Section 4 (Personal Information; Data Protection) is in addition to, and does not relieve, remove or replace, a party’s obligations or rights under the applicable Data Protection Legislation.
- (c) The parties acknowledge that: (a) when performing its obligations under the Agreement, Trimble processes Personal Information on Customer’s behalf, except for user registration and software licensing and usage data, for which Trimble acts as responsible party, and (b) the Personal Information may be transferred or stored, and/or accessed from outside of the country where Customer’s principal place of business is located in order to provide the Offering and Trimble’s other obligations under the Agreement.
- (d) Customer will ensure that it has all necessary appropriate consents and notices in place to enable (a) lawful transfer of the Personal Information to Trimble for the duration and purposes of the Agreement and (b) Trimble to lawfully use, process and transfer the Personal Information in accordance with the Agreement, including on Customer’s behalf.
- (e) If the processing of Personal Information by Trimble is subject to the General Data Protection Regulation ((EU) 2016/679) or the Data Protection Act 2018 of the United Kingdom, then, in addition, at the written request of Customer, the parties will execute an applicable data processing addendum, available at <https://www.trimble.com/privacy/DPA-TI-EuroSubs> (or any successor url). Transfers of Personal Information from Trimble entities located in Europe, acting as data exporter, to Trimble entities in the USA, acting as data importer, are governed, for the benefit of Customer, by the Standard Contractual Clauses available at the same url or upon written request to Trimble.
- (f) If the processing of Personal Information by Trimble is subject to US data protection laws, rules or regulations, then the Customer US Data Processing Addendum for Customer Personal Information (available at [https://dl.trimble.com/www/us\\_dpa\\_customer.pdf](https://dl.trimble.com/www/us_dpa_customer.pdf) (or any successor url) is herein incorporated by reference.

**5. Customer Obligations.**

**5.1. Dependencies and Compatibilities.**

- (a) The Offering may (i) require certain dependencies, including, without limitation, internet connection, electronic communications, hardware, data connections, operating systems, third-party products and services, other Trimble products and services, satellite signals, etc. (collectively, “**Dependencies**”), and (ii) allow compatibility and/or interoperability with other products or services made available by Trimble, Customer, or a third party (collectively, “**Compatibilities**”).
- (b) Dependencies and Compatibilities may require payment of a separate fee and are governed by their respective terms of service, end user license agreement, or other agreement, and not by the Agreement. Unless otherwise expressly agreed upon by the parties in writing, Customer is responsible for all Dependencies and Compatibilities. Trimble may modify the Offering from time to time, and Trimble does not guarantee that the Offering will continue to operate or be compatible with any Dependencies or Compatibilities. Trimble makes no warranty or guarantee, and will have no liability or obligations under the Agreement, with respect to any Dependencies, Compatibilities, or other factors outside of Trimble’s control.
- (c) Customer represents and warrants that it shall, and shall require any provider of any Dependencies and Compatibilities to: (i) establish and maintain industry standard technical, organizational, physical, and administrative safeguards designed to ensure the security and integrity of the Offering; and (ii) comply with the security controls, configuration requirements, and access limitations imposed by Trimble, as may be modified by Trimble from time to time.
- (d) If Customer enables Dependencies or Compatibilities with the Offering, Trimble may access and exchange Customer Data with the Dependencies or Compatibilities on Customer’s behalf. Trimble will have no liability or obligations under the Agreement with respect to how any Dependencies or Compatibilities uses or processes Customer Data. If Trimble hosts any Dependency or Compatibilities at Customer’s request, Customer represents and warrants to Trimble that Customer has all rights necessary. Trimble may charge additional fees for such hosting services.

**5.2. No Prohibited Data.** Customer will not use the Offering with Prohibited Data. Customer acknowledges that the Offering is not intended to meet any legal obligations for these uses, including HIPAA requirements, and that Trimble is not a Business Associate as defined under HIPAA.

**5.3. Customer Data.** Customer is responsible for its Customer Data, including its content, accuracy, and compliance with Laws. Customer represents and warrants that it has made all disclosures and has all rights, consents, and permissions necessary to use its Customer Data with the Offering and grant Trimble the rights in Section 3 (Data Usage and Ownership), all without violating or infringing Laws, third-party rights (including intellectual property, publicity, or privacy rights), or any terms or privacy policies that apply to its Customer Data. If Customer utilizes data fields available in the Offering to store data not required for the normal use and operation of the Offering for their intended purpose, Customer agrees that Trimble is not responsible for, and will not be liable in any manner for such data, and Customer assumes all risks associated with, and agrees to hold Trimble harmless from and against any and all claims, losses, damages, liabilities, and expenses (including reasonable attorneys' fees) related to or arising from, Customer's use of data fields to store such data.

**5.4. High Risk Activities.** Customer will not use the Offering for High Risk Activities. Customer acknowledges that the Offering is not intended to meet any legal obligations for High Risk Activities. Trimble and its suppliers specifically disclaim any responsibility for, and will not be liable in any manner arising from, any use of the Offering in connection with High Risk Activities.

**5.5. Compliance with Laws.** Customer shall comply with all Laws in connection with its use or receipt of the Offering.

**5.6. License Compliance.** Customer shall promptly notify Trimble if Customer become aware of (i) any breach of confidentiality obligations regarding the Offering, or (ii) any infringement (whether actual or alleged) of Trimble's intellectual property rights in the Offering, or (iii) any unauthorized use of the Offering by any person, and provide reasonable assistance to Trimble in connection with any suit or proceeding relating to such events.

**5.7. Usage Limitations.** Customer will comply with all Usage Limitations. If Customer exceeds the Usage Limitations during the Term, Trimble may invoice Customer for the use that exceeded the applicable Usage Limitations at Trimble's then-current list price, and Customer shall pay in accordance with the Agreement. The parties may also agree on a Usage Limitation adjustment, in which case Customer must sign a new Order and pay the applicable fees.

**6. Suspension of Access.** Trimble may suspend Customer's access to Offering, without liability, and in whole or in part, if (a) Customer breaches any Usage Limitations, Section 2.2 (Authorized Users), 2.3 (Restrictions) or Section 5 (Customer Obligations); (b) Customer's account is five (5) business days or more overdue; or (c) immediately if Customer or any of its Authorized Users' acts or omissions threaten the integrity, availability, or security of the Offering or Trimble's systems, products, or infrastructure (provided Trimble will use commercially reasonable efforts to provide Customer with advance notice of such suspension where Trimble determines exigent circumstances do not exist). Trimble will lift such suspension once the related issue or failure is cured to Trimble's reasonable satisfaction. Fees will continue to apply during the suspension period. Customer may be prohibited from entering new Customer Data or processing or accessing existing Customer Data and data reports during the suspension period. If Customer attempts to access or manipulate Customer Data utilizing third-party software during suspension, Trimble disclaims and Customer holds Trimble harmless from any responsibility or liability relating to lost or altered Customer Data or related damages.

