

*Rubber  
Duckers*

## **Care Plan Agreement**

v1.0

## **Introduction**

While some standardised legal terminology is unavoidable in this document, we try to write everything in plain English. To do this, we frequently use terms like “we” and “you.” “We,” “us,” “our,” and “the Company” means Rubber Duckers, a corporation registered in the United Kingdom. “You,” “your,” “Customer” or “Client” in this document is you, our Client.

## **Current Hourly Rate**

Throughout this document, reference is made to our current hourly rate. This rate is defined as our hourly rate that is in place at the time a service is requested, not at the time this agreement is executed. We will provide you with our current hourly rate upon request.

## **Availability and Communication**

We are available via email and phone Monday through Friday from 9:00 am to 5:00 pm. Our normal response time is one business day, though our response time may vary. Outside of photography and videography shoots we do not work on weekends or holidays. Clients with current website management services receive priority response times. Office phone and email are the primary means of communication accepted for our work together. We do not communicate officially via mobile phone, text message, social media, or instant/private messaging (like Facebook Messenger, Slack or WhatsApp) since we cannot track these requests as a team. While we may respond through these channels, we cannot guarantee that requests made this way will be logged or acted upon.

## **Levels of support**

We have two options for post-launch support.

### Hosting

Website hosting only. This does not include any ongoing support, backups, updates or maintenance of your website. Any work requested on the site will be billable at our current hourly rate.

### Care plans

Including hosting, the Website Care Plan also includes backups, updates, security scans and support at a discounted hourly rate.

## **Website Hosting**

Our hosting services are designed to complement our workflow for the ongoing management of your website.

We strive to ensure that sites hosted by us are available 99.9% of the time during each monthly billing cycle. If this service level is not met, you may be eligible for a credit towards future billing cycles, based on the duration of unavailability. Unavailability is defined as your website being unresponsive or returning a server error for more than 60 consecutive seconds, excluding issues caused by regional, national, or international outages.

Service credits are calculated as a percentage of the bill for the affected billing cycle. The credit percentage is determined by dividing the minutes of unavailability by the total minutes in that cycle. Customers must request service credits within seven days of the unavailability.

## **Website Backups**

We perform regular backups of your website's files and database to maintain data integrity and facilitate recovery if necessary.

- If your site is compromised by a security vulnerability or becomes inoperable due to user error, we will restore a backup for you. In cases of hacks, there is no limit to the number of restorations we will perform under this service.
- For user error-related issues, we will perform up to two restorations within any 28-day period.
- Additional restorations due to user error will be charged at our current hourly rate with a one-hour minimum.
- Backup restorations will reflect the state of the site at the time the backup was taken. Any information added or changes made to the site after the backup will not be included in the restored version.

## **Website Software Updates**

We aim to maintain the security and functionality of your website by updating WordPress core, themes, and plugins as needed. Updates are applied at our discretion based on the latest security practices and the operational requirements of your website.

## **Premium (Paid) Themes and Plugins**

- Premium themes and plugins require a recurring licence fee to access ongoing software updates.

- If we hold the appropriate licences for the themes or plugins used on your website, the costs for these licences are included in your Website Management Services. We will maintain these licences for as long as you remain an active subscriber to our services. Plugins will be regularly reviewed for price changes and may be discontinued, in consultation with you, if their cost becomes unreasonably high.
- If your website uses premium themes or plugins for which we do not hold the necessary licences, it is your responsibility to maintain the appropriate licensing to ensure updates are available.
- We will inform you about any themes or plugins requiring licensing that you must secure, and assist you in obtaining them if needed.
- Our website management service does not cover issues arising from premium themes or plugins that lack proper licensing and therefore cannot be updated to the latest versions. You are responsible for maintaining current licences for these themes and plugins. Failure to do so may result in compatibility and security problems, for which we cannot be held liable.

### **Plugin Compatibility**

If an update to a plugin causes conflicts or issues with your website's functionality, we will consult with you to determine the best solution. This typically involves removing the problematic plugin and replacing it with a similar one or alternative programming.

If resolving a compatibility issue exceeds three hours, the additional work will be billable at our current hourly rate.

