

End User Subscription Agreement

Siteimprove

1. General Terms

- a. This Siteimprove End User Subscription Agreement (the “**EUSA**”) is entered into between Siteimprove A/S and its affiliates (collectively “**Siteimprove**”), and the legal entity accessing or using Siteimprove’s Services (“**Customer**”). It consists of the terms and conditions below, the Success Plan, the Implementation Plan on the Order Form, if applicable (defined below), and all documents referenced within those documents (“**Agreement**”).

2. Contractual Relationship

- a. **Included Services.** Customer has ordered a subscription to Siteimprove’s services (the “**Included Services**”) through Customer’s preferred partner (the “**Partner**”). The Included Services are set forth in an order form between Siteimprove and Partner (the “Order Form”).
- b. **Term.** This Agreement is effective the earlier of a) the signature of this EUSA or b) the date that Partner will provide Customer with access to the Included Services according to the Order Form. This Agreement will continue to be in effect for as long as the Order Form with Partner is in place or until this Agreement is terminated cf. section 5 below.
- c. **New Orders.** Any new orders, including upgrades to Customer’s current Included Services, for Siteimprove services must be placed by Customer through the Partner.
- d. **Technical Support.** Technical Support will be provided in accordance with the success plan included in Customer’s Included Services. Technical Support is available at Siteimprove’s [Help Center](#), through which Customer can submit a support ticket at any time. Additionally, Customer may contact Siteimprove for product support, training, and additional services.

3. Subscription Details

- a. Subject to the terms of this Agreement, the Customer is granted the rights to use the Included Services from the Start Date and throughout the Subscription Term as specified in the Order Form. If there is a difference in the Included Services provided to Customer by Siteimprove compared to what was originally ordered by Customer to Partner, Customer must at once make Partner aware of such difference.

4. Use of the Included Services

- a. **Right to Use.** Siteimprove grants the Customer a right to use the Included Services on a worldwide, revocable, non-exclusive, non-perpetual and non-transferable basis. This right includes updates and new releases of the Included Services, but not new service tiers/modules/services/products added to the Included Services. Customer has no right to retain or to use the Included Services after termination of this Agreement. Customer can create an unlimited number of users to the Included Services. Customer will have access to the Included Services only for those website domain(s) specifically agreed upon with Partner.

- b. **Limitation of Use.** The Customer's use of the Included Services is subject to the quantities and limitations as specified in the Order Form (the "**Limits**"). If the Customer exceeds the Limits, Siteimprove will notify the Partner of such excess use and the Partner will contact Customer to discuss appropriate upgrades of the Customer subscription. Customer must be the owner or authorized administrator of the website(s) on which the Included Services are run. Customer may not: (i) rent, lease, assign, transfer, sublicense, display or otherwise distribute or make the Included Services available to any third party; (ii) modify, make derivative works of, disassemble, reverse compile or reverse engineer any part the Included Services; (iii) remove or alter any trademark, logo, copyright or other proprietary notices, symbols, or labels in the Included Services; or (iv) use the Included Services for any illegal purpose.
- c. **For Non-Public Website Use.** Any use of the Included Services on customer intranet, log-in-protected websites, staging websites, development website, or any other form of non-public websites ("**Non-Public Websites**") is subject to the obligations set out in this Section 4(c). For Siteimprove to allow that the Included Services are used on a Non-Public Website, Customer must ensure that there is an encrypted line for the secure transport of data between such Non-Public Website and Siteimprove. Customer must ensure that, to the extent necessary, or required by applicable laws, it has an appropriate legal basis for the processing of personal data for the purpose of the Included Services, and that it has the right to disclose any confidential information on the Non-Public Website. Except when expressly agreed, Customer represents and warrants that the information on the Non-Public Website is not subject to heightened regulations (e.g., HIPAA, or FERPA). Additionally, Customer must assign an account with non-administrative rights to the Non-Public Website when using the Included Services on any website behind log-in protection. In the event of any failure by Customer to adhere to the obligations set out in this section, Siteimprove may reject to perform the Included Services on the Non-Public Website. CUSTOMER EXPRESSLY UNDERSTANDS AND AGREES THAT SITEIMPROVE AND ITS AFFILIATES, DIRECTORS AND EMPLOYEES SHALL NOT BE LIABLE TO CUSTOMER UNDER ANY THEORY OF LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHER SPECIAL DAMAGES ARISING OUT OF OR DUE TO CUSTOMER'S USE OF THE INCLUDED SERVICES IF SUCH USE IS IN BREACH OF CUSTOMER'S OBLIGATIONS IN THIS SECTION.

