



**ORDER FORM**

<b>Order Date:</b>	Date of the last signature below
<b>Trimble Entity Name ("Trimble") and Address:</b>	Azteca Systems, LLC, a Trimble company 11075 South State, Suite 24, Sandy, Utah 84070
<b>Customer Entity Name ("Customer") and Address:</b>	City of Ann Arbor, MI 301 E Huron Ann Arbor, MI 48107
<b>Billing Contact Name and E-Mail Address:</b>	David Wilburn 734-794-6550 dwilburn@a2gov.org
<b>Initial Term:</b>	09/15/2023 - 09/14/2028
<b>Miscellaneous:</b>	<i>* Purchase orders issued by Customer are issued for administrative purposes only; terms and conditions contained in any such purchase order shall be null and void.</i>

**Licensed Software:**

Description	Number of Authorized Users	Annual Term	Total
Server AMS Premium Cityworks Enterprise License Agreement (ELA), Includes the Identified Products: Office Respond Mobile Native Apps (for iOS/Android)  --Includes the following Add-ons: Storeroom Equipment Checkout Contracts Cityworks for Excel Cityworks Analytics for AMS eURL (Enterprise URL) Operational Insights Workload Web Hooks OpX Projects OpX Contracts OpX Budgets CCTV Interface for PACP Pavement Management Performance Budgeting Use of Cityworks AMS Application Programming Interfaces (APIs) with commercially available	<b>Unlimited</b>	<b>Year 1: 09/15/2023 - 09/14/2024</b>	<b>\$106,000.00</b>
		<b>Year 2: 09/15/2024 - 09/14/2025</b>	<b>\$111,300.00</b>
		<b>Year 3: 09/15/2025 - 09/14/2026</b>	<b>\$116,865.00</b>
		<b>Year 4: 09/15/2026 - 09/14/2027</b>	<b>\$122,708.25</b>
		<b>Year 5: 09/15/2027 - 09/14/2028</b>	<b>\$128,843.66</b>

Cityworks-centric applications that are licensed and maintained by authorized Cityworks partners Use of Cityworks AMS Application Programming Interfaces (APIs) with third party system integrations			
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*\*All Licensed Software is for the indicated term and not perpetual. Annual fee herein is based on 100,001 - 150,000 population range. Trimble reserves the right to adjust the annual fee accordingly to align with the Customer's actual population range.*

**Addendums:**

1. Terms of Service
2. Supplemental Product Terms
3. Support

**TERMS AND CONDITIONS**

**1. Terms and Conditions.** All offerings are made available by Trimble subject to the terms and conditions set forth in this Order and the above referenced Addendums.

**2. Annual Renewals; Additional Software Products and Licenses.** This Order will automatically renew for subsequent 12 month term(s) at then-current pricing, unless either party provides the other with notice of cancellation at least 30 days prior to the expiration of the then-current term. Additional Software Products & Licenses may be added to this Agreement with either an acknowledgement of an official Cityworks quote signed by Licensee and additional fees, if necessary or applicable being paid, or receipt of Purchase Order from Licensee in response to an official Cityworks quote and additional fees, if applicable, being paid.

**3. Payment Terms.** All fees are due net 30 from the date of the Trimble invoice. Trimble will invoice the Year 1 Annual Term upon execution of this Order and Years 2 through 5 at each renewal hereof.

**4. Annual Price Increase.** At each renewal, Trimble has a right to increase the annual fees by the greater of (a) CPI plus two percent (2%) or (b) five percent (5%). "CPI" shall mean for all Urban Consumers, the U.S. City Average, for all items, 1982-84=100 (the "CPI-U"), as published by the Bureau of Labor Statistics, U.S. Department of Labor, and shall be for the prior twelve months as of the date the calculation is made. Trimble will use commercially reasonable efforts to notify Customer of the new pricing no later than sixty (60) days prior to the expiration of the prior term.

**5. Electronic Invoices.** Customer hereby consents to the receipt of invoices electronically at the indicated e-mail address(es) and accepts such invoices as if received by mail. Customer's e-mail address may be changed by written notice given by Customer to Trimble at: customer\_master@trimble.com. Customer is responsible for maintaining a current e-mail address and shall under no circumstances be excused from payment of applicable charges by its failure to access its designated e-mail address.

**6. Due Authority.** By signing below, the signatory represents that he/she (i) is an authorized representative of Customer and (ii) has the authority to legally and functionally commit the Customer.

*[Signature Page to Follow]*

**ACCEPTANCE**

Accepted and agreed:

<p><b>CUSTOMER:</b></p> <p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Date: _____</p> <hr/> <p><b>FOR THE CITY OF ANN ARBOR</b></p> <p>By _____ Christopher Taylor, Mayor</p> <p>By _____ Jacqueline Beaudry, City Clerk</p> <p>Date: _____</p> <p><b>Approved as to substance</b></p> <p>_____ Type Name Service Area Administrator</p> <p>_____ Milton Dohoney Jr., City Administrator</p> <p><b>Approved as to form and <u>content</u></b></p> <p>_____ Atleen Kaur, City Attorney</p>	<p><b>TRIMBLE:</b></p> <p>Signature: _____</p> <p>Print Name: George Mastakas</p> <p>Title: Vice President</p> <p>Date: _____</p>
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## Addendum #1

### **Terms of Service v5.1 (O&PS)**

These Terms of Service (this “**Agreement**”) are entered into by and between (a) the “Trimble” entity identified on an Order or SOW and (b) the “Customer” entity identified on an Order or SOW (“**Customer**” or “**you**”). Certain capitalized terms are defined in Exhibit B and others are defined contextually in this Agreement.

The Order may also be subject to supplemental product terms and conditions referenced in the applicable Order (“**Supplemental Product Terms**”). This Agreement consists of the terms and conditions set forth below and any applicable Supplemental Product Terms, Support Terms, Order, and SOW. Any conflict or inconsistency will be resolved in the following order of precedence: (1) the Order, (2) the Supplemental Product Terms, (3) the body of this Agreement, (4) the Support Terms, and (5) the SOW.

The “**Effective Date**” of this Agreement means the effective date stated on the Order, or if there is no Order, then the date that the Products are first made available to Customer. This Agreement will govern Customer’s initial purchase(s) as well as any renewals thereof (unless different terms are specified upon renewal).

If you are accessing or using Products on behalf of your company, you represent that you are authorized to accept this Agreement on behalf of your company. All references to “you” reference your company. **BY SIGNING AN ORDER OR SOW OR INSTALLING, ACCESSING, OR USING ANY PRODUCTS THAT ARE SUBJECT TO THIS AGREEMENT, YOU INDICATE YOUR ACCEPTANCE OF THIS AGREEMENT AND AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. EACH PARTY EXPRESSLY AGREES THAT THIS AGREEMENT IS LEGALLY BINDING UPON IT.**

#### **1. Products.**

1.1 Product Types. The following provisions apply to the applicable Product type, as set forth in the Order.

(a) Software-as-a-Service. For Products that are deployed as Software-as-a-Service, as set forth in the Order, subject to the terms of this Agreement, Customer may access and use the Products during the Term only for its internal business purposes in accordance with the Documentation, Usage Limitations, any applicable Supplemental Product Terms, and this Agreement.

(b) Licensed Software. For Products that are Licensed Software for deployment on premises or on a device, as set forth in the Order, subject to the terms of this Agreement, Trimble hereby grants Customer a non-transferable, non-sublicensable, non-exclusive license, during the Term, to install, copy, and use the Licensed Software on systems or devices under Customer’s control only for its internal business purposes in accordance with the Documentation, Usage Limitations, any applicable Supplemental Product Terms, and this Agreement. Licensed Software is licensed, not sold.

(c) Hosting Services. For Products that are Licensed Software, but are deployed through hosting services delivered by Trimble, as set forth in the Order, the Products are subject to the terms and conditions applicable to Licensed Software.

#### 1.2 Authorized Users and Administrators.

(a) Only Authorized Users may access or use the Products. User IDs are granted to individual, named persons, and each Authorized User will keep login credentials confidential and not share them with anyone else. Customer is responsible for its Authorized Users’ compliance with this Agreement and actions taken through their accounts. In the event an Authorized User is no longer authorized to use a Product on Customer’s behalf, Customer will promptly de-activate such Authorized User’s access. Only if expressly permitted under the applicable Order or Supplemental Product Terms, Customer may transfer Authorized User status from one individual to another at any time, provided that use of the Products by its Authorized Users in the aggregate remains within any applicable Usage Limitations. Customer will promptly notify Trimble if it becomes aware that any of its Authorized User login credentials have been compromised.

