



END USER LICENCE AGREEMENT

# YellowJacket - Desktop

Revision: 3.0

Issue Date: 24 May 2018



## PLEASE READ THESE LICENCE TERMS CAREFULLY

This Licence Agreement (the Licence) is a legal agreement between You (“the User” or “You”) and Building Research Establishment Limited of Bucknalls Lane, Watford, Hertfordshire WD25 9XX (“BRE”, “We”, “Us” or “Our”) for:

1. Access to Software;
2. Access to Services; and,
3. Access to Documentation.

*A separate End User Licence Agreement (EULA) will be available when accessing the App for the first time or setting up an account.*

### Definitions;

“Account” means the online account used to log into the YellowJacket Website

“App” means the mobile based application to access the YellowJacket Website which is available on IOS, Android and Microsoft devices.

“Content” means any text, graphics, images, audio, video, software, data compilations, tables and any other form of information capable of being stored in or on any electronic device that appears on and or forms part of the Website.

“Documentation” means any printed or electronic documents provided as part of the Services.

“End User Licence Agreement” or “EULA” means the end user licence agreement between BRE and the end user for accessing the Services via the YellowJacket Website and App.

“Intellectual Property” or “Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in goodwill, rights in designs, rights in computer software, database rights, semi-conductor topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

“Services” means the collective offering by BRE of access to the YellowJacket Website, use of the Software and any Documentation.

“Software” means the YellowJacket tool, computer software, and associated media used on line or on the App.

“Super User” means the administrative user for an organisation who have capabilities to add and remove Users from a particular project within YellowJacket.

“User Content” means any text, graphics, images, audio, video, software, data compilations, tables and any other form of information capable of being stored in or on any electronic device that appears on and or forms part of the Website or App which has been uploaded by the User.

“Website” or “YellowJacket Website” means [www.yellowjacket.net](http://www.yellowjacket.net)

“YellowJacket” means the YellowJacket health and safety reporting and recording tool operated by BRE.

## 1. GRANT AND SCOPE OF LICENCE

1.1 In consideration of You agreeing to abide by the terms of this Licence, BRE hereby grants to You a non-exclusive, non-transferable licence to the Services in the UK on the terms of this Licence, for a period of 1 (one) year until terminated in accordance with this Licence.

### 1.2 Super User:

1.2.1 In order to use the Services and to submit Content and User Content, You are required to create an Account either on the Website or via the App and to submit certain information including but not limited to the use of a username, password, organisation information and other personal information.

1.2.2 By accepting these terms and conditions You represent and warrant that:

- a) any information that is submitted is accurate and truthful;
- b) all such information will be kept accurate and up-to-date;
- c) the means by which You identify yourself as the Super User does not violate any part of these terms and conditions or any applicable laws; and,
- d) in the case of an organisation, You warrant that You will restrict the number of users as agreed between us in this Licence; and or,
- e) in the case of an individual, You warrant that You will keep your log in details confidential and that you will not share these with any third party for any reason.

### 1.3 User:

1.3.1 In order to use the Services and to submit Content and User Content, You are required to have an account created by Your organisational Super User prior to submitting certain information including but not limited to the use of a username, password, organisation information and other personal information.

1.3.2 By accepting these terms and conditions You represent and warrant that:

- a) any information that is submitted is accurate and truthful;
- b) all such information will be kept accurate and up-to-date;
- c) the means by which You identify yourself as User does not violate any part of these terms and conditions or any applicable laws; and,
- d) You warrant that You will keep your log in details confidential and that you will not share these with any third party for any reason.

1.4 The Services and Software may contain links to other websites or services provided by third parties. You acknowledge and agree that BRE is not responsible or in any way liable for:

- a. the availability or accuracy of such websites or services; and or
- b. the content, products, or services on or available from such websites or services; and or,
- c. that links to such websites or services do not imply any endorsement by BRE of such websites or services or the content, products, or services available from them.

1.5 You acknowledge Your acceptance of sole responsibility for, and assume all risk arising from, Your use of any such websites or services.

## 2. OTHER APPLICABLE TERMS

2.1 The terms of this Licence refer to the following additional terms, which also apply to Your use of our Website:

2.2 Our [Acceptable Use Policy](#) which sets out the permitted uses and prohibited uses of Our site. When using Our site, You must comply with this Acceptable Use Policy.

2.3 Our [Cookie Policy](#), which sets out information about the cookies on Our site.

### 3. DATA PROTECTION

- 3.1 "Data Protection Legislation" means, before 25 May 2018, the Data Protection Act 1998 and from 25 May 2018, the General Data Protection Regulation (EU 2016/679) and any legislation which amends, re-enacts or replaces it in England and Wales. The definitions and interpretations in the Data Protection Legislation apply to this clause.
- 3.2 BRE may collect and Process your Personal Data, however will only do so in compliance with the Data Protection Legislation. For more information on how BRE may Process your Personal Data, please visit the BRE Group Privacy Policy which is available on the BRE Group Website [here](#).
- 3.3 By accepting these terms, You agree to the content of the [BRE Group Privacy Policy](#) and You warrant that all data provided by You is accurate.

