

Black Grouse Media - Website Maintenance Agreement

This Website Maintenance Agreement (“Agreement”) is hereby entered into between you, your employees and agents (collectively “Client”) and applies to the purchase of all monthly website maintenance services (hereinafter collectively referred to as “Maintenance Services”) ordered by Client.

Term and Termination

This Agreement shall be effective as of the time frame Client signs up for Maintenance Services. This Agreement may be terminated by either party upon 30 day written notice to the other, if the other party breaches any material obligation provided hereunder and the breaching party fails to cure such breach within thirty (30) days of receipt of the notice. This Agreement may be terminated by Black Grouse Media immediately if (i) Client fails to pay any fees hereunder; or (ii) if Client fails to cooperate with Black Grouse Media or hinders Black Grouse Media ability to perform the Maintenance Services hereunder.

Maintenance Services

Black Grouse Media agrees to provide Client with Maintenance Services as described in this Agreement. Maintenance Services include:

- Updates to text, images, and other minor changes to Client’s website pages.
- Monthly SEO Checkup including keyword research
- Provision of detailed analytical reports each month.
- Assurance check on all web connections and website speed.
- Any website support requests, above and beyond what is outlined in package, will be charged at our standard rate of £50 per hour.
- These are tasks that are done throughout the month and will be detailed in your monthly report. Some items, such as updates, only occur when necessary and when we know the update is a stable version and it is okay to proceed.

Fees; Limitations on Refunds and Cancellation Fees

Client agrees to pay Black Grouse Media a monthly fee of £50, payable in advance by standing order to the account detailed at the end of this agreement. The fee(s) must be received prior to the start of any Maintenance Services. Please note this fee does not include the Web Hosting Fee payable to the web hosting service.

The Client further agrees that in the event of any termination of this agreement by the Client, no refunds shall be given under any circumstances. The client further agree to pay upon cancellation any other amounts due to Black Grouse Media for work provided above and beyond the monthly allotted time of monthly agreement.

Late payment: payments must be made on time each month. Failure to make payment on the agreed date may result in immediate termination of this agreement.

Client Responsibilities

For the purposes of providing these services, Client agrees:

- To answer any questions from Black Grouse Media in regard to task work on website, promptly.
- To properly convey to Black Grouse Media the information about content updates (if these are covered by the Maintenance Package).
- To provide Black Grouse Media access their domain name and/or web hosting account, providing active user name / password combinations for access.

Client Acknowledgements

Client understands, acknowledges and agrees that:

- Client understands that all work for monthly maintenance tasks will be scheduled according to Black Grouse Media workflow. We have a process and maintain sites for many Clients, therefore all website updates work that counts towards your monthly time allowance is done on a first come first serve basis, except in the case of a total website down issue, which would be considered an “emergency.” Black Grouse Media undertakes to make updates and amendments to the client’s site within a maximum of 48 hours.
- Failure by Client to answer a question critical to the completion of a task within 5 business days may cause that task to be and moved to the “end of the line” in our work queue. Depending on the time of month, this could cause that task to roll over into the next month’s bucket of update requests.
- Website updates exclude, but are not limited to, image editing, graphic design, graphic editing, database design, database changes, and programming.
- Website updates do not include website redesign, re-alignment or re-development equalling more than 50% change to web page, web graphics on the website (i.e. 4 graphics on website, and you want 3 changed, there is a charge for anything above 2, meaning 50%).
- CMS design, integration of plugins that require intensive configuration, or programming of things that require extensive time to set up, including but not limited to blogs, shopping carts, API integrations with third party services, and web forums are not considered “minor” changes and therefore are not included in the Maintenance Agreement. These require a separate design or development agreement.
- Maintenance Agreement does not include training on how to use your website, WordPress, or email, but we can provide training at additional cost.
- Maintenance Agreement does not include training on search engine optimization (SEO) or other online digital marketing.
- All communications will be done during regular business hours, which are Monday through Friday from 9:00 AM to 5:30 PM (GMT).
- Black Grouse Media has no control over server downtime caused by the website hosting service (ie Squarespace/Wix etc)
- Black Grouse Media is not responsible for Client’s email issues or troubleshooting problems on their own computer. Our role is to maintain and keep your website running at its optimal capabilities.
- Black Grouse Media has no control over the policies of search engines or directories with respect to the type of sites and/or content that they accept now or in the future. Client’s web site(s) may be excluded from any search engine or directory at any time at the sole discretion of the search engine or directory entity.
- Black Grouse Media is not responsible for rewriting sentences, restructuring paragraphs, or checking for typing errors, misspellings, etc.
- Black Grouse Media is not responsible for changes made to Client’s web site(s) by other parties, including the Client themselves.
- During the duration of this contract, the Client agrees that Black Grouse Media will be the sole provider of maintenance services for the website, and no other party will have access to or rights to change the web site’s code . If a party, including the Client, other than Black Grouse Media makes changes to the web site’s code, any errors that are created must be repaired and will be charged for at the hourly rate specified above.
- Black Grouse Media is not responsible for third-party plugins that may become unusable as a result of Maintenance Services performed.
- Black Grouse Media will not be held liable if the Client’s website is compromised, hacked or otherwise defaced or infected unless caused by negligence of Black Grouse Media.

