

Site Survey + Terms of Use

PLEASE NOTE: BY CLICKING THE “ACCEPT” BUTTON WHEN YOU INSTALL OR DOWNLOAD THE APP, YOU AGREE TO THESE TERMS WHICH WILL BIND YOU. IF YOU DO NOT AGREE TO THESE TERMS, PLEASE DO NOT CLICK THE “ACCEPT” BUTTON OR USE THE APP

1. Who we are and what these terms do

- 1.1. We are Site Survey Plus Ltd, a company registered in England and Wales with company registration number 12401734 and whose registered office is at 8a Overland Road, Langland, Swansea, Abertawe, SA3 4LS (“**we**”, “**us**”, “**our**”).
- 1.2. These are the terms and conditions on which we supply and license to you our “Site Survey +” mobile and web-based application (“**App**”), related online or electronic documentation (“**Documentation**”) and any of the services accessible through the App (“**Services**”). **Please read these terms carefully so that you are aware of your rights and responsibilities.**
- 1.3. A contract will come into existence between you and us when you click to accept these terms of use or use the Site Survey Plus App.
- 1.4. Note that in some areas you will have different rights under these terms depending on whether you are a business or consumer. You are a consumer if you are an individual and you are using the App, Documentation and/or Services wholly or mainly for your personal use (not for use in connection with your trade, business, craft or profession).

2. The App Store’s terms also apply

The ways in which you can use the App, Documentation and/or Services may also be controlled by the Apple UK App Store’s rules and policies (“**Appstore Terms**”) and the Appstore Terms will apply instead of these terms where there are differences between the two.

3. Operating system requirements

The App requires an Apple iPad device with a minimum of 1GB of memory and the iOS operating system version 9.0 (or the most recent version of the iOS operating system from time to time, preferably users should use the latest version of iOS) (“**Device**”). Certain Services, for example generating and downloading reports, can only be accessed via desktop through the web-based application, accessible at www.sitesurveyplus.com.

4. Charges and Cancellations

- 4.1. The App is free to download and certain Services and features of the App are available to you free-of-charge (“**Free Service**”). Other Services and features (such as creating, downloading, sharing or editing survey reports, or additional data bundles) require payment before you can access them (“**Subscription Plans**”). Details of the different Subscription Plans including Data Bundle charges that are available can be found on our website (www.sitesurveyplus.com) (“**Site**”).
- 4.2. Each time a user generates a pdf report a **Credit** is used, users are provided with a quantity of Free Credits at the point of subscription. A Credit is of equivalent value to £10.00 (See Subscription Plans). Site Survey Plus reserves the right to vary the quantity of Free Credits for new users and reserves the right to vary the Subscription Plans and charges for new and existing users from time to time subject to providing a minimum of 30 calendar days written notice via electronic mail to existing users.
- 4.3. Project data will be stored electronically on the database of the Desktop App for a minimum period of

12 months from the creation of a project, following which Site Survey Plus Ltd reserves the right to charge additional Credits for Data Storage to the value of 1 Credit per Project for every additional 12 months of storage, or may remove project data from the Site Survey Plus database subject to providing 30 calendar days written notice in electronic format. Project Data is defined as the digital photographs, comments, plans, and any other electronic material stored under each individual project stored on the users account on the Site Survey Plus Ltd database and within the Desktop App. Site Survey Plus Ltd reserves the right to vary the project data storage policy from time to time subject to providing existing users with 30 calendar days written notice.

