

**TRIMBLE NAVIGATION LIMITED -- TRIMBLE EUROPE BV—  
TRIMBLE NAVIGATION TECHNOLOGY (PTY) LTD.**

**TRIMBLE POSITIONING SERVICES  
TERMS OF SERVICE (“TOS”)**

**1. Description of Services / Service Plans**

- 1.1. *General Description.* The Trimble Positioning Services (the “**Services**”) are hosted subscription-based services, which include those services known as Trimble VRS Now, Trimble VRS Now Extended Coverage (TEC), Trimble CenterPoint RTX, Trimble CenterPoint VRS, and Trimble RangePoint RTX. They are accessible by subscribers via the mobile Internet, satellite broadcast and other communications technologies and provide real time global navigation satellite system (“**GNSS**”) observation and differential correction data.
- 1.2. *Subscription Purchase & Devices.* The Services are provided to you (“you”) by the Trimble entity identified in your invoice. In order to use and communicate with the Services, you must purchase one or more service plan subscription(s) (a “**Service Plan**”). Particulars of your chosen Service Plan are documented on your invoice for the Service Plan subscriptions. Hardware requirements for each Service are defined in the Service specifications that can be retrieved at [LINK].

**2. Requirement of Third Party Communications System Services; Bundled Services.**

- 2.1. *Data Plan.* Features of the Services may require purchase of a data plan or other services from a third party communications provider (each, a “**Communications Carrier**”). You may purchase such plans and services directly from a Communications Carrier or from Trimble, by choosing from different Service Plans. For terms and conditions for these plans and use of SIM cards please refer to the Service Plan or your selected Communications Carrier’s web site. If the telephone number assigned by a Communication Carrier to your device changes you must keep Trimble informed of such change.
- 2.2. YOU UNDERSTAND AND AGREE THAT TRIMBLE HAS NO RESPONSIBILITY FOR THE AVAILABILITY, QUALITY OR PERFORMANCE OF COMMUNICATIONS SERVICES AND/OR EQUIPMENT FURNISHED BY A COMMUNICATIONS CARRIER.
- 2.3. *Usage restrictions.* If you use a SIM-card under a data plan with usage restrictions for any purpose other than for Services as specified under your Service Plan or if you use GSM for more than the number of hours authorized under your Service Plan, Trimble will charge you, and you agree to pay to Trimble all additional costs charged by the Communications Carrier to Trimble, if any, as a result of your unauthorized or excess usage plus a handling fee of EUR20 per month, during any month (or any portion thereof) in which you use the SIM-card for such unauthorized or excess usage.

**3. Ownership, License and Restrictions of Use**

- 3.1. The Services (inclusive of all content) are the property of Trimble and its affiliates and suppliers and are protected. The Services are made available solely for your personal or internal business use, and you shall not acquire any rights in the Services except as expressly provided herein. Unless otherwise specified in the TOS or expressly agreed to in writing by

Trimble on a specific case by case basis, you may not modify, copy, distribute, transmit, display, reproduce, publish, license, create derivative works from, transfer, lease or sell any data obtained from the Service.

**You understand and acknowledge that the Services are not, nor are they intended, to be used for any safety critical or safety related use or application and you shall not use them in that manner.**

- 3.2. Trimble grants you a limited, non-exclusive, non-transferable, non-assignable license (without the right of sublicense) to access and use the Services for, and in the normal course of your business. All rights not expressly granted to you herein are reserved by Trimble and its suppliers and licensors. You are not permitted to: (1) access or use the Services other than by or with a Device owned and used by you; (2) unless you have signed a Trimble Reseller Agreement and subject to this agreement, transfer, sublicense or resell the Services or content (to another individual or entity); (3) use the Services or content to create another product or service; or (4) broadcast or otherwise disseminate the Services for concurrent use from more than one Device.
- 3.3. You may authorize your personnel to access and use the Services under this license ("**Authorized Users**"). A subscription may not be shared, rented or used concurrently with any third parties.

