**PUBLITECH.COM**

**Terms and Conditions**

Publipage Inc. (“Publipage”) provides tools and resources to identify and track website visitors (the “Tracking Services”) and an integrated collection of tools and resources to create, launch, and manage online email marketing campaigns (the “Email Services”). The Tracking Services and Email Services are collectively referred to as the “Services”. The following are the terms and conditions for use of the Services by the person or persons accessing the Services (the “Customer”), along with any amendments thereto and any operating rules or policies that may be published from time to time by Publipage.

PLEASE READ THESE TERMS AND CONDITIONS OF USE CAREFULLY. THESE TERMS AND CONDITIONS MAY HAVE CHANGED SINCE YOU LAST UTILIZED THE SERVICES. BY USING THE SERVICES YOU INDICATE YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, THEN DO NOT USE THE SERVICES.

1. **Services Subscription**
	1. The Services provided are subject to the following terms and conditions and any operating rules or policies that Publipage may establish (the “Agreement”). The Agreement includes our Privacy Policy and Anti-Spam Policy posted at publipage.com.
	2. Publipage may make changes to this Agreement at any time. Customer will be notified of any changes to this Agreement upon logging in to the Services or via email to the primary contact on record with Publipage or both. Continued use of the Services by Customer will constitute acceptance of the Agreement.
	3. The Services are available only to persons who can form legally binding contracts under applicable law. If you are using the Services as an employee on behalf of an employer, you must have the authorization to bind your employer by your use of the Services. Without limiting the foregoing, the Services are not available to individuals under the age of 18. If you do not qualify to use the Services, please do not use the Services.
	4. Customer may be required to complete a registration form in order to use the Services. Customer will provide true, accurate, current, and complete information about Customer as requested in the registration form, and will update the information to keep it current. Customer must identify a primary contact email address for Customer’s Publipage account. Customer is responsible for maintaining the security of the Customer account, passwords, and files, and for all uses of Customer’s account and of the Services in Customer’s name. At its sole discretion, Publipage reserves the right to refuse registration of accounts, or cancel an existing account, that it deems to be inappropriate.
	5. The Services are provided on a subscription basis. Services subscriptions automatically renew at the end of the then current term on a month-to-month basis under Publipage then current applicable policies and terms, subject to Publipage acceptance and Customer’s payment of fees for the Services at Publipage then current pricing or as otherwise agreed to in writing by Customer and Publipage.
2. **Restrictions and Responsibilities**
	1. This is an Agreement for Services, and Customer is not granted a license to any software by this Agreement. Customer will not, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of the Services or any software, documentation, or data related to the Services (“Software”); modify, translate, or create derivative works based on the Services or any Software; or copy (except for archival purposes), distribute, pledge, assign, or otherwise transfer or encumber rights to the Services or any Software; use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party unless specifically authorized by Publipage; or remove any proprietary notices or labels.
	2. Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Publipage’s Privacy Policy and Anti-Spam Policy as published at publipage.com or otherwise furnished to Customer and all applicable laws (including but not limited to policies and laws related to spamming, privacy, obscenity, or defamation and child protective email address registry laws).
	3. Customer may not access or otherwise use third party mailing lists in connection with preparing or distributing unsolicited email to any third party. Customer may only use permission-based lists. A permission-based list is defined as a list in which each entity on the list is a person or organization that has explicitly granted their permission to receive emails or other communications from Customer. Customer is solely responsible for ensuring that its email campaigns do not generate a number of spam complaints in excess of industry norms. Publipage, in its sole discretion, shall determine whether the level of spam complaints is within industry norms, and its determination shall be final, binding and conclusive for all purposes under this Agreement. Publipage may terminate Customer’s use of the Services if Publipage determines that the level of spam complaints is higher than industry norms.