Additional Services – Additional services not listed herein will be provided for a fee (£50 per hour for development services)

Indemnification – Client shall indemnify and hold harmless Black Grouse Media (and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees) from any and all claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable solicitor’s fees and all related costs and expenses) incurred by Black Grouse Media as a result of any claim, judgment, or adjudication against Black Grouse Media related to or arising from (a) any photographs, illustrations, graphics, audio clips, video clips, text, data or any other information, content, display, or material (whether written, graphic, sound, or otherwise) provided by Client to Black Grouse Media (the “Client Content”), or (b) a claim that Black Grouse Media’s use of the Client Content infringes the intellectual property rights of a third party. To qualify for such defence and payment, Black Grouse Media: (i) give Client prompt written notice of a claim; and (ii) allow Client to control, and fully cooperate with Client in, the defence and all related negotiations.

Disclaimer of all other warranties - Black Grouse Media does not warrant that the maintenance services will meet the client’s expectations or requirements. The entire risk as to the quality and performance is with the Client. Except as otherwise specified in this agreement, Black Grouse Media provides its services ‘As Is’ and without warranty of any kind. The parties agree that (A) the limited warranties set forth in this section are the sole and exclusive warranties provided by each party and (B) each party disclaims all other warranties express or implied, including but limited to the implied warranties of merchantability and fitness for a particular purpose, relating to this agreement, performance or inability to perform under this agreement, the content and each party’s computing and distribution system. If any provision of this agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this agreement and shall not affect the validity and enforceability of any remaining provisions.

Limited Liability - In no event shall Black Grouse Media be liable to client for any indirect, special, exemplary or consequential damages including any implied warranty of merchantability or fitness for a particular purpose or implied warranties arising from course of dealing or course of performance, lost profits, whether or not foreseeable or alleged to be based on breach of warranty, contract, negligence or strict liability, arising under this agreement, loss of data or any performance under his agreement, even if such party has been advised of the possibility of such damages and notwithstanding the failure of essential purpose of any limited remedy provided herein. There shall be no refunds. Black Grouse Media makes no warranty of any kind, whether express or implied, with regard to any third party products, third party content or any software, equipment or hardware obtained from third parties.

Client Representations – Client makes the following representations and warranties for the benefit of :

- Client represents to Black Grouse Media and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to Black Grouse Media are owned by Client, or that Client has permission from the rightful owner to use each of these elements, and will hold harmless, protect, and defend Black Grouse Media and its subcontractors from any claim or suit arising from the use of such elements furnished by Client.
- Client agrees that the client is solely responsible for complying with such laws, taxes, and tariffs, and will hold harmless, protect, and defend Black Grouse Media and its subcontractors from any claim, suit, penalty, tax, or tariff arising from Client’s exercise of Internet electronic commerce.

Confidentiality – The parties agree to hold each other's Proprietary or Confidential Information in strict confidence. "Proprietary or Confidential Information" shall include, but is not limited to, written or oral contracts, trade secrets, know-how, business methods, business policies, memoranda, reports, records, computer retained information, notes, or financial information. Proprietary or Confidential Information shall not include any information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of the receiving party; (ii) was previously known to the receiving party or rightly received by the receiving party from a third party; (iii) is independently developed by the receiving party; or (iv) is subject to disclosure under court order or other lawful process. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than as specified in this Agreement. Each party's proprietary or confidential information shall remain the sole and exclusive property of that party. The parties agree that in the event of use or disclosure by the other party other than as specifically provided for in this Agreement, the non-disclosing party may be entitled to equitable relief. Notwithstanding termination or expiration of this Agreement, Black Grouse Media and Client acknowledge and agree that their obligations of confidentiality with respect to Proprietary or Confidential Information shall continue in effect for a total period of three (3) years from the effective date.

Force Majeure – Neither party will be liable for, or will be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any causes or conditions that are beyond such Party's reasonable control and that such Party is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, the affected Party will give prompt written notice to the other Party and will use commercially reasonable efforts to minimise the impact of the event.

Relationship of Parties – Black Grouse Media, in rendering performance under this Agreement, shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. Client does not undertake by this Agreement, or otherwise, to perform any obligation of Black Grouse Media, whether by regulation or contract. In no way is Black Grouse Media to be construed as the agent or to be acting as the agent of Client in any respect, any other provisions of this Agreement notwithstanding.

Notice and Payment – Any notice required to be given under this Agreement shall be in writing and delivered personally to the other designated party, mailed by certified, registered mail, return receipt requested or by Royal Mail. Either party may change its address to which notice or payment is to be sent by written notice to the other under any provision of this paragraph.

Jurisdiction/Disputes – This Agreement will be governed by and construed in accordance with the laws of England and Wales; and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this Agreement.

Agreement Binding on Successors – The provisions of the Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their heirs, administrators, successors and assigns.

Assignability – Client may not assign this Agreement or the rights and obligations thereunder to any third party without the prior express written approval of Black Grouse Media. Black Grouse Media reserves the right to assign subcontractors as needed to this project to ensure on-time completion.

Waiver – No waiver by either party of any default shall be deemed as a waiver of prior or subsequent default of the same of other provisions of this Agreement.

Severability – If any term, clause or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term,

clause or provision and such invalid term, clause or provision shall be deemed to be severed from the Agreement.

No Inference Against Author – No provision of this Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.

Read and Understood – By purchasing a Maintenance Package, Client acknowledges that they have read and understand this Agreement and agree to be bound by its terms and conditions.