

## Supplemental Terms for Trimble Construction Offerings

Version 1.1 (Last Updated: October 7, 2023)

These Supplemental Terms for Trimble Construction Offerings (the “**Construction Terms**”) supplement the General Transaction Terms (the “**General Terms**”) and Supplement Terms for Software and Subscriptions (the “**Software Terms**”), in each case available at <https://www.trimble.com/en/legal/customer-terms> or any successor url, to the extent applicable, and are hereby incorporated therein by reference. Capitalized terms not defined herein have the meanings given in the General Terms and the Software Terms.

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**1. Trimble Construction One** (Last updated: October 2023). For all Offerings branded “Trimble Construction One,” the User Administration Policy forms part of the Documentation and is available at <https://www.trimble.com/en/legal/construction/tc1-uap> or at any successor website.

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### **2. Tekla (all configurations, versions and related products)**

(Last updated: December 2021)

**2.1. No Use by Professional Consultants.** For Offerings designated as (i) "Domestic", or (ii) "Evaluation", or (iii) "Partner", or (iv) "On-demand", or (v) "Standard", or (vi) "Trial", or (vii) "Usage-based", on the applicable Order and/or Documentation, Customer may not allow Professional Consultants (as defined below) to use the Offerings or otherwise designate any Professional Consultant as an Authorized User. “Professional Consultant” means any third-party consultant that provides services including, without limitation, engineering, drafting, or detailing services, to Customer or its Authorized Users.

**2.2. Territory Use Only.** For any Offerings designated as (i) “Domestic” or (ii) "Educational", or (iii) "Evaluation", or (iv) "Flex", or (v) "Standard", on the applicable Order or Documentation, Customer may only use the Offerings in the geographic territory in which Customer ordered the Offerings (or such other territory as may be specified in the Order).

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### **3. Trade Service**

#### **3.1. Construction Analytics Functionality**

(Last updated: March 2021)

**(a) Contributor Products; Contributor Data.** The Offering may include data collected from other Trimble products and services used in estimation, quoting, modeling, procurement, and other buildings and/or construction workflows (“**Contributor Products**”). Such data collected from Contributor Products is referred to herein as “**Contributor Data**”. Trimble makes Contributor Data available via the Offering in accordance with the

applicable end user agreements for the Contributor Products, or as may otherwise be authorized by the users of such Contributor Products (“Contributors”). Contributors may be Customer or third-parties, including, without limitation, Customer Affiliates. A list of then-current Contributor Products is available in the Documentation, which may be updated from time to time.

**(b) Customer Contributor Data Authorization.** Customer authorizes Trimble to collect and make available Customer Contributor Data via the Offering to (i) Customer and (ii) designated Customer Affiliates which are also users of the Offerings.

**(c) Component Groups; Confidentiality.**

(i) Component Groups. A “Component Group” means up to three (3) users of the Offering who are connected through Contributor Data associated with an item or component (“Component”) used on a particular construction project. The Component Group typically consists of a contractor who wants to use a Component on a project, a manufacturer of that Component, and a distributor of that Component. By way of illustration and not limitation, a contractor may (i) use a Trimble estimating Contributor Product to identify its Component needs on a particular construction project, (ii) select a manufacturer’s Component for that project, and (iii) solicit a price quotation from a distributor for that Component. A project may have several Components, each with its own Component Group. Each user of the Offering may be part of more than one Component Group. If a particular party associated with a Component is not a user of the Offering, then that party is not included in the Component Group.

(ii) Consent to Data Sharing. The Offering may permit Customer to set its level of data sharing with the Component Group, as described in the Documentation. For each Component, Customer hereby consents to Trimble making available Customer’s Contributor Data for that Component to the other members of the Component Group via the Offering in accordance with Customer’s data sharing settings. Each other Component Group member is required to agree to the confidentiality obligations as a user of the Offering.

(iii) Confidentiality Obligations. Customer covenants to Trimble and to each other member of the Component Group (solely with respect to any Contributor Data of such other member it receives via the Offering) that it will: (i) use such Contributor Data solely for its internal business purposes in accordance with all applicable laws and regulations, including, without limitation, with respect to data privacy and personal information; (ii) not disclose any such data to anyone, except to its employees or contractors in connection with its rights use of the Offering in accordance with this Agreement; (iii) treat as confidential and preserve the confidentiality of all such Contributor Data; and (iv) use no less than a reasonable standard of care to protect such Contributor Data from unauthorized access, use or disclosure. Notwithstanding the foregoing, the foregoing obligations will not apply to the extent that Customer has a separate agreement with the disclosing member of the Component Group that allows for broader and/or different use of such member’s Contributor Data. Nothing in this Agreement prohibits Customer from making disclosures of third-party Contributor Data, if required by Law, subpoena or court order, provided (if permitted by Law) it notifies the applicable Contributor in advance and reasonably cooperates in any effort to obtain confidential treatment. The applicable disclosing member of the Component Group is an intended third-party beneficiary of this paragraph. The obligations of this paragraph shall survive any expiration or termination of the Agreement and shall be considered “Excluded Claims” for purposes of Section 7.1 of the General Terms.