	4. Customer agrees that each email sent by Customer in connection with the Services shall contain an “unsubscribe” link that allows a recipient to remove themselves from Customer’s mailing list. Customer is prohibited from mailing to any recipient who has clicked on the unsubscribe link. Customer shall process all unsubscribe requests within ten (10) days of request by a Customer’s email recipient. Failure to comply with this requirement may result in a termination of Customer’s account by Publipage, and all payments previously paid to Publipage shall be forfeited by Customer at the time of termination.
	5. Subject to the posted terms and conditions, Customer may upload images hosted by Publipage into their email campaigns. Any images hosted by Publipage are only to be used in conjunction with the Services, and Customer is expressly prohibited from using the images for any other purpose.
	Customer is prohibited from using images within an email campaign to:
		* Sublicense, distribute, transfer or assign any images in connection with any other product except for a Publipage email or postcard;
		* Reverse engineer, decompile, translate or dissemble any part of the Images;
		* Remove any copyright notices, trademarks or watermarks from any place where it appears on the Images;
		* Use the Images as part of another trademark, service mark or logo;
		* Use the Images in any way that could be considered by a reasonable person to be defamatory, pornographic, libelous, immoral, obscene or fraudulent, or illegal, either by making physical changes to them, in the juxtaposition to accompanying text or images or otherwise;
		* Use the Images in a manner that includes people as part of any sensitive subject matter, which shall be determined by Publipage in its sole discretion. Example of sensitive subject matters include, but are not limited to, mental and physical health issues, sexual activity or preferences, substance abuse, guns and weapons, crime, suicide, abortion, hate groups, political or religious fanaticism, etc.
	6. In its use of the Services, Customer may provide information (such as name, contact information, or other registration information relating to either the Customer or Customer’s employer) to Publipage. Publipage may use this information and any technical information about Customer’s use of this web site to tailor its presentations to Customer, facilitate Customer’s movement through this web site, or communicate separately with Customer. If Customer accessed the Services through a partner of Publipage, all Customer information obtained by such partner may be shared with Publipage. Publipage may also share any Customer information with such partners and Publipage affiliated companies. Publipage will not provide information to unaffiliated companies.
	7. Customer hereby agrees to indemnify and hold harmless Publipage and its business partners, third party suppliers and providers, licensors, officers, directors, employees, distributors and agents against any damages, losses, liabilities, settlements, and expenses (including without limitation costs and reasonable attorney’s fees) in connection with any claim or action that arises in any way from (a) an alleged violation of the Agreement or (b) Customer’s use of the Services. Although Publipage has no obligation to monitor the content provided by Customer or Customer’s use of the Services, Publipage may do so and may remove any such content or prohibit any use of the Services it believes may be (or alleged to be) in violation of the Agreement.
	8. Customer shall not use the Services in any manner (including, without limitation, the transmission of third party content or information) that may violate or infringe upon any rights of a third party. Customer shall be subject to the indemnification provisions in this Agreement if Customer’s use of the Services violates or infringes upon such rights.
	9. Customer shall be solely responsible for securely maintaining its user name(s), password(s) and other account information. Publipage may follow the instructions of any person who represents he is authorized by the Customer to use or make any changes to the account, provided such person verifies their identity by providing to Publipage a username and password that is currently active within the Customer’s account. Publipage shall have no liability to Customer for any unauthorized use of Customer’s account or the services provided hereunder
3. **Customer Data**.
Customer owns all data collected on Customer’s behalf by the Services as well as information or material Customer submits to the Services in the course of using the Services (“Customer Data”). Customer Data will not be shared with any third party unless Publipage is compelled to do so by legal action. Publipage will use Customer Data for the sole purpose of providing the Services.
4. **Free Trial Period**
	1. In the event Customer elects to use the Publipage Services on a trial basis, Customer will not be billed for the Services for the agreed upon trial period (the “Trial Period”), commencing on the date Customer accepts this Agreement. During the Trial Period, Customer may use the Services subject to the agreed upon subscriber limits. The subscriber limits for the Trial Period are subject to change at any time. Upon reaching the end of the free trial period, Customer may purchase a subscription for the Publipage Services.