- 4.4. Details of the charges payable for the different Subscription Plans can be found on our WebSite, along with details of when such charges will be payable. All payments will be made and processed via our third-party payment software provider, Stripe, in accordance with its terms and conditions. By purchasing a Subscription Plan, you authorise us via Stripe to charge your credit card automatically for the charges payable in respect of such Subscription Plan until you or we end the contract. If we are unable to collect any payment from your credit card on the applicable due date for payment, without prejudice to any other right or remedy to which we may be entitled, we may limit or suspend your ability to use the App, Documentation and/or the Services or to access stored Project Data.
- 4.5. Depending on the Subscription Plan you have purchased, charges will either be payable (a) as a single one-off payment without any further charges payable; or (b) as a single one-off payment followed by a recurring charge payable on a monthly, annual or other basis as specified on our Site ("**Recurring Charges**").
- 4.6. Where the Subscription Plan you have purchased includes the payment of Recurring Charges:
 - 4.6.1. we reserve the right to increase such Recurring Charges from time to time upon giving you 30 calendar days prior notice. Any such increase will take effect at the start of the next subscription period following notification of the price increase. If you do not agree with the increase, you have the right to cancel your Subscription Plan before the increase takes effect; and
 - 4.6.2. your Subscription Plan will automatically renew at the end of the applicable subscription period unless you cancel your Subscription Plan or Data Plan before the end of that period.
- 4.7. You can cancel your Subscription Plan at any time via the Site Survey Plan desktop App or by contacting us using the details in clause 20 (Contact us) below. Any such cancellation will take effect after the last day of the then current subscription period, at which point you will no longer be able to access the features and/or Services included within that Subscription Plan. However, you will still be permitted to access and use the Free Service, subject to and in accordance with these terms of use.
- 4.8. If you are a consumer and you purchase a Subscription Plan, you have the right to change your mind within 14 days and receive a full refund ("**Cooling-off Period**"). You agree that your right to cancel during the Cooling-off Period will be lost if you use the App, Services or Documentation during the Cooling-off Period. If you wish to exercise your right to cancel during the Cooling-off Period, please contact us using the details in clause 20 (Contact us) below.
- 4.9. You may upgrade your Subscription Plan at any time via the Desktop App or by contacting us using the details in clause 20 (Contact us) below and paying the applicable charges. Once the applicable charges have been paid, you will automatically be upgraded to your chosen Subscription Plan.

5. Administrator and Authorised Users

- 5.1. When you sign up to use the App, Documentation and/or Services, you will be designated as an **“Administrator”**.
- 5.2. Where you purchase a Subscription Plan, such Subscription Plan may include a right for you to invite a maximum number of your employees, agents or independent contractors to also access and/or use the App, Documentation and/or Services included in that Subscription Plan at no additional cost (**“Authorised Users”**).
- 5.3. You agree that the maximum number of Authorised Users that you permit to access and use the App, Services and/or Documentation will not exceed the number specified in relation to the applicable Subscription Plan. If such maximum number is exceeded, we reserve the right to charge you for each additional user at our then current rates from the date that they start using the applicable App, Services and/or Documentation, or to restrict such additional user(s) from accessing the applicable App, Services and/or Documentation.
- 5.4. You as an Administrator are responsible for use of the App, Documentation and/or Services by each Authorised User and must ensure that each Authorised User is aware of and complies with these terms of use.

6. How you may use the App, including how many devices you may use it on

- 6.1. You must be 18 or over to accept these terms and download the App.
- 6.2. In return for your agreeing to comply with these terms you may:
 - 6.2.1. download or stream a copy of the App onto one (1) Device and view, use and display the App and the Services on such Device for your internal purposes only. In addition you may be permitted to share the App, Documentation and/or Services with Authorised Users in accordance with the terms set out in clause 5 (Administrator and Authorised Users) above;
 - 6.2.2. use any Documentation to support your permitted use of the App and the Services; and
 - 6.2.3. subject to our discretion, receive and use any free supplementary software code or update of the App incorporating “patches” and corrections of errors as we may provide to you.

7. Licence restrictions

- 7.1. You agree that you will:
 - 7.1.1. not rent, lease, sub-license, loan, provide, or otherwise make available, the App, Documentation and/or the Services in any form, in whole or in part to any person without prior written consent from us (except in the course of permitted sharing with Authorised Users in accordance with clause 5 (Administrator and Authorised Users) above);
 - 7.1.2. not copy the App, Documentation and/or Services, except as part of the normal use of the App or where it is necessary for the purpose of back-up or operational security;
 - 7.1.3. not translate, merge, adapt, vary, alter or modify, the whole or any part of the App, Documentation and/or Services nor permit the App or the Services or any part of them to be combined with, or become incorporated in, any other programs, except as necessary to use

the App and the Services on the Device as permitted in these terms;

- 7.1.4. not disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the App or the Services nor attempt to do any such things, except to the extent that (by virtue of sections 50B and 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are necessary to decompile the App to obtain the information necessary to create an independent program that can be operated with the App or with another program (“**Permitted Objective**”), and provided that the information obtained by you during such activities:
 - 7.1.4.1. is not disclosed or communicated without our prior written consent to any third party to whom it is not necessary to disclose or communicate it in order to achieve the Permitted Objective; and
 - 7.1.4.2. is not used to create any software that is substantially similar in its expression to the App;
 - 7.1.4.3. is kept secure; and
 - 7.1.4.4. is used only for the Permitted Objective;
- 7.1.5. comply with all applicable technology control or export laws and regulations that apply to the technology used or supported by the App or any Service.