### 3.2. Supplier Xchange Functionality

*(Last updated: March 2021)*

**(a) Overview.** The Offering may be used by buyers and sellers of goods and/or services (collectively, “Good(s)”) to facilitate the electronic exchange of purchase orders or other similar documents in a transaction (collectively, “Transaction(s)”). Customer expressly acknowledges that Trimble is not a buyer or seller of Goods. Trimble does not represent any Customer or any other party with respect to the Transactions and does not control and is not liable or responsible for the quality, safety, lawfulness, availability or other any aspect of any Goods, Transactions, and/or Transaction Risks (defined below) and/or the ability of a buyer and seller to complete a transaction.

**(b) Allocation of Risk. TRIMBLE AND ITS AFFILIATES MAKE NO (AND HEREBY DISCLAIM ALL) WARRANTIES PERTAINING TO ANY GOODS, TRANSACTION, OR TRANSACTION RISKS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT OR ANY WARRANTIES ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE. 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 CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, BREACH OF ANY STATUTORY DUTY OR OTHERWISE; AND, IN NO EVENT WILL TRIMBLE BE LIABLE FOR ANY DAMAGES FOR ANY 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 ARISING FROM ANY GOODS, TRANSACTION, OR TRANSACTION RISK.**

**IN NO EVENT WILL TRIMBLE (AND ITS SUPPLIERS) ENTIRE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO ALL GOODS, TRANSACTIONS, OR TRANSACTION RISKS EXCEED FIVE HUNDRED EUROS, IF THE CUSTOMER HAS PAID IN EUROS, OR OTHERWISE FIVE HUNDRED DOLLARS.** Not limiting the foregoing, as between Customer and Trimble, Customer assumes the risks of processing Transactions through the Offering and fully assumes all risks, liabilities and harms of any kind arising out of or in connection with any activity relating to the Transactions and/or Goods (collectively, “Transaction Risks”). Examples of such Transaction Risks include, but are not limited to, misrepresentation of the Goods, fraudulent schemes, unsatisfactory Goods quality, failure to meet specifications, defective or dangerous Goods, unlawful Goods, delay or default in delivery or payment, cost miscalculations, breach of warranty, breach of contract, transportation accidents, the risk that the manufacture, importation, export, distribution, offer, display, purchase, sale and/or use of Goods may violate or may be asserted to violate rights of third parties, and the risk that

Customer may incur costs of defense or other costs in connection with third parties' assertion of their rights, or in connection with any claims by any party that they are entitled to defense or indemnification in relation to the assertion of rights, demands or claims by claimants of such third party rights. Examples of such Transaction Risks also include the risk of claims from consumers, other purchasers, end users of the Offering, or other third parties that have suffered injuries or harm from the Goods.

**(c) Transaction Terms.** Customer may be a buyer or seller. Buyers and sellers are solely responsible for determining the terms and conditions relating to the Transactions and the performance relating thereto, including, without limitation, terms regarding payment, returns, warranties, shipping, insurance, fees, taxes, title, licenses, fines, permits, handling, transportation and storage. **For clarity, Trimble is not a party to and is not liable for any claims in connection with the Transactions or any such terms and conditions.**

**(d) Release; Indemnification.** To the fullest extent permitted by applicable law, Customer hereby releases Trimble (and its Affiliates and their agents, contractors, officers and employees) from all responsibility, liability, claims, demands and/or damages (actual, special, incidental or consequential damages) of every kind and nature, known and unknown (including, but not limited to, claims of negligence), arising out of or related to any Goods, Transaction, Transaction Risk and/or any dispute between a buyer and seller. To the extent applicable, Customer hereby waives its rights under California Civil Code § 1542 (and any similar statute), which provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or the released party." Customer will indemnify, defend and hold Trimble (and its Affiliates and their agents, contractors, officers and employees) harmless from all claims, demands, actions, proceedings, costs, expenses and damages (including without limitation any actual, special, incidental or consequential damages) arising out of or in connection with any Goods, Transaction, Transaction Risk and/or any dispute between a buyer and seller. The obligations of this paragraph shall survive any expiration or termination of the Agreement and shall be considered "Excluded Claims" for purposes of Section 7.1 of the General Terms.

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#### 4. Viewpoint Software

**4.1. Scope.** To the extent applicable, this Section applies to all configurations, versions and related products of Software under the following brands or product lines:

- Viewpoint
- Spectrum
- Vista
- ProContractor
- Jobpac Connect

#### 4.2. Additional Software Terms.

(a) **Cloud Software.** This Section applies if Trimble delivers Software as a Software-as-a-Service or through separately purchased hosting services.

(i) Service Level Agreement.

(1) **Availability.** Trimble will use commercially reasonable efforts to ensure that Users will be able to log into the Software 99.5% of the time in a month during the Term excluding (x) planned maintenance or upgrades or updates to the Software or Trimble's network, software, or hardware; (y) any error or default caused by or resulting from any act or omission of Customer, others engaged by Customer, or any third party that is not a service provider of Trimble; or (z) any error or default caused by or resulting from any occurrence described in Section 11.4 (Force Majeure) of the General Terms, including without limitation interruption or failure of telecommunications or digital transmission links, hostile network attacks, network congestion, denial of service attacks, or failure of the Internet generally ("**Uptime Commitment**").

(2) **Service Credits.** If Trimble does not meet the Uptime Commitment in a month during the Term ("**Outage**"), Customer may apply for a service credit proportional to the percentage of time that the Software did not meet the Uptime Commitment during that month and based on the applicable Fees for the affected Software during that month, excluding Taxes ("**Service Credit**"). The Service Credit will be calculated to the nearest 30-minute interval. The Service Credit for a month may not exceed the monthly recurring Fees for that month.

(3) **Requests for Service Credits.** To apply for a Service Credit, Customer must send an email to cloud.escalation@viewpoint.com within 30 days of the Outage. The Service Credit request must contain the dates and times of the Outage and the name of the affected Software. Trimble will evaluate Service Credit requests received from Customer in relation to the respective availability statistics acquired from Trimble's internal monitoring of the application and server performance. Trimble will have 30 days from receiving a Service Credit request to respond to Customer, and if a Service Credit is due, Trimble will apply that Service Credit to the next invoice; provided that if there is no next invoice, the Service Credit will be refunded.

(4) **Sole Remedy.** The remedies set forth in this Section are Customer's sole and exclusive remedies for any breach of the Uptime Commitment.

(ii) Access to Cloud Environment. Trimble's authorized employees and contractors may from time to time require access to Customer's cloud environment for the purpose of performing Trimble's obligations under the Agreement, including, but not limited to, the provision of the Software, Support (also referred to herein as "**Software Assurance**"), and Services and verification that Customer is accessing and using the Software in

compliance with the Agreement, including but not limited to any Usage Limitations. Customer hereby grants access to Trimble for such purpose.

(iii) Access to Customer Data. For 30 days from the expiration or termination of an Order, Trimble will make Customer Data available to Customer upon request for export or download as provided in the Documentation for the applicable Software.

(b) **On Premises Software**. This Section applies if Customer purchases a license to Licensed Software for deployment on premises.

(i) Production Copy. Customer may install one production copy of the Licensed Software with one database (or set of databases for Vista) on a server owned or leased by Customer. Customer is responsible for procuring, installing, configuring, and maintaining all hardware, software, and operating systems required to run the Licensed Software. Depending on the applicable Software, Trimble will use commercially reasonable efforts to install the Licensed Software on a mutually agreed upon schedule.

(ii) Non-Production Copies. Customer may make up to three nonproduction copies of the Licensed Software for backup, archival, or testing purposes. Depending on the applicable Software, additional fees may apply to install nonproduction copies and for assistance from Trimble with the installation of non-production copies.

(c) **Software Assurance for Licensed Software**. Additional fees are required for Software Assurance for Licensed Software. If at any time after ceasing to purchase Software Assurance Customer elects to reinstate Software Assurance, Customer must pay for all back Software Assurance fees based on then-current list price from the date of the initial expiration of the Software Assurance up to the date of reinstatement and any applicable administrative fees. Software Assurance fees may be modified if additional Software or Users are purchased by Customer.

#### **4.3. Usage Limitations.**

(a) General. Customer is responsible for managing its access to and use of the Software based on the applicable Usage Limitations, including but not limited to (a) adding and removing Users; (b) configuring access to functionality and modules in the Software; (c) not exceeding data storage limits; and (d) managing any additional hosting requirements, such as VPNs, servers, and server software. Trimble or a designated third party will have the right to perform a review of Customer's use of the Software and hosting consumption to verify that Customer is complying with the applicable Usage Limitations and the Agreement.

(b) Vista Usage Limitations.

(i) Data Storage. Trimble provides 500 GB of data storage in its hosted environment for Vista, which includes, but is not limited to, database(s) for Vista, uploaded data, attachments, and third party applications that are hosted for Customer and approved by Trimble. If actual data usage by Customer exceeds this amount in any given month, Trimble reserves the right to invoice Customer for that additional data storage at Trimble's then current rate.

(ii) Concurrent Users. If Customer purchases a subscription to Vista for Concurrent Users, this Section applies. The Vista subscription includes the right for Customer to have a total quantity of Named Users with a right to access and use Vista that is not more than six times the quantity of purchased Concurrent Users stated on the Order. If Customer's Named Users exceed six times the number of purchased Concurrent Users in any month, Trimble reserves the right to invoice Customer for the number of Named Users that exceed this amount for the applicable month at Trimble's then current rate. If Customer wishes to increase its quantity of available Named Users, Customer must purchase additional Concurrent Users by signing a new order. This Section does not affect the separate limitation on the quantity of purchased Concurrent Users that are authorized to access and use Vista simultaneously at a given point in time.

(c) Spectrum Data Storage. Trimble provides a combined 100 GB of data storage in its hosted environment for Spectrum and, if purchased by Customer, Spectrum Employee Kiosk, Spectrum Payroll Time Entry, and Spectrum Service Tech, which includes the database, document imaging, uploaded data, and attachments. If Customer's actual data usage exceeds this amount in any given month, Trimble reserves the right to invoice Customer for that additional data storage at Trimble's then current rate.

(d) ProContractor Data Storage. Trimble provides a combined 200 GB of data storage in its hosted environment for ProContractor, and, if applicable, ProContractor Earthwork, which includes, but is not limited to, database(s) for ProContractor, uploaded data, attachments, and third party applications that are hosted for Customer and approved by Trimble. If actual data usage by Customer exceeds this amount in any given month, Trimble reserves the right to invoice Customer for that additional data storage at Trimble's then current rate.

#### **4.4. Additional Terms.**

(a) Software Assurance Terms. Software Assurance Terms are available at <http://support.viewpoint.com> or at any successor website made available by Trimble to Customer.

(b) Documentation. Documentation is available at <http://help.viewpoint.com> and <http://support.viewpoint.com>, or at any successor website made available by Trimble to Customer.

#### **4.5. Third Party Terms for Viewpoint Software.**

(a) Microsoft Terms for Hosted Software. If Customer purchases Vista or ProContractor as SaaS or Licensed Software hosted by Trimble, Trimble will host certain Microsoft software on Customer's behalf in connection with Customer's access to and use of the Software ("**Microsoft Products**"). Access to and use of the Microsoft Products is subject to and governed by the Microsoft End User License Agreement available at <https://dl.trimble.com/www/microsoft-end-user-license-terms.pdf> or at any successor website made available by Trimble to Customer.

(b) Terms for Microsoft Office for the web. The Software may allow Customer's Users to open, view, edit, and save Microsoft Office for the web files within the Software through an integration. This Section applies if Customer chooses to activate and use this functionality. Microsoft Office for the web is a Microsoft service and use of Microsoft Office for the web is subject to Microsoft's terms of use and privacy policy. Customer must purchase a separate commercial subscription from Microsoft in order to be able to edit and save files through the integration with the Software. Microsoft Office for the web is not intended to support or maintain limits in the presence or storage of customer data files to only servers located in particular geographic locations or to sovereign cloud facilities, when a Microsoft Office for the web application(s) is used to view and edit documents stored in non-Microsoft storage. Microsoft Office for the web does not support Microsoft's Government Community Cloud (GCC) environment, is intended for commercial customers only, and is not intended to be used by customers who are United States Federal, State, Local, and Tribal governments, contractors holding or processing data on behalf of the U.S. Government who need to comply with FedRAMP, export control, IRS 1075, or CJIS obligations, or any other customer that has data residency requirements.

(c) Terms for Hilti ON!Track ProPlus Free Trials. This Section applies to free trials for Hilti ON!Track ProPlus ("**ON!Track**"). The ON!Track trial includes a connection facilitated by Trimble between a Viewpoint ERP and ON!Track, a product of Hilti, Inc. ("**Hilti**"), for a period of six months ("**Trial Period**"). Deployment, hosting, support, and maintenance for ON!Track will be provided directly by Hilti for the Trial Period. Customer's right to access and use ON!Track during the Trial Period is granted directly from Hilti to Customer, subject to the software and services subscription agreement provided separately by Hilti ("**Hilti Agreement**"). Customer must accept the Hilti Agreement to use ON!Track. Trimble is not a reseller or licensor of ON!Track. Functional enablement of the connector may require Customer to enter into a statement of work for Services from Trimble subject to the payment of additional fees. Notwithstanding anything to the contrary in the Order or Agreement, unless the Customer extends its subscription for ON!Track by entering into a separate order and agreement directly with Hilti, Trimble will have no obligation to provide the connector or support for the connector beyond the Trial Period.

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**5. Certain Third-Party Terms.** The following apply to Customer if referenced on an Order, Supplemental Terms, Documentation, or if the applicable Third-Party Materials are otherwise made available with an Offering.

- Richardson/Cost Data On Line - [License Agreement](#)
- RSMears - [License Agreement](#)
- V-Ray - [License and Services Agreement](#)