5. Termination of Services

- a. **For Convenience.** Under the terms and conditions of Siteimprove's agreement with the Partner, Siteimprove is entitled to suspend or terminate the Customer's subscription to the Included Services if Siteimprove does not receive payment for the services from the Partner in accordance with the agreement between Siteimprove and the Partner. Customer acknowledges these suspension and termination rights and agrees that Siteimprove shall have no liability to Customer of any kind with respect to any such suspension or termination. Customer's sole recourse with respect to any such suspension or termination shall be against Partner.
- b. **For Breach.** Without affecting any other right or remedy available to it, either party may terminate this Agreement, with immediate effect in the event of a material breach by the other party. Material breach shall include: (i) any violation of the terms of Section 4, 6, 7, 9, and 12(a); (ii) any other breach that a party has failed to cure within fourteen (14) calendar days after receipt of written notice by the other party; (iii) an act of gross negligence or willful misconduct of a party; and (iv) the insolvency, liquidation, or bankruptcy of a party.
- c. **Partner Relationship.** Should Customer's agreement with Partner end for whatever reason, this Agreement shall continue for the remaining part of the term as specified in the Order Form from Partner to Siteimprove and then terminates automatically. Customer will not hold Siteimprove liable for any claims in relation to the fee paid by Customer to Partner in case of termination of Customer's agreement with Partner.
- d. **Effects of Termination.** In case of termination of this Agreement, Siteimprove will shut down access to the Included Services immediately. Should either this Agreement or Customer's agreement with Partner terminate, Customer will hold Siteimprove harmless for all claims relating to Customer's relationship with Partner, including any claims for refund. In case of termination of this Agreement due

to a breach by Siteimprove, Customer must seek compensation through Partner. Nothing in this Agreement shall prevent Siteimprove and Customer from entering into a direct service agreement should either this Agreement or Customer's agreement with Partner terminate.

6. Confidentiality

- a. **Definition. "Confidential Information"** means all information disclosed by one Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**") which is in tangible form and designated as confidential or is information, regardless of form, which a reasonable person would understand to be confidential given the nature of the information and circumstances of disclosure. Notwithstanding the foregoing, Confidential Information does not include information that: (a) was in the public domain prior or subsequent to the time such portion was communicated to Receiving Party by Disclosing Party through no fault of Receiving Party; (b) was rightfully in Receiving Party's possession free of any obligation of confidence at or subsequent to the time such portion was communicated to Receiving Party by Disclosing Party; (c) was developed by employees or agents of Receiving Party independently of and without reference to any information communicated to Receiving Party by Disclosing Party; (d) was communicated by Disclosing Party to an unaffiliated third party free of any obligation of confidence; or (e) is approved by Disclosing Party for release by Receiving Party.
- b. **Nondisclosure Obligations.** Each of the parties agrees to (a) maintain in confidence any Confidential Information; (b) use its best endeavors to protect Confidential Information in accordance with the same degree of care with which it protects its own Confidential Information; and (c) not disclose the other party's Confidential Information to any third party, except in response to a valid order by a court or other governmental body or as required by law. The receiving party will promptly give notice to the disclosing party of any disclosure of the other party's Confidential Information.
- c. **Ownership and Return of Confidential Information.** All Confidential Information of Disclosing Party will remain the property of Disclosing Party. Upon written request of Disclosing Party, Recipient shall destroy or return to Disclosing Party all Confidential Information. However, Receiving Party will not be required to erase any Confidential Information of the Disclosing Party stored electronically as part of an archival back-up system maintained in the ordinary course of business. In the event of disclosure of confidential information to a third party in default of the provisions of this section 6, the defaulting party will use reasonable efforts to assist the Disclosing Party in recovering and preventing such third party from using, selling, disclosing or otherwise disposing of such confidential information. The obligations in this section 6 shall survive the termination of this Agreement and any order form concluded.

7. Data and Privacy

- a. **GDPR – General Data Protection Regulation.** The Included Services are designed and developed to collect and process customers' website content and certain operational data in relation thereto. Any personal data processed by Siteimprove when performing the Included Services is processed according to the Customer's instructions and on its behalf. In this regard, Customer is deemed to be "**Data Controller**" and Siteimprove is "**Data Processor**". Where applicable, Customer is responsible for entering into a Data Processing Agreement ("DPA") with Siteimprove which lives up to any then-current legal standards. If the use of the Included Services on Non-Public Websites and/or websites that contain special categories of personal data has been agreed upon, the Customer ensures that the DPA reflects the processing of non-public and/or special categories of personal data. If Customer has not facilitated a DPA to be signed on the day that Customer begins to use the Included Services, the parties are deemed to have entered into Siteimprove's standard DPA available: <https://siteimprove.com/en/privacy/dpa/>.
- b. **Security.** Siteimprove will ensure that Customers' data is processed under the relevant and necessary technical and organizational security measures. Information about Siteimprove data processing and Security can be obtained via www.siteimprove.com/en/privacy/.