## **7. Certain Features.**

**7.1. Third-Party Materials.** The Offering may provide Customer with access to Third-Party Materials. To the extent specified by Trimble (including in any Supplemental Terms or Documentation), use of the Third-Party Materials may be subject to additional terms or restrictions ("**Third-Party Terms**"). Customer is solely responsible for its compliance with any Third-Party Terms, and failure to comply with such terms may result in termination of Customer's right to access any features of the Offering that utilize such Third-Party Materials. If no Third-Party Terms are specified, Customer may use Third-Party Materials solely in support of Customer's authorized use of the Offering in accordance with the Agreement.

**7.2. Offering Content.** "**Offering Content**" shall be any Trimble IP or Third-Party Materials made available as data or information through the Offering, whether included as part of the Offering or as a separate subscription. Any Offering Content that is Trimble IP will be deemed part of the Offering. Any Offering Content that is Third-Party Materials shall be subject to any applicable Third-Party Terms. If no Third-Party Terms apply, then unless otherwise authorized by Trimble in writing, such Third-Party Materials may only be used solely for Customer's internal purposes during the Term and only when accessed pursuant to a manual Authorized User request. Customer will not: (i) access, extract, or download any Third-Party Materials, or portions thereof, in batch or en masse by any means; (ii) use any device, software, or routine to bypass any hardware or software that prohibits volume requests for information; (iii) sell, offer to sell, rent, sublicense, or transfer any copies of the Third-Party Materials, or portions thereof, to a third party or allow a third party to use the Third-Party Materials; (iv) use the Third-Party Materials to develop services or products for sale or include any portion of the Third-Party Materials in any product or service; (v) use any portion of the Third-Party Materials to create a competitive service, product, or technology; (vi) recreate the Third-Party Materials or create otherwise a separate database or other repository of Third-Party Materials; (vii) use Third-Party Materials to train, augment, or correct another database or information repository; (viii) unless otherwise specified in the Documentation, permit any individual other than an Authorized User to access or use the Offering Content and any derivative thereof, or (ix) make any portion of the Third-Party Materials available to the public in any manner. Upon notice from Trimble and/or any termination or expiration of the Term, Customer will immediately cease using and delete/destroy all electronic and physical copies of Third-Party Materials.

**7.3. Open Source.** The Offering may incorporate third-party open source software ("**Open Source**"), as listed in the Documentation or otherwise made available by Trimble. To the extent the terms of the Open Source license prohibit the terms of the Agreement from applying to the Open Source, the terms of the Open Source license will apply to the Open Source on a stand-alone basis instead of the Agreement.

**7.4. Security for SaaS or Hosting Services for Licensed Software.** This Section 7.4 (Security for SaaS or Hosting Services for Licensed Software) applies to Software that are SaaS or hosting services for Licensed Software. During the Term, Trimble or its third party hosting provider(s) will use commercially reasonable efforts to establish and maintain reasonable administrative, physical, and technical safeguards designed to protect (a) the security, confidentiality, and integrity of Customer Data; (b) against anticipated threats or hazards to the security, confidentiality, and integrity of Customer Data; (c) against unauthorized access to or use of Customer Data; and (d) against unlawful processing, accidental destruction, or loss of Customer Data. In the event Trimble is not in breach of the foregoing obligations and an unauthorized third party nonetheless gains access to the Customer Data, such disclosure of Customer Data in such circumstances shall not be a breach of Section 15 (Confidentiality). In the event of any conflict between the terms of Section 15 (Confidentiality) and this Section 7.4 (Security for SaaS or Hosting Services for Licensed Software), the terms of this Section 7.4 (Security for SaaS or Hosting Services for Licensed Software) will control.

**7.5. Third-Party Access.**

(a) *Contractors and Affiliates.* Unless prohibited by Trimble in the Order, Documentation, any Supplemental Terms, or otherwise by Trimble in writing, Authorized Users may include individuals who are contractors or consultants of Customer or employees, contractors, or consultants of its Affiliates.

(b) *Other Third-Parties.* If expressly authorized by Trimble in the Documentation or any Supplemental Terms, the Offering may allow Customer to invite other third parties to become Authorized Users and/or access Customer Data.

(c) *Generally.* Customer authorizes Trimble to share Customer Data with such third parties. Customer is solely responsible for any and all acts or omissions of any such third parties. Such third parties are not intended third-party beneficiaries under the Agreement. Trimble shall have no liability for any act or omission of any such third party, including by way of access or use of Customer Data. For clarity, as between Customer and any such third parties, any data or other information uploaded by such third party to the Offering on Customer's behalf will be deemed Customer Data of Customer.

(d) *Customer as a Third-Party.* In the event that Customer is invited to access Offering as a third party, any data or other information uploaded by Customer on behalf of such third party shall be deemed "Customer Data" of such third party.

**8. Support.** If Customer is eligible for Support and pays any applicable fees, Trimble will make such Support available in accordance with the Support Terms or as Trimble may otherwise expressly provide in writing. Unless otherwise set forth in writing by Trimble, Support is not available for Free Versions or Trials and Betas.

**9. Certain Commercial Terms.**

**9.1. Payment Terms: Invoicing.**

(a) Fees are as set forth in the Order. Fees for renewal Subscription Terms are at Trimble's then-current rates, regardless of any discounted pricing in a prior Order. Fees do not include applicable sales taxes, value added taxes, goods and services taxes, export or import charges, transportation or insurance charges, customs and duty fees, personal property taxes, surcharges and fees, or similar charges, all of which are Customer's responsibility to pay. Unless Customer provides Trimble with direct payment authority or a valid exemption certificate for the appropriate jurisdiction, Customer will pay Trimble all such taxes, charges, and fees invoiced by Trimble in connection with the Offering. Customer will pay any foreign exchange transaction fees and any foreign exchange profits or losses incurred on such transactions.

(b) Trimble will issue invoices in accordance with the billing frequency stated in the Order. Customer consents to the receipt of invoices electronically at the email address(es) it provided to Trimble for billing purposes, and accepts such invoices as if received by mail. Customer is responsible for maintaining current email address(es) with Trimble. Trimble's transmission of an invoice to the provided billing email address(es) (regardless of whether actually received by Customer) shall be considered delivery of that invoice by Trimble. Trimble's failure to issue an invoice in accordance with this Section 9.1 (Payment Terms; Invoicing) shall not be deemed to be a waiver by Trimble of its right to receive payment pursuant to the Agreement, but Customer shall not be obligated to make such payment until an invoice for such payment is issued by Trimble to Customer.

(c) Unless otherwise set forth in the Order, payments are due net 30 days from the date of invoice. Customer will make payment in the currency indicated on the Order. Trimble is entitled to offset payments against prior debt balances in Customer's account.