(b) If a Product permits administrator access, as described in the Documentation, Customer may designate one or more Authorized Users to be administrators (each an “**Administrator**”) with control over Customer’s account, including management of Authorized Users and Customer Data, as described in the Documentation. Customer is fully responsible for its choice of Administrators and any actions they take with respect to the Products. Trimble’s responsibilities do not extend to the internal management or administration of the Products for Customer.

#### 1.3 API Access and Customer Applications.

(a) API. Products may include one or more application program interfaces (“**API(s)**”) that allow Customer to develop applications, code, or services that communicate with the Products (collectively, “**Customer Applications**”). Such APIs, if any, may be available upon request. Customer may use an API only if such use is authorized in the Documentation or otherwise in writing by Trimble. Use

of APIs may be subject to additional terms and conditions. Trimble may modify APIs from time to time, and Trimble is not responsible for the compatibility of any such modifications with Customer Applications.

(b) Use of Customer Applications. If use of an API is authorized, subject to the terms of this Agreement and in compliance with the applicable Documentation, Customer may develop Customer Applications for use solely by Customer's Authorized Users. Customer will not develop Customer Applications for the benefit of, or distribute Customer Applications to, any third party. Customer assumes all risk and liability regarding the development or use of any Customer Applications. Other customers or Trimble itself may independently develop applications similar to Customer Applications.

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

1.5 Trials and Betas. If Customer receives access to the Products or any features thereof on a free or trial basis or as an alpha, beta, or early access offering ("Trials and Betas"), use is permitted only for Customer's internal evaluation to determine whether to purchase a license or subscription to the Product during the period designated by Trimble (or if not designated, 30 days). If Customer purchases a license or subscription to the Products, this Agreement will apply to Customer's use unless otherwise specified in the applicable Order. Trials and Betas are optional and Trimble may cease offering Trials and Betas at any time for any reason. Trials and Betas may be inoperable, incomplete, or include features that Trimble may never release, and their features and performance information are Trimble's Confidential Information. If the Products include a mechanism that limits access to Trials and Betas, Customer will not attempt to circumvent any such mechanism or restriction. **Notwithstanding anything else in this Agreement: (a) Trimble has no obligation to retain Customer Data used with Trials and Betas; (b) Trimble provides the Trial and Betas "AS-IS" with no warranty, indemnity, service levels, or support; and (c) Trimble's liability for Trials and Betas will not exceed US\$50.**

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

1.7 Internet Connection. Products may require an active Internet connection or other means of electronic communications to operate, which are not the responsibility of Trimble.

1.8 Delivery and Deployment. Products, Documentation, and License Keys, if any, will be delivered by electronic means unless otherwise specified on the applicable Order. Delivery is deemed to occur on the date on which a Product and License Key, if any, are first made available to Customer. Products may gather and transmit to Trimble license compliance and activation data. Customer will not disable, modify, or interfere with the operation of any such functionality of the Products. Trimble may use the foregoing information to validate the authenticity of Customer's license to the Products, to register Customer's Products, for license metering, and to protect Trimble against unlicensed or illegal use of the Products.

## **2. Data Rights.**

### **2.1 Data Usage and Ownership.**

(a) Customer hereby grants to Trimble and its Affiliates the non-exclusive, worldwide, irrevocable, royalty-free right: (i) to use Customer Data during the Term to provide the Products, Support, and Professional Services to Customer; (ii) to use and disclose Customer Data as otherwise permitted pursuant to this Agreement or any written consent or instructions of Customer; and, (iii) on a perpetual basis: (A) to create, use, and disclose Anonymized Data for any purpose and (B) subject to Trimble's confidentiality obligations in Section 13 (Confidentiality) and all applicable Data Protection Legislation, to use Customer Data to develop, maintain, and improve the Products and any other products, software, and services of Trimble or its Affiliates.

(b) Except for Trimble's use rights set forth in this Agreement, as between the parties, Customer retains all intellectual property and other rights in Customer Data. Trimble owns all right, title, and interest in Anonymized Data (including, without limitation, any and all intellectual property rights).

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

(d) In the event of any conflict between the terms of Section 13 (Confidentiality) and this Section 2.1 (Data Usage and Ownership), the terms of this Section 2.1 (Data Usage and Ownership) will control.

## 2.2 Personal Information and Data Protection.

(a) All applicable laws, rules, and regulations relating to privacy and data protection, including GDPR and CCPA (as defined below), are referred to as "**Data Protection Legislation.**" "**Personal Information**" is defined as in the applicable Data Protection Legislation, or if no definition is provided, any personally identifiable information which is either (i) provided by Customer or on its behalf as required for and in connection with the normal use and operation of Products or (ii) automatically collected through the Products on Customer's behalf. "**Applicable,**" in this context, means the Data Protection Legislation applicable to Customer at Customer's principal place of business or to Trimble at Trimble's principal place of business, and such laws that Customer notifies Trimble in writing of that apply to the parties.

(b) Each party will comply with all applicable requirements of the Data Protection Legislation that applies to it. This Section 2.2(b) is in addition to, and does not relieve, remove, or replace, a party's obligations or rights under the applicable Data Protection Legislation.

(c) Without prejudice to the generality of Section 2.2(b), Customer will ensure that it has all necessary and appropriate consents and notices in place (i) to enable lawful transfer of the Personal Information to Trimble for the duration and purposes of the Agreement and (ii) to enable Trimble to lawfully use, process, and transfer the Personal Information in accordance with this Agreement, including on the Customer's behalf.

(d) The parties acknowledge that: (i) if Trimble processes any Personal Information hereunder, it is on the Customer's behalf when performing its obligations under this Agreement and (ii) the Personal Information may be transferred, stored, and/or accessed from outside of the country where the Customer's principal place of business is located in order to provide the Products or to otherwise perform any of Trimble's other obligations under this Agreement.

(e) If the processing of Personal Information by Trimble is subject to the General Data Protection Regulation ((EU) 2016/679) or the Data Protection Act 2018 of the United Kingdom ("**GDPR**"), then, at the request of Customer, the parties will execute an applicable data processing addendum.

(f) If the processing of Personal Information by Trimble is subject to the California Consumer Privacy Act of 2018 (Title 1.81.5, §1798.100 et. seq.) ("**CCPA**"), then the terms of this clause (f) apply, and capitalized terms shall have the meanings afforded to them under the CCPA unless otherwise stated. In connection with a Verifiable Consumer Request by a Consumer pursuant to an exercise of rights under CCPA related to Personal Information, (i) Trimble is Customer's Service Provider; (ii) Customer (and not Trimble) will respond to such request; and (iii) if necessary, in connection with such request, Customer will utilize the tools and information provided or made generally available by Trimble, such as Trimble's online portals or APIs and Documentation regarding Trimble's products, software, and services. To the extent such tools do not enable Customer to respond to a Verifiable Consumer Request, upon Customer's request, Trimble will provide reasonable assistance with respect to Personal information in Trimble's systems that is required for Customer's response to such request. Trimble will not retain, use, or disclose Personal Information for any purpose other than as expressly permitted under this Agreement or as otherwise permitted under CCPA. A Verifiable Consumer Request to delete Personal Information will not require Trimble to delete Personal Information required to provide Customer with the Products (as defined in this Agreement), which includes any of Trimble's Service Provider(s) acting on Trimble's behalf to provide the Products (as defined in this Agreement); provided, however, that such service provider(s) do not have a separate right to Sell or otherwise use Customer's Personal Information other than as required for Trimble's Business Purposes.

## **3. Customer Obligations.**

**3.1 Compliance with Laws.** Customer is responsible for complying with all Laws in its use of the Products and any results derived from the Products.

**3.2 No High Risk Activities.** Customer will not use the Products for High Risk Activities. Customer acknowledges that the Products are not intended to meet any legal obligations for High Risk Activities.

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

3.4 Customer Data. Customer is responsible for its Customer Data, including its content, accuracy, and compliance with Laws. Customer represents and warrants that it has made all disclosures and has all rights, consents, and permissions necessary to use its Customer Data with the Products and grant Trimble the rights in Section 2.1 (Data Use and Ownership), all without violating or infringing Laws, third-party rights (including intellectual property, publicity, or privacy rights), or any terms or privacy policies that apply to its Customer Data.

**4. Suspension of Access to Products.** Trimble may suspend Customer's access to the Products, Support, and/or Professional Services, without liability, and in whole or in part, if (a) Customer breaches Section 1.4 (Restrictions) or Section 3 (Customer Obligations); (b) Customer's account is 10 days or more overdue; or (c) Customer's actions risk harm to other customers or the security, availability, or integrity of the Products. Where practicable, Trimble will use reasonable efforts to provide Customer with prior notice of the suspension. Once Customer resolves the issue requiring suspension, Trimble will promptly restore Customer's access to the Products in accordance with this Agreement.

