

Last Updated: October 9, 2020

### **Terms of Service: Trimble Ag Developer Network**

Welcome to the Trimble Ag Developer Network provided by Trimble Inc. and its affiliates (“**Trimble**,” “**we**,” “**us**,” or “**our**”). Please read these terms of service (these “**Terms**”) carefully as they form a contract between Trimble and you that governs your access and use of: the Trimble Ag Developer Website located at <https://agdeveloper.trimble.com> (the “**Site**”). If you represent and are using the Site on behalf of a company or other entity, you agree that you have the ability to bind such company or other entity to these Terms.

#### **1. Acceptance of Terms; Changes to Terms**

**BY USING THE SITE OR CLICKING THE CHECK BOX INDICATING YOUR AGREEMENT TO THESE TERMS, YOU ARE AGREEING TO BE BOUND BY ALL TERMS, CONDITIONS, AND NOTICES CONTAINED OR REFERENCED IN THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, PLEASE DO NOT USE THE SITE.**

Please note that Trimble reserves the right to update and change these Terms from time to time in its discretion. Please check these Terms periodically for changes. Your continued use of the Site following the posting of any changes to these Terms will confirm your acceptance of those changes. A current copy of these Terms can be accessed and viewed at any time at <https://agdeveloper.trimble.com/terms-of-service>.

#### **2. Access and use of the Site**

Subject to your compliance with these Terms, you may use the Site, on a non-exclusive basis, solely in strict compliance with these Terms, any policies and any written or electronic documentation provided or made available by Trimble (“**Documentation**”) and all applicable laws. Trimble reserves the right, in its sole discretion, to make necessary unscheduled deployments of changes, updates or enhancements to the Site at any time. We may add or remove functionalities or features of the Site.

#### **3. SDK License**

The software development kit (“**SDK**”) may be downloaded through the Site. Your use of the SDK is subject to the terms and conditions of the SDK license located at <https://agdeveloper.trimble.com/sdk-license> (the “**SDK License**”). In the event of any conflict or inconsistency between these Terms and the SDK License with respect to the SDK, the SDK License will govern.

#### **4. Registration**

The Site contains functionality that allows you to submit ideas for software programs that you may develop by using components of the SDK (“**Applications**”) and to submit completed Applications for review by Trimble. Upon submission of any ideas for Applications, you agree to the Mutual Nondisclosure

Agreement located at <https://agdeveloper.trimble.com/mutual-non-disclosure-agreement> (the “**NDA**”). In addition, the submission of completed Applications will be subject to the Mobile Application Distribution Agreement located at <https://agdeveloper.trimble.com/mobile-application-distribution-agreement> (the “**Distribution Agreement**”). In the event of any conflict or inconsistency between these Terms and the Distribution Agreement with respect to the submission and distribution of the Application, the Distribution Agreement will govern.

Prior to obtaining access to certain functionality on the Site, you may be required to obtain an account with Trimble (become a “**Registered User**”), by completing a registration form and designating a user ID and password. Until you apply for and are approved by Trimble to become a Registered User, in Trimble's sole discretion, your access to the Site will be limited to the areas of the Site, that Trimble makes available to the general public or permits its customers to make available unregistered users. When registering with Trimble you must: (a) provide true, accurate, current and complete information about yourself as requested by the Site (such information being the “**Registration Data**”); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. Trimble may withdraw such approval at any time in its sole discretion, with or without cause.

You must keep your account and passwords confidential and not authorize any third party to access or use the Site on your behalf, unless we provide an approved mechanism for such use. You may allow your third party contractors to access the Site in compliance with these Terms solely for your benefit. You will be fully liable for any and all use of the Site by your contractors. You must contact us right away if you suspect misuse of your account or any security breach in the Site. You are responsible for all activities that take place with your account. Trimble will not be liable for any loss or damage arising from any unauthorized use of your accounts.

## 5. **Submitted Content**

If you submit files, materials, data, text images or other content (collectively, “**Content**”) to Trimble, you hereby grant to Trimble and its contractors a non-exclusive, perpetual, worldwide, irrevocable, transferable, sublicensable, royalty-free right, to use, modify, adapt, reproduce, store, transmit, distribute, make available, display and disclose Content posted on the Site solely to the extent necessary to provide the Site, the services in connection with the Site, or as otherwise permitted by these Terms.

You represent and warrant that: (a) you have all the rights in the Content necessary for you to grant the rights in this Section; and, (b) the storage, use or transmission of the Content doesn't violate any law or these Terms or infringe or violate the intellectual property, publicity, privacy or other rights of any third party.

You will: (a) be solely responsible for the nature, quality and accuracy of the Content; (b) ensure that the

Content (including the storage or transmission thereof) complies with these Terms, your policies, and any and all applicable laws, and regulations. Trimble will have no liability of any kind as a result of the deletion of, correction of, destruction of, damage to, loss of or failure to store or encrypt any Content.