#### **4. Subscriber Account; Password Protected Access**

- 4.1. To access and use the Services you may be required to open a subscriber account and register with us. When registering, you must provide current, complete and accurate information as prompted by the applicable registration form.
- 4.2. If the Services are password protected you and your Authorized Users shall access the Services via authenticated login ID and passwords only. You are solely responsible for maintaining the confidentiality of your passwords and accounts, and you agree that Trimble may terminate your subscription and access to the Services if you fail to do so.

#### **5. Service Plan Subscriptions / Fees**

- 5.1. Service Plan subscriptions are contracted for the period specified under the Service Plan option you choose (a "**Service Plan Term**"). Your initial Service Plan Term will commence on the earlier of the date of purchase of your Service Plan or the date of Services activation. Applicable subscription fee charges are due and payable as provided under the Service Plan and if Trimble has not informed you of a different payment term, in advance, either for the full Service Plan Term or monthly. If payable in advance, all charges payable on a monthly basis will be due on the 1st business day of each month. Unless the Service Plan provides differently, at expiration of any Service Plan Term, your Services subscription will automatically renew for a new Service Plan Term of the same duration unless you have notified Trimble in writing of your intention to cancel your Services subscription no less than 30 days prior to expiration of the then current Service Plan Term subject to any contrary terms appearing in these TOS.
- 5.2. In order to access and use the Services, you must pay the subscription fee charges and applicable taxes that apply to each Service Plan subscription purchased by you at the rates prevailing at the time payment is due. The foregoing shall be deemed to **exclude** VAT, GST and any and all other charges taxes, levies and duties (howsoever designated) that result directly or indirectly from government regulations or mandates (for the avoidance of doubt this includes, without limitation, those of government recognized organizations levying fees on intellectual property rights.)

- 5.3. For any Services with a subscription period of more than 12 months Trimble may at any time, but no more than once during a 12 month period, increase its Services subscription fee charges whether as a result of increased prices or charges imposed on Trimble by third party providers of the Services or otherwise; and you agree to pay such increase in fees. Your continued use of the Services following such an increase in pricing will constitute confirmation of your acceptance of the pricing increase, unless you notify Trimble in writing within 30 days thereof that you do not accept the additional charges. In that case, the pricing in effect at the time of your purchase or last renewal of the Services subscription (whichever is later) will remain in effect through the remainder of your then Service Plan Term, unless Trimble exercises its right to terminate your Service Plan subscription(s) in accordance with Section 12.2 below.

## 6. Payment Terms

- 6.1. You agree to pay all subscription fees when due through the full period of each Service Plan Term for which you have contracted, without deduction or offset. Subscription fee payments may be made via money wire, cash in advance or by credit card acceptable by Trimble in the currency indicated when ordering your Service Plan. **Subscription fees are non-refundable and non-cancelable.**
- 6.2. In the event that you fail to make timely payments, Trimble will be entitled to: (i) charge interest at the highest permissible statutory rate, whether before or after judgment; (ii) terminate your Service Plan subscription and license; and/or (iii) suspend Services.
- 6.3. In the event Services are rightfully suspended and then reinstated, you agree to pay upon the restoration of Services an fee of 100.00 EUR per Service Plan plus any out-of-pocket expenses. A suspension of Services will not extend any Service Plan subscription term. In the event of early termination of a Service Plan subscription for any reason, the outstanding balance of all subscription of fees payable through the remainder of the subscription term will become immediately due and payable. Trimble shall have the continuing right to approve your credit and change your credit terms. Trimble reserves the right to require a security deposit from you in its sole discretion.

## 7. Privacy

- 7.1. Please review the Trimble Privacy Statement at [www.trimble.com/privacy.html](http://www.trimble.com/privacy.html) to understand our general data privacy practices. Services may be provided and hosted by entities different from the one named in your invoice.
- 7.2. By submitting personal data to Trimble you consent to Trimble's collection, use, storage and transfer of such personal data to our company databases and other repositories, wherever located, for the purposes for which it is submitted and in accordance with the policies set forth in the Privacy Statement. You shall inform your employees, servants and other persons or entities using the Trimble Positioning Services and shall be responsible for obtaining their consent to the extent required in your jurisdiction for Trimble's use of personal data as described in and referred to in these TOS. You shall not access the personal data stored by Trimble and accessible to you other than allowed under applicable laws and regulations under your jurisdiction.