	2. Free trial registration may require Customer to provide a valid credit card. Should the number of emails sent by Customer during the Trial Period exceed the allowed number of complimentary email credits, the credit card will be charged at the per email rate of $0.01 or any other rate previously agreed upon.
	3. Should Customer wish to discontinue use of the Services upon or before expiration of the Trial Period, Customer must take all steps outlined in Section 5 of this Agreement titled “Termination”.
	4. Should Customer wish to continue use of the Services upon expiration of the Trial Period no action is required on the part of the Customer. Customer will be deemed to have subscribed to and purchased the Services one (1) calendar day after expiration of the Trial Period the (“Subscription Date”) unless Customer has completed all steps outlined in Section 5 of this Agreement titled “Termination” before expiration of the Trial Period. Customer’s credit card will be charged on the Subscription Date and monthly thereafter per Section 6 of this Agreement titled “Payment Terms”.
	5. If Customer was not asked to provide a credit card during free trial registration and they wish to send a greater number of emails during the free trial period than allotted, or if Customer wishes to continue use of the Services upon expiration of the trial period, Customer must provide valid credit card information to Publipage online or via telephone. When this occurs, Customer is subject to the terms of automatic billing upon trial expiration as outlined in this Agreement. Customer’s access to the Services may be disabled until valid credit card information is received.
5. **Termination**
	1. Termination of this Agreement requires that Customer take two (2) actions: 1) Customer must initiate termination of this Agreement by sending an email message to support@publipage.com or by sending written notice to Publipage at 2055 , rue Peel, office 1050 Montréal QC H3A 1V4 seven (7) days prior to the actual termination date and 2) Customer must remove the Publipage implementation code from all pages of all web sites within which the implementation code resides. Upon completion of each of these two steps this Agreement will be considered terminated, not before. Until both steps have been completed Customer agrees that billing will continue as scheduled.
	2. Publipage may terminate this Agreement or the Services at any time with or without cause, and with or without notice. Publipage shall have no liability to Customer or any third party because of such termination. Upon termination by either party, no payments from Customer held by Publipage shall be refunded at the time of termination and Customer shall have no recourse against Publipage in relation to non-refunded funds.
	3. Upon termination for any or no reason, Publipage may delete any Customer archived data within 30 days after the date of termination. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, indemnity, warranty disclaimers and limitations of liability.
6. **Payment Terms**
	1. The Services are sold on a subscription basis. A subscription is deemed active when Customer has (i) completed the online registration, (ii) agreed to these Terms and Conditions and (iii) provided a valid credit card account number or other approved payment method and authorized the subscription payment. Payment for the first month of a subscription shall be due and payable upon the date of activation. Each month thereafter for the term of the subscription, Customer will be charged the monthly subscription fee on the same day of the month that the Customer purchased its’ subscription or the last day of each calendar month, whichever is earlier (the “Billing Date”). Customer agrees to and authorizes Publipage to make subsequent monthly charges to Customer for the duration of the term of the subscription and any renewals thereof.
	2. The Email Services are billed monthly in arrears on a usage basis. Customer agrees and authorizes Publipage to charge Customer on the Billing Date for the emails sent at Customer’s request via the Email Services. Price per email is established with the Customer at commencement of the Publipage Services. Customer understands that each email that the Email Services attempt to send at Customer’s request will result in a charge regardless of whether the email was actually received by the intended recipient due to bad email address, spam filtering, or any other reason.
	3. Access to the Services shall be disabled should Customer become delinquent in paying the subscription fees. Prices may change at any time at Publipage’s sole discretion unless otherwise agreed to in writing. Customer is responsible for understanding what current prices are in effect at all times. Publipage will use reasonable efforts to notify Customer of any changes in pricing prior to such changes taking effect.