You must immediately notify Trimble in writing of any unauthorized use of any account or the Site that comes to your attention. In the event of any such unauthorized use by any third party that obtained access through you, you will take all steps necessary to terminate such unauthorized use. You will provide Trimble with such cooperation and assistance related to any such unauthorized use as Trimble may reasonably request.

#### **6. Consent to Electronic Communications and Solicitation.**

By registering with Trimble, you understand that we may send you communications or data regarding the use of the Site including but not limited to (a) notices about your use of the Site, including any notices concerning violations of use, (b) updates, and (c) promotional information and materials regarding Trimble's products and services, via electronic mail. We give you the opportunity to opt-out of receiving electronic mail from us by following the opt-out instructions provided in the message.

#### **7. Suspension and Termination of Customer's Use of The Site**

You may stop using the Site at any time. We reserve the right to temporarily suspend or terminate your access to the Site or services provided through the Site at any time in our sole discretion, with or without cause, and with or without notice, without incurring liability of any kind. For example, we may suspend or terminate your access to or use of the Site or services provided through the Site for: (a) the actual or suspected violation of these Terms; (b) the use of the Site in a manner that may cause Trimble to have legal liability or disrupt others' use of the Site; (c) the suspicion or detection of any malicious code, virus or other harmful code by you or in your account; (d) scheduled downtime and recurring downtime; (e) use of excessive storage capacity or bandwidth; or (f) unplanned technical problems and outages. If, in Trimble's determination, the suspension might be indefinite and/or Trimble has elected to terminate your access to the Site, Trimble will use commercially reasonable efforts to notify you through the Site. You acknowledge that if your access to the Site is suspended or terminated, you may no longer have access to the Content that is stored with the Site.

Upon termination by Trimble or at your direction, we will make your Content available for download by you upon your request. You must make such request no later than 30 days following termination of these Terms or the date you stop using the Site. Trimble will have no obligation to maintain, and may delete, any data stored in your account 30 days following the termination of these Terms or the expiration of your subscription.

The following Sections will survive any termination of these Terms: 5 (Submitted Content), 7

(Suspension and Termination), 11 (Trimble Proprietary Rights), 12 (Indemnification), 13 (No Warranty), 14 (Limitation of Liability), 17 (Choice of Law and Forum), 18 (Contacting Trimble), 20 (General Provisions).

## **8. Acceptable Use**

You must not use the Site to harm others, the Site or any services provided through the Site. For example, you must not use the Site to harm, threaten, or harass another person, organization, or Trimble. You must not: damage, disable, overburden, or impair the Site (or any network connected to the Site); resell or redistribute the Site or any part of it; use any unauthorized means to modify, reroute, or gain access to the Site or attempt to carry out these activities; or use any automated process or Site (such as a bot, a spider, or periodic caching of information stored by Trimble) to access or use the Site. In addition, you promise that you will not and will not encourage or assist any third party to:

- (a) modify, alter, tamper with, repair or otherwise create derivative works of any software used in connection with or distributed through the Site;
- (b) reverse engineer, disassemble or decompile the software used to provide or access the Site or attempt to discover or recreate the source code used to provide or access the Site, except and only to the extent that the applicable law expressly permits doing so;
- (c) use the Site in any manner or for any purpose other than as expressly permitted by these Terms, the privacy policy applicable to the Site, any Documentation or any other policy, instruction or terms applicable to the Site that are available on or through the Site;
- (d) sell, lend, rent, resell, lease, sublicense or otherwise transfer any of the rights granted to you with respect to the Site to any third party;
- (e) remove, obscure or alter any proprietary rights notice pertaining to the Site;
- (f) access or use the Site in a way intended to exceed usage limits or quotas;
- (g) use the Site in connection with the operation of nuclear facilities, aircraft navigation, communication systems, medical devices, air traffic control devices, real time control systems or other situations in which the failure of the Site could lead to death, personal injury, or physical property or environmental damage;
- (h) use the Site to: (i) engage in any unlawful or fraudulent activity or perpetrate a hoax or engage in phishing schemes or forgery or other similar falsification or manipulation of data;
- (i) send unsolicited or unauthorized junk mail, spam, chain letters, pyramid schemes or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (iii) store or transmit inappropriate Content, such as Content: (1) containing unlawful, defamatory, threatening, pornographic, abusive, libelous or otherwise objectionable material of any kind or nature, (2) containing any material that encourages conduct that could constitute a criminal offense, or (3) that violates the intellectual property rights or rights to the publicity or privacy of others; (iv) store or transmit any Content that

contains or is used to initiate a denial of service attack, software viruses or other harmful or deleterious computer code, files or programs such as Trojan horses, worms, time bombs, cancelbots, or spyware; or

