

Trimble Unity Online Service Terms of Service & License Agreement

These are the general terms and conditions and end user license agreement (collectively, the “**Terms of Service**” or “**TOS**”) that apply to the software based services accessible via the Internet (the “**Services**”) proprietary to Trimble Inc. and its affiliates (“**Trimble**”, “**we**” or “**us**”) and offered and made available through Trimble portals (the “**Sites**”) to businesses and professionals.

You, an individual or a single company or legal entity and the personnel associated with your business (collectively, “**you**” or “**Customer**”), will be granted access to use the “**Service**” for your internal business purposes, conditioned upon your purchase of one or more Service subscription(s) (each a “**Service Subscription**”), which may allow a user to access the Service and/or a Device (as defined below) to connect to the Service, and your acceptance of these TOS. If you are agreeing to these TOS on behalf of a company or other legal entity, you represent that you have the authority to contractually bind such entity and its personnel.

Whether you purchase or obtain your Service Subscription(s) directly from Trimble through one of our Sites, or indirectly from an authorized vendor of the Services, **BY SIGNING AN AGREEMENT REFERENCING THIS TOS AND/OR CLICKING ON “OK,” “ACCEPT,” “AGREE,” “SUBMIT” OR ANY BUTTON INDICATING ACCEPTANCE OF THE TOS AND/OR BY ACCESSING OR USING THE SERVICE OR THE SITE, YOU REPRESENT THAT YOU ARE AUTHORIZED TO USE SERVICE AND THAT YOU AGREE TO BE BOUND BY THE CURRENTLY POSTED TOS.** FURTHER, SUBJECT TO SECTION 8.1 BELOW, YOUR CONTINUED USE OF THE SERVICE FOLLOWING THE POSTING OF ANY CHANGES TO THE TOS AND WILL CONFIRM YOUR ACCEPTANCE OF THOSE CHANGES. These Terms of Service constitute a binding, legal agreement between you and Trimble and are intended to have the same force and affect as if you had signed them.

USE OF THE SERVICE AND THE SITE ARE OFFERED TO YOU CONDITIONED UPON YOUR ACCEPTANCE OF THE TOS WITHOUT ANY MODIFICATIONS. THE TOS CONTAINS DISCLAIMERS OF WARRANTIES AND LIABILITY (See Sections 5.4, 10, 11, 12 and 14.1 below). THESE PROVISIONS FORM AN ESSENTIAL PART OF OUR BARGAIN.

A current copy of the TOS can be accessed and viewed at any time from the home page of the Site. We recommend that you download or print and retain copies of the TOS for your records. If you do not agree to the TOS, you agree not to use or access the Service or the Site nor are you authorized to do so.

Terms of Service & License Agreement

1. Application Services

1.1 *General Description.* The Service is an application software-based service. The Service application software is designed to gather and process data and information (“**Data**”) that you may actively import to the Service and/or that may be automatically transferred from mobile devices, such as from mobile phones, tablet computers, telematics sensors, modules and equipment, etc., (“**Devices**”) that you cause to be activated to be connected to the Service. After activation of a Service Subscription, the Service will be provided to you and your Authorized Users and the Data will be accessible to you and your Authorized Users (defined in Section 3) with content, functionality, reports and services, as may be changed from time to time. Service Subscriptions require Service activation. To have the Service activated you must (i) accept the payment terms and conditions applicable to your Service Subscription, (ii) accept these TOS, and (iii) consent to the transmission and use of the Data generated from your Devices as further described in Section 7.1 below.

The Service may be offered under a variety of Service Subscription plans (“**Service Plans**”) and, therefore, may be subject to additional terms and conditions either posted at our Trimble Store for the Site or contained in other ordering documentation.

The availability of the Service may be affected, inter alia, by planned and unplanned maintenance periods, technology upgrades and as otherwise set forth in these TOS or any description of the Service.

1.2 *Third Party Communications Systems*

Some features of the Service may require use of a third party communications system, such as that of Internet access, wireless or a satellite-based communication system (each, a “**Communications Service**”). UNLESS THE COMMUNICATION SERVICE IS EXPLICITLY MADE PART OF A SERVICE PLAN, CUSTOMER SHALL PURCHASE THESE COMMUNICATION SERVICES. TRIMBLE HAS NO RESPONSIBILITY FOR THE AVAILABILITY, QUALITY OR PERFORMANCE OF WIRELESS OR SATELLITE-BASED COMMUNICATIONS SERVICES OR EQUIPMENT FURNISHED BY THE COMMUNICATION CARRIERS. THE COMMUNICATIONS CARRIERS ARE EXCLUSIVELY RESPONSIBLE FOR SUCH SERVICES AND EQUIPMENT.