(d) Subject to any Laws to the contrary or as otherwise expressly stated in the Agreement, payments are not refundable. Delinquent payments not subject to a bona fide dispute will bear interest at the lesser of 1.5% per month or the maximum rate permitted by applicable Law. Customer will be liable for all costs of collection of past due amounts (including attorneys' fees).

**9.2. Third-Party Application Stores.**

(a) **Purchase from Application Store.** If Customer obtained the Offering through a third-party application store, marketplace or other site or service (each, an "**Application Store**"), such Application Store is considered a "Reseller" under the Agreement, and Customer's use of the Offering is subject to Section 9.3 (Purchase from Reseller) of the Agreement. Except as expressly set forth in Sections 9.3 (Purchase from Reseller) and 9.2(c) (Apple-Specific Terms), all fees are non-refundable once paid. Customer's download of the Offering may be subject to other terms as specified by the operator of the Application Store from which Customer downloaded the Offering.

(b) **In App Purchases.** The Offering may offer Customer the opportunity to purchase additional functions and/or features from within the application (an "**In App Purchase**"). All billing and transaction processes are handled by the provider of the Application Store (the "**App Store Provider**") from whose platform Customer downloaded the Offering and are governed by the App Store Provider's terms and conditions. If Customer has any payment related issues with In-App Purchases, then Customer must contact the App Store Provider directly.

- (c) Apple-Specific Terms. If Customer downloaded the Offering from Apple Inc.'s ("**Apple**") Application Store, the following terms are part of the Agreement. The Agreement is between Customer and Trimble, and not with Apple. However, as required by Apple, Apple and its subsidiaries will be third-party beneficiaries of the Agreement and will have the right (and will be deemed to have accepted the right) to enforce the Agreement against Customer as a third-party beneficiary. To the maximum extent permitted by Law, Apple will have no warranty obligation with respect to the Offering, and, as between Apple and Trimble, any other claims, losses, liabilities, damages, costs, or expenses attributable to a failure to conform to a warranty will be Trimble's responsibility. Apple has no obligation whatsoever to furnish any maintenance or support services with respect to the Offering. As between Trimble and Apple, Trimble is solely responsible for the Offering and for addressing any claims Customer or any third parties have about the Offering or Customer's possession or use of the Offering, including without limitation (i) product liability claims; (ii) any claim that the Offering fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. In the event of any third-party claim that the Offering or Customer's possession or use of the Offering infringes that third party's intellectual property rights, Apple will not be responsible for the investigation, defense, settlement, or discharge of such claim.

**9.3. Purchase from Reseller**. If Customer obtained the Offering through a Reseller, the terms of this Section 9.3 (Purchase from Reseller) are applicable and will prevail in event of any conflict with any other provisions of the Agreement:

- a) The Agreement is between Trimble and Customer and governs all access and use of the Offering by Customer. Resellers are not authorized to modify the Agreement or make any promises or commitments on Trimble's behalf, and Trimble is not bound by any obligations to Customer other than as set forth in the Agreement. Trimble is not party to (or responsible under) any separate agreement between Customer and the Reseller and is not responsible for the Reseller's acts, omissions, products or services. For Subscriptions, the applicable Offering list price for the applicable Subscription Term will be deemed the amount paid or payable by Customer to Trimble under the Agreement for purposes of Section 13 (Limitations of Liability).
- b) Instead of paying Trimble, Customer will pay the applicable amounts to the Reseller, as agreed between Customer and the Reseller. If the Reseller fails to pay Trimble the applicable fees for Customer's use of the Offering, Trimble reserves the right to terminate the applicable Term for such Offering and all related rights granted hereunder. Customer may purchase renewal Terms for the Offering under the Agreement directly from Trimble pursuant to an Order.
- c) Customer's order details (e.g., the applicable Offering, the Term, Usage Limitations, Authorized Users, and any additional scope of use restrictions) will be as stated in the entitlement confirmation issued by Trimble, and the Reseller is responsible for the accuracy of any such information as communicated to Trimble. Unless otherwise designated by Trimble, the Reseller is solely responsible for delivering to Customer any Offering, and Trimble has no liability for the Reseller's failure to deliver.
- d) The Reseller may fulfill Trimble's warranty obligations under Section 10.1 (Limited Warranty) on behalf of Trimble, to the extent authorized by Trimble in writing. Notwithstanding the foregoing, the Reseller has no authority to make any statements, representations, warranties or commitments on Trimble's behalf, and any such statements, representations, warranties or commitments are null and void. If the Reseller agrees to provide front-line support or professional services to Customer, Trimble has no responsibility for such Reseller-provided support or professional services.
- e) In the event Customer is entitled to a refund under the Agreement, Customer must request such refund through the Reseller. Any request sent directly to Trimble may be redirected to the Reseller. Trimble will refund any applicable fees to the Reseller and the Reseller will be solely responsible for refunding such fees to Customer, unless otherwise specified by Trimble. Trimble will have no further liability to Customer in the event the Reseller fails to refund such fees to Customer.

## **10. Warranties and Disclaimers.**

**10.1. Limited Warranty**. Subject to the Agreement and any mandatory Laws to the contrary, Trimble warrants to Customer that during the Warranty Period, the Offering will perform materially as described in the Documentation. The "**Warranty Period**" is (a) 90 days for Licensed Software licensed on a perpetual basis, and (b) for the duration of the applicable Subscription Term, for any Subscriptions. Notwithstanding the foregoing, Trimble makes no warranties with respect to Correction Services, which are provided as-is and as-available.

### **10.2. Warranty Remedy**.

- (a) If the Offering fails to conform to Section 10.1 (Limited Warranty) during the Warranty Period, Customer may make a reasonably detailed warranty claim within 30 days of discovering the issue. For any such claims reported by Customer within such period that Trimble determines are valid, Trimble will correct such non-conformity by issuing corrected instructions, a restriction, or a bypass, or by replacing the Offering, at Trimble's option. Subject to any mandatory Laws to the contrary, these procedures are Customer's exclusive remedy, and Trimble's entire liability, for the failure of the Offering to conform to the warranty in Section 10.1 (Limited Warranty).
- (b) The foregoing limited warranty only applies if and to the extent that (i) any Offering associated with the warranty is properly and correctly installed, configured, interfaced, maintained, stored, and operated in accordance with the Documentation, and (ii) any Offering associated with the warranty is not modified or misused. The foregoing limited warranty does not apply to (1) issues caused by unauthorized use or modifications; (2) unsupported or unauthorized versions of any Offering; (3) operating the Offering under any specification other than, or in addition to, the Documentation; (4) issues in or resulting from Dependencies, Compatibilities, or third-party systems, products, or services; or (5) Free Versions, Trials and Betas or other similar versions.

