

**TERMS OF SUBSCRIPTION  
FOR  
OMNISTAR DATA SERVICES**

These terms for subscriptions for OmniSTAR™ Data Services (the “Terms”) set forth the terms and conditions of any present and future purchase and provision of the OmniSTAR error correction data services that improve the accuracy of Global Navigation Satellite Systems (GNSS) (“OmniSTAR Data Services”) and the terms of use thereof. The OmniStar Data Services are provided under contract by FUGRO N.V. which is referred to herein as “Owner”, “Licensor” or “Fugro”.

**1. Terms and conditions of subscription**

- a. Subscriptions may be purchased on the phone, by written order, facsimile, e-mail, or via on-line store. Any subscription shall become valid, and you (the “Subscriber”) shall be deemed to have accepted these Terms upon the earlier of Trimble sending a subscription activation for the receiver, identified by its OmniSTAR ID or Subscriber’s payment of the first subscription fee. These Terms in their current form are available on ([www.omnistar.com/terms](http://www.omnistar.com/terms)), overleaf of any order confirmation and may be ordered from Trimble, P O Box 485, Rondebosch, 7701, Cape Town, South Africa, PH: +27 21 404 1861. Any order for subscription is subject to Trimble’s explicit acceptance. All subsequent purchases shall be governed by the Terms even though the parties may not refer to the Terms explicitly in the order, order confirmation or any other declaration constituting offer or acceptance.
- b. The use of OmniSTAR Data Services without a current, valid, fully paid subscription is prohibited. Each subscription is solely for use in conjunction with the receiver for which the subscription has been activated and is furthermore between the Subscriber and Trimble.
- c. The Terms supersede any of Subscriber's terms and conditions unless specifically agreed by Trimble in writing.
- d. Ownership or possession of an OmniSTAR-capable receiver does not guarantee any rights or access to the OmniSTAR Data Services. Subscriber shall immediately notify Trimble if a receiver for which a subscription has been activated is sold or decommissioned. It is understood that a subscription cannot be transferred to a different receiver without Trimble’s prior consent.
- e. Trimble reserves the right to discontinue, cancel, refuse or terminate service without prior notice if Trimble reasonably determines that the Subscriber is in breach of these Terms.
- f. OmniSTAR Data Services subscriptions are payable in advance as per the agreed payment terms, or absent of such agreement within 30 days of date of invoice latest.
- g. All data is copyrighted, and is confidential, proprietary business information of Trimble or its Licensors and cannot be copied, rebroadcasted, sold, transferred sublicensed, rented or leased without the express written permission of the owner thereof. If Subscriber rents or leases the OmniSTAR Data Services to third-parties, Subscriber shall not be relieved from any of its obligations under these Terms, including the responsibility of advising third-parties of these Terms and ensuring that third-parties uphold these Terms.
- h. Re-broadcast of the OmniSTAR Data Services, unless specifically authorized by the Terms, is prohibited.
- i. The OmniSTAR Data Services area is limited and specifically excludes offshore areas. Subscriber agrees not to use OmniSTAR Data Services outside of this limit. Use of the system outside of this limit will result in automatic loss of OmniSTAR Data Services and shall be a breach of these Terms.
- j. OmniSTAR Data Services is not intended for primary navigation, and Subscriber shall not use the OmniSTAR Data Services for this purpose.
- k. Trimble will use reasonable commercial efforts to procure that the OmniSTAR Data Services are within the published specifications. OmniSTAR Data Services are not dedicated for consumer use. However, Subscriber is aware that interruptions in the service may occur from time to time and therefore the availability of the data service is not guaranteed. Neither Trimble nor its Licensors accepts liability for the unavailability or inaccuracy of the data for whatever reason.
- l. OmniSTAR Data Services may be interrupted, or the validity of the data changed, by local conditions such as blockage by trees and buildings or radio interference.
- m. Published system accuracies are dependent on the Subscriber's GNSS receiver and Subscriber's location.
- n. The OmniSTAR Data Services coverage is approximate, and Subscribers intending to operate on the extremes of the published coverage area are advised to verify the anticipated OmniSTAR Data Services performance with Trimble prior to purchase.

- o. Subscriber acknowledges 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. The Global Positioning System (GPS) is operated by the United States Department of Defense, which is solely responsible for the accuracy, daily operation, and maintenance of the satellite constellation. System accuracy is affected by the Department of Defense's Selective Availability (SA) and satellite geometry.
- p. OmniSTAR Data Services use is at the sole risk of the Subscriber.
- 2. **Warranty disclaimer and Subscriber indemnity of Trimble and Fugro.**

**TRIMBLE MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TRIMBLE MAKES NO ASSURANCE OF SUCCESSFUL GNSS CORRECTION DATA TRANSMISSION. NEITHER TRIMBLE NOR ANY AFFILIATE OF TRIMBLE SHALL BE RESPONSIBLE TO SUBSCRIBER, OR TO ANY OF ITS AFFILIATES, FOR LOST REVENUES, LOST PROFITS, LOST DATA OR OTHER SPECIAL, INCIDENTAL, DIRECT, INDIRECT, OR CONSEQUENTIAL DAMAGES OR FOR LOSS OR DAMAGE OR OTHER EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM SUBSCRIBER'S, OR ANY OTHER PARTY'S USE OF OR INABILITY TO USE THE OMNISTAR DATA SERVICES DATA OR FOR COMMERCIAL LOSS OF ANY KIND; NOR SHALL ANY RECOVERY AGAINST TRIMBLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, BE GREATER THAN THE AMOUNTS PAID BY SUBSCRIBER HEREUNDER. FURTHERMORE, SUBSCRIBER SHALL INDEMNIFY, DEFEND, AND HOLD TRIMBLE AND ITS AFFILIATES HARMLESS FROM ANY LOSS OR DAMAGE RESULTING FROM ANY CLAIM BY ANY PERSON RELATING TO OMNISTAR DATA SERVICES PROVIDED UNDER THESE TERMS OR USE OF SUCH OMNISTAR DATA SERVICES.**

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- 3. **Force Majeure**

Trimble shall be excused for any delay or failure to fulfill its obligations under these Terms due to causes beyond its control, such as natural disasters, acts of government, labor strikes of other entities, acts of war, civil disturbances, or court order.
- 4. **Assignment**

These Terms shall be binding upon the parties' respective successors and permitted assignees. Subscriber may not assign or transfer any contract governed by these Terms or any rights or obligations under these Terms without the prior written consent of Trimble, and any such attempted assignment shall be void.
- 5. **Entire Agreement**

No change or waiver of any provision of these Terms shall be valid unless in writing and signed by the party against whom such change or waiver is sought to be enforced.
- 6. **Surviving Clauses**

If a clause or provision of these Terms is invalid or unenforceable, all other terms and provisions shall remain in full force and effect.

**7. Waiver**

No delay or omission by Trimble to exercise any right or power under these Terms shall impair any such right or power or be construed as a waiver.

**8. Controlling Law and Place of Suit**

These Terms shall be subject to and shall be interpreted according to the laws of the Netherlands without regard to its conflict of laws provisions. The courts of Cape Town, South Africa, shall have exclusive jurisdiction of any action relating to these Terms.

**9. Third Party Beneficiary:** Fugro is hereby made a third party beneficiary under these Terms for the purposes of Sections 1-4 above (and no other Sections).