1.3 Data Exchange and Third Party Interfaces

The Service may permit the communication, transfer and exchange of data between the Service and certain third-party manufactured devices or systems. Trimble does not exercise control over the form or quality of data generated or transmitted by or to third-party manufactured assets, devices or other third-party developed solutions such as custom reports or interfaces (collectively, "**Third-Party Data**"). Therefore, if your Services Subscription permits use of the Service data exchange component you understand and agree to the following:

- Data may only be exchanged between the Service application and third-party manufactured assets, devices or systems approved for use with the Service by Trimble;
- Even though Trimble may have approved such use, Third Party Data may not be in a format that may be processed in the Service, and Data may not be in the format to be processed on the third party assets, devices, or systems, and usability or visualization of the data may be impaired.
- Trimble is not responsible for the quality or accuracy of, or the ability to receive, access or use Third-Party Data that may be reported into the Services or Data exported to or through third party manufactured devices or systems or other third party solutions (e.g., custom reports or interfaces), whether a deficiency is due to third-party caused service outages, third-party software interface incompatibilities or failures, or otherwise;
- Trimble may reasonably screen all Third Party Data transmitted to and from the Service for viruses and other threats and abuse, and may stop or block any Third Party Data that Trimble believes may adversely affect performance of the Service.

2. **Nature of Application & Hosting**

The Service is hosted by or on behalf of Trimble and includes the Service application software the use and access to which is licensed under Section 5 below, and third party software or services (to the extent permitted by the third party suppliers) ("**Third Party Software/Services**"). The Service also may interact with software, which may include firmware, programs or apps run on your Devices ("**Software**"). Via the Site, we may make available software or data services of third party suppliers ("**Third Party Suppliers**"). Additional terms of Third Party Suppliers are set forth in Section 22, and you agree they apply to and govern your use of the Third Party Software/Services. Trimble will use reasonable endeavors to inform you on any changes to these flow down terms in electronic means by posting any updated terms from Third Party Suppliers in the FAQ section of the Service. You acknowledge that the Data and the Service may be transmitted through networks and signals that are not specifically protected or encrypted and where third party interception may be possible. You consent to such transmission and waive any claims that you may have against us with respect to such transmission. Subject to the specifics of the Services Subscription and the Service Plan you may make the Service available to Authorized Users on the basis of several factors including, without limitation, Web access, computer use, assets, operating system, Devices activated and maintained by you, username, password and/or other factors. The Service is subject to modification from time to time as further described in Section 8 below, and by accessing or using the Service and the Site, You consent to our adding, changing or removing any services made available in conjunction with or through them.

3. **Authorized Users and Use; Limitations.**

- 3.1 Authorized Users. You agree that the Service will be accessed and used only by you. For that purpose you may designate authorized users whom you authorize to access and use the Service ("**Authorized User**"), always provided that you have purchased a sufficient number of Services Subscriptions for the Authorized Users or Devices connecting to the Services. You agree that the access credential of one Authorized User can only be used by that Authorized User and you have to assure that the access credentials of one Authorized User only be used by this Authorized User and no other person. Point of delivery for the Service is the Site and, unless Service Plan explicitly entails connection to the Site, connecting to and accessing the Service through Devices and computers is within your sole responsibility, regardless of the nature of such connection. We are not responsible for the network connection or for issues, problems or conditions arising from or related to the network connection, including but not limited to bandwidth issues, network outages, firewalls and/or other conditions that are caused by the Web and/or network connection.
- 3.2 Limitations on Use. Transmission of information using a Device may be subject to legal requirements that may vary from location to location, including radiofrequency use authorization. You must limit use of any Device to those locations where all legal requirements for the use of the Device and the Service communication network have been satisfied. In the event that a Device is used at a location where (i) legal requirements are not satisfied or (ii) transmitting or processing of such information across multiple locations would not be legal, we disclaim any and all liability related to such failure to comply and Trimble may discontinue the transmission of information from that Asset. **You also understand and acknowledge that the Service is not intended to be the sole method for notification or providing information about any emergency, mission critical, safety-related or other ultra- hazardous activities and you shall not use the Service in that manner.**

4. Registration; Payment

- 4.1 Customer Account. In order to log on to the Site and use the Service, an account for you will be created and activated and you may create access credentials or connections for you and Authorized Users and Devices, always subject to you purchasing the sufficient number of Service Subscriptions. In the process of creating the account and access credentials, you will be asked to provide Trimble with true, accurate, current and complete registration information in relation to you and your Authorized Users and to update such information as necessary. Without prejudice to the other rights and remedies as provided by law, we have the right to suspend or terminate your or the Authorized User's right to access and use the Service if we have reasonable grounds to suspect that any information provided in relation to you or an Authorized User is inaccurate, incomplete or untrue.
- 4.2 Site Access & Password; Security. You are responsible for maintaining, and you shall cause all Authorized Users to maintain, the confidentiality of your and your Authorized Users' usernames and passwords and are fully responsible for all activities that occur on the Site under your designated Authorized Users' usernames and passwords. We may require you to change your designated Authorized Users' usernames in the event we determine, in our sole discretion, that any username is offensive or for any other reason. You agree to immediately notify Trimble of any unauthorized use of any Authorized User's username, password, or any other breach of security, and to ensure that Authorized Users logout at the end of each session. You are responsible for disabling the accounts of any Authorized User no longer employed by you or requesting that such accounts be disabled by Trimble. You acknowledge that Trimble is not responsible for tracking your Authorized User's use of the Service, and that Trimble cannot and will not be liable for any loss or damage arising from your failure to comply with this Section 4.
- 4.3 Payment. You agree to pay all charges and fees in accordance with the payment terms applicable to the Service Subscriptions that you acquire. If data transmission is included in a Service Plan, such transmission may be subject to certain limits. You agree to reimburse Trimble for any charges for data transmission in excess of these limits as well as any activation and de-activation charges that may be imposed by the transmission service provider because of your conduct in accordance with the service provider's terms.