**5. Certain Product Features.** The following provisions apply to the extent applicable to the Products.

5.1 Devices. The Products may be compatible with or require use of a device ("**Device**"). Compatible Devices are specified in the applicable Documentation. Trimble makes no warranties regarding the operation of any Device or continued compatibility of a Product with any such Device. Customer is solely responsible for the configuration and operation of the Device. The results obtained through a Product may be affected by, and Trimble will have no liability for, the compatibility, placement, configuration, or operation of the Device, weather or other environmental conditions, color or composition of materials being scanned, or other factors outside of Trimble's control.

5.2 Use with Other Trimble Products. The Products may allow Customer to connect with other products or services made available by Trimble. Use of such other products or services that are not part of the Products may require payment of a separate fee and are governed by those products or services' respective terms of service, end user license agreement, or other agreement, and not by this Agreement.

5.3 Scripts. The Products may allow Customer to input and/or develop custom scripts, macros, and commands (collectively, "**Scripts**") that control the operation of the Products. Scripts may be available for download or purchase from Trimble or third parties, or created by Customer. Unless otherwise specified by Trimble in writing, Scripts are not part of the Product. Customer's development and use of any Scripts are solely at its own risk. To the extent any Scripts are provided by a third party, such Scripts will be deemed to be Third-Party Materials, and may be subject to Third-Party Terms.

5.4 Third-Party Materials. The Products may provide Customer with access to Third-Party Materials. Third-Party Materials are not part of the Products. To the extent specified by Trimble (including in any Supplemental Product Terms or Documentation), use of the Third-Party Materials may be subject to additional terms or restrictions ("**Third-Party Terms**"). Customer is solely responsible for its compliance with any Third-Party Terms, and failure to comply with such terms may result in termination of Customer's right to access any features of the Products that utilize such Third-Party Materials. If no Third-Party Terms are specified, Customer may use Third-Party Materials solely in support of Customer's authorized use of the Products in accordance with this Agreement.

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

5.6 Content Subscriptions. This Section applies if the Product makes available Third-Party Materials as a data or content subscription ("**Subscription Content**"). If Customer has a separate agreement with Trimble or the applicable third party in place regarding the use of Subscription Content ("**Subscription Content Agreement**"), then such Subscription Content Agreement governs the use of Subscription Content accessed through the Product, but not the use of the Product itself, which will be governed by this Agreement. If no Subscription Content Agreement is in place, then, unless otherwise authorized by Trimble in writing, such Subscription Content may only be used solely for Customer's internal purposes during the applicable Term and only when accessed pursuant to a manual end user request. Customer will not: (i) access, extract, or download any Subscription Content, or portions thereof, in batch or mass by any means; (ii) sell, offer to sell, rent, sublicense, or transfer any copies of the Subscription Content, or portions thereof, to a third party or allow a third party to use the Subscription Content; (iii) use the Subscription Content to develop services or products for sale or include any portion of the Subscription Content in any product or service; (iv) use any portion of the Subscription Content to create a competitive service, product, or technology; (v) recreate the Subscription Content or create otherwise a separate database or other repository of Subscription Content; (vi) use Subscription Content to train, augment, or correct another database or

information repository; or (vii) make any portion of the Subscription Content available to the public in any manner. Upon notice from Trimble and/or any termination or expiration of the Term, Customer will immediately cease using and delete/destroy all electronic and physical copies of Subscription Content.

#### 5.7 Third-Party Platforms.

(a) Customer may choose to use a Product with Third-Party Platforms. Third-Party Platforms are not part of the Product. Subject to payment of additional fees, Trimble may host Trimble-approved Third-Party Platforms or integrations to Third-Party Platforms for use in connection with the Products.

(b) Use of Third-Party Platforms is subject to Customer's agreement with the relevant provider and not this Agreement, and may enable data exchange between the Products and Third-Party Platform. Trimble does not control and has no liability for Third-Party Platforms, including their security, functionality, operation, availability, or interoperability, or how the Third-Party Platforms or their providers use Customer Data. If Customer enables a Third-Party Platform with a Product, Trimble may access and exchange Customer Data with the Third-Party Platform on Customer's behalf.

(c) Customer represents and warrants that it shall, and shall require any provider of a Third-Party Platform to: (i) establish and maintain industry standard technical, organizational, physical, and administrative safeguards designed to ensure the security and integrity of the Product and Trimble cloud environment and (ii) comply with the security controls, configuration requirements, and access limitations imposed by Trimble, as may be modified by Trimble from time to time. If Trimble hosts the Third-Party Platform or integration to the Third-Party Platform, Customer represents and warrants to Trimble that Customer has all rights necessary to grant Trimble the right to host the Third-Party Platforms on its behalf.

#### 5.8 Third-Party Application Stores.

(a) Purchase from Application Store. If Customer obtains the Product through a third-party application store, marketplace, or other site or service (each, an "**Application Store**"), such Application Store is considered a reseller. All Fees are non-refundable once paid. Customer's download of the Product may be subject to other terms as specified by the operator of the Application Store from which Customer downloaded the Product.

(b) Apple-Specific Terms. If Customer downloaded the Product from Apple Inc.'s ("**Apple's**") Application Store, the following terms are part of this Agreement:

(i) This Agreement is between Customer and Trimble, and not with Apple. However, as required by Apple, Apple and its subsidiaries will be third-party beneficiaries of this Agreement and will have the right (and will be deemed to have accepted the right) to enforce this Agreement against Customer as a third-party beneficiary.

(ii) To the maximum extent permitted by Law, Apple will have no warranty obligation with respect to the Product, and, as between Apple and Trimble, any other claims, losses, liabilities, damages, costs, or expenses attributable to a failure to conform to a warranty will be Trimble's responsibility. Apple has no obligation whatsoever to furnish any maintenance or support services with respect to the Product.

(iii) As between Trimble and Apple, Trimble is solely responsible for the Product and for addressing any claims Customer or any third parties have about the Product or Customer's possession or use of the Product, including without limitation (A) product liability claims; (B) any claim that the Product fails to conform to any applicable legal or regulatory requirement; and (C) claims arising under consumer protection or similar legislation. In the event of any third-party claim that the Product or Customer's possession or use of the Product infringes that third party's intellectual property rights, Apple will not be responsible for the investigation, defense, settlement, or discharge of such claim.

### 6. **Support and Professional Services**.

6.1 Support. During the Term, Trimble will provide support and/or maintenance for the Products ("**Support**" or "**Software Assurance**") in accordance with the service level commitments specified on the applicable Order or the Supplemental Product Terms, if any ("**Support Terms**").

6.2 Professional Services. Trimble will provide Professional Services related to the Products as specified on the Order or a statement of work or work order ("**SOW**") signed or accepted by Customer. Professional Services are subject to the terms and conditions set forth in Exhibit C and the applicable Order or SOW.

### 7. **Term and Termination**.

7.1 Initial Term. If Customer purchases a subscription to a Product or a license to Licensed Software for a limited period of time, the duration of the initial term of the Order and this Agreement is set forth in the Order ("**Initial Term**"). Upon the expiration of the



Initial Term, the Order and this Agreement shall automatically renew in accordance with Section 7.2 (Renewal Term(s)), unless otherwise set forth in the Supplemental Product Terms or the Order. The Initial Term and any renewal period are collectively referred to as “**Term**.”

7.2 Renewal Term(s). Unless otherwise set forth in the Order, if Customer purchases a termed license or subscription to a Product or Support, upon the expiration of the Initial Term or any renewal Term, the Term shall automatically renew for subsequent term(s) equal in duration to the then-current term, until either party provides written notice to the other party of its intent not to renew at least 30 days before the expiration of the then-current Term.

7.3 Termination. Either party may terminate this Agreement, an Order, or a SOW if the other party (a) fails to cure a material breach of this Agreement (including a failure to pay Fees) within 30 days after written notice; (b) ceases operation without a successor; or (c) seeks protection under a bankruptcy, receivership, trust deed, creditors’ arrangement, composition, or comparable proceeding, or if such a proceeding is instituted against that party and not dismissed within 60 days. Termination of the Agreement will terminate all Orders and any SOWs, unless otherwise stated in the termination notice. Termination of an Order or SOW will not, by itself, terminate this Agreement.

