



SOFTWARE END USER LICENSE AGREEMENT

IMPORTANT, READ THIS AGREEMENT CAREFULLY. BY INSTALLING OR USING ALL OR ANY PORTION OF THE SOFTWARE, YOU ARE ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT.

IF YOU DO NOT AGREE TO ALL OF THESE TERMS AND CONDITIONS, DO NOT USE OR ACCESS THE SOFTWARE. IF YOU HAVE PAID A LICENSE FEE FOR USE OF THE SOFTWARE AND DO NOT AGREE TO THESE TERMS, YOU MAY RETURN THE SOFTWARE (ALONG WITH ANY HARDWARE ON WHICH IT WAS EMBEDDED, IF APPLICABLE) FOR A FULL REFUND PROVIDED YOU (A) DO NOT USE THE SOFTWARE AND (B) RETURN THE SOFTWARE WITHIN THIRTY (30) DAYS OF YOUR INITIAL PURCHASE.

IF YOU WISH TO USE THE SOFTWARE AS AN EMPLOYEE, CONTRACTOR, OR AGENT OF A CORPORATION, PARTNERSHIP OR SIMILAR ENTITY, THEN YOU MUST BE AUTHORIZED TO SIGN FOR AND BIND THE ENTITY IN ORDER TO ACCEPT THE TERMS OF THIS AGREEMENT. THE LICENSES GRANTED UNDER THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON ACCEPTANCE BY SUCH AUTHORIZED PERSONNEL.

IF YOU HAVE ENTERED INTO A SEPARATE WRITTEN LICENSE AGREEMENT WITH TRIMBLE FOR USE OF THE SOFTWARE, THE TERMS AND CONDITIONS OF SUCH OTHER AGREEMENT SHALL PREVAIL OVER ANY CONFLICTING TERMS OR CONDITIONS IN THIS AGREEMENT.

This End User License Agreement ("**Agreement**") is between Trimble Navigation Limited, located at 935 Stewart Drive, Sunnyvale, CA 94085 and its affiliates ("**Trimble**") and the customer (individual or entity) that has downloaded or otherwise procured the licensed Software (as defined below) for use as an end user ("**you**"). This Agreement covers any Software and supporting technical documentation provided with the Software ("**Documentation**").

1. Definitions.

"**Effective Date**" means the earlier of the date you sign an Order Form or the date on which the Software is first made available to you.

"**Order Form**" means any order which is entered into by Trimble (or an authorized Trimble distributor or reseller) and you under which you are provided the Software. Each Order Form for the Software shall be deemed a part of this Agreement. This Agreement is binding on you whether or not you executed an Order Form with Trimble. Order Forms may not vary the terms of this Agreement. Only a written agreement, signed by Trimble (not a Trimble distributor or reseller) may vary the terms of this Agreement.

"**Software**" means the Trimble software product(s) provided in connection with this Agreement in object code form (or as otherwise specified in any related Order Form). "Software" shall also include any releases provided to or purchased by you under any separate support and maintenance agreement you may enter into with Trimble. Unless otherwise noted, the Software and Documentation are referred to collectively herein as "Software."

"**Third-Party Software**" means any third-party software that is provided to you by Trimble under this Agreement or under separate terms and conditions.

"**Trimble Supplier**" means either Trimble or an authorized distributor or reseller of Trimble products or services which has entered into an Order Form with you.

2. License.

2.1. Grant of License. Subject to all of the terms and conditions of this Agreement, Trimble grants you a non-transferable, non-sublicensable, non-exclusive license to use the Software in machine-readable form on any computer and operating system for which it was intended, but solely (a) for your own internal business purposes at the location specified in the applicable Order Form (the "**Site**"); (b) in accordance with the Documentation; and (c) in accordance with any additional license term, subscription term or other user, seat, computer, field of use or other restrictions set forth in the applicable Order Form or otherwise specified upon purchase.

2.2. Installation and Copies. Trimble shall make available the Software and Documentation by disk, other media, or as embedded in a device, or make it available for download in electronic form. Trimble shall also provide you with electronic



passwords or other enabling mechanisms if necessary to permit the licensed usage of the Software. All licenses shall commence, and delivery shall be deemed to occur, as of the Effective Date (or, if later, such date on which the Software and license keys are first made available to you). If your Order Form is with a Trimble distributor or reseller, that distributor or reseller (and not Trimble) is solely responsible for delivery to you and Trimble has no liability for any failure to deliver. If the Software requires license keys to operate as licensed to you, the applicable Trimble Supplier will deliver such license keys to you.