### 4. RESTRICTIONS

- 4.1 Except as expressly set out in this Licence, You undertake;
  - 4.1.1 not to rent, lease, sub-license, loan, translate, merge, adapt, vary, alter or modify, the whole or any part of the Software or Documentation nor permit the Software or any part of it to be combined with, or become incorporated in, any other programmes other than those offered in conjunction with the Services;
  - 4.1.2 not to disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the Software.

### 5. UPLOADING CONTENT TO OUR WEBSITE OR THE APP

- 5.1 Whenever You make use of a feature that allows You to upload content to Our site or the App, or to make contact with other users, You must comply with the content standards set out in Our Acceptable Use Policy which is available [here](#).
- 5.2 You warrant that any such contribution does comply with the content standards, and You will be liable to Us and indemnify Us for any breach of that warranty.
- 5.3 Any content You upload to Our site will be considered non-confidential and non-proprietary. You retain all of Your ownership rights in Your content, but You are required to grant Us and other users of the Website a limited licence to use, store and copy that content and to distribute and make it available to third parties. The rights You licence to Us are described in the next clause (Rights You Licence).
- 5.4 We also have the right to disclose Your identity to any third party who is claiming that any content posted or uploaded by You on to Our site constitutes a violation of their Intellectual Property Rights, or of their right to privacy.
- 5.5 We will not be responsible, or liable to any third party, for the content or accuracy of any content posted by You or any other user of our site.
- 5.6 We have the right to remove any posting You make on our site if, in Our opinion, Your post does not comply with the content standards set out in our [Acceptable Use Policy](#).
- 5.7 The views expressed by other users on our site do not represent our views or values.
- 5.8 Any breach of clauses 4.1 is to be considered a material breach.

### 6. RIGHTS YOU LICENCE:

- 6.1 When You upload or post content to Our site, You grant BRE, its affiliates and subsidiaries a perpetual, worldwide, non-exclusive, royalty-free, transferable licence to use, reproduce, distribute, prepare derivative works of, display, and perform that User Content in connection with the Services provided by the Website, App and across different media.
- 6.2 You also grant BRE, its affiliates, its subsidiaries and its partners, a perpetual, worldwide, non-exclusive, royalty-free, transferable licence to use, reproduce, distribute, prepare derivative works

of and display for marketing and promotion of Yellow Jacket and or the YellowJacket Website, BRE and any other associated brands.

6.3 The Licences Granted by You in 5.1 and 5.2 will survive the termination of this licence.

## **7. VIRUSES**

7.1 We do not guarantee that Our Website will be secure or free from bugs or viruses.

7.2 You are responsible for configuring Your information technology, computer programmes and platform in order to access Our site. You should use Your own virus protection software.

7.3 You must not misuse Our site by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful. You must not attempt to gain unauthorised access to Our site, the server on which Our site is stored or any server, computer or database connected to Our site.

7.4 You must not attack Our Website via a denial-of-service attack or a distributed denial-of service attack. By breaching this provision, You may commit a criminal offence under the Computer Misuse Act 1990. We will report any such breach to the relevant law enforcement authorities and we will co-operate with those authorities by disclosing Your identity to them. In the event of such a breach, Your right to use Our Website will cease immediately.

7.5 Any breach of 6.3 and 6.4 is to be considered a material breach.

## **8. LINKING TO OUR SITE**

8.1 You may link to our home page or to our App, provided You do so in a way that is fair and legal and does not damage Our reputation or take advantage of it.

8.2 You must not establish a link in such a way as to suggest any form of association, collaboration, approval or endorsement on Our part where none exists.

8.3 You must not establish a link to our Website or our App in any website that is not owned by You or, in the case of an organisation, without permission of someone who has relevant authority to grant such permissions.

8.4 You must not create a link to any part of Our website other than the home page.

8.5 We reserve the right to withdraw linking permission without notice at any time throughout the period of this Licence and upon its termination.

8.6 Any User website in which You link to the Website must comply in all respects with the content standards set out in our *Acceptable Use Policy*.

8.7 If You wish to make any use of content on Our Website other than that set out above, please contact [yellowjacket@bre.co.uk](mailto:yellowjacket@bre.co.uk).

## **9. THIRD PARTY LINKS AND RESOURCES IN OUR SITE**

9.1 Where Our site contains links to other sites and resources provided by third parties, these links are provided for Your information only.

9.2 We have no control over the contents of those sites or resources.

9.3 We are in no way responsible and cannot be held liable for any loss associated to third party links and resources.

## **10. INTELLECTUAL PROPERTY RIGHTS**

10.1 You acknowledge that all Intellectual Property Rights in the Software and the Documentation throughout the world belong to BRE or our licensors and that rights in the Software, including that accessible online and via the App, are licenced (not sold) to You, and that You have no Intellectual Property Rights in, or to, the Software or the Documentation, Website or App other than the right to

use the Software and the Documentation, Website and App in accordance with the terms of this Licence.

