

# HxGN SmartNet PPP Corrections

## General Terms and Conditions

### 1 PREAMBLE

- 1.1 The subject-matter of these General Terms and Conditions for HxGN SmartNet Precise Point Positioning (PPP) Corrections ("General Terms and Conditions for HxGN SmartNet PPP Service") are all HxGN SmartNet PPP Corrections services on offer. These HxGN SmartNet PPP Corrections General Terms and Conditions exclusively apply to all HxGN SmartNet PPP Corrections services. The service provider is also not bound by contradicting or supplementary general terms and conditions of the customer if it accepts the customer's order in which reference is made to the general terms and conditions of the customer. These HxGN SmartNet PPP Corrections General Terms and Conditions cannot be amended, waived or supplemented by a subsequent order or a letter received from the customer without the explicit written consent of the service provider. Business or purchase terms of the customer are only valid if the service provider explicitly acknowledges them in writing.
- 1.2 The customer will be provided with the HxGN SmartNet PPP Corrections services specified in the product data sheet.
- 1.3 The service provider reserves the right to discontinue at its sole discretion the support in the HxGN SmartNet PPP Corrections services for outdated data formats or data calculations or for those which are no longer technically exploitable and, as far as possible, to replace them with new ones. The customer will be informed of any such amendments at least one (1) month before their effectiveness. Moreover, the provisions of para. 7 apply mutatis mutandis.
- 1.4 Access to the HxGN SmartNet PPP Corrections services is based on the usage terms described in more detail in para. 5.
- 1.5 The use of the HxGN SmartNet PPP Corrections services is subject to fees to be paid by the customer.

### 2 DEFINITIONS

- 2.1 "**Correction Data**" means the digital correction information specified in the product data sheet (as generally understood in the context of GNSS signals) which, taking into account para. 7 of these HxGN SmartNet PPP Correction Terms and Conditions, provide for a positioning for the territory specified in the product data sheet in the quality specified therein.
- 2.2 "**Customer**" means a user who uses the HxGN SmartNet PPP Correction Services on the basis of a valid subscription.
- 2.3 "**Day**" means a portion the Subscription Term. This portion begins at 00:00 of the calendar day of the Start of the Subscription and ends on the same day at 24:00.
- 2.4 "**GNSS**" means the Global Navigation Satellite System which is the sum of all satellite systems, the signals of which are used for the HxGN SmartNet Services.
- 2.5 "**HxGN SmartNet PPP Correction Services**" means the Service Provider's services and the aggregate of the correction data, GNSS data, positioning, applications and support services as described in the product data

sheet provided to the customer within the framework of a valid subscription.

- 2.6 "**Month**" means a portion of the Subscription Term. This portion begins at 00:00 of the calendar day of the Start of the Subscription and ends on the day preceding the same calendar day of following month at 24:00.
- 2.7 "**Positionings**" means the digital locations specified in the product data sheet and derived from the use of the GNSS signals and the Correction Data.
- 2.8 "**Start of the Subscription**" means the point in time of the activation of the use of the HxGN SmartNet PPP Correction Services.
- 2.9 "**Service Provider**" means Leica Geosystems AG, Heerbrugg, Switzerland, unless otherwise stated in the Country-specific Annex or in the subscription.
- 2.10 "**PPP**" (Precise Point Positioning) means a positioning technique that removes or models GNSS system errors to provide a high level of position accuracy from a single receiver.
- 2.11 "**PPP Corrections**" means service provider use of orbit, clock, and atmospheric corrections via geostationary L-band satellites or IP-based stream to continue the output of a near RTK accurate position on loss of RTK data which is generated and broadcast for use in receivers to improve the accuracy of standalone GNSS positioning.
- 2.12 "**Subscription**" means a contract which contains these HxGN SmartNet Terms and Conditions as well as the product data sheet and (if applicable) the Country specific Annex to the HxGN SmartNet PPP Correction General Terms and Conditions which was applied for in writing by the Customer and then confirmed in writing by the Service Provider.
- 2.13 "**Subscription Fee**" means the fees specified in the Subscription or in the Service Provider's offer which a Customer has to pay for the use of the HxGN SmartNet PPP Correction Services.
- 2.14 "**Subscription Term**" means the term of the Subscription within the framework of which the HxGN SmartNet PPP Correction Services are provided and which is confirmed vis-à-vis the Customer in the written order confirmation (and/or license policy) of the Service Provider.