5. Subscriptions and Licenses; Restrictions

- 5.1 Service Subscription. Subject to all of the terms and conditions of this TOS, including payment of applicable Service Subscription fees, (i) Trimble shall provide and you may access and use the Service(s), solely for the your internal business operations, and (ii) Trimble hereby grants you and you hereby accept a non-transferable, non-sublicensable, non-exclusive, revocable license to use Content and any documentation accompanying the Service Subscription, solely for your internal business operations; each for the term of the Service Subscription, but each only in accordance with this TOS and documentation.
- 5.2 License. If the Services require or permit you to use Software, and subject to all of the terms and conditions of this TOS, including the payment of applicable fees, Trimble hereby grants to you a non-transferable, non-sublicensable, non-exclusive, perpetual license to download, install and use the Software, in machine-readable form only, solely for your internal business needs and in accordance with (a) any documentation, (b) this TOS and (c) any accompanying end-user license agreement.
- 5.3 Restrictions - No Misuse of Services. Your use of the Service and the Software is limited to those uses expressly permitted under your Service Subscription and these TOS. As a condition of your use of the Service you agree that you will not use it or the Software for any purpose that is unlawful or prohibited by the TOS. We may restrict or cancel the Service to you if there is a reasonable suspicion of, or any actual misuse or fraudulent use by you. You will be responsible for any costs incurred by us or any other party (including attorney's fees) as a result of such misuse or fraudulent use. You may not: (i) reproduce, modify, publish, distribute, publicly display, adapt, alter, translate, or create derivative works from the Service, Software or any Third Party Software/Services; (ii) merge the Service, Software or Third Party Software/Services with other software; (iii) sublicense, lease, sell, rent, loan, or otherwise transfer the Service or associated Software or Third Party Software/Services to any third party; (iv) reverse engineer, de-compile, disassemble, or otherwise attempt to derive the source code for the software underlying the Service, Software, Third Party Software/Services or Site; (v) otherwise use or copy the Service, Software or Third Party Software/Services except as expressly allowed under the TOS, including this Section 5; (vi) use the Service, Software or Third Party Software/Services in a "service bureau" or similar structure whereby third parties obtain use of the Service, Software or Third Party Software/Services through you; (vii) remove, obscure, or alter any copyright, trademark, or other proprietary notices embedded in, affixed to or accessed in conjunction with the Service, Software, and/or the Site; (viii) damage, disable, overburden, interfere with, disrupt or impair the Service or Site, or servers or networks connected to them, in any manner; (ix) interfere with any other party's access, use or enjoyment of the Service or the Site in any manner; (x) intentionally or unintentionally violate any applicable local, state, national or international law, including, but not limited to, laws and regulations related to export; or (xi) impersonate any person or entity or misrepresent your affiliation with a person or entity.
- 5.4 Third Party Software/Services. You hereby acknowledge and agree that any Third Party Software/Services that may be bundled with the Service (e.g., maps) is/are being provided to you by Third Party Suppliers and not by Trimble. You hereby acknowledge and agree that your access or use of any such Third Party Software/Services is governed by such Third Party Suppliers' Terms of Service, end user license agreement or other like agreement, and in absence of such terms or agreement, by these TOS unless it is

clarified in Section 23 that these Third Party Software/Services are provided by Trimble by way of sub-license. Trimble will use good faith and reasonable efforts to notify you of events affecting the Third Party Software/Services (e.g., down time or maintenance) that may impact your use of the Site. HOWEVER, TRIMBLE CANNOT BE RESPONSIBLE FOR, AND EXPRESSLY DISCLAIMS ANY LIABILITY IN CONNECTION WITH THE THIRD PARTY SOFTWARE/SERVICES OR YOUR USE (OR ANY AUTHORIZED USER'S USE) THEREOF.

- 5.5 Time Limited Service Subscription. In the event that use of the Service provided to you is time limited (such as that provided on a trial basis or to beta testers, resellers and distributors for sales demonstration purposes or to prospective end user customers for evaluation purposes) (the "**Time Limited Service**"), then you may use the Time Limited Service in accordance with the TOS solely for the purpose for which it is provided to you, and only for the limited period of time specified by Trimble. Trimble may revoke your access to and authorization to use Time Limited Service at any time. In the event that you subsequently acquire a paid Service Subscription, then your continued use of the Service will continue to be governed by the TOS and associated Service Subscription terms and conditions. Resale, transfer or other distribution of the Time Limited Service is prohibited.