### **10.3. Disclaimers**.

- (a) **Generally. THE LIMITED WARRANTY TERMS, IF ANY, EXPRESSLY SET FORTH IN ANY APPLICABLE SUPPLEMENTAL TERMS ARE IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON TRIMBLE'S PART ARISING OUT OF, OR IN CONNECTION WITH, THE OFFERING, AT ANY TIME EITHER DURING OR AFTER EXPIRATION OF THE APPLICABLE WARRANTY, AND STATE TRIMBLE'S ENTIRE LIABILITY**

AND CUSTOMER'S EXCLUSIVE REMEDIES RELATING TO THEM. EXCEPT FOR ANY LIMITED WARRANTY TERMS EXPRESSLY PROVIDED IN ANY APPLICABLE SUPPLEMENTAL TERMS, THE OFFERING IS PROVIDED "AS-IS" AND WITHOUT EXPRESS OR IMPLIED WARRANTY OR CONDITION OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE, AND NONINFRINGEMENT. SUPPLEMENTAL TERMS MAY HAVE ADDITIONAL DISCLAIMERS. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON DURATION OR THE EXCLUSION OF AN IMPLIED WARRANTY, SO THE ABOVE LIMITATION(S) MAY NOT APPLY OR FULLY APPLY TO CUSTOMER.

- (b) **Additional Disclaimers.** TRIMBLE MAKES NO EXPRESS WARRANTY THAT CUSTOMER'S USE OF THE OFFERING WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE OF VIRUSES OR OTHER MALWARE OR PROGRAM LIMITATIONS; THAT TRIMBLE WILL REVIEW CUSTOMER DATA FOR ACCURACY; OR THAT TRIMBLE WILL MAINTAIN CUSTOMER DATA OR OTHER DATA WITHOUT LOSS. TRIMBLE IS NOT LIABLE FOR DELAYS, FAILURES, OR PROBLEMS INHERENT IN USE OF THE INTERNET, SATELLITES, ELECTRONIC COMMUNICATIONS, OR OTHER SYSTEMS OUTSIDE TRIMBLE'S CONTROL. TRIMBLE WILL NOT BE LIABLE IN ANY MANNER FOR THE OUTPUT OBTAINED THROUGH USE OF THE OFFERING OR CUSTOMER'S RELIANCE ON SUCH OUTPUT. CUSTOMER IS RESPONSIBLE FOR THE SUPERVISION, MANAGEMENT, AND CONTROL OF CUSTOMER'S USE OF THE OFFERING. THIS RESPONSIBILITY INCLUDES THE DETERMINATION OF APPROPRIATE USES FOR THE OFFERING AND THE SELECTION OF THE OFFERING TO ACHIEVE INTENDED RESULTS. ANY FORMS, POLICIES, OR OTHER MATERIALS PROVIDED BY TRIMBLE THROUGH THE OFFERING OR DOCUMENTATION ARE NOT INTENDED AND SHOULD NOT BE RELIED UPON AS LEGAL ADVICE OR LEGAL OPINION. CUSTOMER SHOULD CONSULT ITS OWN LEGAL COUNSEL REGARDING THE USE OF ANY SUCH MATERIALS. CUSTOMER IS ALSO RESPONSIBLE FOR ESTABLISHING THE ADEQUACY OF INDEPENDENT PROCEDURES FOR TESTING THE RELIABILITY AND ACCURACY OF ANY OUTPUT OF THE OFFERING. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS, BUT ANY STATUTORILY REQUIRED WARRANTIES WILL BE LIMITED TO THE SHORTEST LEGALLY PERMITTED PERIOD.
- (c) **Correction Services Disclaimers.** Customer acknowledges that the Correction Services and related network access are subject to transmission limitations caused by a variety of factors such as atmospheric conditions, topographical obstructions, limitations or lack of coverage of the underlying carrier service and other natural or manmade conditions. Additionally, motor and ignition noise, metal shielding, and interference by users of the same or adjacent radio channels may limit or interfere with Correction Services. Trimble is not responsible for the operation or failure of operation of GNSS satellites or the availability of GNSS satellite signals.
- (d) **Third-Party Materials.** Third-Party Materials are provided "AS IS" and Customer assumes all risk and liability regarding any use of (or results obtained through) Third-Party Materials. Trimble and its suppliers make no warranty or guarantee with respect to any Third-Party Materials, including regarding their accuracy or continued availability or compatibility.
- (e) **Dependencies and Compatibilities.** Trimble makes no warranty or guarantee with respect to any Dependencies, Compatibilities, or other factors outside of Trimble's control, including their continued availability or compatibility.
- (f) **Prohibited Data.** Trimble and its suppliers specifically disclaim any responsibility for, and will not be liable in any manner arising from, any use of the Offering in connection with Prohibited Data.

## 11. Term and Termination.

**11.1. Perpetual License.** If Customer purchases a perpetual license to Licensed Software, Customer's license to the Licensed Software will continue in perpetuity subject to the terms and conditions of the Agreement. Support for Licensed Software is purchased separately unless otherwise indicated by Trimble in writing or on an Order.

### 11.2. Subscriptions.

(a) **Subscription Term; Renewals.** If Customer purchases access to a SaaS or a license to Licensed Software for a limited period of time, the duration of the initial term and any renewals are as set forth in the Order (collectively, the "**Subscription Term(s)**"). Notwithstanding anything to the contrary in the Order, the start date for each Subscription Term for each Offering will begin on the Provision Date for that Offering. For clarity, each Offering may have a different Provision Date. Unless otherwise set forth in the Order or as provided by Trimble in writing, each Subscription Term will renew for successive periods of the same duration unless either party gives the other party at least 30 days notice of non-renewal before the expiration of the then-current Subscription Term.

(b) **Additional Subscriptions.** If Customer previously purchased one or more Subscriptions for a particular Offering ("**Existing Subscription(s)**") and subsequently purchases one or more additional Subscriptions (for any Offering) while the Existing Subscription(s) is in effect (the "**Additional Subscription(s)**"), the duration of the Subscription Term for the Additional Subscription will be as set forth in the Order. Unless otherwise set forth by Trimble in writing, all Customer's Subscriptions shall have the same end date and Trimble may invoice all fees for all such Subscriptions on a single invoice.

**11.3. Termination.** Either party may terminate the Agreement (including all Orders) if the other party (a) fails to cure a material breach of the Agreement (including a failure to pay fees) within 30 days after notice, (b) ceases operation without a successor or (c) seeks protection under a bankruptcy, receivership, trust deed, creditors' arrangement, composition or comparable proceeding, or if such a proceeding is instituted against that party and not dismissed within 60 days.

**11.4. Effect of Termination.** Upon expiration or termination of the Agreement or the Order, Customer's right to use the Offering will cease and Customer will immediately cease any and all use of and access to the Offering and will delete (or, upon request, return) all copies of any Offering. At the disclosing party's request upon expiration or termination of the Agreement, the receiving party will delete all of the disclosing party's Confidential Information (excluding Customer Data, which is addressed in Section 3 (Data Usage and Ownership)). Customer Data and other Confidential Information may be retained in the receiving party's standard backups after deletion but will remain subject to the Agreement's confidentiality restrictions.