## 8. Modification of Services or TOS

- 8.1. Trimble reserves the right to modify, enhance or make additions to the Services in any way whatsoever as Trimble may in its discretion decide, but shall not be obligated to do so. Any such modifications, enhancements or additions to the Service shall be subject to the terms and

conditions of the TOS. Trimble reserves the right to offer new features at an additional charge. Trimble will use commercially reasonable efforts to give you not less than 2 months' notice of any change in the format of the Services that Trimble deems will result in your being unable to access the Services under your Service Plan subscription.

8.2. Trimble reserves the right to modify and update the TOS if circumstances under which the TOS is entered into change following purchase of your Service Plan subscription(s), and Trimble shall provide you with reasonable notice of any such changes. Your continued use of the Services following the posting of any such changes will constitute confirmation of your acceptance of the updated TOS, unless you notify Trimble in writing within 30 days that you do not accept the changes made to them.

## **9. No Misuse of Services**

You agree that you will not use the Service for any purpose that is unlawful or prohibited by the TOS. Trimble may restrict or terminate the Service to you if there is a reasonable suspicion of, or any actual misuse or fraudulent use by you. You will be responsible for any costs incurred by Trimble or any other party (including attorneys' fees) as a result of your misuse or fraudulent use of the Service. Misuse or fraudulent use includes, but is not limited to:

- Using the Services in such a manner so as to interfere unreasonably with the use of others of the Services, or any service provided by a Communication Carrier;
- Subscription fraud or unauthorized access; or using the Services without permission or on a stolen or lost device;
- Taking any action that imposes an unreasonable or disproportionately large load on the Services infrastructure;
- Tampering with or making an unauthorized connection to the network;
- Unless you have signed a Trimble Reseller Agreement, reselling or re-billing the Services to any other individual or entity; or
- Re-broadcasting the Services without the express written permission of Trimble.

## **10. Termination of Services, Account**

If you violate these Terms of Service, your authorization and license to use the Services automatically terminates.

## **11. Network Coverage, GNSS Satellites, Interruption of Service**

11.1. You acknowledge that the Services and network access are subject to transmission limitations caused by a variety of factors such as atmospheric conditions, topographical obstructions, limitations or lack of coverage of the underlying carrier service and other natural or manmade conditions. Additionally, motor and ignition noise, metal shielding, interference by users of the same or adjacent radio channels may limit or interfere with coverage. You further acknowledge that Trimble is not responsible for the operation or failure of operation of Global Navigation Satellite System ("**GNSS**") satellites or the availability of GNSS satellite signals.

11.2. Trimble shall not be held liable by you or any third party for any loss or damage arising from the Services, or its interruption, transmission errors, defects or any other cause, including, but not limited to, interruption caused by the underlying carrier or provider of the Services. Trimble does not assume and shall not have any liability for events beyond

Trimble's control or the control of Trimble's subcontractors, licensors or business partners, including, but not limited to, acts of God, acts of any governmental entity, acts of public enemy, strikes or weather conditions.

## **12. Discontinuation or Cancellation of Service; Cancellation Fee**

- 12.1. Trimble reserves the right to discontinue the Service in whole or in part, and/or to cancel your Service account with or without notice for any reason at any time; and you agree that Trimble shall not be liable to you or any third party for any such cancellation or termination except as expressly provided herein.
- 12.2. If Trimble cancels your Service Plan account(s) and terminates your Service Plan subscription(s) for Trimble's convenience due to no default on your part Trimble will reimburse the subscription fees received by Trimble pro rata temporis.
- 12.3. Should you cancel your account and/or the Services in whole or in part, or if we cancel or terminate your account and Service Plan subscription due to your violation of the TOS, or breach the terms of your Service Plan(s) or any other valid agreement with Trimble for use of the Services, your insolvency, bankruptcy (or similar action or proceeding), or your ceasing to do business in the ordinary course, you will be charged a cancellation fee equal to the amount of the subscription fee charges payable through the remaining term of your then currently active Services Plan subscription(s). Such cancellation charges will become immediately due and payable.