6. Processing of Personal Data

- 6.1 Data Privacy. To understand Trimble's general data privacy practices, please review Trimble's [Privacy Statement](http://www.trimble.com/Corporate/Privacy.aspx), which can be found at any time at <http://www.trimble.com/Corporate/Privacy.aspx>. You acknowledge that some Data processed by the Service may be traceable to individuals ("**Personal Data**"). Trimble will process Personal Data that you or an Authorized User transmits to Trimble for processing on your behalf in connection with the Service as necessary perform Trimble's obligations under this TOS. Trimble, for example, may match the username to other personally identifiable information in order to provide the Authorized User with Services that the Authorized User is entitled to use and to provide relevant Data and information to Authorized Users. Additionally, the Service may permit collection of location-based data in connection with your Devices and the Services provided ("**Location Data**") so that the geographic location of the Authorized User may be identifiable. Trimble will maintain an adequate level of protection for Personal Data by implementing and maintaining appropriate technical and organizational security measures.
- 6.2 Compliance with laws. You are responsible for the evaluation of the admissibility of the processing of the Personal Data contained in any data and information transmitted to Trimble and/or through the Service and for ensuring the rights of the data subjects concerned. In this respect, you warrant that the Personal Data that is processed through the provision of Services is obtained in accordance with the applicable data protection laws and that you have the authority to disclose such information. You are responsible for compliance with and agree to comply with all applicable data protection laws. If EU Data Directive 95/46 or similar data protection laws are applicable, you acknowledge that Trimble is only acting as a data processor on your behalf, and that you are the "data controller" pursuant to EU Directive 95/46 and applicable data protection laws, as may be amended from time to time. You agree to respect all obligations resulting from applicable data protection laws, notably with respect to data subjects, competent data protection authorities, us as data processor, and any other third parties. Without limiting the generality of the foregoing, you must ensure that data subjects receive notices or grant consent as legally required. You agree to indemnify, defend and hold Trimble harmless from and against all claims, demands, actions or causes of action arising out of your breach of the foregoing obligations.
- 6.3 Contact Details. We will process your contact details that you provided to us upon conclusion of the Service Subscription and will be deemed controller of any Personal Data contained in your contact details. We will process your contact details in accordance with Our Privacy Statement and for the purpose of providing the Services, newsletters and marketing e-mails. Our Privacy Statement is available at <http://www.trimble.com/privacy.aspx>.

7. Consent to Transmission and Use of Data; License and Aggregate Data

- 7.1 Consent to Data Transmission and Use. Once your Service Subscription is activated you may transmit or cause your Devices to gather and transmit Data to the Service. The Data transmitted may include, without limitation, such information as is described in the applicable Service description in addition to Device ID, software and hardware version numbers. If you use the Service to manage and monitor infrastructure, vehicles, fixtures and equipment ("**Assets**") the Data transmitted may include, without limitation, the ID, Location Data, usage and diagnostics, repairs information of and for those Assets.

Data is processed on your behalf. If you elect to do so you may cause the Service to transfer Data to Authorized Users, third parties or to Trimble. Trimble shall be entitled to use the Data for the following purposes: (a) providing the Services to you and your Authorized Users, (b) evaluating or improving the Service and/or other products and services; (c) performing market analysis and research; (d) offering you new products and services; and (e) complying with legal requirements and valid court orders, as applicable.

Trimble may also combine the Data imported from your Devices or Assets with that of other users of the Service to create aggregated data ("**Aggregated Data**") for the principal purposes of tracking market trends and developing new or improved service offerings. We will not, however, link your Data with personally identifying information. Aggregated Data will, therefore, be anonymized and cannot be used to identify you or any other user of the Service.

Trimble may also transmit and share some or all of the collected Data with our dealer(s), our affiliates and their dealers, the manufacturer of your Assets and its dealers, and our business partners worldwide who provide the Services, Assets or related products and services to you.

By authorizing activation of and using our Service, you hereby grant Trimble the right and consent to Trimble's processing transmission, use and transfer of Data, including Personal Data, for the purposes and in the manners described in these TOS.

- 7.2 *Data License.* To the extent that you have any ownership or other interests in the Data, you hereby grant to Trimble, its dealers, its affiliates and their dealers, a non-exclusive, perpetual, worldwide, royalty free, and irrevocable license to use, process, manipulate and/or modify, copy, perform, compile and create derivative works from the Data, including using the Data for the business purposes described in Section 7.1. You hereby acknowledge and agree that Trimble and its affiliates may disclose to third parties Data (other than Personal Data) derived, compiled or otherwise drawn from the Data.
- 7.3 *Automatic Synchronization.* For optimum use, the Service may require, and Trimble may provide to Customer from time to time, in a number of formats (feeds, definition files etc.), content that is automatically synchronized or updated from time to time with Trimble's servers or systems ("**Content**"). You acknowledge and agree that the Service will automatically contact Trimble to receive Content from time to time, including when any of the following events occur: (i) the Service is successfully installed by Customer; (ii) Customer fails to install the Service successfully; (iii) the Service has been successfully configured and / or (iv) the Service is uninstalled. You may be required to download Software and the Services may automatically update the software installed on any Device when a new version is available.
- 7.4 *Deletion of Data.* You acknowledge and agree that you will no longer be able to access the Data following the deletion of the Data by us in accordance with Section 15.