**11.5. Survival.** These Sections survive expiration or termination of the Agreement: 1 Definitions, 2.3 (Restrictions), 3 (Data Usage and Ownership), 5 (Customer Obligations), 9.1 (Payments Terms; Invoicing), 10.3 (Disclaimers), 11.4 (Effect of Termination), 11.5 (Survival), 12 (Intellectual Property Rights), 13 (Limitations of Liability), 14 (Indemnification), 15 (Confidentiality), and 16 (General Terms). Except where an exclusive remedy is provided, exercising a remedy under the Agreement, including termination, does not limit other remedies a party may have.

**12. Intellectual Property Rights.**

**12.1. Trimble IP.** As between the parties, except for any limited usage rights set forth in any Supplemental Terms, Trimble and its suppliers have and will retain all Intellectual Property Rights in and to Trimble IP and all copies, modifications, and derivative works thereof. No Intellectual Property Rights are granted by Trimble to Customer except as expressly provided under the Agreement.

**12.2. Feedback.** Customer may from time to time provide suggestions, comments, or other feedback (collectively, “Feedback”) to Trimble with respect to the Offering. Both parties agree that all Feedback is and will be given entirely voluntarily, and shall not be considered Confidential Information of Customer. Customer shall not provide any Feedback that is subject to license terms that seek to require any of Customer’s products, technology, service, or documentation incorporating or derived from such Feedback, or any of Customer’s intellectual property to be licensed or otherwise shared with any third party. Customer hereby grants to Trimble and its Affiliates a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid up license to use and otherwise exploit the Feedback.

**13. Limitations of Liability.**

**13.1. Waiver; Liability Cap.**

(a) EXCEPT FOR EXCLUDED CLAIMS, (i) NEITHER PARTY (OR ITS SUPPLIERS) SHALL BE LIABLE FOR DAMAGES FOR LOSS OF PROFIT OR REVENUE, DATA THAT IS LOST OR CORRUPTED, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, LOSS OF GOODWILL, OR ANY SPECIAL, INCIDENTAL, RELIANCE, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND; AND (ii) EACH PARTY’S (AND EACH OF ITS SUPPLIER’S) ENTIRE LIABILITY FOR ANY AND ALL DAMAGES ARISING OUT OF OR RELATED TO THE AGREEMENT WILL NOT EXCEED IN AGGREGATE THE AMOUNTS PAID OR PAYABLE BY CUSTOMER TO TRIMBLE DURING THE PRIOR 12 MONTHS UNDER THE AGREEMENT FOR THE APPLICABLE OFFERING(S) GIVING RISE TO THE LIABILITY.

(b) “EXCLUDED CLAIMS” MEANS (i) CUSTOMER’S PAYMENT OBLIGATIONS UNDER THE AGREEMENT, (ii) DAMAGES PAYABLE TO A THIRD PARTY (I.E., NOT AN INDEMNIFIED PARTY) EITHER AWARDED BY A COURT OF COMPETENT JURISDICTION OR INCLUDED IN A SETTLEMENT AGREED TO BY THE INDEMNIFYING PARTY, WHICH DAMAGES ARE SUBJECT TO A PARTY’S INDEMNIFICATION OBLIGATIONS IN SECTION 14 (INDEMNIFICATION), (iii) ANY BREACHES OF SECTIONS 2.2 (AUTHORIZED USERS), 2.3 (RESTRICTIONS) OR SECTION 5 (CUSTOMER OBLIGATIONS), AND (iv) ANY ADDITIONAL “EXCLUDED CLAIMS” EXPRESSLY IDENTIFIED IN ANY APPLICABLE SUPPLEMENTAL TERMS.

(c) THE ABOVE LIMITATIONS OF LIABILITY WILL APPLY TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF SUCH DAMAGES COULD HAVE BEEN FORESEEN OR IF A PARTY HAS BEEN APPRAISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER SUCH DAMAGES ARE ARISING IN BREACH OF ANY ONE OR MORE WARRANTIES, NON-CONFORMITY, IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, BREACH OF ANY STATUTORY DUTY, OR OTHERWISE.

(d) SOME JURISDICTIONS DO NOT ALLOW A LIMITATION OF LIABILITY FOR DEATH, PERSONAL INJURY, FRAUDULENT MISREPRESENTATIONS, CERTAIN INTENTIONAL OR NEGLIGENT ACTS, VIOLATION OF SPECIFIC STATUTES, OR THE LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN SUCH AN EVENT, THE FOREGOING LIMITATION(S) WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

**13.2. Nature of Claims and Failure of Essential Purpose.** The waivers and limitations in this Section 13 (Limitations of Liability) are agreed-upon allocations of risk constituting in part the consideration for Trimble’s performance under the Agreement, and will survive and apply even if any limited remedy in the Agreement fails of its essential purpose.

**14. Indemnification.** Customer will defend, indemnify, and hold harmless Trimble from and against any and all third-party claims, costs, damages, losses, liabilities, and expenses (including reasonable attorneys’ fees and costs) arising out of or in connection with (a) use or modification of any Offering in breach of the Agreement, or in any manner not authorized by the Agreement, (b) Customer’s violation of Laws or the rights of a third party, (c) any Customer Data, Dependencies, or Compatibilities, or (d) Customer’s breach of Sections 2.2 (Authorized Users), Sections 2.3 (Restrictions), 5 (Customer Obligations), 7.1 (Third-Party Materials), 7.2 (Offering Content), or 9.2 (Third-Party Application Stores) (each, a “Claim”). Trimble will give Customer prompt written notice of any Claim and will cooperate in relation to the Claim at Customer’s expense. Customer will have the exclusive right to control and settle any Claim, except that Customer may not settle a Claim without Trimble’s prior written consent (not to be unreasonably withheld) if the settlement requires Trimble to admit any liability, pay any amounts, or take any action or refrain from taking any action (other than ceasing use of infringing materials). Trimble may participate in the defense of any Claim at its expense.

**15. Confidentiality.**

**15.1. Definition.** “Confidential Information” means information disclosed to the receiving party under the Agreement that is designated by the disclosing party as proprietary or confidential or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. Trimble’s Confidential Information includes, without limitation, the terms and conditions of the Agreement, and any technical or performance information about the Offering, including the Documentation.

**15.2. Obligations.** As a receiving party, each party (a) will protect the confidentiality of the disclosing party’s Confidential Information using the same degree of care it uses for its own information of like importance (but not less than reasonable care), (b) will not share the

disclosing party's Confidential Information with third parties except as permitted in the Agreement or with the disclosing party's prior written or electronic consent, and (c) will only use Confidential Information to fulfill its obligations and exercise its rights in the Agreement. The receiving party may disclose Confidential Information to its employees, agents, Affiliates, contractors, and other representatives (collectively, "**Representatives**") having a legitimate need to know (including, for Trimble, its subcontractors), provided (i) the Representatives are subject to confidentiality obligations no less protective than those in this Section 15 (Confidentiality), and (ii) the receiving party is responsible for any breach of this Section 15 (Confidentiality) by the acts or omissions of its Representatives.