- c. **Partner Relationship.** If and where relevant, Partner's privacy practices with respect to any Customer data or any services provided by Partner are subject to the terms of Customer's agreement with its Partner and may differ from Siteimprove's privacy practices.

8. IPR and Data Ownership

- a. **Ownership.** Siteimprove owns and shall remain the sole owner of all intellectual property vested in the Included Services created prior to or during the performance by the parties of this Agreement. This ownership right includes any inventions, patents, utility model rights, copyrights, design rights, mask works, trademark rights, or knowhow, whether registered or not.
- b. **Customer Owned Data.** All data provided to Siteimprove through the use of the Included Services ("**Customer Data**") is and shall remain Customer property. Siteimprove does not resell any Customer Data. To enable Siteimprove to provide Customer with the Included Services, and subject to this Agreement, Customer hereby grants to Siteimprove a non-exclusive right to use and process Customer Data provided by Customer solely in connection with Siteimprove's operation of the Included Services.
- c. **Aggregated Anonymous Data.** Customer acknowledges and agrees that Siteimprove will have the right to obtain or generate and aggregate technical and other data about Customer's use of the Included Services excluding any personally identifiable with respect to Customer ("**Aggregated Anonymous Data**"). Siteimprove owns Aggregated Anonymous Data and may use this to analyze, improve, support and operate the Included Services and otherwise for any business purpose, during and after the term of this Agreement. For clarity, this Section 8(c) does not give Siteimprove the right to identify Customer as the source of any Aggregated Anonymous Data.
- d. **Feedback.** Siteimprove shall have a fully paid-up, royalty-free, worldwide, transferable, sub-licensable, assignable, irrevocable and perpetual license to implement, use, modify, commercially exploit, incorporate into the Included Services or otherwise use any suggestions, enhancement requests, recommendations or other feedback received from Customer. Siteimprove also reserves the right to seek intellectual property protection for any features, functionality or components that may be based on or that were initiated due to such feedback.

9. Representations and Warranties

- a. **For Siteimprove.** Siteimprove represents and warrants that: (i) it has the full power and authority to enter into and perform its obligations under this Agreement; and (ii) the Included Services will perform substantially as described in this Agreement for the term of the subscription, provided that it is used in accordance with the Agreement, including on the specified domains. These representations and warranties are only for the benefit of Customer.
- b. **For Customer.** Customer represents and warrants that: (i) it has the full power and authority to enter into and perform its obligations under this Agreement; and (ii) it has full and legal right or authorization to display, disclose, transfer, assign or convey the information set forth and accessible on the websites on which the Included Services will be administered.
- c. **Disclaimer.** Except for the express representations and warranties listed in this Agreement, each party makes no representations or warranties of any kind, whether express or implied. No oral or written information or advice given by either party will create a representation or warranty. Specifically, Siteimprove makes no representations or warranties with regard to the use of the Included Services for the purpose of ensuring Customer's compliance with any laws or regulations. Neither party shall be held liable for failure or delay in performing an obligation under this Agreement to the extent such failure is due to circumstances that are beyond its reasonable control, including, but not limited to, order or measure of government, strike, blockade, natural disaster, act of war, terrorism, pandemic or internet service provider failure or delay.