### 3 GENERAL PROVISIONS

- 3.1 Headings are only inserted for the sake of readability and do not affect the interpretation of any provision of these HxGN SmartNet PPP Correction Terms and Conditions, of the Country-specific Annex to the HxGN SmartNet PPP Correction General Terms and Conditions or of the Subscription.
- 3.2 Unless otherwise required by the context, any masculine terms in the Subscription include the feminine form and vice versa and the singular includes the plural and vice versa.

### 4 TERMS OF USE

- 4.1 The usage authorisation granted is valid for the Subscription Term and starts on the day specified in the Subscription and terminates upon expiry of the last day of the Subscription Term specified in the Subscription.

4.2 The Customer is not entitled to completely or partly assign, sell, reproduce or otherwise transfer to third parties its usage authorisation or provide access to its usage authorisation to third parties without the prior written consent of the Service Provider. This in particular includes the integration of the HxGN SmartNet PPP Correction Services into products or services of the Customer and/or third parties.

4.3 The Customer acknowledges that the quality of the HxGN SmartNet PPP Correction Services specified in the product data sheet are largely dependent on the GNSS recipient, the location of the GNSS recipient, the individual characteristics of the signal receipt and the satellite geometry and availability and that the Service Provider thus cannot make any warranties regarding the specified quality.

## 5 ACCESS TO THE HxGN SMARTNET PPP CORRECTION SERVICES

5.1 The Service Provider will, at its equitable discretion, provide suitable access so that the HxGN SmartNet PPP Correction Services can be used.

5.2 To use HxGN SmartNet PPP Correction Services, the Customer shall, at its own expense and risk, establish a connection suitable to communicate with the access defined in clause 5.1.

5.3 The Service Provider reserves the right to adjust the forms of access to the HxGN SmartNet **PPP Correction Services** at any time, at its equitable discretion and without any obligations in this respect to any new requirements and to restrict or close any forms of access which are no longer suitable. The Customer will be informed about any such adjustments, restrictions and/or closures in due time, however, at least one (1) month before they become valid.

## 6. SERVICES OF SERVICE PROVIDER

6.1 The Service Provider will inform the Customer as soon as possible in case of any disruptions or considerable defects in the quality of the HxGN SmartNet PPP Correction Services for which the Service Provider has sole responsibility. The Service Provider will furthermore inform the Customer in due time about any planned changes to the forms of access, contents and formats of the Correction Data if and to the extent such changes have an impact on the Customer's use of the HxGN SmartNet PPP Correction Services.

6.2 The Service Provider undertakes to take all reasonable efforts to continuously improve the performance potential of the HxGN SmartNet PPP Correction Services.

6.3 The Service Provider reserves the right to extend or change the HxGN SmartNet PPP Correction Services or add new ones at its equitable discretion and without any obligations in this respect.

6.4 The Service Provider reserves at any time the right to determine the GNSS signals used for the HxGN SmartNet PPP Correction Services thus generating on-demand additional HxGN SmartNet PPP Correction Services at its sole discretion and without any obligations in this respect.

6.5 The Service Provider reserves the right to offer the Customer operative and administrative support services related to the HxGN SmartNet PPP Correction Services at its equitable discretion and without any obligations in this respect.

## 7. PRICES AND PAYMENT TERMS

7.1 A Subscription Fee becomes due and payable upon

conclusion of a Subscription. The Subscription Fee indicated in the Subscription applies for the Subscription Term to the Subscription Contingent ordered and will, unless otherwise agreed, become payable in full at the Start of the Subscription.

7.2 Unless otherwise agreed, each invoice becomes due and payable within a payment period of 30 days without any deductions. Payments by the Customer shall be deemed effected as soon as the Service Provider can dispose of the amount.

7.3 Unless otherwise specified in the Subscription, all Subscription Fees and amounts indicated do not include taxes and charges. Taxes and charges will be separately indicated in the invoice and shall be borne by the Customer.

7.4 Should the Customer be in default with the payment of the Subscription Fees, the Service Provider may, without a prior warning being necessary and at its equitable discretion, either (i) suspend the performance of the HxGN SmartNet PPP Correction Services as long as the Customer fails to settle the owed Subscription Fee or (ii) terminate the Subscription with immediate effect.

7.5 The Customer may only offset amounts against counterclaims which have either been acknowledged in writing or determined by court.

7.6 The Service Provider is entitled to change the Subscription Fee at any time. The Service Provider will inform the Customer in writing one (1) month in advance. The change shall be deemed accepted unless the Customer objects to it in writing within this period. If the Customer objects to the change in writing within this period, the Customer has a special right to terminate the Subscription with effect from the last day of the month following receipt of the Service Provider's notification of the change.