7.4 Effect of Termination. Upon expiration or termination of this Agreement or an Order, Customer’s right to use the Products (including its license to any Product) will cease and Customer will immediately cease any and all use of and access to the Products and will delete (or, upon request, return) all copies of any Product. At the disclosing party’s request upon expiration or termination of this Agreement, the receiving party will delete all of the disclosing party’s Confidential Information (excluding Customer Data, which is addressed in Section 2.1 (Data Usage and Ownership)). Customer Data and other Confidential Information may be retained in the receiving party’s standard backups after deletion but will remain subject to this Agreement’s confidentiality restrictions.

7.5 Survival. These Sections survive expiration or termination of this Agreement: 1.4 (Restrictions), 2.1 (Data Usage and Ownership), 3 (Customer Obligations), 7.4 (Effect of Termination), 7.5 (Survival), 8 (Financial Terms), 9.3 (Disclaimers), 10 (Ownership), 11 (Limitations of Liability), 12 (Indemnification), 13 (Confidentiality), 15 (General Terms), and Exhibit B. Except where an exclusive remedy is provided, exercising a remedy under this Agreement, including termination, does not limit other remedies a party may have.

## **8. Financial Terms.**

8.1 Fees. Fees are as described in the Order or SOW (“**Fees**”). The payment terms for the first invoice for Products or Support will be set forth on the Order. Thereafter, the payment terms for Fees for Products and Support under that Order will be set forth in the invoice. Unless otherwise stated in a SOW or set forth in an invoice, Fees for Professional Services under an SOW are due upon receipt. Trimble may, without limiting Trimble’s other rights and remedies, accelerate Customer’s unpaid Fees under any Order for any breach of Customer’s payment obligations under any Order so that all such obligations become immediately due and payable, including Fees for all unbilled future Fees under any Order.

8.2 Increases. Unless otherwise set forth in the Order, (a) all recurring Fees will be fixed for a period of 12 months from the Effective Date, and (b) thereafter, Trimble may increase recurring Fees once every 12 months during the Term.

8.3 Late Fees. Any amount due under this Agreement that remains unpaid after its due date will bear interest at the lower of 1.5% per month or the maximum rate permitted by Law, calculated from the date such amount was due until the date that payment is received. Customer will pay all costs and expenses of collection (including attorneys’ fees) incurred by Trimble collecting any amounts past due under this Agreement. Subject to any mandatory Laws to the contrary, all Fees and expenses are non-refundable.

8.4 Taxes. Customer will pay any sales, use, GST, value-added, withholding, or similar taxes or levies that apply to its Orders or SOWs, whether domestic or foreign (“**Taxes**”), other than Trimble’s income tax. Fees and expenses are exclusive of Taxes. Customer will pay any foreign exchange transaction fees and any foreign exchange profits or losses incurred on such transactions.

## **9. Warranties and Disclaimers.**

9.1 Limited Warranty. Unless otherwise specified in the Supplemental Product Terms, and subject to any mandatory Laws to the contrary, Trimble warrants to Customer that during the Warranty Period the Products will perform materially as described in the Documentation. The “**Warranty Period**” is (i) 90 days from the Effective Date for Licensed Software deployed on premises or on a device pursuant to Section 1.1(b) and (ii) for the duration of the Term for any (1) Software-as-a-Service made available pursuant to Section 1.1(a) or (2) Licensed Software deployed through hosting services provided by Trimble pursuant to Section 1.1(c).

9.2 Warranty Remedy. If Trimble breaches Section 9.1 (Limited Warranty) during the Warranty Period, Customer may make a reasonably detailed warranty claim within 30 days of discovering the issue. Trimble will correct such breach by issuing corrected instructions, a restriction, or a bypass, or by replacing the Product. Subject to any mandatory Laws to the contrary, these procedures are Customer’s exclusive remedy and Trimble’s entire liability for breach of the warranty in Section 9.1 (Limited Warranty). This

warranty does not apply to (a) issues caused by misuse or unauthorized modifications; (b) unsupported versions of Licensed Software; (c) issues in or caused by Third-Party Platforms or other third-party systems; or (d) Trials and Betas or other evaluation use.

### 9.3 Disclaimers.

(a) General. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9.1 (LIMITED WARRANTY) OR IN ANY SUPPLEMENTAL PRODUCT TERMS, PRODUCTS, SUPPORT, AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS". TRIMBLE AND ITS SUPPLIERS MAKE NO (AND HEREBY DISCLAIM ALL) OTHER WARRANTIES, 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. WITHOUT LIMITING ITS EXPRESS OBLIGATIONS IN SECTION 6 (SUPPORT AND PROFESSIONAL SERVICES), TRIMBLE DOES NOT WARRANT THAT CUSTOMER'S USE OF THE PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE, THAT TRIMBLE WILL REVIEW CUSTOMER DATA FOR ACCURACY, OR THAT IT WILL MAINTAIN CUSTOMER DATA OR OTHER DATA WITHOUT LOSS. TRIMBLE IS NOT LIABLE FOR DELAYS, FAILURES, OR PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE TRIMBLE'S CONTROL. TRIMBLE WILL NOT BE LIABLE IN ANY MANNER FOR THE OUTPUT OBTAINED THROUGH USE OF THE PRODUCTS OR CUSTOMER'S RELIANCE ON SUCH OUTPUT. CUSTOMER IS RESPONSIBLE FOR THE SUPERVISION, MANAGEMENT, AND CONTROL OF CUSTOMER'S USE OF THE PRODUCTS. THIS RESPONSIBILITY INCLUDES THE DETERMINATION OF APPROPRIATE USES FOR THE PRODUCTS AND THE SELECTION OF THE PRODUCTS AND OTHER PROGRAMS TO ACHIEVE INTENDED RESULTS. ANY FORMS, POLICIES, OR OTHER MATERIALS PROVIDED BY TRIMBLE THROUGH THE PRODUCTS OR DOCUMENTATION ARE NOT INTENDED AND SHOULD NOT BE RELIED UPON AS LEGAL ADVICE OR LEGAL OPINION. CUSTOMER SHOULD CONSULT ITS OWN LEGAL COUNSEL REGARDING THE USE OF ANY SUCH MATERIALS. CUSTOMER IS ALSO RESPONSIBLE FOR ESTABLISHING THE ADEQUACY OF INDEPENDENT PROCEDURES FOR TESTING THE RELIABILITY AND ACCURACY OF ANY OUTPUT OF THE PRODUCTS. CUSTOMER MAY HAVE OTHER STATUTORY RIGHTS, BUT ANY STATUTORILY REQUIRED WARRANTIES WILL BE LIMITED TO THE SHORTEST LEGALLY PERMITTED PERIOD.

(b) Customer Applications. Trimble hereby disclaims any warranty, support, or other obligations with respect to any Customer Applications.

(c) Scripts. Subject to mandatory Laws to the contrary, Scripts are provided "AS IS" and Trimble hereby disclaims any warranty, support, or other obligations with respect to any Scripts, including, without limitation, any Scripts provided by Trimble.

(d) Third-Party Materials and Third-Party Platforms. Third-Party Materials and Third-Party Platforms are provided "AS IS" and Customer assumes all risk and liability regarding any use of (or results obtained through) Third-Party Materials or Third-Party Platforms. Trimble and its suppliers make no warranty or guarantee regarding any Third-Party Materials or Third-Party Platforms, including regarding their accuracy or continued availability or compatibility.

(e) High Risk Activities and Prohibited Data. Trimble and its suppliers specifically disclaim any responsibility for, and will not be liable in any manner arising from, any use of the Products in connection with High Risk Activities or with any Prohibited Data.

**10. Ownership.** Neither party grants the other any rights or licenses not expressly set out in this Agreement. Except for Customer's use rights in this Agreement, Trimble and its licensors retain all intellectual property and other rights in the Products, Documentation, other deliverables and related Trimble technology, templates, formats, and dashboards, including any modifications or improvements to these items made by Trimble. If Customer provides Trimble with any suggestions, ideas, enhancement requests, feedback, recommendations, or other information relating to a Product ("**Feedback**"), Customer hereby grants to Trimble and its Affiliates a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid up license to use and otherwise exploit the Feedback.