8. Acceptable use restrictions

- 8.1. You must:
 - 8.1.1. not use the App or any Service in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with these terms, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, such as viruses, or harmful data, into the App, any Service or any operating system;
 - 8.1.2. not infringe our intellectual property rights or those of any third party in relation to your use of the App or any Service, including by the submission of any material (to the extent that such use is not licensed by these terms);
 - 8.1.3. not transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the App or any Service;
 - 8.1.4. not use the App or any Service in a way that could damage, disable, overburden, impair or compromise our systems or security or interfere with other users; and
 - 8.1.5. not collect or harvest any information or data from any Service or our systems or attempt to decipher any transmissions to or from the servers running any Service.

9. Intellectual Property Rights

All intellectual property rights in the App, the Documentation and the Services throughout the world belong to us (or our licensors) and the rights in the App, Documentation and/or the Services are licensed (not sold) to you. You have no intellectual property rights in, or to, the App, the Documentation or the Services other than the right to use them in accordance with these terms.

10. Your privacy

- 10.1. Under data protection legislation, we are required to provide you with certain information about who we are, how we process your personal data and for what purposes and your rights in relation to your personal data and how to exercise them. This information is provided in our privacy policy which is available on our Site and it is important that you read that information.
- 10.2. Please be aware that internet transmissions are never completely private or secure and that any message or information you send using the App or any Service may be read or intercepted by others, even if there is a special notice that a particular transmission is encrypted.

11. Changes to these terms

- 11.1. We may need to make changes to these terms which we consider necessary, for example to reflect changes in law or best practice or to deal with additional features, updates or upgrades which we introduce. We will give you appropriate notice of any material changes.
- 11.2. If you do not accept the notified changes you may terminate this contract by contacting us using the details in clause 20 (Contact us) below.

12. Updates to the App and changes to the service

- 12.1. From time to time we may automatically update the App and change the Services to improve performance, enhance functionality, reflect changes to the operating system or address security issues. Alternatively we may ask you to update the App for these reasons.
- 12.2. If you choose not to install such updates or if you opt out of automatic updates you may not be able to continue using the App and the Services.
- 12.3. The App will always match the description of it provided to you when you downloaded it.

13. If someone else owns the Device you are using

If you download or stream the App onto any Device not owned by you, you must have the owner's permission to do so. You will be responsible for complying with these terms, whether or not you own the Device.

14. We may collect technical data about your device

By using the App or any of the Services, you agree to us collecting and using technical information about the devices you use the App on and related software, hardware and peripherals to improve our products and to provide any Services to you.

15. You may not transfer the App to someone else

We are giving you personally the right to use the App, Documentation and/or the Services. Whilst you may have the right to share the App, Documentation and/or Services with Authorised Users as set out in clause 5 (Administrator and Authorised Users) above, you may not otherwise transfer the App, Documentation and/or the Service to anyone else, whether for money, for anything else or for free. If you sell any Device on which the App is installed, you must remove the App from it.

16. We are not responsible for other websites you link to

- 16.1. The App or any Service may contain links to other independent websites which are not provided by us. Such independent sites are not under our control, and we are not responsible for and have not

checked and approved their content or their privacy policies (if any).

16.2. You will need to make your own independent judgement about whether to use any such independent sites, including whether to buy any products or services offered by them.

17. Our responsibility for loss or damage suffered by you

17.1. If you are a consumer:

17.1.1. Nothing in these terms will affect your legal rights.

17.1.2. If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking these terms or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time you accepted these terms, both we and you knew it might happen.