8. Modification of TOS

- 8.1 Trimble may modify and update the TOS if circumstances under which the TOS is entered into change following purchase of your Service Subscription, and Trimble will provide you with reasonable notice of any such changes. Your continued use of the Service following the posting of any such changes will constitute confirmation of your acceptance of the updated TOS, unless you notify Trimble in writing within 30 days of the notice that you do not accept them. In that case the TOS in effect at the time of your purchase or last renewal of the Service Subscription (whichever is later) will remain in effect through the remainder of your then current subscription term, unless Trimble, at its option, exercises its right to terminate your Service Subscription(s) in accordance with Section 14.2 below.

9. Network Coverage, GNSS Satellites, Interruption of Service

- 9.1 You acknowledge that the Services and network access may be 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. To the extent that Devices or other hardware units receive signals from Global Navigation Satellite System ("**GNSS**") you further acknowledge that Trimble is not responsible for the operation or failure of operation of any GNSS satellites or the availability of GNSS satellite signals.
- 9.2 Trimble will not be liable to you or any third party for any loss or damage arising from the Service, or its interruption, transmission errors (including Location Data inaccuracies), downtime of the Service due to maintenance or defects or any other cause, including, but not limited to, interruption caused by the underlying communications system carrier. Trimble does not assume and will not have any liability arising from events beyond Trimble's control or the control of Trimble's subcontractors, licensors or business partners, including events such as acts of God, acts of any governmental entity, acts of public enemy, strikes or weather conditions.

10. No Warranties; Customer Responsibility for Devices, Risk of Loss and "Alert" Feature Configuration.

TRIMBLE, ITS DIRECTORS, OFFICERS, EMPLOYEES, LICENSORS, SUPPLIERS, DEALERS, AFFILIATES AND AGENTS (EACH A "**TRIMBLE PARTY**") AND COLLECTIVELY THE "**TRIMBLE PARTIES**") DISCLAIM ANY RESPONSIBILITY FOR ANY HARM RESULTING FROM YOUR USE OF THE SERVICE AND SITE. YOU EXPRESSLY UNDERSTAND AND AGREE THAT: (a) THE APPLICATION, SITE AND SERVICES ARE PROVIDED ON AN "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE" BASIS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU; (b) TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE TRIMBLE PARTIES MAKE NO REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, (i) WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, ACCURACY, QUIET ENJOYMENT, NO ENCUMBRANCES, NO LIENS AND NON-INFRINGEMENT, (ii) WARRANTIES ARISING THROUGH COURSE OF DEALINGS OR USAGE OF TRADE, (iii) WARRANTIES REGARDING THE SECURITY, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SERVICE APPLICATION, SITE AND SERVICES, AND (iv) WARRANTIES THAT

ACCESS TO OR USE OF THE SERVICE AND SITE WILL MEET YOUR REQUIREMENTS, BE UNINTERRUPTED OR ERROR-FREE; AND (c) THAT YOU WILL ACCESS THE SITE AND USE THE SERVICE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGES TO YOUR COMPUTER SYSTEM(S) OR LOSS OF DATA THAT RESULTS FROM SUCH ACCESS AND USE.

YOU FURTHER AGREE THAT, IF THE SERVICES ARE USED TO TRACK THE LOCATION; PERFORMANCE; HEALTH AND STATUS OF YOUR ASSETS AND/OR DEVICES YOU ARE SOLELY RESPONSIBLE FOR THE PROPER MAINTENANCE, OPERATION AND SUPPORT OF SUCH ASSETS AND DEVICES. NOTWITHSTANDING YOUR USE OF THE SERVICE AND REGARDLESS OF ANY INFORMATION PROVIDED THROUGH IT (WHETHER ACCURATE OR INACCURATE) REGARDING THE OPERATION, MAINTENANCE OR PERFORMANCE STATUS OF THE ASSETS AND/OR DEVICES, YOU ASSUME ALL RISK RELATED TO THEIR PROPER OPERATION, SUPPORT AND MAINTENANCE. **ACCORDINGLY, YOU ARE RESPONSIBLE FOR ANY RISK OF LOSS OF ANY ASSETS OR DEVICES FROM ANY CAUSE, INCLUDING, WITHOUT LIMITATION, VEHICLE AND EQUIPMENT FAILURE, THEFT, FIRE, COLLISION, TAMPERING, AND VANDALISM.**

THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY GRANTED IN THE TOS.

11. Limitation of Liability

UNDER NO CIRCUMSTANCES, INCLUDING NEGLIGENCE, WILL THE TRIMBLE PARTIES BE LIABLE TO YOU FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, THIRD PARTY OR CONSEQUENTIAL (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOSS OF BUSINESS INFORMATION, VIRUS INFECTIONS, SYSTEM OUTAGES AND THE LIKE) ARISING OUT OF, BASED ON OR RESULTING FROM THE TOS OR YOUR ACCESS TO, USE OF, MISUSE OF OR INABILITY TO USE THE SERVICE OR THE SITE, EVEN IF TRIMBLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (INCLUDING DAMAGES INCURRED BY THIRD PARTIES). THE EXCLUSION OF DAMAGES UNDER THIS SECTION 11 IS INDEPENDENT OF ANY REMEDY PROVIDED UNDER THE TOS AND SURVIVES IN THE EVENT SUCH REMEDY FAILS OF ITS ESSENTIAL PURPOSE OR IS OTHERWISE DEEMED UNENFORCEABLE. THESE LIMITATIONS AND EXCLUSIONS APPLY WITHOUT REGARD TO WHETHER DAMAGES ARISE FROM BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE OR ANY OTHER CAUSE OF ACTION. TO THE EXTENT THAT APPLICABLE LAW DOES NOT PROHIBIT SUCH EXCLUSIONS AND LIMITATIONS, IN NO EVENT WILL TRIMBLE'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE IN AGGREGATE EXCEED THE AMOUNTS PAID BY YOU TO TRIMBLE FOR YOUR ACCESS OR USE OF THE SERVICE HEREUNDER.

THE PRECEDING LIMITATIONS OF LIABILITY DO NOT APPLY TO LIABILITIES THAT CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAWS, SUCH AS IN THE EVENT OF STATUTORILY MANDATED LIABILITY (INCLUDING LIABILITY UNDER APPLICABLE PRODUCT LIABILITYLAW) OR IN THE EVENT OF PERSONAL INJURY ARISING SOLELY FROM A TRIMBLE PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

12. Customer Indemnification

UPON OUR REQUEST YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS EACH OF THE TRIMBLE PARTIES FROM AND AGAINST ANY AND ALL CLAIMS, LAWSUITS, DEMANDS, ACTIONS OR OTHER PROCEEDINGS BROUGHT AGAINST IT BY ANY THIRD PARTY DUE TO, ARISING OUT OF OR RELATED TO YOUR (A) USE OF THE SERVICE OR THE SITE, (B) VIOLATION OF THE TOS, OR (C) YOUR VIOLATION OF ANY LAW, REGULATION OR THIRD PARTY RIGHTS. You shall pay any and all costs, damages and expenses, including, without limitation, reasonable attorneys' fees and costs awarded against or otherwise incurred by Trimble in connection with or arising from any such claim, lawsuit, action, demand or other proceeding. **Trimble may, at its own expense, assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you agree to cooperate with Trimble in asserting any available defenses.**

13. Intellectual Property Rights

- 13.1 You hereby agree and acknowledge that Trimble and its licensors (and as applicable, Third Party Suppliers) own all right, title and interest in and to all Intellectual Property Rights (defined below) in connection with or relating to the Service and the Site. **"Intellectual Property Rights"** means any and all rights under patent law, copyright law, trade secret law, trademark law, and any and all other proprietary or moral rights, and any and all applications, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide. You will have no right, license, or interest therein, expressly or impliedly, except for any license expressly granted herein. Trimble or its licensors, as the case may be, will own all right, title and interest in and to any replacements, improvements, updates, enhancements, derivative works and other modifications (including, without limitation, the incorporation of any ideas, methods or processes provided by or through you) to Intellectual Property Rights made by any person, even if paid for by you and regardless of whether or not they are similar to any of your Intellectual Property Rights. You will undertake any and all action necessary to vest such ownership in Trimble, including without limitation assigning (and you hereby assign) to Trimble all rights in and to such Intellectual Property Rights, including, without limitation, patent applications, patents,

moral rights and copyrights arising from or relating to the Service or the Site. Notwithstanding the foregoing, Trimble's Intellectual Property Rights as they pertain to the Data, include only the rights granted to Trimble under Section 5 above.

- 13.2 You acknowledge that all trademarks, service marks, and logos (collectively, "**Marks**") that appear throughout the Service or the Site belong to Trimble or the respective owners of such Marks, and are protected by U.S. and international trademark and copyright laws. Any use of any of those Marks without the express written consent of Trimble or the owner of the Mark, as applicable, is strictly prohibited. Trimble may, in appropriate circumstances and at its sole discretion, disable and/or terminate the accounts of Authorized Users who may be infringing the Intellectual Property Rights of others.