10. Indemnification

- a. **By Customer.** Customer will defend Siteimprove and its Affiliates from and against all third-party claims, lawsuits, and demands arising out of an allegation regarding (a) Customer Data, or (b) use of the Included Services by Customer or end users in violation of this Agreement, and will indemnify Siteimprove and its Affiliates for all reasonable attorney's fees incurred, damages and other costs awarded in a final judgment or amounts paid in a settlement consented to as further set forth in Section 10(c).
- b. **By Siteimprove.** Siteimprove will defend Customer from and against all third-party claims, lawsuits, and demands arising out of an allegation that Siteimprove's services infringe or misappropriates any U.S. patent, copyright, or trade secret of such third party, and will indemnify Customer for all reasonable attorney's fees incurred, damages and other costs awarded in a final judgment or amounts paid in a settlement consented to as further set forth in Section 10(c). In no event will Siteimprove have obligations or liability under this Section arising from: (a) use of the Included Services in a modified form or in combination with materials or technology not furnished by Siteimprove, and (b) any content, information, or data provided by Customer, Customer's end users, or other third parties. For any claim covered by this Section, Siteimprove will, at its election, either (i) procure the rights to use the portion of the Included Services alleged to be infringing, (ii) replace the alleged infringing portion of the Included Services with a non-infringing alternative, or (iii) terminate the allegedly infringing portion of the Included Services or this Agreement and provide Partner with a pro-rata refund of any pre-paid, unused fees.
- c. **General.** The party seeking indemnification will promptly notify the other party of the claim and cooperate with the party in defending the claim. The indemnifying party will have full control and authority over the defense, except that: (a) any settlement requiring the party seeking indemnification to admit liability or to pay any money will require that party's prior written consent, such consent not to be unreasonably withheld or delayed, and (b) the other party may join in the defense with its own counsel at its own expense. **THE INDEMNITIES ARE A PARTY'S ONLY REMEDY UNDER THIS AGREEMENT FOR VIOLATION BY THE OTHER PARTY OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS.**

11. Limitation of Liability

- a. Customer and Siteimprove shall each only be liable for direct damages. As such, each party shall not be liable to the other party for any indirect, special, incidental, punitive damages caused by Customer's use of the Included Services, including, but not limited to, loss of data, loss of business or other loss arising out of or resulting from this Agreement even if it has been advised of the possibility of such damages. Furthermore, in no event shall Siteimprove be held liable for any actions or breach of contract by Partner. Any monetary claims filed in relation to this agreement shall be limited and cannot exceed USD 25,000.

12. Miscellaneous

- a. **Assignment.** Except as otherwise expressly provided in this Agreement, neither party may assign, transfer, convey or encumber this Agreement or any rights granted in them without the prior written consent of the other party (such consent not to be unreasonably withheld). Notwithstanding the foregoing, a party shall have the right to assign this Agreement to its Affiliates or to a successor entity in the event of a merger, consolidation, transfer, stock purchase, provided the assignee is subject to all obligations under this Agreement.
- b. **Relation to Other Document.** This Agreement constitutes the entire agreement between the Customer and Siteimprove and supersedes any prior communications, commitments, or agreements, oral or written, with respect to the subject matter of this Agreement. Should there be any conflict between this Agreement and the terms of the agreement between Customer and Partner, this Agreement will have priority in relation to any dispute concerning the access to and use of the Included Services. Any other standard or boilerplate terms and conditions included in any document

provided by one party to another (e.g., click-wrap agreements and purchase orders) are not to be considered agreed upon and will not be binding on either party.

- c. **Notices.** Notices under this Agreement shall be in writing and shall be sent as certified mail, by a nationally recognized courier (with proof of delivery receipt or acknowledgment of receipt) to the address set out in this Agreement, or by e-mail. E-mail notices to Customer will be sent to the e-mail address provided by the Customer. E-mail notices to Siteimprove must be sent to legal@siteimprove.com. The notice shall be deemed given on the date of receipt, or refusal of delivery, by the receiving Party.

13. Governing Law

- a. This Agreement and any dispute in relation to the Included Services, or the Customer's use hereof, will be governed by and construed in accordance with the relevant law based on where the Customer is domiciled cf. the table below and subject to the exclusive jurisdiction of the competent courts, also specified below.

For Customers domiciled in:	Governing Law	Exclusive jurisdiction
Customers in EEA, and Switzerland.	The country, state, or province, whichever is applicable, where the Customer is domiciled	The country, state, or province, whichever is applicable, where the Customer is domiciled
United Kingdom	England and Wales	London, United Kingdom
A country in Europe, the Middle East or Africa, other than a country in the EEA, Switzerland, and the United Kingdom	Denmark	Copenhagen, Denmark
Australia, and New Zealand	New South Wales, Australia	New South Wales, Australia
Japan	Japan	Tokyo, Japan
A country in Asia, or the Pacific region, other than Japan, Australia, or New Zealand	Singapore	Singapore
United States or a country in Central or South America, or the Caribbean	California	San Francisco, California, U.S.A.
Canada	Ontario	Toronto, Ontario, Canada

Signatures

By signing below, Customer acknowledges that it has carefully read and understood this Agreement, and agrees to be bound by the terms of this Agreement.

For Customer:

Name:

Title:

Date:

Customer Entity Name: