



Siteimprove, Inc
 5600 West 83rd Street
 Suite 400
 Bloomington Minnesota 55437
 United States

Order Form for Town of Apex
 Offer Valid Through: 7/12/2022
 Proposed by: Cassidy Soli
 Quote Number: Q-137515.3

ORDER FORM

Address Information

Bill To:
 Town of Apex
 PO Box 250
 Apex NC 27502
 United States

Ship To:
 Town of Apex
 73 Hunter Street
 Apex NC 27502-2312
 United States

Contact Name: Stacie Galloway
Email Address: stacie.galloway@apexnc.org

Phone: (919) 249-1135

Term & Payment Details

Start Date:	7/13/2022	End Date:	7/12/2025
Subscription Term:	36 Months	Renewal Term:	N/A
Renewal Price Increase:	N/A	Billing Frequency:	Annual
Payment Term:	Net 30 days	Billing Method:	Email
Payment Method:	Bank Transfer	Invoice Date:	7/19/2022
Automatic Renewal:	<input type="checkbox"/>		

Included Services

Subscription Services	Limit Type	Quantity*
Response	Response Check Points	5
Quality Assurance & Policy	Pages	1,500
Analytics	Yearly Page Views	3,000,000
SEO	Pages	1,500
Accessibility	Pages	1,500
Behavior Map	Maps	250



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Subscription Services	Limit Type	Quantity*
Standard Support	N/A	1

**When Subscription Services share the same Limit Type, the Quantity specified represents an aggregated amount, which is shared by these services.*

Annual Subscription Fee: USD 8,008.04
Annual Subscription Fee: USD 8,008.04
Total Subscription Fee: USD 24,024.12

At least 45 days prior the start of a new Billing Frequency Period, Siteimprove will send an invoice for the proportionate Subscription Fee.



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Purchase Order Information

(Customer to complete)

Is a Purchase Order (PO) required for the purchase or payment of the products on this Order Form?

- No**
 Yes

Is PO renewal required for each invoicing term?

- No**
 Yes

PO Number: _____

PO requests must be sent to: _____

Billing Information

(Customer to complete)

Billing Contact Name: _____

Billing E-mail: _____

Billing References: _____

E-invoicing Information: _____

Sales Tax Information

(Customer to complete)

You may be subject to sales tax (or equivalent) unless you can provide proof of exemption. Are you exempt from sales tax?

- Yes, please attach exemption form.**
 No.



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Customer Signature

By signing below, Town of Apex agrees that this Order Form is subject to terms and conditions attached to this Order Form.

On behalf of Customer:

Name:

Date:

Signature



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STANDARD SUPPORT PLAN

1. SELF-HELP RESOURCES. Customers can take full advantage of Siteimprove self-help tools, available online via our <https://support.siteimprove.com/hc/en-gb> (<https://support.siteimprove.com/>). From that page, Customers can find links to technical documentation and knowledge base articles, discuss issues with other users in our community forums, review what's new, read technical notes, and access free webinars.

2. PRODUCT SUPPORT AND TRAINING. Customers can contact Siteimprove for product support, training, and additional services by visiting our <https://support.siteimprove.com/hc/en-gb>. At that location, Customers can submit a support ticket 24x7 every day of the year.

Service Levels: Siteimprove will utilize commercially reasonable efforts to promptly respond to all requests. Siteimprove aspires to review and respond to at least ninety percent (90%) of all tickets and requests within three (3) Business Days. "Business Days" are defined as the days on which Customer's regional support center is open for business (see Section 3).

3. SUPPORT AVAILABILITY. Siteimprove has regional support centers servicing the Americas, EMEA and APAC. <https://support.siteimprove.com/hc/en-gb/articles/360002402297>

4. SUPPORT CHANGES. Siteimprove has the sole discretion to change the terms and conditions of the Standard Support Plan.

SITEIMPROVE INTELLIGENCE PLATFORM (“SIP”) TERMS OF USE
September 2021 -

v. 01.09.2021 -

1. GENERAL TERMS

a. By accepting a Siteimprove Order Form, by paying the Subscription Fee and/or Prorated Subscription Fee specified in a Siteimprove Order Form or otherwise making use of the Included Services, the Customer agrees to be bound by these terms of use for the Included Services, including the specifications of the Siteimprove Order Form (combined the “Terms”).

Furthermore, any action from the Customer specifying its wish to purchase the Included Services after having received these Terms, such as sending a purchase order, shall be considered actively consenting to these Terms.

b. License Recipient Acceptance. If the Customer is accepting the Siteimprove Order Form as specified above on behalf of a third-party (“License Recipient”), Customer represents and warrants that it has the authority to bind the License Recipient specified in the Order Form to the Terms, and that Customer by accepting the Terms are doing that on behalf of the License Recipient.

2. INVOICING

a. Invoicing. All invoicing details are specified in the Order Form. If changes are required to the Ship To Address after the Terms are accepted, the Customer is required to submit an Address Change Form. At least forty-five (45) days prior to the start of each Billing Frequency Period, Siteimprove will send an invoice for the Subscription Fee or a proportionate amount, if applicable.

b. Failure to pay. Late payments may bear interest at the rate of 1% per month, or the highest rate permitted by law, whichever is lowest, from the payment due date until paid in full. Additionally, in the event that an invoice becomes overdue, Siteimprove will notify Customer by phone or email. After Siteimprove has provided notice, Customer will have five (5) business days to pay the overdue invoice. If Customer fails to make the payment by the end of the notice period, then Siteimprove reserves the right to suspend provision of the Included Services until payment has been made.

c. Taxes. Any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the Ship To Address provided by the Customer on Siteimprove Order Form.

d. Additional Services Fee. Any Additional Services Fee will be invoiced on your first applicable invoice date.

3. USE OF THE INCLUDED SERVICES

a. Ownership. Siteimprove owns and shall remain the sole owner of all intellectual property rights vested in the Included Services created prior to or during the performance by the parties under these Terms. This ownership right includes any inventions, patents, utility model rights, copyrights, design rights, mask works, trademark rights, or knowhow, whether registered or not.

b. Right to Use. Siteimprove grants the Customer the right to use the Included Services (the “Subscription”). The Subscription granted is worldwide, revocable, non-exclusive, non-perpetual and non-transferable. The Customer has no right to retain or to use the Included Services after termination of the Initial Subscription Term or a Renewal Term (if applicable). 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 Siteimprove. This right includes updates and new releases of the Included Services, but not new modules/services/products added to the Included Services.

c. Limitations of use. The Customer’s use of the Included Services on such website(s) is subject to the agreed quantities as specified in the Siteimprove Order Form (the “Limits”). If the Customer exceeds the Limits, Siteimprove will notify the Customer of such excess use and discuss appropriate upgrades of the Customer Subscription. Subject to Section 9 below, Customer must be the owner or authorized administrator of the website(s) on which the Included Services are run. Unless agreed otherwise, the Included Services may not be run on any websites that contain sensitive information or special categories of personal data, e.g., as defined in the General Data Protection Regulation (EU) 2016/679 Article 9 or information subject to heightened regulations (e.g., HIPAA, or FERPA). Customer has no right to rent, lease, assign, transfer, sublicense, display or otherwise distribute or make the Included Services available to any third party, unless specifically stated in Section 9 (Assignability). The Included Services may not be (a) used in the performance of services for or on behalf of any third-party or as a service bureau; (b) modified, incorporated into or combined with other software, or created as a derivative work of any part of the Included Services; or (c) used for any illegal purpose. Customer may not modify, disassemble, decompile or otherwise reverse engineer the Included Services nor permit any third-party to do so except as expressly permitted by law.

d. IP Indemnification. Siteimprove will indemnify and hold Customer harmless from all third-party claims that use of the Included Services constitutes an infringement of any third-party intellectual property right(s), unless such claim is based on Customer’s wrongful or illegitimate use of the Included Services. The foregoing states the entire liability of Siteimprove and the sole

and exclusive remedy for Customer with respect to any third-party claim of infringement or misappropriation of intellectual property rights.

e. For Non-Public Website Use. Any use of the Included Services on customer intranet, log-in-protected websites, staging websites, or any other form of non-public websites (“Non-Public Websites”) is subject to the obligations set out in this Section 3(e). 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.

4. DATA & PRIVACY

a. GDPR. With respect to obligations to data subjects under the General Data Protection Regulation (EU) 2016/679 (“GDPR”), where applicable, Customer is a “data controller” and Siteimprove is a “data processor” (as such terms are defined in the GDPR). The Included Services are designed and developed to collect and process our 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. To fulfill both parties’ obligations under the GDPR, 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 at siteimprove.com/privacy/.

b. CCPA. As between the parties, with respect to obligations to consumers under the California Consumer Privacy Act (“CCPA”), where applicable, Customer is a “business” and Siteimprove

is a “service provider” (as such terms are defined in the CCPA) and each party will be responsible for its respective obligations under the CCPA, as applicable to the Agreement. The Included Services are designed and developed to collect and process our 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. For more information on Siteimprove’s Data Privacy & Security practices, including an optional CCPA Data Processing Agreement, visit siteimprove.com/privacy/.