## **13. Deletion of Subscriber Data**

Trimble reserves the right to permanently delete from its servers any and all information, data and content maintained in or under your Services account(s) upon any termination of the Services or your subscription. Trimble accepts no responsibility for such deleted information, data or content.

## **14. General Disclaimer and Limitation of Liability**

- 14.1. Trimble accepts no responsibility or liability whether in contract or otherwise for any loss or damage of any nature arising from:
  - Any use of the Services or the results achieved;
  - Any interruption or failure (in whole or in part) of any electronic transmission of the Services;
  - Any interruption, failure or unavailability or otherwise (in whole or in part) of satellite based positioning systems or signals (e.g., GPS/GNSS), or interruption, failure or unavailability of the Services as a result of the same.
- 14.2. TRIMBLE AND ANY OTHER THIRD PARTY CONTRIBUTING TO THE SERVICES, DISCLAIM AND EXCLUDE ALL WARRANTIES, CONDITIONS, REPRESENTATIONS OR TERMS, WHETHER EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY REGARDING THE ACCURACY, COMPATIBILITY, MERCHANTABILITY, FITNESS FOR PURPOSE, PERFORMANCE, SATISFACTORY QUALITY OR USE OF THE SERVICES. TRIMBLE FURNISHES AND YOU ACCEPT THE SERVICES "AS-IS" AND AS AVAILABLE.
- 14.3. TRIMBLE'S ENTIRE LIABILITY UNDER THIS AGREEMENT, WITH RESPECT TO ANY DAMAGES FROM ANY CAUSE WHATSOEVER, REGARDLESS OF FORM OR ACTION, SHALL NOT EXCEED AN AMOUNT EQUAL TO THE AMOUNTS PAID

BY YOU TO TRIMBLE DURING THE 12 MONTHS PRIOR TO THE DATE THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY OCCURRED.

- 14.4. THE PRECEDING LIMITATIONS OF LIABILITY DO NOT APPLY TO ANY LIABILITIES THAT CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAWS, SUCH AS IN THE EVENT OF STATUTORILY MANDATED LIABILITY (INCLUDING LIABILITY UNDER APPLICABLE PRODUCT LIABILITY LAW) OR IN THE EVENT OF PERSONAL INJURY ARISING FROM TRIMBLE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.
- 14.5. You agree that any claim or cause of action arising out of or related to use of the Services or your subscription must be filed within one (1) year after such claim or cause of action arose or be forever barred.

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

If you purchase the Services from Trimble Navigation Limited, the TOS and Service Plan terms are governed by and construed in accordance with the laws of California, without regard to its conflicts of law provisions, and you hereby consent and agree to the exclusive jurisdiction of, and venue in, courts located in Santa Clara, California, United States of America. If you purchase the Services from Trimble Europe, the TOS and Service Plan terms are governed by and construed in accordance with the laws of the Netherlands and you hereby consent and agree to the exclusive jurisdiction of, and venue in, courts located in Eindhoven, Netherlands. If you purchase the Services from Trimble Navigation Technology (Pty) Ltd the TOS and Service Plan terms are governed by and construed in accordance with the laws of South Africa and you hereby consent and agree to the exclusive jurisdiction of, and venue in, courts located in Cape town, South Africa.

Notwithstanding the foregoing Trimble may choose to file a complaint against you or take any other legal action (including, without limitation, requesting injunctions or immediate relief in summary proceedings) against you before any competent court in your jurisdiction for any claim or action arising out of or relating to the TOS, Service Plan terms or your use of the Services. **General Provisions**

Trimble explicitly rejects the use of any and all of your terms and conditions of purchase. No change, modification, or wavier of the terms and conditions thereof shall be binding unless made in writing. If any part of the TOS or Service Plan terms is invalid or unenforceable that portion shall 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 shall remain in full force and effect.

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