## **11. TRADEMARKS**

- 11.1 "YellowJacket" [2573177] and the YellowJacket logo [2594555] are licenced to BRE who have a registered interest in these marks.
- 11.2 You may only use these marks with express written permission from Us. In the event permission is granted, You must comply with any requests and/or instruction that We may provide from time to time.

## **12. OUR RESPONSIBILITY FOR LOSS OR DAMAGE SUFFERED BY YOU**

- 12.1 We do not accept any responsibility for any loss or damage including, without limitation, indirect or consequential loss or damage, or any loss or damages whatsoever arising from use or loss of use of, data or profits arising out of or in connection with the use of the Services or of the Website.
- 12.2 We are not responsible for the contents or reliability of any of the linked websites and do not necessarily endorse the views expressed within them. Listing shall not be taken as endorsement of any kind.
- 12.3 You should be aware that You use the Website, the Services and all relevant Content at Your own risk.
- 12.4 Nothing in these terms and conditions excludes or restricts Our liability for death or personal injury resulting from any negligence or fraud on Our part.
- 12.5 You acknowledge that the Software has not been developed to meet Your individual requirements, and that it is therefore Your responsibility to ensure that the facilities and functions of the Software as described in the Documentation meet Your requirements.

## **13. DISCLAIMER**

- 13.1 The Services are provided by BRE to facilitate monitoring of health and safety within construction and other environments. BRE is not responsible and cannot be held liable for the accuracy of the information recorded by its Users.
- 13.2 BRE is not responsible and cannot be held liable for actions taken against employees by employers or taken against employers by employees on the basis of information recorded by the Services and Software.

## **14. UPDATE TO THE SERVICES AND TO THE APP AND CHANGES TO THE SERVICES**

- 14.1 From time to time We may automatically update the Services including the App and change and or modify the Services to improve performance, enhance functionality, reflect changes to the operating system or address security issues. We therefore may require You to update the App.
- 14.2 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 Services and the App.
- 14.3 The App requires IOS, Android or Microsoft mobile device with a minimum of 6MB of memory and the following types of operating system and minimum update version;
  - a) iOS – 6 and above
  - b) Android – v4.0 and above
  - c) Windows – 8.1 and above

## **15. LOCATION SERVICES**

- 15.1 The Services will make use of location data sent from Your devices. If You use these Services, You consent to Us, Our affiliates' and licensees' transmitting, collecting, retaining, maintaining, processing and making use of Your location data and queries to provide and improve location based and related products and services.
- 15.2 You may stop us collecting such data at any time by turning off the location services settings on Your device settings or the settings of the App.

## **16. TERMINATION**

- 16.1 We may at our absolute discretion, terminate the Licence on service of one month's written notice to You.
- 16.2 We may terminate this Licence immediately by written notice to You if You commit a material or persistent breach of this Licence which You fail to remedy (if remediable) within 14 days after the service of written notice requiring You to do so.
- 16.3 Upon termination for any reason:
- a) All rights granted to You under this Licence shall cease; and,
  - b) You must cease all activities authorised by this Licence; and
- 16.4 In the event We chose to terminate this Licence in accordance with 15.1 or 15.2 no refund will be issued by Us to You.

## **17. COMMUNICATIONS BETWEEN US**

- 17.1 If You wish to contact Us in writing, or if any condition in this Licence requires You to give Us notice in writing, You can send this to Us by email or by pre-paid post to Building Research Establishment Ltd at Bucknalls Lane, Watford, Hertfordshire WD25 9XX (or by email to yellowjacket@bre.co.uk). We will confirm receipt of this by contacting You in writing, normally by email.
- 17.2 If We have to contact You or give You notice in writing, We will do so by email or by pre-paid post to the address You provide or confirm to Us.

## **18. OTHER IMPORTANT TERMS**

- 18.1 We reserve the right, in our sole discretion, to change, modify, add, or delete portions of this Licence and any documents referred to herein at any time. If We do this, We will post the changes to these terms and conditions on the Website, and will indicate the effective date upon which any changes will apply. You will be notified of any changes to the terms and conditions to this Licence via email. If You do not agree to (or cannot comply with) the terms and conditions as amended, You must cease using the Services. Your continued use of the Services after any such changes serves as Your acquiescence and indicates Your acceptance of the newly amended terms and conditions.
- 18.2 We may transfer Our rights and obligations under this Licence 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 this Licence.
- 18.3 This Licence does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence.

- 18.4 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.
- 18.5 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 Licence that will not mean that You do not have to do those things and it will not prevent BRE taking steps against You at a later date.
- 18.6 Any dispute arising out of or in connection with this Licence, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this clause.
- 18.6.1 The number of arbitrators shall be one.
- 18.6.2 The seat, or legal place, of arbitration shall be London.
- 18.6.3 The language to be used in the arbitral proceedings shall be English.
- 18.6.4 The governing law of the Licence shall be the substantive law of England and Wales

By clicking "**Accept**" at the bottom of the page You are agreeing to all of the terms contained in this Licence and all other documents referred to throughout this Licence. This will legally bind You for the term of this Licence and beyond.