14. Suspension, Discontinuation or Cancellation of Service to Customer; Cancellation Fee

- 14.1 Without prejudice to Trimble's right to suspend the provision of the Service, Trimble has the right to terminate your right to access and use the Services with immediate effect and without liability or prior notice, if
- (i) you violate the TOS, or breach the terms of your Service Subscription(s) or any other valid agreement with Trimble for use of the Service;
 - (ii) fail to pay Service Subscription fees or other amounts owed when due, (whether due to Trimble directly or to the dealer or distributor through whom you acquired your Service Subscription);
 - (iii) the Communications Carrier through which you are able to access and use the Service terminates your Communications Service; or
 - (iv) Trimble has reason to believe that you, your Authorized Users, any of your agents or any third party is abusing the Service or using it fraudulently or unlawfully
 - (v) you or any third party file(s) an application, or threat(s) to file an application for administration, receivership, bankruptcy or any similar proceeding involving your assets under the laws applicable to such assets.

If you pay Service Subscription fees to the dealer or distributor from whom you acquired your Service Subscription (rather than to Trimble directly) you acknowledge and agree that Trimble may rely in good faith upon the dealer's or distributor's notice to Trimble of your non-payment of Service Subscription fees and as a result may suspend your access to the Service and terminate your license to use it without liability. In addition, subject to Section 14.2 below, Trimble may discontinue the Service in whole or in part, and/or cancel your Service account with or without notice for any reason at any time. YOU AGREE THAT NEITHER TRIMBLE NOR ITS AFFILIATES NOR DEALERS, NOR ANY OTHER INDIVIDUAL OR ENTITY FROM WHOM YOU PURCHASED OR OTHERWISE ACQUIRED YOUR SERVICE SUBSCRIPTION WILL BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ITS CANCELLATION OR TERMINATION FOR ANY OF THE ABOVE-CITED REASONS EXCEPT AS EXPRESSLY PROVIDED HEREIN. IF YOUR ACCOUNT IS CANCELLED FOR ANY REASON, YOU AGREE NOT TO RE-REGISTER FOR AN ACCOUNT TO WITHOUT WRITTEN PERMISSION FROM TRIMBLE.

- 14.2 Trimble may discontinue the Service in whole or in part, and/or cancel your Service account with or without notice for any reason at any time. If your Services Subscription and Service account are terminated for Trimble's convenience and no fault on your part, then you will have no obligation to pay Service Subscription fees for any period following the date of termination, and you will be reimbursed a proportion of the subscription fees received by Trimble based upon the un-lapsed term of the currently active Service Subscription as of the date of termination. You will, however, remain obligated to pay Service Subscription fees for the term of Service Subscription until the date of termination.
- 14.3 Should you cancel your account and/or the Service Subscriptions in whole or in part, or if we cancel or terminate your account and Service Subscription(s) due to your violation of the TOS, breach of the terms of your Service Subscription or any other valid agreement with Trimble, or your insolvency, bankruptcy (or similar action or proceeding), or your ceasing to do business in the ordinary course, you will be charged a cancellation fee equal to the amount of the subscription fee charges payable or already paid through the remaining term of your then currently active Service Subscription(s). Any such cancellation charges will become immediately due and payable, if not already paid.

15. Deletion of Customer Data

Trimble may permanently delete any and all information, Data and content maintained in or under your account from its servers upon any termination of the Service or your Service Subscription, or at any earlier time at Trimble's discretion. Trimble accepts no responsibility for such deleted information, Data or content.

16. Notices and Electronic Communications

When you visit the Site or send e-mail to us, you are communicating with us electronically. You consent to receive communications from us electronically. We will communicate with you by e-mail or by posting notices on this Site. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. You may update your e-mail address by visiting the location on the Site where you have provided contact information. If you do not provide Trimble with accurate information, Trimble cannot be held liable if it fails to notify you. You may have the right to request that Trimble provide such notices to you in paper format, and may do so by contacting

Trimble Inc., Attention: Trimble Water, Attn: Important Notice, 3501 Jamboree Road, Newport Beach, California 92660, Email: trimblewater_support@Trimble.com. Any other communications should also be sent to that address.

Legal notices must be provided to the above address, with a copy to: Trimble Inc., Attention: General Counsel - Important Notice, 935 Stewart Drive, Sunnyvale, CA 94085.

17. U.S. Government Restricted Rights [Applies only to U.S. Government Licensees]

The Service application, Site and the Services, their content and other materials, are deemed “commercial computer software” and “commercial computer software documentation” pursuant to DFAR Section 227.7202 and FAR Section 12.212 (and any successor sections). Use of the Service and the Site including, but not limited to, its reproduction and display, by the United States of America and/or any of its instrumentalities, regardless of form, is governed by the TOS.

18. Choice of Law and Forum

The TOS is/are governed by and construed in accordance with the laws of the State of California and applicable United States federal law, without reference to “conflicts of laws” provisions or principles. You hereby consent and agree to the exclusive jurisdiction of, and venue in, the state and federal courts located in the County of Santa Clara, California. Notwithstanding the foregoing Trimble may choose to file a complaint against you or take any other legal action (including, without limitation, requesting injunctions or immediate relief in summary proceedings) against you before any competent court in your jurisdiction for any claim or action arising out of or relating to the TOS or your use of the Service.