**11. Limitations of Liability.** TRIMBLE'S CUMULATIVE LIABILITY TO CUSTOMER FOR ALL CLAIMS IN ANY WAY ARISING OUT OF OR RELATING TO THE ORDER, ANY SOW, THIS AGREEMENT, AND THE PRODUCTS OR SERVICES, REGARDLESS OF THE FORM OR THEORY OF ACTION (INCLUDING BREACH OF CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL OR EQUITABLE THEORY), SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID TO TRIMBLE BY CUSTOMER FOR THE RELEVANT PRODUCT OR SERVICES IN THE PRIOR 12 MONTHS UNDER THIS AGREEMENT. IN NO EVENT WILL TRIMBLE OR ITS SUPPLIERS OR THIRD-PARTY VENDORS HAVE ANY OBLIGATION OR LIABILITY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR AGGRAVATED DAMAGES, LOSS OF GOODWILL, LOSS OF DATA, OR ANTICIPATED PROFITS ARISING FROM OR RELATING TO THIS AGREEMENT, CUSTOMER'S USE OF OR THE PERFORMANCE OF THE PRODUCTS OR FROM THE SERVICES, OR FOR ANY OTHER REASON, EVEN IF TRIMBLE OR ITS SUPPLIERS OR THIRD-PARTY VENDORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE. CUSTOMER ACKNOWLEDGES THAT THE FEES REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT TRIMBLE WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS. THE FOREGOING LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES SHALL APPLY REGARDLESS OF THE SUCCESS OR EFFECTIVENESS OF OTHER REMEDIES.

**12. Indemnification.** Customer will defend, indemnify, and hold harmless Trimble from and against any and all third-party claims, costs, damages, losses, liabilities, and expenses (including reasonable attorneys' fees and costs) arising out of or in connection with (a) any Customer Data, or (b) Customer's breach or alleged breach of Section 3 (Customer Obligations), Section 5.4 (Third-Party Materials), or Section 5.7 (Third-Party Platforms) (each, a "**Claim**"). Trimble will give Customer prompt written notice of any Claim and will cooperate in relation to the Claim at Customer's expense. Customer will have the exclusive right to control and settle any Claim, except that Customer may not settle a Claim without Trimble's prior written consent (not to be unreasonably withheld) if the settlement requires Trimble to admit any liability or take any action or refrain from taking any action (other than ceasing use of infringing materials). Trimble may participate in the defense of any Claim at its expense.

### **13. Confidentiality.**

13.1 **Definition.** "**Confidential Information**" means information disclosed to the receiving party under this Agreement that is designated by the disclosing party as proprietary or confidential or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. Trimble's Confidential Information includes the terms and conditions of this Agreement and any technical or performance information about the Products, Support, or Professional Services. Customer's Confidential Information includes Customer Data.

13.2 **Obligations.** As a receiving party, each party will use reasonable care to protect the disclosing party's Confidential Information from being disclosed to third parties except as permitted in this Agreement, including, without limitation, in Section 2.1 (Data Usage and Ownership) and (b) only use Confidential Information to fulfill its obligations and exercise its rights in this Agreement. The receiving party may disclose Confidential Information to its employees, agents, Affiliates, contractors, and other representatives having a legitimate need to know (including, for Trimble, the subcontractors referenced in Section 15.8 (Subcontractors)), provided it remains responsible for their compliance with this Section and they are bound to confidentiality obligations no less protective than this Section.

13.3 **Exclusions.** These confidentiality obligations do not apply to information that the receiving party can document (a) is or becomes public knowledge through no fault of the receiving party; (b) it rightfully knew or possessed prior to receipt under this Agreement; (c) it rightfully received from a third party without breach of confidentiality obligations; or (d) it independently developed without using the disclosing party's Confidential Information.

13.4 **Remedies.** Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or threatened breach of this Section.

13.5 **Required Disclosures.** Nothing in this Agreement prohibits either party from making disclosures, including of Customer Data or Confidential Information, if required by Law, subpoena, or court order, provided (if permitted by Law) it notifies the other party in advance and reasonably cooperates in any effort to obtain confidential treatment.

**14. Publicity.** Neither party may publicly announce this Agreement except with the other party's prior consent or as required by Law. Trimble may include Customer and its trademarks in Trimble's customer lists and promotional materials but will cease this use at Customer's written request.

### **15. General Terms.**

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

15.2 **Non-Solicitation.** During the Term of this Agreement, and for a period of one year following expiration or termination of this Agreement, Customer shall not on its own behalf or on behalf of any third party, solicit, hire, or cause to be hired as an employee or engage or caused to be engaged as an independent contractor any person who was an employee or independent contractor of Trimble, without the prior written consent of Trimble.

15.3 **Notices.** Except as set out in this Agreement, any notice or consent under this Agreement must be in writing and will be deemed given: (a) upon receipt if by personal delivery; (b) upon receipt if by certified or registered mail (return receipt requested); or (c) one day after dispatch if by an internationally reputable commercial overnight delivery service. If to Trimble, notice must be provided to the address in Exhibit A, with a copy to Trimble Inc., Attn: General Counsel – Important Notice, 935 Stewart Drive, Sunnyvale, CA 94085, USA. If to Customer, Trimble may provide notice to the address Customer provided at registration or on the Order. Either party may update its address with notice to the other party. Trimble may also send general and operational notices to Customer by email or through the Products, including suspension, collection, and termination notices related to overdue Fees.

15.4 Entire Agreement. This Agreement (which includes the Order, any SOWs, any applicable Supplemental Product Terms, and any applicable Support Terms) is the parties' entire agreement regarding its subject matter and supersedes any prior or contemporaneous agreements regarding its subject matter. In this Agreement, headings are for convenience only and "including" and similar terms are to be construed without limitation. The terms in any Customer purchase order, business form, or other similar documents will not amend or modify this Agreement and are expressly rejected by Trimble; any of these Customer documents are for administrative purposes only and have no legal effect.

15.5 Amendments. Except as otherwise provided herein, any amendments, modifications, or supplements to this Agreement must be in writing and signed by each party's authorized representatives or, as appropriate, agreed through electronic means provided by Trimble. Documentation and Support Terms are not subject to this Section. Trimble may modify Documentation and Support Terms to reflect new features or changing practices, but the modifications will not materially decrease Trimble's overall obligations during a Term.

15.6 Waivers and Severability. Waivers must be in writing signed by the waiving party's authorized representative and cannot be implied from conduct. Each provision contained in this Agreement constitutes a separate and distinct provision severable from all other provisions. If any provision (or any part thereof) is unenforceable under or prohibited by any present or future law or is held by a court of competent jurisdiction or arbitrator to be invalid, void, or unenforceable, then such provision (or part thereof) will be amended, and is hereby amended, so as to be in compliance with such law, while preserving to the maximum extent possible the intent of the original provision. Any provision (or part thereof) that cannot be so amended will be severed from this Agreement; and, all the remaining provisions of this Agreement will remain unimpaired.

15.7 Force Majeure. Neither party is liable for any delay or failure to perform any obligation under this Agreement (except for a failure to pay Fees) due to events beyond its reasonable control, such as a strike, blockade, war, act of terrorism, riot, Internet or utility failures, refusal of government license, pandemics, or natural disaster.

15.8 Subcontractors. Trimble may use subcontractors and permit them to exercise Trimble's rights in connection with this Agreement, including for hosting purposes. Trimble remains responsible for compliance of any such subcontractors with this Agreement and for its overall performance under this Agreement.

15.9 Independent Contractors. The parties are independent contractors, not agents, partners, or joint venturers.

15.10 Export Restrictions. Customer acknowledges that the Products are subject to export restrictions by the United States government and import restrictions by certain foreign governments. Customer will not, and will not allow any third party to, remove or export from the United States or allow the export or re-export of any part of the Products or any direct product thereof: (i) into (or to a national or resident of) any embargoed or terrorist-supporting country; (ii) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (iii) 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 (iv) otherwise in violation of any export or import restrictions, Laws of any United States, or foreign agency or authority. Customer warrants that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. The Products are further restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology, or for terrorist activity, without the prior permission of the United States government. Customer will defend, indemnify, and hold Trimble harmless against any liability (including attorneys' fees) arising out of Customer's failure to comply with the terms of this Section. Customer's obligations under this Section will survive the termination of this Agreement for any reason whatsoever.

15.11 Anti-Corruption. Each party shall, and shall require that its officers, employees, and agents, (a) comply with all applicable anti-corruption and anti-bribery laws, including but not limited to the U.S. Foreign Corrupt Practices Act of 1997 and the U.K. Bribery Act 2010, each as amended and including any rules or regulations thereunder; (b) not directly or indirectly offer, promise, or give any person working for or engaged by the other party a financial or other advantage to induce that person to perform improperly a relevant function or activity or reward that person for improper performance of a relevant function or activity; and (c) not directly or indirectly request, agree to receive, or accept any financial or other advantage as an inducement or reward for improper performance of a relevant function or activity in connection with this Agreement.

15.12 Government End-Users. Elements of the Products are commercial computer software. If the user or licensee of the Products is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Products or any related documentation of any kind, including technical data and manuals, is restricted 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 Products were developed fully at private expense. All other use is prohibited.

15.13 No Third-Party Beneficiaries. This Agreement does not confer any rights or remedies upon any third party except to the extent expressly set forth in this Agreement.