It is your responsibility to inform us if your site is experiencing problems and needs attention. If you choose to cancel our Care Plan Service, you are fully responsible for all website management tasks, including but not limited to performing backups, securing WordPress, and applying WordPress software updates.

### **Payment for Care Plan Services**

Payment for Website Management Services is due on the first day of the service period, whether monthly, quarterly, or annually. Our preferred payment method is card payment via Stripe. If you require BACS transfer, we can provide the option but this is not available by default and must be requested.

We reserve the right to adjust pricing for our Care Plan Services as necessary. Any price changes will be communicated to you in writing at least 30 days in advance. If you do not agree to the new pricing, you may choose to cancel the services as outlined below.

## **Cancellation of Care Plan Services**

You may cancel website management services with a 30-day notice. Cancellations requests must be provided in writing to [quack@rubberduckers.co.uk](mailto:quack@rubberduckers.co.uk) or your primary contact with us.

We do not offer refunds on website management services. If you elect to discontinue website management services, the total responsibility is yours for performing backups and keeping all components of your website backed up, secured, and updated.

If you desire to migrate your website to another web host, at your discretion, we can (1) provide you with an administrator login to create a backup for migration, (2) create a backup for you using industry-standard tools, or (3) perform the migration for you at our current hourly rate.

## **Late Payment and Collections Policy**

Invoices for web hosting, security, maintenance, or any other website-related work are payable upon receipt. If an invoice remains unpaid for more than 14 days, we reserve the right to suspend your website from public view until the account is settled.

## **Your Responsibilities in Website Security**

We incorporate industry standard WordPress security techniques when building your website. Since one prevalent method hackers use to breach a website is through compromised user devices, you agree to uphold robust security measures when accessing your website, and this includes:

### **Device Security**

Protect any computer or device you control that has access to the website by:

- Installing and maintaining up-to-date security software.
- Using the latest version of your preferred web browser.
- Keeping the operating system updated with recommended patches.
- Regularly updating any other installed software.
- Refraining from logging into your website while connected to a public WiFi network (such as but not limited to cafes and hotels).

### **Password Protocol**

- Use a strong password (as indicated by the WordPress password strength meter) exclusive to your website login.

- Refrain from sending passwords or other sensitive credentials openly via SMS, email, chat programs, or any other unencrypted and exposed methods.
- We strongly recommend utilising a password manager to ensure you use robust, unique passwords for every site.

You further commit that any employees, contractors, or other parties you grant (or ask us to provide) website access to will adhere to the above security measures.

### **Third-Party Services**

We cannot be responsible for changes made to the website by third-party providers that you have authorised to access the website. These providers include but are not limited to those doing work related to website development, search engine optimisation, social media, or content creation.

### **Search Engine Optimisation (SEO)**

SEO services are not included in our website management service. Your website's ranking and placement on search engines depend on a myriad of factors. We cannot guarantee ranking or placement on any search engine.

### **Website Email Deliverability**

Your website will automatically send emails in response to specific events, such as the completion of a contact form, product sales, or user password updates/resets. These emails could be flagged as spam or not delivered by email providers.

As part of our website management service, we can include use of an SMTP server to more reliably send emails from your website. However, this does not guarantee the receipt of emails landing in inboxes outside of our control.

Since we cannot control the delivery of these emails, we are not responsible for any emails that are not delivered to the client for any reason.

You are responsible for regularly checking spam folders, and website form and order interfaces for any notifications that were not delivered to your inbox.

### **Email Service**

We do not provide or support email service to clients. We recommend email services to clients through Office 365 or Google Workspace. If you want to use another provider we recommend consulting with an IT professional about implementing professional email service from a reliable vendor.

### **Domain Names**

Registering a domain name for your website and paying the accompanying annual registration fee is your responsibility. We can assist in the process of registration and connecting your domain name to the website if you desire. You can purchase your domain name for multiple years, or renew it annually at your discretion.

It is your responsibility to ensure that the credit card the domain registrar has on file for your domain registration is current for rebilling.