19. Export

Use of the Service is subject to the U.S. Export Administration Regulations. You agree to the following: (a) you are not a citizen, national or resident of, and am not under the control of, the government of Cuba, Iran, North Korea, Syria, Sudan nor any other country to which the United States has prohibited export; (b) you will not export or re-export materials from the Site, directly or indirectly, neither to the above mentioned countries nor to citizens, nationals or residents of those countries; (c) you are not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor are you listed on the United States Department of Commerce Table of Denial Orders; (d) you will not export or re-export Site materials, directly, or indirectly, to persons on the above mentioned lists; and (e) you will not use the Site and Site materials for, and will not allow the Site and Site materials to be used for, any purposes prohibited by United States law, including, without limitation, for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.

20. General Provisions

The TOS, the terms of your Service Subscription and/or any other valid agreement between you and Trimble for use of the Service, constitute the entire agreement between you and Trimble and govern your use of the Service and Site, superseding any and all prior agreements, negotiations and communications (whether written, oral or electronic) between you and Trimble with respect to the subject matter hereof. No change, modification, or waiver of the TOS, will be binding on Trimble unless made in writing, with Trimble’s approval. Any rights not otherwise expressly granted under the TOS are reserved by Trimble and its licensors. The failure of Trimble to exercise or enforce any right or provision of the TOS shall not constitute a waiver of such right or provision. If any part of the TOS is held invalid or unenforceable, by a court of competent jurisdiction, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of Trimble, and the remaining portions shall remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service and/or your Service Subscription must be filed within one (1) year after such claim or cause of action arose or be forever barred.

21. Official Language

The official language of the TOS is English. For purposes of interpretation, or in the event of a conflict between English and versions of TOS in any other language, the English language version shall be controlling.

22. Third Party Terms

22.1 Additional Terms and Conditions for the Use of ESRI ArcGIS Server Enterprise and associated GeoRest Web Services API’s, Version 10.x, ArcGIS for Windows Mobile, ArcGIS Runtime for Android, ArcGIS Runtime for iOS, ArcGIS Runtime for WPF and ArcGIS JavaScript API.

You hereby accept the following additional Terms of Service in relation to any data, material, or software proprietary to ESRI and its licensors (“**Hosted Solutions**”) access to which is provided as part of the Services (as defined in Trimble’s Terms of Service):

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- e. You may not share its login or password with any other third party or other Hosted Solution End User.

22.2 Additional Terms and Conditions for the Use of Trimble Unity LeakManager, Trimble Unity LeakLocator, and/or Software or Services Provided by or Including Software, Products or Services of Aquarius Spectrum Ltd.

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WITHOUT DEROGATING FROM THE GENERALITY OF THE FOREGOING, IT IS EXPRESSLY CLARIFIED THAT THE SYSTEM IS A SUPPORTIVE TOOL WITH RESPECT TO THE DETECTION AND MANAGEMENT OF LEAKS IN WATER SYSTEMS, AND SHOULD NOT BE RELIED UPON EXCLUSIVELY. THE MANNER BY WHICH ANY SPECIFIC LEAK SHOULD BE HANDLED AND/OR REPAIRED IS DEPENDENT ON NUMEROUS FACTORS WHICH ARE OUTSIDE OF THE SCOPE OF THE SYSTEM'S CAPACITY AND WHICH SHOULD BE SEPARATELY ADDRESSED AND CONSIDERED BY CUSTOMER, AT CUSTOMER'S SOLE RESPONSIBILITY. UNDER NO CIRCUMSTANCES WILL SUPPLIER, ITS SHAREHOLDERS OR ANY OTHER PARTY ACTING ON SUPPLIER'S BEHALF BE LIABLE FOR ANY DAMAGE, LOSS OR EXPENSE (INCLUDING PHYSICAL INJURIES) WHICH MAY BE CAUSED TO CUSTOMER, ANYONE ACTING ON CUSTOMER'S BEHALF, OR ANY THIRD PARTY IN CONNECTION WITH THE USE OF OR RELIANCE ON THE SYSTEM, INCLUDING WITHOUT LIMITATION ANY DAMAGE, EXPENSE OR LOSS CAUSED AS A RESULT OF WATER LEAKS OR BURSTS, DAMAGES TO PIPING SYSTEMS AND/OR THE LIKE. IN ADDITION, SUPPLIER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO FAULT-FREE OPERATION OF THE SYSTEM AND SHALL NOT BEAR ANY LIABILITY OR RESPONSIBILITY WHATSOEVER FOR DAMAGES OR LOSSES CAUSED BY OR ATTRIBUTABLE TO INACCURATE OR ERRONEOUS MEASUREMENTS, INCLUDING WITHOUT LIMITATION WHEN THIS RESULTS FROM AN ERROR OF THE SYSTEM.

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Customer / end-user agrees that the limitations specified in this Section 22.2 will survive and apply even if any limited remedy specified in these Terms is found to have failed of its essential purpose.