

At Sunstar Creative Inc., we carry our job with professionalism and pride. Our terms and conditions below are set to give you confidence and peace of mind on our professional services. If there is any term or condition that prevents you from dealing with us, we will look at it, and if reasonable, will consider its exclusion as part of our agreement.

The following terms and conditions apply to all web site design and related services offered by Sunstar Creative Inc. . By ordering services from Sunstar Creative Inc. you are agreeing to the following terms and conditions.

1. Ethical Issues

- 1.1 We reserve the right to refuse to provide services for a website or related services which does not accord with our ethical policy or that we judge to be unfit due to content or otherwise. This includes, but is not limited by, sites containing adult oriented material such as pornography, sites which promote hatred towards persons belonging to any ethnic group, religion or sexual orientation and sites which infringe copyright or are contrary to Canada or other relevant national or local laws or regulations

2. Contract Commencement

- 2.1 The contract between Sunstar Creative Inc. and the client shall consist of the proposal with its specifications, quotation and these terms and conditions

- 2.2 It may not be necessary to have a signature for the contract to commence, verbal communication, email communication or other exchange making it clear that the work specified is required to be carried out shall constitute commencement of the contract and a contractual agreement between the client and Sunstar Creative Inc. shall exist based on the proposal with its specifications, quotation and these terms and conditions. For formality, client is required to sign approval section of the proposal and return to Sunstar Creative Inc. address for filing purposes

2.3 Sunstar Creative Inc. cannot always guarantee to start work immediately on a commission but will arrange a date with the client as to when work can commence. An anticipated finishing date will be agreed and Sunstar Creative Inc. will do its best to adhere to that but cannot guarantee to do so in the light of circumstances outside its control. Where in the instance that a time scale has been agreed, Sunstar Creative Inc. will not be responsible for any consequential losses to the client if the deadline is not met

### 3. Design Standards, Web Standards, Accessibility

3.1 Sunstar Creative Inc. makes every effort to design pages to current web standards and thus display well in the most popular **current** browsers, but cannot accept responsibility for pages that do not display acceptably in new versions of non-web standard browsers

### 4. Development Process

4.1 Sunstar Creative Inc. will provide a draft of the design on its own server during development so that the client may view and comment upon the progress. When the website meets the specifications set out in the quotation with its specifications, Sunstar Creative Inc. will invoice the client for the full amount due or the amount otherwise specified in the approved proposal & quotation

4.2 On receipt of payment, Sunstar Creative Inc. will publish the website on the agreed upon server, or provide the source code for the site via a download (or CD-ROM disc) for the client to upload

4.3 Where in the instance that a time scale has been agreed, Sunstar Creative Inc. will not be responsible for any consequential losses to the client if the deadline is not met

4.4 Sunstar Creative Inc. uses its best endeavours to ensure the website and other services remain functional at all time. However, Sunstar Creative Inc. cannot guarantee or warrant that the functions and content of the website or other services will be uninterrupted or error-free. Any problems will be dealt with as speedily as is appropriate to the content and function of the website and may be

chargeable at our normal rate during working hours and at double that rate outside normal working hours.

4.5 Once the website and other services meet the terms of the quotation with its specifications any modifications to the design will be considered an amendment to the contract. In the absence of a maintenance agreement the time and costs involved in making such changes will be charged to the client

4.6 In the absence of a maintenance agreement, Sunstar Creative Inc. will fix all errors notified to Sunstar Creative Inc. in writing within thirty days of the site being put live on the Internet. If errors are reported after more than thirty days the time and costs involved in making such changes will be charged to the client

## 5. Copyright

5.1 All material, both text and images supplied by the client and used in the construction of the client's web site, will remain the client's property. All such material will be assumed to be the property of the client and free to use without fear of breach of copyright laws. The client shall indemnify Sunstar Creative Inc. against all and any claims arising from the use of materials of any sort provided by the client or obtained under the direction of the client from third parties such as graphic designers

5.2 The copyright for all material provided by Sunstar Creative Inc. , such as HTML code, graphics, photographs and text, will remain the property of Sunstar Creative Inc. until such time as payment has been made in full. They will then become the property of the client with copyright shared between the client and Sunstar Creative Inc. . This allows either party expeditiously to pursue any copyright infringement. Should the client wish to retain exclusive copyright this shall be arranged but the copyright of Sunstar Creative Inc. shall only be assigned if done so expressly and in writing to the client.