15.14 Governing Law, and Venue. The Agreement is governed exclusively by, and construed and enforced exclusively in accordance with, the laws of the applicable jurisdiction set forth in Exhibit A under "Governing Law" for the applicable Trimble entity without regard to or application of its conflicts of laws provisions and without regard to or application of the United Nations Convention on the International Sale of Goods. The parties agree that any legal proceeding arising out of or related to this Agreement will be subject to the sole and exclusive jurisdiction and venue set forth in Exhibit A under "Exclusive Venue/Jurisdiction," to the exclusion of all others. Each party irrevocably consents and hereby submits to the personal jurisdiction thereof.

15.15 Jury Trial Waiver. If the Agreement is governed by U.S. law, this Section applies. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, AND APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

**EXHIBIT A**

**TRIMBLE NOTICE ADDRESS, GOVERNING LAW, AND VENUE/JURISDICTION**

<b>Trimble Entity and Notice Address*</b>	<b>Governing Law</b>	<b>Exclusive Venue/Jurisdiction</b>
<p>Trimble Inc. 935 Stewart Drive, Sunnyvale, CA 94085 United States</p> <p>AgileAssets Inc. 3001 Bee Caves Rd #200, Austin, TX 78746</p> <p>Azteca Systems, LLC 11075 South State Street Suite 24 Sandy, UT 84070</p> <p>e-Builder Inc. 13450 West Sunrise Blvd Suite 600, Sunrise, FL</p>	<p align="center">Delaware</p>	<p align="center">State of Delaware and United States federal courts located in Wilmington, Delaware</p>
<p>Trimble Europe B.V. Industrieweg 187a, 5683 CC, Best, The Netherlands</p>	<p align="center">The Netherlands</p>	<p align="center">Courts of Amsterdam</p>

*\*See additional notice address for Trimble in Section 15.3 (Notices).*

**EXHIBIT B**  
**DEFINITIONS**

**“Affiliate”** means an entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership or control with a party, where “ownership” means the beneficial ownership of 50% or more of an entity’s voting equity securities or other equivalent voting interests, and “control” means the power to direct the management or affairs of an entity.

**“Anonymized Data”** means any data collected in connection with the Products (including Customer Data) that has been aggregated and/or de-identified in such a manner that neither Customer nor any of its Authorized Users or any other individual can be identified from the data when it is shared outside of Trimble or its Affiliates.

**“Authorized User”** or **“User”** means any type of user authorized by Customer to access and use the Products on Customer’s behalf, including any additional requirements as set forth in the Order or Supplemental Product Terms.

**“Concurrent User”** means any type of User authorized by Customer to access and use the Products on Customer’s behalf simultaneously at a given point in time.

**“Customer Data”** means any information, documents, materials, or other data of any type that is input by or on behalf of Customer into the Products or that is created or generated by Customer through Customer’s use of the Products, including without limitation information or data that is submitted manually by Authorized Users or through a Third-Party Platform.

**“Customer Group”** means, if applicable, Customer’s business units, Affiliates, or Joint Ventures listed in the Order that are permitted to authorize Users to use the Products on behalf of those business units, Affiliates, or Joint Ventures.

**“Deliverables”** shall mean any Trimble deliverables as expressly set forth on a SOW.

**“Documentation”** means Trimble’s then-current usage guidelines and standard technical documentation applicable to the Products.

**“High Risk Activities”** mean any mission critical, hazardous, strict liability, or other activity(ies) where use or failure of the Products could lead to death, personal injury, or physical or environmental damage. Examples of High Risk Activities include, but are not limited to: aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, autonomous vehicles, air traffic control, emergency services, or weaponry systems. High Risk Activities do not include utilization of Products for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or physical or environmental damage. These non-controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function.

**“Joint Venture”** means a business arrangement in which Customer and one or more other third parties agree to pool their resources to accomplish a Project or other commercial enterprise.

**“Law(s)”** means all applicable local, state, federal, and international laws, regulations, and conventions, including those related to data privacy and data transfer, international communications, and export of technical or personal data.

**“License Keys”** means electronic passwords or other enabling mechanisms provided for use with a Product.

**“Licensed Software”** means the object code form of Trimble’s proprietary installed software product, as identified in the relevant Order. The Licensed Software includes the Documentation, and any maintenance releases of the same Licensed Software product provided by Trimble to Customer under this Agreement, and optional software component module(s) that provides specific features and functionality enhancements for the Licensed Software not available in the standard configuration of the Licensed Software. Licensed Software does not include Third-Party Materials or Third-Party Platforms.

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

**“Order”** means (a) any ordering documents, proposals, quotations, sales agreement, or similar documents issued by Trimble or executed by Customer or (b) any Trimble-issued entitlement confirmation or online order acknowledgement.

**“Product(s)”** means the applicable Licensed Software or Software-as-a-Service offerings listed on an Order, including any platforms, add-on, integrations, service, or products provided or sold by Trimble with any of the foregoing.

**“Professional Services”** means any training, enablement, configuration, or other professional consulting services provided by Trimble related to the Products, as identified in the Order or SOW.

**“Prohibited Data”** means any (a) patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (as amended and supplemented) (“**HIPAA**”); (b) credit, debit, or other payment card data subject to the Payment Card Industry Data Security Standards (PCI DSS); or (c) information subject to regulation or protection under the Children’s Online Privacy Protection Act or Gramm-Leach Bliley Act.

**“Software-as-a-Service”** means a Trimble proprietary cloud service, any Product available through a software-as-a-service, or other hosting services deployment model, as identified in the relevant Order and as modified from time to time. This includes Documentation, but does not include Third-Party Materials or Third-Party Platforms not provided by Trimble.

**“Third-Party Materials”** means any third-party data, content, or proprietary software.

**“Third-Party Platform”** means any platform, add-on, service, or product not provided by Trimble that Customer elects to integrate or enable for use with the Products, including any Trimble-approved Third-Party Platforms that Trimble may host on behalf of Customer.

**“Usage Limitations”** means Customer’s authorized scope of use for the Products as specified in the applicable Order or Supplemental Product Terms, which may include any user, seat, copy, instance, data storage, CPU, computer, field of use, location, or other restrictions.



## EXHIBIT C

### PROFESSIONAL SERVICE TERMS

**1. Statements of Work.** If purchased by Customer, Trimble or its authorized service providers will use commercially reasonable efforts to provide Professional Services to Customer described in an Order or SOW by the delivery dates specified therein, if any, or on a mutually agreeable schedule. Any changes in scope must be made in writing and approved by authorized representatives of Customer and Trimble.

**2. Customer Materials.** Customer agrees to provide Trimble with reasonable access to Customer's technical data, computer programs, files, documentation, and/or other materials (collectively, "**Customer Materials**") and to Customer's resources, personnel, equipment, and facilities to the extent necessary for the performance of Professional Services. Client will be responsible for, and assumes the risk of any problems resulting from the content, accuracy, completeness, competence, or consistency of Customer Materials or its personnel. To the extent that Customer does not timely provide the foregoing access required for Trimble to perform the Professional Services, Trimble shall be excused from performance until such items or access are provided. Subject to the confidentiality provisions of this Agreement, Customer hereby grants Trimble a limited and revocable right to use the Customer Materials for the purpose of performing the Professional Services for Customer. Customer owns and will retain ownership (including all intellectual property rights) in the Customer Materials.

**3. Customer Premises.** Customer shall provide Trimble with safe access to Customer's premises as reasonably required for Trimble to perform the Professional Services, if onsite performance of Professional Services is needed and agreed to by Customer. Trimble personnel shall comply with the reasonable written rules and regulations of Customer related to use of its premises, provided that such written rules and regulations are provided to Trimble prior to commencement of the Professional Services.

**4. Deliverables.** Trimble hereby grants Customer worldwide, royalty-free, non-exclusive license to use the Deliverables for its internal business purposes in connection with the Products associated with such Deliverables and only for the period of time that Customer has a license or subscription to such Products. Unless expressly stated otherwise in the applicable SOW, Trimble owns and will retain ownership (including all intellectual property rights) in and to the Deliverables (excluding any Customer Materials) and any modifications, improvements, and derivative works thereof (including any such materials to the extent incorporating any Feedback). If the parties have agreed that Trimble will assign ownership of Deliverables to Customer, the relevant SOW must set forth the terms and conditions regarding such assignment.