2.3. Software Intended to be Installed on Computers. You may copy and install on your computers for use only by your employees the number of copies of the Software for which you have paid the applicable license fee. You may transfer the Software from one computer to another computer provided that the computer to which the Software is transferred is located at the Site and the Software is completely removed and de-installed from the prior computer. If you are permitted to install the Software on a network server, and you transfer the Software from the site to a new location, you must provide Trimble with written notice of the new site prior to such transfer. You may also make a reasonable number of copies of the Software for back-up and archival purposes. This Section 2.3 does not apply to any software embedded on devices.

2.4. License Restrictions. You shall not (and shall not allow any third party to): (a) decompile, disassemble, or otherwise reverse engineer the Software or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Software by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions); (b) distribute, sell, sublicense, rent, lease, or use the Software (or any portion thereof) for time sharing, hosting, service provider, or like purposes; (c) remove any product identification, proprietary, copyright, or other notices contained in the Software; (d) modify any part of the Software, create a derivative work of any part of the Software, or incorporate the Software into or with other software, except to the extent expressly authorized in writing by Trimble; (e) attempt to circumvent or disable the security key mechanism that protects the Software against unauthorized use (except and only to the extent that applicable law prohibits or restricts such restrictions); or (f) publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to the Software. If the Software has been provided to you as embedded in any hardware device, you are not licensed to separate the Software from the hardware device. If the Software has been provided to you separately from a hardware device but is intended to be loaded onto a hardware device specified by Trimble (such as a firmware update), your license is limited to loading the Software on the device specified by Trimble in the Documentation, and for no other use.

2.5. Evaluation Software. Subject to the terms and conditions of this Agreement and during the term of this Agreement, Trimble may, in its discretion, provide you with pre-release, beta or other software on an evaluation basis ("**Evaluation Software**"). You may use Evaluation Software solely for internal evaluation purposes for 30 days from receipt of the Evaluation Software (unless otherwise agreed by Trimble in writing) (the "**Evaluation Period**"). Unless you pay the applicable license fee for the Software, the Evaluation Software may become inoperable and, in any event, your right to use the Evaluation Software automatically expires at the end of the Evaluation Period. Evaluation Software shall be subject to all restrictions on Software set forth in this Agreement. You shall treat all Evaluation Software as Confidential Information of Trimble and shall return or destroy any copies of Evaluation Software upon expiration of the applicable Evaluation Period. Any and all suggestions, reports, ideas for improvement and other feedback of any type you provide regarding the Evaluation Software are the sole property of Trimble, and Trimble may use such information in connection with any of its products or services without any obligation or restriction based on intellectual property rights or otherwise. You acknowledge that all Evaluation Software is provided "AS IS" and may not be functional on any machine or in any environment. THE WARRANTIES OF SECTION 6 DO NOT APPLY TO EVALUATION SOFTWARE. TRIMBLE AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES RELATING TO THE EVALUATION SOFTWARE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

3. **Ownership.** Notwithstanding anything to the contrary contained herein, except for the limited license rights expressly provided herein, Trimble and its suppliers have and will retain all rights, title and interest (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Software and all copies, modifications and derivative works thereof (including any changes which incorporate any of your ideas, feedback or suggestions). You acknowledge that you are obtaining only a limited license right to the Software and that irrespective of any use of the words "purchase", "sale" or like terms hereunder no ownership rights are being conveyed to you under this Agreement or otherwise.

4. Payment. You shall pay all fees associated with the Software licensed and any services purchased hereunder as set forth in the applicable Order Form. All payments shall be made in U.S. dollars within thirty (30) days of your receipt of the applicable invoice, unless otherwise specified in writing by the Trimble Supplier. Except as expressly set forth herein, all fees are non-refundable once paid. You shall be responsible for all taxes, withholdings, duties and levies arising from the order (excluding taxes based on the net income of the Trimble Supplier). Any late payments shall be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less.

5. Term of Agreement.

5.1. Term. This Agreement is effective as of the Effective Date and expires at such time as all license and service subscriptions hereunder have expired in accordance with their own terms (the “**Term**”). Either party may terminate this Agreement (including all related Order Forms) if the other party: (a) fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within sixty (60) days). If you have entered into a separate written agreement with Trimble which governs the Software and that agreement is terminated, then this Agreement automatically terminates and you shall no longer have any right to use the Software. Termination is not an exclusive remedy and the exercise by either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise. For clarity, even if you have entered into an Order Form with a Trimble distributor or reseller, Trimble is a third party beneficiary to that Order Form and has the right to terminate this Agreement as set forth in this Section 5 (Term of Agreement).

5.2. Termination. Upon any expiration or termination of this Agreement, you shall cease any and all use of any Software and Evaluation Software and destroy all copies thereof and so certify to Trimble in writing.