5.3 All technologies, techniques and aspects of the site not directly related with this particular site implementation will remain with developers or other parties who already own them

## 6. Testimonial, Reference and Links

6.1 Sunstar Creative Inc. and its sub-contractors retain the right to display graphics and other Web design elements as examples of their work in their respective portfolios

6.2 Sunstar Creative Inc. and its sub-contractors retain the right to refer other prospective clients to your website as testimonial or reference material.

## 7. Search Engine Submission and Results

7.1 Sunstar Creative Inc. will, if requested, submit a client's website to the major search engines

7.2 Further work based on keyword popularity analysis, search engine optimisation based specifically around your organisation and its 'competition' is best carried out by specialist contractors. This can be arranged but is not part of the contract unless specifically included in the quotation. Any subsequent amendments to the website as a result of professional analysis may be charged to the client

7.3 Sunstar Creative Inc. can accept no responsibility or liability if any search engine, online directory or search site chooses not to list a client's web site.

## 8. Payment

8.1 A non-refundable payment of 40 per cent of the total fee is due with order, unless otherwise agreed, in which case payment is due upon completion of site. Whilst any payment due under the agreement remains outstanding, Sunstar Creative Inc. shall be entitled at its sole and absolute discretion to withhold provision of any goods or services it would otherwise be obliged to provide under the agreement

8.2 To put it another way: full payment is due once the underlying structure and architecture is set up and ready - whether or not the website has been

uploaded to a server. Sunstar Creative Inc. shall not be expected to wait for items that are the client's responsibility before payment is due

8.3 Sunstar Creative Inc. expects payment by cheque, electronic bank transfer or cash within the terms specified in the approved Proposal or Quotation, unless Credit, Debit or Pre-Authorized payments have been arranged

8.4 All payment currency is in Canadian Dollars (CDN). Payment in foreign currency may be accepted only if specified in the approved Proposal or Quotation of which a sum sufficient to cover exchange commission and charges and any other additional expenses incurred has been added to the amount due

8.5 Any payment returned by the bank or credit card company will incur a \$30.00 administration charge in addition to any charges made by the bank. This will be invoiced and will be added to the total outstanding debt owed by the client

8.6 In case collection proves necessary, the client agrees to pay all fees (including all legal fees and court costs) incurred by that process

8.7 If for any reason whatsoever we are unable to provide an agreed product or service in accordance with these terms and conditions our liability shall be limited in its entirety to a proportional refund of any fees paid by you for the service or product

## 9. Website Maintenance

9.1 Website maintenance services by Sunstar Creative are annual (12 month) agreements

### 9.2 Payment Methods

- Monthly Website Maintenance service fees require credit card or business cheque for payment. No other forms of payment will be accepted for monthly website maintenance.

- Annual Website Maintenance service fees may be paid with credit card, cheque, bank wire-transfer or money order

9.3 Website maintenance service fees will be charged to the clients credit card on file on the 1st day of every month

9.4 Website maintenance service fees will be prorated for new clients that sign up in the middle of a given month

- 9.5 Termination of this agreement by the client:
- After the initial 12 months, the client may terminate this agreement without paying any additional fees with 30 days written notice
- 9.6 Sunstar Creative may terminate this agreement at anytime with written notice to the client
- 9.7 An administrative fee of \$25 will be charged to the clients account for any late payments or declined credit card charges
- 9.8 An administrative fee of \$30 will be charged for returned checks
- 9.9 There are absolutely no refunds for any fees related to website maintenance services
- 9.10 When adding new text and/or content to a page the client is responsible for providing all text (in digital format) and images/photos unless otherwise agreed in writing by both parties
- 9.11 Minor updates are limited to 5 incidents per week depending on availability. More minor updates may be able to be completed each week depending on the Sunstar Creative project schedule. The client may email [maintenance@sunstarcreative.ca](mailto:maintenance@sunstarcreative.ca)
- 9.12 There is no roll-over for any website maintenance plan services
- 9.13 "Update turnaround time" is based on standard minor updates. Advanced programming or graphical creation may result in longer turnaround times
- 9.14 Urgent and/or Rush updates, modifications, or edits will be completed within 24 hours. A fee of \$50 will be charged if minor updates and/or modifications or edits are required to be completed on Saturday or Sunday
- 9.15 Sunstar Creative reserve the right to change these Terms and Conditions at any time without notice