**5. Services Warranty.** Trimble will perform the Professional Services and deliver the Deliverables as scoped in an Order or SOW in a professional and workmanlike manner. If notified of a non-conformity within 10 days of delivery of the applicable Professional Services or Deliverables, and if Customer provides a sufficiently detailed justification to Trimble to allow Trimble to identify the non-confirming Professional Services or Deliverables, Trimble will, as its sole liability and obligation for failure to provide Professional Services or Deliverables meeting this warranty, re-perform the non-confirming Professional Services or re-deliver the non-confirming Deliverables at no additional cost to Customer.

**6. Travel Expenses.** Trimble will invoice Customer for reasonable out-of-pocket travel expenses incurred in connection with performing Professional Services. Expenses may include, but are not limited to, airfare and other transportation, lodging, and incidentals. Expenses may also include meals reimbursable per a flat per diem rate, available upon request. Expenses will be invoiced monthly as incurred at Trimble's cost (except per diem), and may be invoiced separately from Fees. For Professional Services performed onsite at Customer's premises, Trimble may invoice Customer for its consultants' time spent traveling to and from Customer's premises if set forth in the SOW.

## Addendum #2

### Supplemental Product Terms

#### 1. Intellectual Property Indemnification.

- (a) **Indemnification by Trimble.** Trimble shall defend Customer from and against any claim of infringement of a U.S. patent, U.S. copyright, or U.S. trademark asserted against Customer by a third party based upon Customer's use of the Products in accordance with the terms of this Agreement, and pay any resulting settlement or final judgment. If Customer's use of any of the Products are, or in Trimble's opinion are likely to be, enjoined due to the type of infringement specified above, or if required by settlement, Trimble may, in its sole discretion: (a) substitute for the Products substantially functionally similar programs and documentation; (b) procure for Customer the right to continue using the Products; or if (a) and (b) are commercially impracticable, (c) terminate the Agreement and refund to Customer the fee paid by Customer as reduced to reflect a five year straight-line depreciation from the applicable purchase date. The foregoing indemnification obligation of Trimble will not apply: (1) if the Products are modified by any party other than Trimble; (2) if the Products are combined with other non-Trimble products, but solely to the extent that the alleged infringement is caused by such combination; (3) to any unauthorized use of the Products; (4) to any unsupported release of the Products; or (5) to any third-party code, content, and/or data contained in and/or delivered with the Products.
- (b) **Indemnification Process.** Trimble's indemnification obligations are contingent upon receipt of: (i) prompt notice of such claim (but in any event notice in sufficient time for the indemnifying party to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (iii) all reasonable necessary cooperation of Customer.
- (c) THIS ADDENDUM #2 OF THE SUPPLEMENTAL PRODUCT TERMS SETS FORTH TRIMBLE'S AND ITS SUPPLIERS' SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT AND/OR MISAPPROPRIATION.

#### 2. **Roadmap Disclaimer.** CUSTOMER AGREES THAT ITS PURCHASES ARE NOT CONTINGENT ON THE DELIVERY OF ANY FUTURE FUNCTIONALITY OR FEATURES, OR DEPENDENT ON ANY ORAL OR WRITTEN PUBLIC COMMENTS MADE BY TRIMBLE REGARDING FUTURE FUNCTIONALITY OR FEATURES.

#### 3. **Public Entity.** To the extent Customer is a public or governmental entity, then the following provisions apply to the extent applicable:

- a. **Tax Exemption.** If Customer is a tax exempt entity and provides evidence of a tax-exempt certificate prior to executing this Agreement, then Section 8.4 (Taxes) of the Agreement shall be inapplicable.
- b. **No Indemnification by Customer.** Section 12 (Indemnification) of the Agreement and the second to last sentence of Section 15.10 (Export Restrictions) of the Agreement shall be inapplicable.
- c. **Public Records Law.** Customer's confidentiality obligations in Section 13 (Confidentiality) of the Agreement may be subject to applicable public records law.
- d. **Limited Publicity.** The second sentence of Section 14 (Publicity) of the Agreement shall be inapplicable.
- e. **Termination for Convenience.** Customer may terminate this Agreement for convenience on not less than sixty (60) days' written notice to Trimble. If Customer terminates this Agreement under this paragraph, all fees properly due, but not paid, shall immediately become due and payable. All previously paid fees (both used and unused) for the current Term shall be non-refundable and forfeited. Furthermore, all earned, but unpaid, fees for Professional Services must be paid in full before the termination becomes effective.
- f. **Non-Appropriation of Funds.** The Customer's funds for future and ongoing purchases are contingent on the availability of future appropriations of funds. If funds are not appropriated for any payments due under this Agreement, the Customer will promptly notify Trimble in writing and the applicable Order will terminate as of the date of the notice in accordance with paragraph (e) above and the Customer will have no further obligation to make any payments with respect to the affected Order, provided however that the Customer shall pay for any goods or services ordered prior to the date of the Customer's notice.

g. **Piggyback.** Trimble does business with many government entities whose applicable laws permit them to join an existing contract between another governmental agency and vendor to acquire goods and services thereunder. In such circumstances and if allowable by applicable law and contract, Customer expressly agrees to allow the other governmental agencies to acquire goods and services using this Agreement (“piggyback”), subject to applicable pricing of the Trimble offerings at the time of the piggyback purchase.

h. **Governing Law.** Notwithstanding Section 15.14 (Governing Law, and Venue) of the Agreement, the Laws of the jurisdiction required by applicable law shall exclusively govern this Agreement.

4. **Post-Termination.** Upon expiration or termination of the Agreement, Customer will (i) stop accessing and using affected Product(s); (ii) clear any client-side data cache derived from use of the Product(s); and (iii) uninstall, remove, and destroy all copies of affected Product(s) in Licensee's possession or control, including any modified or merged portions thereof, in any form, and execute and deliver evidence of such actions to Trimble. Upon termination of the License and Maintenance Agreement, all Product licenses granted hereunder terminate as well. For 30 days from the expiration or termination of the Agreement, Trimble will make Customer Data available to Customer upon request for export or download for the applicable Product. Additional fees may apply.

5. **Consultant or Contractor Access.** Trimble grants Customer the right to permit Customer's Third-Party Consultants or Contractors to use the Products exclusively and solely for Customer's benefit. Customer must comply with terms and provisions of Exhibit D and provide an executed copy to Trimble. Customer shall be solely responsible for compliance by Third-Party Consultants and Contractors with this Agreement and shall ensure that the Third-Party Consultant or Contractor discontinues Product use upon completion of work for Customer. Access to or use of Products by Third-Party Consultants or Contractors not exclusively for Customer's benefit is prohibited.

**EXHIBIT D**

**THIRD-PARTY CONSULTANT/CONTRACTOR ACKNOWLEDGMENT**

If Customer engages any third party or contractor (Third Party) and desires to grant access to use the Products, the access may be granted subject to the following terms conditions and provisions:

1. Access and use of the Licensed Products by Third Party is solely for Customer’s benefit;
2. Third Party (or, if applicable, its employee) shall be considered the Authorized User, and all use shall be in accordance with the terms and conditions of the Trimble Agreement with Customer;
3. Before accessing the Products, Third Party agrees that (i) the Products shall be used solely in accordance with the terms of this Agreement, and (ii) Third Party shall be liable to Trimble for any breach by it of this Agreement;
4. Customer hereby agrees and acknowledges that Customer will be responsible for all use by Third Party with respect to the use of the Products;
5. Upon expiration or termination of this Agreement, the rights of usage of Third Party shall immediately terminated;
6. Use of the Products by Third Party will be governed by the terms of Customer’s Agreement with Trimble, and will require that Customer purchase the appropriate license or access for each user utilized by Third Party; and
7. Customer will ensure that Third-Party agrees to comply with and does comply with the terms of Customer’s Trimble Agreement on the same basis as the terms apply to Customer.

The rights granted under Third-Party Contractor Addendum, do not modify Customer’s Agreement with Trimble or increase the access or licenses granted under this Agreement. Third Party, by their signature below, acknowledges that it has a copy of Customer’s Agreement with Trimble and agrees to the terms herein. Customer shall provide a signed copy of this Agreement to Trimble at [contracts@cityworks.com](mailto:contracts@cityworks.com).