## 8. TERM AND TERMINATION

8.1 Each Subscription starts when the HxGN SmartNet PPP Correction Services are activated for use.

8.2 The agreed Subscription Term shall extend automatically by the previous Subscription Term unless (i) otherwise agreed upon or (ii) the Subscription is terminated in writing three (3) months before the expiry of the Subscription.

8.3 The right of termination for good cause without notice (außerordentliche Kündigung aus wichtigem Grund) shall remain unaffected.

8.4 The Services Provider is entitled to terminate the Subscription at its equitable discretion at any time in writing observing a reasonable notification period and discontinue the provision of the HxGN SmartNet PPP Correction Services in full or in part. In such case, the Customer has no claim for a compensation of damages against the Service Provider. The fees paid for the current Subscription Term will be refunded to the Customer on a pro rata basis.

8.5 The Service Provider endeavours to provide the Customer with replacement services for any fully or partly suspended HxGN SmartNet PPP Correction Services which are either equal or better. The Customer will be informed and receive a respective offer in due time so that an uninterrupted use of the HxGN SmartNet PPP Correction Services can be ensured.

8.6 Unless otherwise agreed in these HxGN SmartNet PPP Correction General Terms and Conditions, any notifications of the Service Provider about changes do not entitle the Customer to a termination with immediate effect of the respective Subscription.

## 9. WARRANTY AND LIABILITY

- 9.1 The HxGN SmartNet PPP Correction Services will neither operatively, functionally, technically nor otherwise be customized to the specific needs of individual customers. The Customer is responsible for ensuring that the HxGN SmartNet PPP Correction Services are fit for the Customer's intended use.
- 9.2 The Customer undertakes to use the HxGN SmartNet PPP Correction Services according to the recognized state of the art. This includes in particular to conduct independent and regular controls of positionings by means of using them and comparing results on known control points.
- 9.3 The Service Provider does not make any warranties or representations with respect to the uninterrupted availability of the HxGN SmartNet PPP Correction Services (in full or in part).
- 9.4 The Service Provider does not warrant that the HxGN SmartNet PPP Correction Services are free from errors or defects.
- 9.5 The Service Provider does not assume any responsibility or liability for any loss or damage of any kind resulting from:
- (1) any defects in quality, restricted availability, defects or disruptions (in full or in part) of the electronic transfer or accessibility of the HxGN SmartNet PPP Correction Services;
  - (2) any defects in quality, interruptions or malfunctions (in full or in part) of the reference station's infrastructure, including related data lines, data centres or other hardware and software;
  - (3) any interruptions or disruptions or the nonavailability (in full or in part) of the GNSS signals;
  - (4) any interruptions or disruptions or the nonavailability (in full or in part) of the HxGN SmartNet PPP Correction Services due to items (1) to (3);
  - (5) the use of the HxGN SmartNet PPP Correction Services.
- 9.6 The Service Provider and its directors, employees, agents and advisors exclude to the extent legally admissible any liability - irrespective of whether arising from the Subscription, a quasi-contract or tort (including slight negligence) - for indirect, special, ancillary and consequential damage or loss of business of any kind, loss of information or data, additional expenses, third-party claims and other financial losses arising out of or in connection with the HxGN SmartNet PPP Correction Services as well as for any other losses due to the use, failure or service interruption of the HxGN SmartNet PPP Correction Services. This also applies if the Service Provider had been informed about the possibility that such damage might occur.
- 9.7 The Service Provider's liability to pay damages to the Customer for any damage incurred shall, due to these HxGN SmartNet PPP Correction General Terms and Conditions, only apply to direct damage and is, unless the damage was caused intentionally or grossly negligently and if legally permissible, restricted to the total amount of the Subscription Fee paid by the Customer to the Service Provider in accordance with these HxGN SmartNet PPP Correction General Terms and Conditions during the remaining Subscription Term.
- 9.8 In case of violations of the Subscription, the Customer shall be liable vis-à-vis the Service Provider for any damage resulting therefrom, in particular in case of a (i) non-contractual use or disclosure of data or (ii) noncontractual use or a transfer of licences to use the services of the Customer.
- 9.9 The Customer shall fully exempt the Service Provider from any third-party claims.
- 9.10 The Customer undertakes to ensure that the Customer and the users have the required skills to properly use the HxGN SmartNet PPP Correction Services as intended. The Service Provider hereby rejects any liability for losses and/or damage caused by insufficient skills of the user with respect to the HxGN SmartNet PPP Correction Services.
- 9.11 The Customer shall compensate the Service Provider for any and all costs, including all reasonable lawyer's fees and court costs and fees, incurred by the latter in connection with the legitimate assertion and enforcement of its rights pursuant to these HxGN SmartNet PPP Correction General Terms and Conditions.
- 9.12 The Customer undertakes to notify the Service Provider in writing immediately after becoming aware of any defects of the HxGN SmartNet PPP Correction Services, at the latest, however, within a period of 30 days following the first Start of the Subscription. Failing that, the HxGN SmartNet PPP Correction Services used within the framework of the Subscription shall be deemed accepted and subject to the payment of the fee.
- 9.13 The Customer shall support the Service Provider to the extent possible and reasonable with respect to analysing and removing any defects of the HxGN SmartNet PPP Correction Services which became known.