**15.3. Exclusions.** These confidentiality obligations do not apply to information that the receiving party can document (a) is or becomes public knowledge through no fault of the receiving party or its Representatives, (b) it rightfully knew or possessed on a non-confidential basis prior to receipt under the Agreement, (c) it rightfully received from a third party without obligation of confidentiality, or (d) it independently developed without using the disclosing party's Confidential Information. In addition, see Section 3 (Data Usage and Ownership) and 7.4 (Security for SaaS or Hosting Services for Licensed Software).

**15.4. Remedies.** Unauthorized use or disclosure of Confidential Information may cause substantial harm for which remedies at law (e.g., monetary damages) alone are an insufficient remedy. In the event of such actual or threatened breach by a party, the other party may seek injunctive relief, in addition to other available rights and remedies, for breach or threatened breach of this Section 15 (Confidentiality), without proof of actual damages or the requirement of posting a bond or other security

**15.5. Required Disclosures.** Nothing in the Agreement prohibits either party from making disclosures if required by Law or government or court order, provided (if permitted by Law) it notifies the other party in advance and reasonably cooperates in any effort by the other party to obtain confidential treatment.

## **16. General Terms.**

**16.1. Assignment.** Trimble may assign the Agreement upon notice to Customer. Customer may not assign or transfer the Agreement (by operation of law or otherwise) without the prior written consent of Trimble. Any non-permitted assignment is void. The Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

**16.2. Amendments.** Trimble may amend the Agreement from time to time with written notice to Customer. Such amendments shall take effect upon the next renewal, if any, of the Agreement, unless Trimble indicates an earlier effective date. If Trimble requires amendments with an earlier effective date and Customer objects in writing, then Trimble may permit such amendments to take effect upon the next renewal; provided, however, if Trimble declines to permit such later effective date, Customer's exclusive remedy is to terminate the Agreement with notice to Trimble, in which case Trimble will provide Customer a refund of any applicable pre-paid fees for the terminated portion of the current Term. To exercise this termination right, Customer must notify Trimble of its objections within thirty (30) days after Trimble's notice of the amended Agreement. Once the amended Agreement takes effect, Customer's continued use of the Offering constitutes its acceptance of the modifications. Notwithstanding the foregoing, Trimble may modify Documentation upon written notice to Customer to reflect new features or changing practices, provided that the modifications will not materially decrease Trimble's overall obligations with respect to such Offering.

**16.3. Waiver and Severability.** No waiver of any provision or breach of the Agreement (a) will be effective unless made in writing, or (b) will operate as or be construed to be a continuing waiver of such provision or breach. In the event any portion of the Agreement is held to be invalid or unenforceable, such portion will be construed as nearly as possible to reflect the original intent of the parties, or if such construction cannot be made, such provision or portion thereof will be severable from the Agreement, provided that the invalidity, illegality, or unenforceability in whole or in part of any provision does not affect the validity of other provisions.

**16.4. Force Majeure.** Neither party will be liable for any default, delay, or non-performance of its obligations under the Agreement (except for payment obligations) due to causes beyond its reasonable control, including, without limitation, strikes, blockades, war, terrorism, riot, internet or utility failures, governmental orders or actions, national or regional emergency, pandemics, or natural disasters, provided that such party promptly notifies the other in writing of such occurrence and uses commercially reasonable efforts to resume performance of its affected obligations as soon as feasible. Delays or failures that are excused as provided in this Section 16.4 (Force Majeure) will result in automatic extensions of dates for performance for a period of time equal to the duration of the events excusing such delay or failure.

**16.5. Notices.** Any notice or other communication given by either party to the other regarding the Agreement will be deemed given and served when personally delivered or delivered by reputable international courier requiring signature for receipt addressed to the party at its notice address. Notice will be deemed effective upon delivery or refused delivery attempt. Either party may change its notice address by written notice to the other. Customer's notice address will be the address appearing on the Order or SOW. Trimble's notice address will be the applicable address on Exhibit A (Trimble Entities; Governing Law; Exclusive Venue/Jurisdiction), or if the Trimble entity is not listed there, then on the Order. In addition, any valid notice to Trimble shall include a required copy to: Trimble Inc., Attn: General Counsel - Important Legal Notice, 510 De Guigne Drive, Sunnyvale, CA 94085, USA. Trimble may send operational notices to Customer by email or through the Offering, including, without limitation, modifications of the Agreement or Documentation, suspension, collection, and termination notices related to overdue fees.

**16.6. Export Control.** Customer acknowledges that the Offering is subject to export restrictions by the United States government and import restrictions by certain foreign governments. Customer will not, and will not allow any third party to, remove or export from the United States or allow the export or re-export of any part of the Offering or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) otherwise in violation of any export or import restrictions, Laws of any United States or foreign agency or authority. Customer warrants that it is not located in, under the control of, or a national or

resident of any such prohibited country or on any such prohibited party list. The Offering is further restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology, or for terrorist activity, without the prior permission of the United States government. Customer will defend, indemnify, and hold Trimble harmless against any liability (including attorneys' fees) arising out of Customer's failure to comply with the terms of this Section. Customer's obligations under this Section 16.6 (Export Control) will survive the termination of the Agreement for any reason whatsoever.

**16.7. Anti-Corruption Compliance.** Each party, and any third party acting on its behalf, will comply with all applicable United States and international anti-corruption and anti-bribery laws and regulations, including, without limitation, the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, and others (collectively, "**Anti-Corruption Laws**"). Each party, and any third party acting on its behalf, will not directly or indirectly offer, promise, or give any payment or anything of value to a government official, or any other individual or entity, where the intent is to improperly influence any act or decision of the government official, or other individual or entity, to obtain or retain business or some other benefit or commercial advantage for either party. Each party, and any third party acting on its behalf, also will not solicit or accept any sort of payment or anything of value from anyone, where the intent is to improperly influence any acts of a party or any third party acting on its behalf.

**16.8. Governing Law and Venue.** The sole and exclusive governing Law, jurisdiction, and venue for the Agreement and all Disputes shall be: (1) as set forth in the Order, if any, or (2) otherwise, as set forth on [Exhibit A](#) (Trimble Entities; Governing Law; Exclusive Venue/Jurisdiction), in each case to the exclusion of all others; provided that Trimble may elect to bring action in courts with jurisdiction for Customer's location. The United Nations Convention on Contracts for the International Sale of Goods and any conflicts of laws provisions giving rise to a different result do not apply. No Dispute may be brought by either party more than one (1) year after such Dispute accrued, except that an action for nonpayment may be brought within two (2) years after the due date. Each party hereby waives, to the maximum extent permitted by law, any objection, including any objection based on *forum non conveniens*, to the bringing of any such proceeding in such jurisdiction.