## 10. Unforeseen and Additional Costs and Expenses

10.1 The transfer of domain names to another server can sometimes become a complex and time-consuming matter. All administrative fees to third parties and the time taken to organise the transfer will be charged to the client irrespective of any quoted amount set out in the quotation with its specifications

10.2 Additional costs incurred in the provision of: stock photography; electronic commerce software; online transaction processing solutions; domain name registration; web space; Internet connection provided by third parties are non refundable

10.3 Additional features to websites, including extra database services, specific hosting requirements, animations that are not included in the quotation are subject to surcharge. In the event a feature is required which has not been included in the quotation Sunstar Creative Inc. will give notice prior to implementation and seek acceptance of the surcharge. The cost will be added to the final invoice

## 11. Domain Name Research and Registration

11.1 Where the client requests Sunstar Creative Inc. to research and register a domain name the domain name will always be the property and in the control of the client. If, for whatever reason, this is not possible then the client will be informed of the fact. All fees and costs incurred will be included in the quotation and payable by the client

## 12. Website Hosting Services

12.1 Hosting services - where your website is stored on a server for delivery to website visitors - and email services are provided under a contract between the client and the chosen hosting and email provider (Internet Service Provider (ISP)) and will be bound by the terms and conditions of that ISP

## 13. Data Protection

13.1 Where the operation of the website or other services provided by Sunstar Creative Inc. involves the collection and administration of personal data the client is deemed to be the Data Controller

13.2 The client shall indemnify Sunstar Creative Inc. against any actions, costs and liabilities arising from the use in good faith by Sunstar Creative Inc. of personal data provided by the client or through the client 's website

13.3 Where your website involves e-commerce functionality, the client must ensure that suitable arrangements are in place to maximize security levels with regard to financial and personal information relating to the users of the website and other services. This may necessitate the use of secure electronic protocols, authentication certificates, encryption et cetera and may require the provision of secure server facilities and/or the use of a credit card clearing service

13.4 Where a service is provided relating to e-commerce whereby visitors to the client's website can order goods or services through the website - whether through direct or indirect payment the client undertakes to ensure that all transactions are carried out legally and fairly, that the security of personal information and of financial information is maintained and that the collection and control of that data meets the requirements of the Data Protection Acts and regulations

13.5 The client is solely responsible for complying with any laws, taxes, and tariffs applicable in any way to the website or any other services contemplated, and will hold harmless, protect, and defend Sunstar Creative Inc. and its sub-contractors from any claim, suit, penalty, tax, fine, or tariff arising from the website or other services provided

#### 14. Email Newsletters and Marketing

14.1 Where Sunstar Creative Inc. provides services relating to management of email newsletters and other email marketing, payment is usually by quarterly fees paid in advance and is reviewed and renewable annually

14.2 Where Sunstar Creative Inc. provides email newsletter services we shall adhere to the legal requirements - to the best of our ability and shall not condone or support any activity related with indiscriminate spamming of email addresses

#### 15. Sub-Contracting

15.1 If necessary, Sunstar Creative Inc. reserves the right, and the client hereby agrees, to allow the use of sub-contractors or agents to work on any aspect of the website or other services

## 16. Consequential Losses

16.1 If for any reason whatsoever Sunstar Creative Inc. is unable to provide an agreed product or service in accordance with these terms and conditions our liability shall be limited in its entirety to a proportional refund of any fees paid by you for the service or product

16.2 The entire risk as to the quality and performance of the website or other services is with the client. In no event will Sunstar Creative Inc. be liable to the client or any third party for any damages, including, but not limited to, service interruptions caused by acts of god, the hosting service or any other circumstances beyond the control of Sunstar Creative Inc., any lost profits, lost savings or other incidental, consequential, punitive, or special damages arising out of the operation of or inability to operate the website or other services, failure of any service provider, of any telecommunications carrier, of the Internet backbone, of any Internet servers, your or your site visitors' computer or Internet software, even if Sunstar Creative Inc. has been advised of the possibility of such damages

## 17. Proposals and Quotations

17.1 Proposals and Quotations are valid for thirty days from the date on the proposal or quotation unless otherwise specified in the proposal or quotation. All prices quoted may be subject to change after this period