We are not responsible for suspension or loss of domain names because your card could not be billed or for any other reason. If you lose access to your domain name through non-payment, suspension or any other reason, your website will no longer be accessible or viewable by the public. Work needed as a result of domain expiration is billable at our current hourly rate.

### **Website Accessibility and Compliance**

We strive to employ best practices for website accessibility in our designs, including considerate colour choices and the selection of accessible interactive elements.

However, full compliance with all accessibility standards may vary depending on the specific project and client requirements. If the Client has any specific legal, regulatory, or accessibility requirements that apply to the website, including but not limited to compliance with disability accessibility standards or other regulations related to HIPAA, FERPA, etc., it is the Client's responsibility to inform us of these requirements.

Unless expressly stipulated in the Scope of Work, we make no representations or warranties regarding the website's compliance with any such specific requirements. Any guarantees to meet compliance for accessibility or other regulations must be explicitly detailed and agreed upon as part of the Scope of Work and accepted by you to be a part of the contract between the parties.

### **Artificial Intelligence (AI) Generated Content**

Depending on the scope of work for your project, we may utilise text, images, code, or other information generated by Artificial Intelligence systems, collectively referred to as "AI-generated content." If we elect to use AI-generated content, we will do so in compliance with applicable laws, regulations, and ethical guidelines, and will obtain any necessary permissions or licences for the use of such content on the website.

Should the Client supply any AI-generated content for inclusion on the website, the Client shall ensure that such content complies with all applicable laws, regulations, and ethical guidelines. The Client shall obtain and provide evidence of all necessary permissions, licences, and consents required for the use of the AI-generated content.

### **Legal Pages and Privacy Requirements**

Depending on the nature of your site and your location, legal pages such as Terms of Use, Privacy Policy, Return Policy, etc., may be mandated by government entities, vendors, or licensing agencies.

The client acknowledges and agrees that it is the client's sole responsibility to determine whether such pages are required.

We have informed you that applicable (local, national, or international) law may require your website to have a Privacy Policy with specific disclosures. We are not lawyers, we do not provide Privacy Policies as a service, and we are not responsible for your business complying with any applicable privacy laws.

It is strongly advised that you consult an attorney to determine your responsibilities in this matter. If you need assistance in linking legal pages, we have a relationship with a third-party Privacy Policy and Terms and Conditions generator service called Termageddon, and we can assist you with linking those policies to your website. You are under no obligation to utilise Termageddon, but it is the service that we use on our own website, have a relationship with (we receive a commission fee or can resell their licence to you if you decide to purchase), and recommend. Please note, should you choose to use Termageddon's services, your relationship will be directly with them, governed solely by their Privacy Policy and Terms of Service.

If we provide any standardised privacy policies and terms of use, we expressly do not guarantee that this language complies with any governing body's requirements.

You acknowledge and agree that any standardised language provided by us should be reviewed by a qualified lawyer. The client further acknowledges and agrees that it is the client's sole responsibility to inform us if your website must be compliant with any regulatory body, such as but not limited to the EU's General Data Protection Regulation (GDPR). Compliance with these, or any other regulations or laws, must be explicitly detailed and agreed upon as part of the Scope of Work and accepted by you to be part of the contract between the parties.

### **Disclosure to Law Enforcement**

We will disclose information about our clients to law enforcement agencies without further consent or notification to the client upon lawful request from such agencies. We will cooperate fully with the legal requests of law enforcement agencies.

### **Indemnification**

The Client agrees to indemnify and hold harmless the Company, its subsidiaries, contractors, employees and affiliates and each of their respective directors, officers, employees, shareholders and agents (each an "Indemnified Party") against any losses, claims, damages, liabilities, penalties, actions, proceedings, judgments, or any and all costs thereof (collectively, "Losses") to which an Indemnified Party may

become subject and which losses arise out of, or related to the Agreement, Client's use of the Services, breach of any confidentiality obligation or any alleged infringement of any trademark, copyright, patent or other intellectual property right and will reimburse an Indemnified Party for all legal and other expenses, including reasonable lawyer's fees incurred by such Indemnified Party, in connection with investigating, defending, or settling any loss, whether or not in connection with pending or threatened litigation in which such Indemnified Party is a party.