**16.9. WAIVER OF JURY TRIAL – UNITED STATES CLAIMS.** FOR ANY CLAIM BROUGHT IN A STATE, FEDERAL, OR OTHER COURT IN ANY JURISDICTION WITHIN THE UNITED STATES, EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THE AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY; *PROVIDED, HOWEVER, THAT THIS PROVISION SHALL NOT BE ENFORCED OR ENFORCEABLE TO THE EXTENT A WAIVER OF THE RIGHT TO A TRIAL BY JURY IS PROHIBITED BY, OR CONTRARY TO, THE PUBLIC POLICY OF THE STATE IN WHICH SUCH LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM IS FILED.*

**16.10. Region-Specific Terms.** Additional terms and conditions for specified regions are as set forth in [Exhibit B](#) (Region-Specific Terms).

**16.11. Publicity.** Customer agrees that (a) Trimble may issue a press release in the form approved by the parties regarding the parties' entry into the Agreement, and (b) Trimble may identify Customer (including through use of its name and logo) as Trimble's customer, including on Trimble's website, and may include Customer in its customer list and marketing materials, but will cease this use upon Customer's written request.

**16.12. Headings; Language.** The headings in the Agreement have been inserted for convenience only and shall have no substantive effect. The language of all parts of the Agreement shall in all cases be considered as a whole, according to its fair meaning, and not strictly for or against any of the parties. The parties hereby acknowledge and agree that the language of the Agreement shall be considered jointly drafted.

**16.13. Subcontractors.** Trimble may use subcontractors in the performance of its obligations under the Agreement, and will be responsible for the acts and omissions of its subcontractors in their performance of Trimble's obligations in the Agreement.

**16.14. No Third-Party Beneficiaries.** Except as may be expressly stated in any Supplemental Terms, there are no third-party beneficiaries under the Agreement.

**16.15. Official Language.** The parties have specifically requested that the Agreement be drafted in English. *Les parties ont spécifiquement demandé que cette entente soit rédigée en anglais.* If there is a conflict between versions of the Agreement in any other language, the English language version controls.

**16.16. Independent Contractors.** Each party is an independent contractor of, and is not an employee, agent, fiduciary, or authorized representative of, the other party.

**16.17. Entire Agreement.** The Agreement sets forth the entire understanding between the parties in connection with its subject matter, and supersedes all prior or contemporaneous proposals, communications, agreements, negotiations, and representations, whether written or oral, regarding the subject matter thereof. Any additional, contrary, and/or pre-printed terms or conditions appearing on Customer's acceptance, orders, or associated purchase documentation are hereby rejected and will be of no effect.

**16.18. Government End-Users.** Elements of the Offering are commercial computer software. If the user or licensee of the Offering is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Offering or any related documentation of any kind, including technical data and manuals, is restricted by the terms of the Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Offering was developed fully at private expense. All other use is prohibited. Offering purchased or licensed under Trimble's United States General Services Administration ("**GSA**") Schedules are subject to all of the pricing and other terms and conditions described in the applicable GSA Schedule.

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**Schedule 1**  
**Supplemental Terms**  
**(Shop2.Trimble.Com)**  
*Last updated: October 7,2023*

The following apply to all transactions made on the Trimble e-commerce site at <https://shop2.trimble.com> or any successor url (the "eCommerce Solution").

**1. Automatic Renewals.**

(a) **At expiration of each Subscription Term, the Offering will automatically renew for additional Subscription Terms at the then-current pricing (which may have changed) unless you affirmatively opt out of such renewal prior to the renewal date via the eCommerce Solution.**

(b) Trimble may increase the fees it charges for its Offering at any time (including automatic renewals); provided that any increase in the fees will not take effect until the beginning of your next Subscription Term. Trimble may provide notice of such increases through the Offering. Your renewal of your Offering following such a pricing increase (including automatic renewal) will confirm your acceptance of the pricing increase.

(c) Trimble may opt out of automatic renewals by providing you with written notice at least 15 days prior to the renewal date, which can be via the Offering.

**2. Credit or Debit Card Payments.**

(a) All payments will be made using a credit or debit card following an order confirmation on the eCommerce Solution, and you agree to Trimble charging your credit or debit card the amount set forth on the order confirmation. You will make payment in the currency indicated on the order confirmation. All credit card information will be collected and used in accordance with the Trimble [Privacy Notice](http://www.trimble.com/privacy.aspx) (available at <http://www.trimble.com/privacy.aspx> or any successor url).

(b) **You authorize Trimble to store your credit/debit card information and to automatically charge the then-current subscription price (which may have changed) plus tax on the renewal date(s). You must maintain current credit or debit card information with Trimble at all times.** In the event your credit or debit card information is not current and this results in your failure to pay in a timely manner, in addition to any of its other rights or remedies, Trimble reserves the right to suspend or terminate your use of the Offering.

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**Exhibit A**

**Trimble Entities; Governing Law; Exclusive Venue/Jurisdiction**

| <b>Customer Location*</b>                          | <b>Trimble Entity and Notice Address**</b>  | <b>Governing Law</b>   | <b>Exclusive Venue/Jurisdiction</b>                       |
|--|---|--|---|
| United States                                      | Trimble Inc.<br>10368 Westmoor Drive<br>Westminster, CO 80021 USA                         | State of Delaware  | State and Federal Courts located in Wilmington, Delaware  |
| Belgium  | Trimble Belgium BV,<br>Geldenaaksebaan 329 3001<br>Leuven, Belgium                        | Belgium  | Courts in Brussels, Belgium                               |
| Canada   | Trimble Canada Corporation<br>600-1741 Lower Water Street<br>Halifax, Nova Scotia B3J 0J2 | Province of Ontario, and the federal laws of Canada applicable therein | Provincial and federal courts located in Toronto, Ontario |
| France   | Trimble France S.A.S.<br>1 quai Gabriel Péri<br>Joinville-le-Pont, France 94340           | France   | Courts of Paris, France                                   |
| Any other country or geography not specified above | Trimble Europe B.V.<br>Industrieweg 187a, 5683 CC<br>Best, The Netherlands                | The Netherlands  | Courts of Amsterdam, the Netherlands                      |

\* Customer location is Customer's billing address specified on the Order, or if none, then the address provided by Customer to Trimble when registering its online account.

\*\* Addresses for Trimble entities not listed shall be as set forth on the Order or SOW. See additional required notice address for Trimble in Section 16.5 (Notices).