## 10. DATA PROTECTION

- 10.1 The Service Provider will treat any personal data of the Customer confidential and in line with the statutory data protection regulations and the privacy policy which is available under: <https://hxgnsmartnet.com/global/privacy-policy>.

## 11. EXPORT CONTROL

- 11.1 The Customer consents to comply with any and all applicable national and international laws regarding export control and economic sanctions. The Customer in particular agrees not to export or re-export, neither directly nor indirectly, any HxGN SmartNet PPP Correction Services and related data which are intended to be used for purposes prohibited by provisions of the U.S. Government or the EU Dual Use Regulation, including, but not limited to, the proliferation of nuclear and/or guided weapons or chemical or biological weapons or the development of base products for weapons, unless the Customer has the Service Provider's prior written consent. The Customer furthermore agrees to discontinue exporting or re-exporting data to persons or legal entities who/which are listed on a Denied Parties or Entities list. The Customer's obligations set forth in this clause shall be valid beyond the expiry of this agreement.

## 12. COMPLIANCE

- 12.1 The Customer shall comply with any and all applicable rules and regulations as well as the generally recognized standards of business ethics and conduct when performing its business activities. The customer has read and understood the code of conduct (<https://investors.hexagon.com/en/governance/guidelines-and-policies>).

## 13. FINAL PROVISIONS

- 13.1 The Subscription constitutes the entire agreement between the contractual parties with respect to the subject-matter of the contract and replaces any and all

negotiations, promises and arrangements.

- 13.2 Any amendments or supplements must be made in writing. This shall also apply to amendments of this written form requirement.
- 13.3 The Customer is not entitled to assign or otherwise transfer its rights and obligations under these HxGN SmartNet PPP Correction General Terms and Conditions to third parties without the prior written consent of the Service Provider.
- 13.4 Should any of the provisions of this HxGN SmartNet PPP Correction General Terms and Conditions be found null and void for whatever reason, this shall have no impact on the validity of the remaining provisions. In such case, the invalid provision shall be replaced by a legally valid provision which comes as close as possible to the original intent of the parties.

#### **14. APPLICABLE LAW AND PLACE OF JURISDICTION**

- 14.1 Unless a different applicable law has been agreed within the framework of the General Terms and Conditions of Sale and Delivery of the Service Provider which have been included by reference, the substantive law of Switzerland shall apply to the Subscription. The application of the U.N. Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) shall be explicitly excluded.
- 14.2 Unless a different place of jurisdiction has been agreed within the framework of the General Terms and Conditions of Sale and Delivery of the Service Provider which have been included by reference, all disputes arising out of or in connection with the Subscription shall be decided with final effect pursuant to the settlement and arbitration rules of the International Chamber of Commerce (ICC) by one or several arbitrators appointed according to these rules. Unless otherwise agreed by the parties, Zurich, Switzerland, shall be the place of arbitration and the proceedings shall be conducted in English.
- 14.3 The Service Provider is in addition entitled to file an action against the Customer at the latter's place of residence or company seat.

#### **15. ANNEXES**

- 15.1 The product data sheet as applicable from time to time forms an integral part of the Subscription.
- 15.2 The Country-specific Annex to the HxGN SmartNet PPP Correction General Terms and Conditions as applicable from time to time shall, if relevant, form an integral part of the Subscription for the respective country.
- 15.3 In case of conflicts, the provisions of the Country-specific Annex to the HxGN SmartNet PPP Correction General Terms and Conditions shall prevail over the HxGN SmartNet PPP Correction General Terms and Conditions.