- (v) abuse, harass, stalk or otherwise violate the legal rights of a third party;
- (i) interfere with or disrupt servers or networks used by Trimble to provide the Site or used by other users to access the Site, or violate any third party regulations, policies or procedures of such servers or networks or harass or interfere with another user's full use and enjoyment of the Site;
- (j) access or attempt to access Trimble's other accounts, computer systems or networks not covered by these Terms, through password mining or any other means;
- (k) cause, in Trimble's sole discretion, inordinate burden on the Site or Trimble's system resources or capacity; or share passwords or other access information or devices or otherwise authorize any third party to access or use the SDK or the Site.

#### **9. Additional Terms May Apply.**

These Terms apply only to the Site. Certain Trimble products and services may be provided to you through the Site pursuant to a separate agreement (e.g., SDK License discussed in Section 4). If you obtain a product or service from Trimble that is not part of the Site and that Trimble product or service is provided without additional terms, that product or Site is provided "AS-IS" with no warranties whatsoever, express or implied, and your use of that product or service is at your own risk.

#### **10. Third Party Sites and Content**

The Site may contain features and functionalities linking you or providing you with certain functionality and access to third party content, including web sites, networks, systems, information and databases, applications, software, programs, products or services, and the Internet as a whole; you acknowledge that we are not responsible for such content or services. Any such activities, and any terms associated with such activities, are solely between you and the applicable third-party. Trimble shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion between you and any such third-party. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any of these third parties. You are solely responsible for your dealings with any third party related to the Site. Should you have any problems resulting from your use of any third party services, or should you suffer data loss or other losses as a result of problems with any of your other service providers or any third-party services, we will not be responsible unless the problem was the direct result of our breaches.

#### **11. Trimble Proprietary Rights**

As between Trimble and you, Trimble or its licensors own and reserve all right, title and interest in and to the Site and all hardware, software and other items used to provide the Site, other than the rights explicitly

granted to you to use the Site in accordance with this Terms. All rights not explicitly granted to you are reserved by Trimble. No title to or ownership of any proprietary rights related to the Site is transferred to you pursuant to these Terms. In the event that you provide comments, suggestions and recommendations to Trimble with respect to the Site (including, without limitation, with respect to modifications, enhancements, improvements and other changes to the Site) (collectively, “**Feedback**”), you hereby grant to Trimble a world-wide, royalty-free, irrevocable, perpetual license to use and otherwise incorporate any Feedback in connection with the Site.

Notwithstanding anything to the contrary herein, you agree that Trimble and its affiliates may use, process, manipulate, modify, copy, publicly perform and display, compile, and create derivative works from the Content and any other data related to the Site, including, but not limited to, using such data for any internal business purpose, and for the improvement, support, and operation of the Site, and/or the development of other products or services. You hereby acknowledge and agree that Trimble and its affiliates may disclose to third parties aggregate data derived from the Content or from any other data related to the Site, so long as such aggregate data is not personally identifiable with respect to you or any Authorized Users. All data, usage data, and other data that does not identify you or any Authorized User and any data that is derived from the Content and all data, reports, derivative works, compilations, modifications and other materials created by Trimble from or with use of such data will be, in each case, the sole and exclusive property of Trimble; and you, on your behalf and on behalf of your Authorized Users, hereby assign all of your and such Authorized Users’ right, title and interest, if any, in and to such items to Trimble without any fees and without rights to future royalties.

#### **12. Indemnification**

UPON REQUEST BY TRIMBLE, YOU WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS TRIMBLE AND ITS AFFILIATES, AGENTS, AND THIRD PARTIES, AND ITS AND THEIR EMPLOYEES, CONTRACTORS, OFFICERS, AND DIRECTORS FROM ALL DAMAGES, LIABILITIES, CLAIMS, AND EXPENSES, INCLUDING ATTORNEYS’ FEES, THAT ARISE FROM (A) YOUR USE OR MISUSE OF THE SITE, OR (B) INTELLECTUAL PROPERTY INFRINGEMENT BY YOUR CONTENT. TRIMBLE RESERVES THE RIGHT, AT ITS OWN EXPENSE, TO 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. YOU MAY NOT SETTLE ANY CLAIM WITHOUT THE PRIOR WRITTEN CONSENT OF TRIMBLE IN EACH CASE.

#### **13. No Warranty**

THE SITE AND THE SDK ARE PROVIDED "AS IS" AND “AS AVAILABLE” WITH ALL FAULTS AND WITHOUT WARRANTY BY TRIMBLE OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF

MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY, OR FITNESS FOR A PARTICULAR PURPOSE.