**Exhibit B**  
**Region-Specific Terms**

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- Australia
- France
- The Netherlands

**Australia**

For Customer who purchase Offering in Australia, the following provisions apply:

- (a) For the purposes of this section, “**Australian Consumer Law**” means the Australian Consumer Law set out at Schedule 2 to the *Competition and Consumer Act 2010* (Cth), as amended from time to time, and “**Non-excludable Condition**” means the consumer guarantees, warranties, rights, or remedies under the Australian Consumer Law that cannot be limited, excluded, restricted, or modified, and to which Customer may be entitled.
- (b) To the extent permitted by Law, Trimble’s liability in relation to breach of any such Non-excludable Condition shall be limited, at its option, as follows: (i) in the case of the goods, to repairing or replacing the goods, supplying equivalent goods, or paying the costs of repairing or replacing the goods or acquiring equivalent goods; and (ii) in the case of the services, to re-supplying the services or paying the cost of re-supplying the services.
- (c) Nothing in the Agreement excludes, restricts or modifies any Non-excludable Condition.
- (d) Nothing in the Agreement is intended to derogate from Trimble’s obligations under the *Privacy Act 1988* (Cth) as amended from time to time.
- (e) Where Order(s) are a “Small Business Contract” within the meaning of the Australian Consumer Law:
  - (i) Trimble shall not accelerate Customer’s unbilled future fees under any Order(s);
  - (ii) Customer’s indemnification obligations under the Agreement are reduced to the extent Trimble’s acts or omissions contributed to or caused the claims, costs, damages, losses, liabilities, and expenses suffered by Customer;
  - (iii) Trimble’s liability in relation to breach of any Non-excludable Condition will be an Excluded Claim; and
  - (iv) No dispute or legal action arising under the Agreement may be brought by either party more than three years after such cause of action accrued.

**France**

Section 9.1(c) is hereby amended and restated to read as follows:

(c) Late payments will bear interest at the rate of 1.5% per month or the minimum rate allowed by Law (currently three (3) times the legal interest rate), whichever is higher, measured from the date on which the sums concerned became due until the date on which full payment is received. Collection fees of a minimum amount of 40 € will be added in accordance with Article L. 441-10.II of the Commercial Code. Customer will be liable for all other costs of collection of past due amounts (including court costs and attorney's fees incurred by Trimble). If the Customer does not dispute an invoice amount in writing by the due date of the invoice, the Customer shall be deemed to have acknowledged the accuracy of such invoice and waived its right to dispute it. A dispute over part of an invoice or amount due shall entitle the Customer to withhold or delay payment of the disputed part only.

The following is hereby added as Section 13.1 (e ):

(e) EACH PARTY HEREBY HAS AN OBLIGATION TO LIMIT THE DAMAGES IT MAY SUFFER IN THE EVENT OF A BREACH OF ITS OBLIGATIONS BY THE OTHER PARTY.

**The Netherlands**

The provisions of Section 11.3 (Termination) are the sole grounds for the termination of the Agreement, and to the extent permitted by Law, the right of Customer to rescind the Agreement and claim damages on the basis of statutory Law (including but not limited to sec. 6:265 Dutch Civil Code) is excluded.

**THE LIMITATION OF LIABILITY IN SECTION 13 FOR A PERIOD OF 12 MONTHS EXPRESSLY INCLUDES ANY OBLIGATION TO PAY COMPENSATION UNDER A WARRANTY MENTIONED IN THESE TERMS OR RELATED CONTRACTS OR DOCUMENTS AND THE RESTITUTION OBLIGATIONS (*ONDEDAANMAKINGSVERPLICHTINGEN*) AND INDEMNIFY FOR DAMAGES. LIABILITY FOR DEATH OR PERSONAL INJURY SHALL NOT EXCEED EUR 1.250.000.**

The applicability of section 6:227b subsection 1 and section 6:227c subsection 1 of the Dutch Civil Code are excluded in any Agreement between Trimble and any person who is not a consumer.

**Exhibit C**  
**Support Terms**

**1. Scope**

Provided that Customer has paid the applicable fees, Trimble shall provide the Support described in these Support Terms during the Maintenance Term (as defined below). The “**Maintenance Term**” shall be: (a) for Subscriptions, the applicable Subscription Term, and (b) for Support for Licensed Software licensed on a perpetual basis, the term specified in the Order, or if not specified, for a period of one (1) year.

**2. Support**

During the applicable Maintenance Term, Trimble shall use reasonable efforts to correct or provide a workaround for any reproducible programming error in the Offering attributable to Trimble with a level of effort commensurate with the severity of the error, as reasonably determined by Trimble. Upon identification of any programming error, Customer shall promptly notify Trimble of such error and shall provide Trimble with enough information to reproduce the error, including a listing of output and any other data that Trimble may reasonably request in order to reproduce the error and operating conditions under which the error occurred or was discovered. Trimble shall not be responsible for correcting any errors not attributable to Trimble.

For certain Offering, Trimble may provide additional or different support services or procedures as set forth in the applicable Documentation, support handbook, or other written documentation provided by Trimble, if any (collectively, the “**Additional Support Documentation**”). If there is any conflict between these Support Terms and such Additional Support Documentation with respect to the description of support services, requirements or procedures, the provisions of such Additional Support Documentation will prevail. Customer agrees and acknowledges that Trimble may use third parties to provide Support on its behalf. Customer expressly consents to Trimble permitting such third parties to access Customer’s information and data to perform the Support for Customer.

**3. Licensed Software Updates and Upgrades**

During the applicable Maintenance Term, Customer shall be entitled to receive all upgrades and updates to the Software that are publicly released by Trimble. The contents and timing of all upgrades and updates will be decided by Trimble in its sole discretion. Any such updates and upgrades will be deemed to be “Software” and licensed under the terms and conditions of the Agreement, including any applicable software end user terms or license agreement. Updates and upgrades exclude (a) new versions of the Software (e.g., a change to the left of the decimal in the version number [e.g., 1.x to 2.x] or otherwise designated by Trimble), and (b) any separate modules and other functionality for which Trimble charges a separate fee.

**4. Limitations and Exceptions**

The following matters are not covered (and Trimble will not have any obligations with respect to such matters) pursuant to these Support Terms:

- 4.1. Any Offering for which applicable fees have not been paid;
- 4.2. Any problem resulting from the misuse, improper use, alteration, or damage of the Offering;
- 4.2. Any problem resulting from improper or inadequate installation, maintenance, or storage of the Offering;
- 4.3. Any problem caused by modifications of the Offering not made or authorized by Trimble;
- 4.4. Any problem resulting from any hardware or Offering in either case not developed or supported by Trimble, including, without limitation: any computers, tablets, disk drives, operating systems, network hardware or software, database, or any other hardware or third-party software;
- 4.5. Any problem resulting from the combination of the Offering with other programming or equipment to the extent that such combination has not been approved by Trimble; and
- 4.6. Errors in any version of the Offering other than the most recent release, provided that Trimble will continue to provide Support for superseded releases for a reasonable period (not to exceed ninety (90) days).

Support excludes on-site visits, installation and training, file conversion, optional products and services, directories, consulting services, shipping charges, or any recommended hardware.

**5. Termination or Expiration**

Support will automatically terminate with respect to any Offering that is no longer licensed for use as a result of expiration or termination of the Agreement, or replacement of the applicable Offering with new releases.