**Customer:** City of Ann Arbor, MI

**Third Party (Print):** \_\_\_\_\_

By: \_\_\_\_\_

Third Party/Contractor Authorized Signature

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Third Party Information:

Address City, State, Zip	
Contact Name	
Phone Number	
Email	

**Addendum #3**

**Support**  
*Version 1.0*

**1. Releases**

- 1.1. General.** “**Release**” means an update or upgrade to the Product made available to all customers using that Product that improves usability or adds functionality, cosmetic changes, or bug fixes. Trimble will use commercially reasonable efforts to provide prior notice to Customer through the Customer Portal, or other communication channels when Releases are made generally available to all customers, excluding any non-general Releases or unplanned Releases. Trimble will decide the contents and timing of all Releases in its sole discretion.
- 1.2. Software-as-a-Service and Hosted License Software.** Trimble will update (i) Software-as-a-Service or (ii) Licensed Software hosted by Trimble in each case as new Releases become generally available.
- 1.3. On Premise Licensed Software.** For Licensed Software not hosted by Trimble, Customer is responsible for installing all Releases. Upon Customer’s election to install a Release, Customer agrees to cease all use of the prior version of the Licensed Software and destroy all copies. Releases may require Customer to update third party software, hardware, or operating systems at Customer’s expense.

**2. Support**

**2.1. Generally.**

- a) Trimble shall use the applicable level of effort to correct or provide a workaround for any reproducible error in the Product attributable to Trimble commensurate with the severity of the error, as reasonably determined by Trimble in accordance with Section 2.3 below.
- b) For certain Products as set forth in Section 2.2(a) below, Trimble may provide a customer support portal (the “**Support Portal**”), which may allow Customer to submit support requests, report issues, view case histories, search the general knowledge database, and other features, as applicable. In the event of any conflicts between the terms set forth herein and any set forth in the applicable Support Portal, the terms herein shall govern.
- c) For certain Products as set forth in Section 2.2(a) below, Trimble will provide support to Customer only by communication with the contacts designated by Customer in the Support Portal or otherwise as instructed by Trimble (each, a “**Authorized Support Contact**”). Customer may update Authorized Support Contact(s) from time to time as instructed by Trimble. Trimble may require the Authorized Support Contact(s) to have the relevant technical knowledge regarding the Products necessary to assist Trimble as needed.
- d) Upon identification of any error that cannot be resolved by Customer as first line of support (e.g., via the Support Portal, its internal staff, etc.), then Customer (through its Authorized Support Contact(s)) shall promptly notify Trimble of such error and shall provide Trimble with enough information, assistance, and cooperation to reproduce the error, including a listing of output and any other data that Trimble may reasonably request in order to reproduce the error and operating conditions under which the error occurred or was discovered. Trimble shall not be responsible for correcting any errors not attributable to Trimble.
- e) For certain Products, Trimble may provide additional or different support services or procedures as set forth in the applicable documentation, support handbook, or other written documentation provided by Trimble, if any (the “**Additional Support Documentation**”). If there is any conflict between these support terms and such Additional Support Documentation with respect to the description of support services or procedures, the provisions of such Additional Support Documentation will prevail. Trimble may use third-parties to provide support and maintenance services on its behalf. Customer expressly consents to Trimble permitting such third parties to access Customer information and data to perform the support services.

**2.2. Reporting: Availability**

- a) Support portals and general availability is described below.

Product	Support Portal*	Authorized Support Contacts Only?***
AgileAssets	<a href="https://agileassets.com/techsupport">https://agileassets.com/techsupport</a>	Yes
Cityworks	<a href="https://mycityworks.force.com">https://mycityworks.force.com</a>	Yes
e-Builder (non-Fed Ramp)	<a href="https://www.e-builder.net/customer-center">https://www.e-builder.net/customer-center</a>	No
e-Builder (Fed Ramp)	Support information available upon request.	Yes
Trimble Water	<a href="https://mytrimblewater.force.com/s/login">https://mytrimblewater.force.com/s/login</a>	No

\* Additional phone numbers and hours of availability for contacting Trimble with support requests may be listed in the Support Portal.

**2.3. Severity Priority Levels.** As soon as reasonably practicable after Customer submits the relevant case information, Trimble will collect additional information and categorize the issue into one of four classifications as set forth below in good faith. Upon Customer submission of the case information, Trimble will use commercially reasonable efforts to issue a Response (as defined below) by the indicated target response goal set forth below. Once the priority level is determined, Trimble will use the level of effort for resolution described below.

Priority Level*	Priority Criteria	Target Response Goal**	Level of Effort for Resolution
P1	most urgent and impactful	½ hour	Trimble and Customer will prioritize any reasonably available resources to resolve the situation or identify a work around.
P2	urgent and impactful, but usually has an acceptable temporary workaround	½ hour	Trimble and Customer will prioritize any reasonably available resources during standard business hours to resolve the situation or identify a work around.
P3	important, but not urgent and impactful	4 hrs	Trimble and Customer will use generally available resources during standard business hours to resolve the situation or identify a work around.
P4	a low priority, informational, or an enhancement request	24 hrs	Trimble and Customer are willing to use generally available resources during standard business hours to provide information or assistance.

\* See Priority Matrix and definitions below. The main factors in determining priority level are urgency and impact. Trimble will also consider in good faith any additional relevant facts and circumstances in consultation with Customer that may result in a mutually agreed upon change in priority level.

**\*\* The use of the term "hour(s)" refers to business hours based on Trimble's regular business schedule, and excludes nights, weekends and locally-observed holidays (e.g., 24 hrs equals 3 business days at 8 hrs a day). "Response" means acknowledgment of the issue via the creation of a case number. Determination of priority level will occur as soon as practicable thereafter.**

**Priority matrix**

		<b>Impact</b>			
		<b>Widespread</b>	<b>Large</b>	<b>Localized</b>	<b>Individualized</b>
<b>Urgency</b>	<b>Critical</b>	P1	P1	P2	P2
	<b>High</b>	P1	P2	P2	P3
	<b>Medium</b>	P2	P3	P3	P3
	<b>Low</b>	P4	P4	P4	P4

**Definitions**

<b>Impact</b>	Impact is a measure of the number of users, sites, or devices affected.	<p><b>Widespread.</b> More than three quarters of users or devices are affected.</p> <p><b>Large.</b> (1) Multiple sites are affected or (2) between one-half and three-quarters of users or devices are affected.</p> <p><b>Localized.</b> (1) A single site is affected or (2) less than one half of users or devices are affected.</p> <p><b>Individualized.</b> A single or a small number of users or devices are affected.</p>
<b>Urgency</b>	Urgency is a measure of the severity of the issue on the Customer's operations.	<p><b>Critical.</b> Use of Product as a whole or core functionality is stopped with no work around and with severe immediate impact to the Customer's operations (e.g., outage).</p> <p><b>High.</b> Use of Product as a whole or core functionality is severely degraded or a work around is available, and with immediate impact to the Customer's operations.</p> <p><b>Medium.</b> Use of Product or any functionality is not working as expected, and can be addressed through education, training, work around, work order, or a future enhancement.</p>



## Definitions

**Low.** All other requests that are not the above.

### 2.4. Limitations and Conditions.

- (a) Unless otherwise expressly provided by Trimble in writing, Trimble does not support: (i) use of the Product in a manner other than as authorized in the Agreement; (ii) alterations of the Product by Customer or a third-party; (iii) conversions of Customer's databases to accommodate new hardware or software, (iv) Customer Data debugging or manipulation, (v) recurring support issues where Customer failed to initiate corrective actions previously recommended by Trimble or to provide information requested by Trimble, (vi) training, implementation, report creation, onsite support, customizations (e.g., scripting or integration), or assistance with server migrations are not included as part of Support, but such services but may be purchased separately, (vii) any Release of the Product other than the current and an immediately preceding Release unless covered under a separate agreement (this includes preview, beta, or candidate releases), (viii) Third-party Materials or Third-Party Platforms; (ix) any Products for which maintenance and/or support fees have not been paid, or (x) any Product where Customer has failed to meet its obligations with respect to the Agreement, including, without limitation, as set forth below.
- (b) Customer must (i) require its personnel to obtain adequate training to operate the Product(s), (ii) if required by Trimble for the particular Product, designate Authorized Support Contacts who will submit all support cases to Trimble, (iii) provide internet and/or network access for Trimble when requesting support; and (iv) provide all information and assistance reasonably requested by Trimble related to the support request.
- (c) For Licensed Software not hosted by Trimble, Customer is responsible for (i) securing the server environment, local network, and system security and protocols, including having staff qualified to assume responsibility for management administration and support for Customer's hardware, database, and any Third-Party Materials and/or Third-Party Platforms, (ii) maintaining regular and frequent data backups, and recovering such data if necessary from backups maintained by Customer, (iii) establishing a secure method of access to Customer's network as well as maintaining security protocols for Customer's network; and (iv) incorporating Releases and any associated data migration.
- (d) If any Customer support request is subject to any of the foregoing, then Trimble reserves the right to impose support fees at its then standard commercial time and materials rates for all such services, including pre-approved travel and per diem expenses to be reimbursed consistent with Customer's policies. Trimble will notify Customer in advance of incurring any such fees.