#### **14. Limitation of Liability**

IN NO EVENT WILL TRIMBLE, ITS SUPPLIERS OR OTHER DEVELOPERS BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR REVENUES, BUSINESS INTERRUPTION, COSTS OF REPLACEMENT GOODS, LOSS OR DAMAGE TO DATA ARISING OUT OF THE USE OF OR INABILITY TO USE THE SITE, EVEN IF TRIMBLE, ITS SUPPLIERS OR OTHER DEVELOPERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME JURISDICTIONS PROHIBIT THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. THE EXCLUSION OF DAMAGES IS INDEPENDENT OF ANY REMEDY PROVIDED UNDER THESE TERMS 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, EXCEED ONE HUNDRED DOLLARS (\$100 USD) OR THE AMOUNT YOU PAID FOR THE USE OF THE SITE OR SDK, WHICHEVER AMOUNT IS LESS.

Trimble does not assume and will not have any liability arising from events beyond Trimble's control or the control of its subcontractors, other developers, business partners or licensors, including events such as acts of God, acts of any governmental entity, acts of a public enemy, strikes, natural disasters, or failure or diminishment of power or telecommunications or data networks or services.

#### **15. Copyright and Trademark Information**

Copyright information and a current list of United States trademarks owned by Trimble is set forth at <http://www.trimble.com/copyrights.aspx>. Any questions concerning their use, or whether a trademark that does not appear on this list is a trademark of Trimble, should be referred to Trimble's Intellectual Property department at U.S. +1 408 481 8000.

#### **16. U.S. Government Restricted Rights**

Use, duplication, or disclosure by the United States Government is subject to restrictions as set forth in

these Terms, and as provided in DFARS 227.7202-1(a) and 227.7202-3(a) (1995), DFARS 252.227-7013(c)(1)(ii) (OCT 1988), FAR 12.212(a) (1995), FAR 52.227-19, or FAR 52.227-14(ALT III), as applicable.

#### **17. Choice of Law and Forum**

These Terms 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. The exclusive jurisdiction for any claim or action arising out of or relating to these Terms or your use of the Site will lie exclusively in, or be transferred to the courts of the County of Santa Clara and/or the Northern District of California; and you will submit to the exercise of personal jurisdiction of such courts for the purpose of adjudicating any such claim or action. The parties specifically exclude from application to these Terms the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act.

#### **18. Contacting Trimble**

Information on how to contact Trimble may be found at <http://www.trimble.com/Corporate/Contacts.aspx>. Any notice or other communication given by you to Trimble regarding these Terms will be deemed given and served when personally delivered, delivered by reputable international courier requiring signature for receipt, or five business days after mailing (postage prepaid), addressed to Trimble at its notice address. Trimble's notice address is: Trimble Inc., Attn: General Counsel, 935 Stewart Drive, Sunnyvale, CA 94085, USA.

#### **19. Digital Millennium Copyright Act**

##### Notice and Procedure for Making Claims of Copyright Infringement

If you believe that your work has been copied in a way that constitutes copyright infringement, please provide Trimble's DMCA administrator the written information specified below, as required by the Online Copyright Infringement Liability Limitation Act of the Digital Millennium Copyright Act, Title 17, United States Code, Section 512(c)(2).



- A description of the copyrighted work that you claim has been infringed upon;
- A description of where the material that you claim is infringing is located in the Site;
- Your address, telephone number, and e-mail address;
- A statement by you that you have a good-faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf; and
- Your electronic or physical signature.

Trimble's DMCA administrator for notice of claims of copyright infringement on the Site can be reached as follows:

DMCA Administrator Legal  
Department  
Trimble Navigation Limited 935  
Stewart Drive  
Sunnyvale, CA 94085  
Fax: 408-481-7780  
[DMCA@trimble.com](mailto:DMCA@trimble.com)

## **20. General Provisions**

Except as otherwise specified herein, these Terms constitute the entire agreement between you and Trimble with respect to your use of the Site and supersede all prior or contemporaneous communications and proposals (whether oral, written, or electronic) between you and Trimble with respect to use of the Site. Trimble may assign these Terms to a third party. These Terms, and any rights and licenses granted under these Terms, may not be transferred or assigned by you to a third party, except that these Terms may be assigned, without the consent of Trimble, as part of a merger, or sale of substantially all your assets. Any rights not otherwise expressly granted by these Terms are reserved by Trimble, its suppliers or other developers. The failure of Trimble to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. If any part of these Terms are held invalid or unenforceable

by a court of competent jurisdiction that portion will be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions will 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 Site must be filed within one year after such claim or cause of action arose or be forever barred. The official language of these Terms is English. If there is a conflict between the English language version and any translation, the English language version will control. Any breach by a party of these Terms or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.