	4. Payment for Services shall be paid with any valid credit card that is accepted by Publipage. If Publipage, in its discretion, permits Customer to make payment using a method other than a credit card, Publipage will invoice Customer approximately one month in advance of the pertinent billing period. All amounts invoiced hereunder that are not the subject of a written good faith dispute are due and payable within 15 days of the date of the invoice. Unpaid invoices that are not the subject of a written good faith dispute are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all reasonable expenses of collection. Customer authorizes Publipage to keep Customer credit card or Customer bank account information on file and charge such credit card or debit such bank account for the continuing usage of existing Services or the future usage of the Services. Customer’s account will be disabled if Publipage is unable to charge Customer’s credit card for Services rendered or future Services purchased. Publipage will attempt to notify Customer of our intent to suspend access to the Services prior to such suspension taking effect.
	5. Fees for the Services are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies, or duties (excluding Canadian. taxes based on Publipage’ income), even if such amounts are not listed on an invoice or billing statement.
7. **Prohibited Content**
	1. Publipage prohibits Customers from sending email messages with content that is of the following nature:
		* Messages that are in any way illegal such as sales of illegal substances, solicitation of escort services, or sales of any products or services that cannot be legally sold by Customer;
		* Pornographic messages;
		* Grossly offensive messages such as messages promoting hatred, bigotry, intolerance of religious beliefs, racism or any other messages that Publipage, at its sole discretion, may deem to be offensive;
		* Includes images that are not expressly authorized by either Publipage or the owner of such images;
		* Introduces any computer viruses, worms or software code that is detrimental to Customer’s recipients;
		* Any messages that includes spam (See Publipage’ anti-Spam Policy); or
		* Any messages that are in any way prohibited by applicable law, would constitute a violation of applicable law or be inconsistent with community standards in any jurisdiction in which the recipient resides.
8. **Warranty Disclaimer.**CUSTOMER USES THE SERVICES AT ITS OWN RISK. Publipage DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. THE SERVICES ARE PROVIDED “AS IS” AND Publipage DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.
9. **Limitation of Liability**. NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR PERSONAL INJURY OR DAMAGE TO REAL OR TANGIBLE PERSONAL PROPERTY PROXIMATELY CAUSED BY Publipage, Publipage AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND PROPERTY SUPPLIERS), DIRECTORS, OFFICERS, AFFILIATES, INSURERS, REPRESENTATIVES, CONTRACTORS, AND EMPLOYEES SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY ACTION IN CONTRACT, TORT, OR OTHERWISE, EVEN IF Publipage HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR FRAUD OR WILFUL MISCONDUCT, Publipage’ AGGREGATE LIABILITY TO CUSTOMER FOR ANY CLAIMS OF ANY TYPE OR NATURE HEREUNDER SHALL NOT EXCEED IN THE AGGREGATE THE AMOUNT PAID BY CUSTOMER TO Publipage DURING THE TWELVE MONTHS PRIOR TO SUCH CLAIM.
10. **Force Majeure**. Neither party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, either party may cancel unperformed Services upon written notice. This section does not excuse either party of its obligations to take reasonable steps to follow its normal disaster recovery procedures or Customer’s obligation to pay for the Services provided.
11. **Miscellaneous**
	1. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.
	2. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.
	3. No agency, partnership, joint venture, or employment is created as a result of this Agreement, and Customer does not have any authority of any kind to bind Publipage in any respect whatsoever.
	4. Customer agrees that Publipage may use Customer’s name and logo in connection with marketing and promoting Publipage.
	5. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover its costs and attorney’s fees, in addition to all other damages provided by applicable law.
	6. This Agreement shall be governed by the laws of the Province of Quebec ,Canada without regard to its conflict of laws provisions. All legal actions or claims in connection with this Agreement shall be brought in the provincial or federal courts located in Montreal, Quebec, Canada.
	7. Statistical Information. Notwithstanding anything else in this Agreement or otherwise, Publipage may compile statistical and performance information related to the provision of the Services, and may make such information publicly available, provided that such information does not incorporate Customer’s Data and/or identify Customer’s Confidential Information. Publipage retains all intellectual property rights in such information.