### **Choice of Law and Forum**

This Agreement, and any related Statements of Work, shall be construed in accordance with, and governed by, the laws of the United Kingdom without regards to Conflict of Law principles.

In the event of any dispute or disagreement with respect to the meaning, effect or interpretation of this Agreement or in the event of a claimed breach of this Agreement, the parties hereto agree that such dispute shall be determined through mediation. The parties will mutually select a mediator and share the cost of mediation equally. If the parties cannot agree upon a mediator then each party shall select a mediator and those mediators shall, independent of party input or control, select a mediator to mediate the dispute. The parties agree to cooperate fully with the mediator in good faith in order to reach a mutually satisfactory resolution of the dispute.

### **Refusal or Discontinuation of Service**

We reserve the right to refuse, restrict or terminate service to any client for any reason.

### **Disclaimer of Warranty**

We will perform our work in accordance with good industry practices and at the standard expected from a suitably qualified person with relevant experience. We cannot guarantee that our work will be error-free and so we cannot be liable to you or any third-party for damages, including lost profits, lost savings or other incidental, consequential or special damages, even if you've advised us of them.

The company hereby disclaims all warranties of any kind, either express or implied, statutory or otherwise, including but not limited to any warranties of merchantability, non-infringement and fitness for a particular purpose. The foregoing does not affect any warranties which cannot be excluded or limited under applicable law.

We will not be liable for any loss or damage caused by a distributed denial-of-service attack, viruses or other technologically harmful material that may infect server equipment, computer programs, data or other proprietary material.

### **Limitation of Damages or Liability**

In no event will the collective liability of the company, its affiliates and its licensors, service providers, employees, agents, officers and directors be liable for damages of any kind, under any legal theory, for harm caused by or related to the customer's services or inability to utilise the services, including any direct, indirect, special, incidental, consequential or punitive damages, including but not limited to, personal injury, pain and suffering, emotional distress, loss of revenue, loss of profits, loss of business or anticipated savings, loss of use, loss of goodwill, loss of data, and whether caused by TORT (including negligence), breach of contract or otherwise, even if foreseeable. The foregoing does not affect any liability which cannot be excluded or limited under applicable law.

Notwithstanding anything else in this Agreement, the maximum aggregate liability of THE COMPANY and any of its employees, agents, contractors or affiliates, under any theory of law should not exceed the amount of fees it has collected on the customer's account in the last six months.

### **Force Majeure**

We shall not be considered in breach of this Agreement if we are unable to complete the Services or any portion thereof due to events beyond our control, including but not limited to fire, earthquake, labour disputes, acts of God or public enemy, pandemics, death, illness, incapacity, or compliance with any local, national, or international law, governmental order, or regulation (collectively, "Force Majeure Events"). In the event of a Force Majeure Event, we will endeavour to notify you of our inability to perform or any delays in providing our services.

### **Severability**

No part of this Agreement will be affected if any other part of it is held unenforceable or invalid.

### **Headings**

The headings in this Agreement are inserted for convenience only and are not a part of this Agreement.

### **Entire Agreement**

This Agreement, and any Proposals of Service attached, constitute the entire agreement and understanding of the parties with respect to the transactions contemplated hereby and supersedes any and all prior agreements and understandings relating to the subject matter hereof. This Agreement may not be

waived, assigned, extended, amended, supplemented or modified orally, but only by a written instrument signed by the party against whom enforcement of any such waiver, assignment, extension, amendment, supplement or modification is sought.

### **Modifications**

This Agreement may not be changed or modified except in writing signed by the parties.

### **Construction**

The parties acknowledge and agree that they have read, understood and have actively negotiated the terms of this Agreement, participated in its drafting and have been represented by legal counsel. Therefore, this Agreement shall not be deemed to be the product of either party and shall not be enforced or interpreted any more stringently or strictly against either party.

### **Assignability**

Neither the Company nor the Client may assign this Agreement without the prior consent of the other.

### **Agreement**

By purchasing your chosen maintenance package via Stripe you are signifying that:

- You have read, understood, and agreed to this Care Plan Agreement
- That this Care Plan Contract comprises our entire agreement.