c. Data Processing of Users and Customer Contacts. Other than the processing of Customer’s data under Section 4(a) and 4(b), Siteimprove collects some general usage and contact information about the users of Siteimprove’s services and other contact persons provided by Customer, such as the names and emails of the Siteimprove users, for internal necessary purposes such as customer identification, invoicing, support and sharing information about Siteimprove products to Customer. A detailed description on how Siteimprove processes Customer’s data under this section is available at: <https://siteimprove.com/privacy/privacy-policy/>. In this regard, Siteimprove will be the data controller under GDPR and business under CCPA and the Customer acknowledges and agrees that general customer and user information will be collected for Siteimprove’s internal use. The Customer has the right to access, correct, modify and erase any personal data provided by the Customer to Siteimprove. To exercise these rights, contact privacy@siteimprove.com.

d. Customer Owned Data. All data provided to Siteimprove through the use of the Included Services is and shall remain Customer property. Siteimprove does not resell any Customer owned data. Data mentioned under Section 4(a-b) will not be disclosed or transferred to any third-party unless otherwise specifically agreed. Data mentioned under Section 4(c) will only be disclosed or transferred to a third-party to the extent necessary to provide the Services. To enable Siteimprove to provide Customer with the Included Services, and subject to these Terms, Customer hereby grants to Siteimprove a non-exclusive right to use and process data provided by Customer solely in connection with Siteimprove’s operation of the Included Services.

5. LIMITATION OF LIABILITY

Each party shall only be liable for direct damages. As such, each party shall not be liable to the other party for any indirect, special, incidental, or punitive damages caused by Customer’s use of the Included Services, including, but not limited to, loss of data, loss of business or any other loss arising out of or resulting from a party’s performance under these Terms, even if it has been advised of the possibility of such damages. Except where excluded by applicable law, a party’s cumulative liability under these Terms shall not exceed the amount of the Fee. However, in no event shall a party be able to claim a limitation on its liability in the event of; i) non-compliance with obligations concerning personal data; ii) any third-party IP infringement claim, unless such

claim is based on a party's wrongful or illegitimate use of the Included Services; or iii) gross negligence or willful misconduct.

6. REPRESENTATIONS & 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 these Terms; and (ii) the Included Services will perform substantially as described in these Terms for the Initial Term and any Renewal Term, provided that it is used in accordance with these Terms, 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 these Terms; 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 these Terms, 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.

7. TERMINATION OF SERVICES

a. Termination of Auto-Renewing Subscriptions. During the Initial Subscription Term or any subsequent Renewal Term (if applicable), either party may cancel renewal of the Subscription by giving at least ninety (90) days written notice to the other party prior to the start of a Renewal Term.

b. Termination with Cause. Without affecting any other right or remedy available to it, either party may terminate the Subscription 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 2(b), 3(b-e), 4(c-d), 6(a-b), 8, and 9; (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. Reimbursement. In case of Customer termination under Section 7(a) or Siteimprove termination under Section 7(b), Customer remains liable for payment of all Fees owed for the current Subscription Term and will not be entitled to a credit or refund. In case of termination by

Siteimprove under Section 7(a), Customer is entitled to a prorated refund corresponding to the remaining period of the Initial or Renewal Term, whichever is applicable.

8. CONFIDENTIALITY

Siteimprove acknowledges that they have been informed by the Customer that the Customer is required by North Carolina law to disclose “Public Records” as the term is defined by N.C. Gen. Stat. §132-1, upon request. All information disclosed to the Customer by the Siteimprove which is subject to that definition and whose disclosure is not otherwise protected by law will be released by the Town upon request as provided by N.C. Gen. Stat. §132-6. To the extent permitted by North Carolina Law, each of the parties agrees to (a) maintain in confidence any non-public information of the other party, whether written or otherwise, disclosed by the other party in the course of performance of these Terms (‘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.

9. ASSIGNABILITY

These Terms are binding upon and will only benefit the parties. Except as otherwise expressly provided in these Terms, neither party may assign, transfer, convey or encumber these Terms 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 these Terms 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 these Terms.

10. LAW & DISPUTE RESOLUTION

a. For Customers in Australia, EEA, Switzerland, Canada & the United States. These Terms 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 laws of the country, state or province, whichever is applicable, where the Customer is located as specified in the Ship To address of the Order Form (the “Governing Territory”). In the event of any lawsuit or proceeding arising out of or related to these Terms, the courts of the Governing Territory will have exclusive jurisdiction.

b. For Customers in other territories. These Terms 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 laws of the country where the Siteimprove entity specified in the Order Form is located (the “Governing Territory”). In the event of any lawsuit or proceeding arising out of or related to these Terms, the courts of the Governing Territory will have exclusive jurisdiction.

11. RELATION TO OTHER DOCUMENTS

These Terms constitute the entire agreement between the parties and supersede any prior communications, commitments, or agreements, oral or written, with respect to the subject matter of these Terms. 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. Any changes or modifications to these Terms must be in writing and signed before taking effect.

12. LANGUAGE VERSIONS.

In the event of any discrepancy between the English version of these SIP terms of Use and any other language translation, the English version prevails.