## 18. Advice and Consultancy

18.1 Any advice given in respect of software, hardware, programming, design, purchasing, hosting, training, upgrading, installing or any other advice, suggestion, recommendation or otherwise of any product or service provided by us or by a third party, whether introduced by us directly or indirectly is accepted by you as an opinion and as such you agree that prior to acting on any of the aforementioned that you will first obtain professional advice. You further agree to indemnify us of all liability with regard to any decision or action performed by you that may or may not be a direct or indirect result of any contact or dealing with us

18.2 Our consultancy service and general advice is, by its nature, subjective. It is up to you whether you decide to follow our ideas and suggestions. It is not possible and we do not guarantee that any of those ideas and suggestions will increase traffic to your site, improve your ratings with search engines or boost sales

## 19. Right to Assign

19.1 This Agreement is personal to you and you may not assign it without our prior express written consent. Should you transfer ownership of the website as part of a transfer of ownership of a business then the new owners will need to come to a new agreement with Sunstar Creative Inc.

## 20. Communication and Site Visits

20.1 Sunstar Media Inc.'s preferred method of communication is by email or telephone. Invoices may be sent by email and shall form a legal document just as if sent by traditional post

20.2 Extensive site visits should not be necessary and the majority of design approval will be undertaken using the Internet, electronic files or other means. In the absence of a maintenance agreement which will set out site visit arrangements, visits requested by the client beyond that which Sunstar Creative Inc. considers reasonable will be quoted separately and payable by the client at reasonable man-hour rate (including travelling time) plus reasonable travel expenses not less than the actual costs incurred.

20.3 The design process will be undertaken by online project portal communication. In addition, telephone conferencing, sample Internet design publication on Sunstar Creative Inc. 's website, file design submission on computer disk, or other method as appropriate to the client's will be utilize in particular circumstances

## 21. Cancellation and Termination

21.1 Sunstar Creative Inc. may, by written notice, terminate the Agreement between us immediately upon the happening of any of the following events: You fail to pay any invoice which has become due; you commit a material breach of any of the terms of the Agreement between us; you enter into or propose a voluntary arrangement or composition with your creditors or reconstruction of your debts or your directors make a declaration of solvency for the purpose of a members' voluntary winding up, or if notice is given of a creditors' meeting in connection with a creditors' winding up, or if a special resolution is passed that you be wound up by the court, or if an administrative or other receiver is appointed, or if the court makes and administration order or order that you be wound up by the court, or if you cease to carry on business or are unable to pay your debts within the meaning of the Insolvency Act

21.2 Should Sunstar Creative Inc. decide to terminate the agreement between us immediately upon the occurrence of one of the above circumstances, we reserve the right to exercise any other rights which we may have against you

21.3 We reserve the right to remove from the Internet any website or other service which we display on your behalf upon the occurrence of one of the above circumstances

21.4 Should we terminate the Agreement upon the occurrence of one of the above circumstances, we will not refund to you any monies paid by you to us

21.5 If at any point during the development a client wishes to cancel, they may do so but will be invoiced up to the full amount quoted based on the degree to which the work has been completed and on the extent to which time has been allocated to the project that cannot be effectively used to generate revenue that would be otherwise lost

21.6 If a maintenance agreement is terminated for any of the reasons mentioned above a fee equivalent to six months charges will be payable

21.7 In the event that Sunstar Creative Inc. terminates a maintenance contract for any other reason, a refund equivalent to the unused portion of the current payment period will be the maximum liability

## 22. Waiver and Interpretation

22.1 Should Sunstar Creative Inc. waive any of these terms on an individual basis, this shall not affect the validity of remaining clauses or commit Sunstar Creative Inc. to waive the same clause on any other occasion

22.2 These terms and conditions shall prevail over all terms and conditions of your customary practice or any previous course of dealing between us and you

22.3 Any variation to these terms and conditions shall be inapplicable unless agreed between ourselves before we commence any work on your behalf

22.4 Work, services or products are only supplied in strict accordance with these terms and conditions. The provision of work, services or products by us is only undertaken on the understanding that you have read and accept these terms and conditions in full

22.5 By agreeing to these terms and conditions your statutory rights are not affected

22.6 This contract shall be governed and construed in accordance with the laws of Canada and the Parties hereby agree to the exclusive jurisdiction of the Canadian Courts

22.7 No terms or conditions endorsed upon, delivered with or contained in the client's purchase order, confirmation of order, specification or other document will form part of the contract simply as a result of such document being referred to in the contract

22.8 The client must ensure that the terms of its order and any applicable specification are complete and accurate