17.1.3. We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors or for fraud or fraudulent misrepresentation.

17.1.4. If defective digital content that we have supplied damages the Device or digital content belonging to you, we will either repair the damage or pay you compensation. However, we will not be liable for damage that you could have avoided by following our advice to apply an update offered to you free of charge or for damage that was caused by you failing to correctly follow installation instructions or to have in place the minimum system requirements advised by us.

17.1.5. We are not liable for business losses. We will have no liability to you for any loss of profit, loss of business, business interruption, loss of business opportunity or loss of goodwill.

17.2. If you are a business:

17.2.1. Nothing in these terms shall limit or exclude our liability for:

17.2.1.1. death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);

17.2.1.2. fraud or fraudulent misrepresentation; or

17.2.1.3. any other matter in respect of which it would be unlawful for us to exclude or restrict liability.

17.2.2. Subject to clause 17.2.1 above:

17.2.2.1. we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with any contract between us; and

17.2.2.2. our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to £[5,000].

17.3. The App and the Services are provided for general information purposes only. They do not offer advice on which you should rely. You must obtain professional or specialist advice before taking, or refraining

from, any action on the basis of information obtained from the App or the Services, including any survey reports. Although we make reasonable efforts to update the information provided by the App and the Services, including any survey reports, we make no representations, warranties or guarantees, whether express or implied, that such information is accurate, complete or up to date.

- 17.4. We recommend that you back up any content and data used in connection with the App, to protect yourself in case of problems with the App or the Service, such as data loss during synchronisation of data between the iPad device and Desktop Application. Photographs will be stored in a Site Survey Plus folder on the users iPad device with sub-folders created on a project bay project basis.
- 17.5. The App and the Services have not been developed to meet your individual requirements. Please check that the facilities and functions of the App and the Services (as described on the Appstore site and in the Documentation) meet your requirements.
- 17.6. If our provision of the Services or support for the App or the Services is delayed by an event outside our control then we will contact you as soon as possible to let you know and we will take steps to minimise the effect of the delay. Provided we do this we will not be liable for delays caused by the event but if there is a risk of substantial delay you may contact us to end your contract with us and receive a refund for any Services you have paid for but not received.

18. Ending or suspending your rights to use the App and the contract

- 18.1. The contract between you and us will continue to apply until terminated by either you or us.
- 18.2. We may end or suspend your rights to use the App and Services and/or terminate the contract at any time by contacting you if you have broken these terms in a serious way. If what you have done can be put right we will give you a reasonable opportunity to do so.
- 18.3. You may terminate the contract at any time by contacting us using the details set out in clause 20 (Contact us) below.
- 18.4. If we end your rights to use the App, Documentation and the Services and/or the contract is terminated:
 - 18.4.1. You must stop all activities authorised by these terms, including your use of the App, Documentation and Services.
 - 18.4.2. You must delete or remove the App from the Device, ensure that all Authorised Users delete or remove the App from their devices, and immediately destroy all copies of the App which you and any Authorised Users have and confirm to us that you have done this.
 - 18.4.3. We may remotely access your Device and remove the App from it and cease providing you with access to the Services.

19. General

- 19.1. We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under the contract.
- 19.2. You may only transfer your rights or your obligations under these terms to another person if we agree in writing.

- 19.3. If you are a business customer these terms constitute the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these terms.
- 19.4. This contract is between you and us. No other person shall have any rights to enforce any of its terms. Neither of us will need to get the agreement of any other person in order to end the contract or make any changes to these terms.
- 19.5. Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 19.6. Even if we delay in enforcing this contract, we can still enforce it later. If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.
- 19.7. These terms are governed by English and Welsh law and you can bring legal proceedings in respect of the App and/or Services in the English and Welsh courts.
- 19.8. The iPad App and Desktop App have capacity to produce reports with up to 300 defect entries and photographs, beyond this limit the User should consider splitting reports into a series of separate projects to avoid synchronisation issues or data loss.

20. Contact us

- 20.1. If you want to learn more about the App or the Services or have any problems using them, or if you think the App or the Services are faulty or misdescribed or wish to contact us for any other reason please email us at support@sitesurveyplus.com or phil@sitesurveyplus.com
- 20.2. If we have to contact you we will do so by email, by SMS or by pre-paid post, using the contact details you have provided to us.