5.3. Survival. Sections 2.4 (License Restrictions), 3 (Ownership), 4 (Payment), 5 (Term of Agreement), 6.3 (Disclaimer of Warranties), 9 (Limitation of Remedies and Damages), 10 (Confidential Information), 11 (Export Compliance) and 12 (General) shall survive any termination or expiration of this Agreement.

6. Limited Warranty and Disclaimer.

6.1. Limited Warranty. Trimble warrants to you that for a period of ninety (90) days from the Effective Date (the “**Warranty Period**”) the Software shall operate in substantial conformity with the Documentation. Trimble does not warrant that your use of the Software will be uninterrupted or error-free or that any security mechanisms implemented by the Software will not have inherent limitations. Trimble’s sole liability (and your exclusive remedy) for any breach of this warranty shall be, in Trimble’s sole discretion, to use commercially reasonable efforts to provide you with an error-correction or work-around which corrects the reported non-conformity, or if Trimble determines such remedies to be impracticable within a reasonable period of time, to refund the license fee paid for the Software. A Trimble Supplier other than Trimble may fulfill Trimble’s warranty obligations hereunder on behalf of Trimble. Trimble Suppliers shall have no obligation with respect to a warranty claim unless notified of such claim within the Warranty Period.

Because the Software is inherently complex and may not be completely free of nonconformities, defects or errors, you are advised to verify your work. Trimble does not warrant that the Software will operate error free or uninterrupted, that it will meet your needs or expectations, that all nonconformities can or will be corrected, or the results obtained through use of the Software.

6.2. Exclusions. The above warranty shall not apply: (a) if the Software is used with hardware or software not specified in the Documentation; (b) if any modifications are made to the Software by you or any third party; (c) to defects in the Software due to accident, abuse or improper use by you; (d) to Software provided on a no charge or evaluation basis; (e) to any Third Party Software; or (f) to any Software obtained as freeware, whether from Trimble, a Trimble Supplier or otherwise.

6.3. Disclaimer of Warranties. THIS SECTION 6 IS A LIMITED WARRANTY AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 6, THE SOFTWARE AND ALL SERVICES ARE PROVIDED “AS IS.” NEITHER TRIMBLE NOR ITS SUPPLIERS MAKES ANY OTHER WARRANTIES, CONDITIONS OR UNDERTAKINGS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.



YOU MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE LIMITED WARRANTY PERIOD. YOU ASSUME THE ENTIRE RISK AS TO RESULTS AND PERFORMANCE OF THE SOFTWARE.

7. Support & Maintenance. Trimble shall provide the support and maintenance services, if any, as separately purchased by you and specified in the applicable Order Form. All support and maintenance shall be provided pursuant to Trimble's standard service terms which are available upon request from Trimble. Trimble Suppliers pay provide additional support services under separate written agreement, but Trimble is not responsible for any such support unless it is the contracting party.

8. Professional Services. The Trimble Supplier shall provide the number of person-days, if any, of professional consulting services ("**Professional Services**") purchased in the applicable Order Form and related Statement of Work. If Trimble is providing Professional Services, unless agreed in a separate written agreement all Professional Services shall be provided pursuant to Trimble's standard service terms which are available upon request from Trimble. If your Order Form is with a Trimble Supplier other than Trimble, that party (and not Trimble) is solely responsible for providing Professional Services and Trimble has no liability related to such services.

9. Limitation of Remedies and Damages.

9.1. NEITHER TRIMBLE NOR TRIMBLE'S SUPPLIERS SHALL BE LIABLE FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

9.2. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, TRIMBLE AND ITS SUPPLIERS' ENTIRE LIABILITY TO YOU UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY YOU TO TRIMBLE UNDER THIS AGREEMENT.

9.3. THE SOFTWARE IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED OR INTENDED FOR USE IN LIFE SUPPORT, MEDICAL, EMERGENCY, MISSION CRITICAL OR OTHER STRICT LIABILITY OR HAZARDOUS ACTIVITIES ("HIGH RISK ACTIVITIES"). TRIMBLE SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES. YOU REPRESENT AND WARRANT THAT YOU WILL NOT USE THE SOFTWARE (OR PERMIT IT TO BE USED) FOR HIGH RISK ACTIVITIES, AND AGREE THAT TRIMBLE WILL HAVE NO LIABILITY FOR USE OF THE SOFTWARE IN HIGH RISK ACTIVITIES. YOU AGREE TO INDEMNIFY AND HOLD HARMLESS TRIMBLE FOR ANY DAMAGES, LIABILITIES OR OTHER LOSSES RESULTING FROM SUCH USE.

9.4. The parties agree that the limitations specified in this Section 9 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

10. Confidential Information. Any software, documentation or technical information provided by Trimble (or its agents) shall be deemed "Trimble Confidential Information" without any marking or further designation. Except as expressly authorized herein, you will hold in confidence and not use or disclose any Trimble Confidential Information. You acknowledge that disclosure of Trimble Confidential Information would cause substantial harm to Trimble that could not be remedied by the payment of damages alone and therefore that upon any such disclosure by you, Trimble shall be entitled to appropriate equitable relief in addition to whatever remedies it might have at law.

11. Export Compliance. You acknowledge that the Software may be subject to export restrictions by the United States government and import restrictions by certain foreign governments. You shall not, and shall 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 Software 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 or regulations of any United States or foreign agency or authority. You agree to the foregoing and warrant that you are 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 Software 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.

12. General.

12.1. Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Trimble may assign this Agreement to any affiliate or in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of Trimble's assets or voting securities. You may not assign or transfer this Agreement, in whole or in part, without Trimble's written consent. Any attempt to transfer or assign this Agreement without such written consent will be null and void.

12.2. Severability. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect.

12.3. Governing Law; Jurisdiction and Venue.

12.3.1. Unless you obtained this Software in Canada or the European Union, this Agreement is governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. In such case the jurisdiction and venue for actions related to the subject matter hereof are the State of California and United States federal courts located in Santa Clara County, California, and both parties hereby submit to the personal jurisdiction of such courts.

12.3.2. If you obtained this Software in Canada, this Agreement is governed by the laws of the Province of Ontario, Canada, excluding its rules governing conflicts of laws and without regard to the United Nations Convention on the International Sale of Goods. In such case jurisdiction and venue for actions related to the subject matter hereof are the courts of the Judicial District of York, Province of Ontario and both parties hereby submit to the personal jurisdiction of such courts.

12.3.3. If you obtained this Software in the European Union, this Agreement is governed by the laws of The Netherlands, excluding its rules governing conflicts of laws and without regard to the United Nations Convention on the International Sale of Goods. In such case each jurisdiction and venue for actions related to the subject matter hereof are the courts of The Hague, The Netherlands and both parties hereby submit to the personal jurisdiction of such courts.

12.4. Attorneys' Fees and Costs. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.

12.5. Notices and Reports. Any notice or report hereunder shall be in writing. If to Trimble, such notice or report shall be sent to Trimble at the address above to the attention of "Legal Department". If to you, such notice or report shall be sent to the address you provided upon placing your order. Notices and reports shall be deemed given: (a) upon receipt if by personal delivery; (b) upon receipt if sent by certified or registered U.S. mail (return receipt requested); or (c) one day after it is sent if by next day delivery by a major commercial delivery service.

12.6. Amendments; Waivers. No supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.

12.7. Entire Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. No provision of any purchase order or in any other business form employed by you will supersede the terms and conditions of this Agreement, and any such document issued by a party hereto relating to this Agreement shall be for administrative purposes only and shall have no legal effect. **Notwithstanding the foregoing, if you have entered**



into a separate written license agreement signed by Trimble for use of the Software, the terms and conditions of such other agreement shall prevail over any conflicting terms or conditions in this Agreement.

12.8. Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

12.9. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events, which occur after the signing of this Agreement and which are beyond the reasonable control of the parties, such as strikes, blockade, war, terrorism, riots, natural disasters, refusal of license by the government or other governmental agencies, in so far as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost.

12.10. Government End-Users. The Software is commercial computer software. If the user or licensee of the Software is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Software was developed fully at private expense. All other use is prohibited.

12.11. Third-Party Software. If designated in the Documentation, the Software may contain or be provided with certain Third-Party Software (including software which may be made available to you in source code form). Such Third-Party Software is not licensed hereunder and is licensed pursuant to the terms and conditions ("**Third-Party License**") indicated in the Documentation and/or on the Third-Party Software. Except as may be set forth in the Third-Party License, neither Trimble nor Trimble Suppliers offer any warranty in connection with any Third-Party Software and neither Trimble nor Trimble Suppliers shall be liable to you for such Third-Party Software.

If an executed agreement exists between you and Trimble at any time regarding the Software, the terms of that agreement shall supersede the terms of this Agreement in its entirety. Thus, if you enter into a separate written agreement with Trimble regarding the Software, that agreement (not this one) will control your use of the Software; and further if that agreement is terminated, you will not have the right to use the Software under the terms of this Agreement after termination. Notwithstanding the foregoing, pre-printed terms and conditions on your Order form shall not supersede this Agreement.

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