

## Terms of Service

last updated May 24, 2015

**We (the folks at Better Novel Project, LLC) would be delighted for you to use our Better Novel App service.**

Our basic service is free, and we will offer paid upgrades for advanced features such as extra storage and advanced story templates. Our service is designed to give you as much control and ownership over what goes into your account as possible and encourage you to express yourself freely. However, be responsible in what you create and link to from your account. In particular, make sure that none of the prohibited items listed below appear in your account or get linked to from your account (things like spam, viruses, or hate content).

### **Terms of Service:**

The following terms and conditions govern all use of the BetterNovelApp.com website and all content, services and products available at or through the website, including BetterNovelProject.com (taken together, the Website). The Website is owned and operated by Better Novel Project, LLC. (The terms “us” “we” and “our” refer to Better Novel Project, LLC). The Website is offered subject to your acceptance without modification of all of the terms and conditions contained herein and all other operating rules, policies (including, without limitation, Better Novel Project, LLC’s Privacy Policy) and procedures that may be published from time to time on the Website by Better Novel Project, LLC (collectively, the “Agreement”).

Please read this Agreement carefully before accessing or using the Website. By accessing or using any part of the web site, you agree to become bound by the terms and conditions of this agreement. If you do not agree to all the terms and conditions of this agreement, then you may not access the Website or use any services. If these

terms and conditions are considered an offer by Better Novel, acceptance is expressly limited to these terms. The Website is available only to individuals who are at least 13 years old.

- 1. Your Better Novel App Account and Story.** If you create a story on the Website, you are responsible for maintaining the security of your account and story, and you are fully responsible for all activities that occur under the account and any other actions taken in connection with the story. You must not describe or assign keywords to your account in a misleading or unlawful manner, including in a manner intended to trade on the name or reputation of others, and Better Novel Project, LLC may change or remove any description or keyword that it considers inappropriate or unlawful, or otherwise likely to cause Better Novel Project, LLC liability. You must immediately notify Better Novel Project, LLC of any unauthorized uses of your story, your account or any other breaches of security. Better Novel Project, LLC will not be liable for any acts or omissions by You, including any damages of any kind incurred as a result of such acts or omissions.
- 2. Responsibility of Contributors.** If you operate an account, comment on a story, post material to the Website, including text, files, images, photos, video, sounds, musical works, works of authorship, applications, or any other materials, post links on the Website, or otherwise make (or allow any third party to make) material available by means of the Website (any such material, "Content"), You are entirely responsible for the content of, and any harm resulting from, that Content. That is the case regardless of whether the Content in question constitutes text, graphics, an audio file, or computer software. By making Content available, you represent and warrant that:

- the downloading, copying and use of the Content will not infringe the proprietary rights, including but not limited to the copyright, patent, trademark or trade secret rights, of any third party;
- if your employer has rights to intellectual property you create, you have either (i) received permission from your employer to post or make available the Content, including but not limited to any software, or (ii) secured from your employer a waiver as to all rights in or to the Content;
- you have fully complied with any third-party licenses relating to the Content, and have done all things necessary to successfully pass through to end users any required terms;
- the Content does not contain or install any viruses, worms, malware, Trojan horses or other harmful or destructive content;
- the Content is not spam, is not machine- or randomly-generated, and does not contain unethical or unwanted commercial content designed to drive traffic to third party sites or boost the search engine rankings of third party sites, or to further unlawful acts (such as phishing) or mislead recipients as to the source of the material (such as spoofing);
- the Content is not pornographic, does not contain threats or incite violence, and does not violate the privacy or publicity rights of any third party;
- your story is not getting advertised via unwanted electronic messages such as spam links on newsgroups, email lists, other blogs and web sites, and similar unsolicited promotional methods;
- your story is not presented in a manner that misleads your readers into thinking that you are another person or company; and

- you have, in the case of Content that includes computer code, accurately categorized and/or described the type, nature, uses and effects of the materials, whether requested to do so by Better Novel Project, LLC or otherwise.

**3. Better Novel Project, LLC does NOT claim ownership of your Content, but this Agreement does grant us the limited rights necessary to run our service.**

4. By submitting Content to Better Novel Project, LLC for inclusion on the Website, you grant Better Novel Project, LLC a world-wide, royalty-free, irrevocable, and non-exclusive license to reproduce, modify, adapt and publish the Content for the purpose of displaying, distributing, and making it available for use by our tools, and for any associated incidental copying of said Content. You grant Better Novel Project, LLC permission to collect and publish analytics and metadata about your Content and your use of the Better Novel Project, LLC software.
5. Additionally, **IF you choose to submit Content to be made available for public distribution** (for example, by marking a story as available for public distribution), you grant Better Novel Project, LLC a world-wide, royalty-free, irrevocable, and non-exclusive license to reproduce, modify, adapt, and publish the Content for any marketing or promotional purposes at the sole discretion of Better Novel Project, LLC. You understand and acknowledge that submitting Content to the Website intended for public distribution may additionally grant limited rights to your Content to third parties under the doctrine of fair use.
6. If you delete Content, Better Novel Project, LLC will use reasonable efforts to remove it from the Website, but you acknowledge that caching or references to the Content may not be made immediately unavailable.

7. Without limiting any of those representations or warranties, Better Novel Project, LLC has the right (though not the obligation) to, in Better Novel Project, LLC's sole discretion (i) refuse or remove any content that, in Better Novel Project, LLC's reasonable opinion, violates any Better Novel Project, LLC policy or is in any way harmful or objectionable, or (ii) terminate or deny access to and use of the Website to any individual or entity for any reason, in Better Novel Project, LLC's sole discretion. Better Novel Project, LLC will have no obligation to provide a refund of any amounts previously paid.
8. **Suggestions.** While we appreciate it when users send us feedback, we may, at our discretion and for any purpose, use, modify, and incorporate into our products and services, license and sublicense, any feedback, comments, or suggestions that users send Better Novel Project, LLC or post in the Website's forums (such as blog comments or social media posts) without any obligation to users.
9. **Payment and Renewal.**
  - **General Terms.**
  - Optional paid premium services are available on the Website (any such services, an "Upgrade"). By selecting an Upgrade you agree to pay Better Novel Project, LLC the monthly or annual subscription fees indicated for that service. Payments will be charged on a pre-pay basis on the day you sign up for an Upgrade and will cover the use of that service for a monthly or annual subscription period as indicated. Upgrade fees are not refundable.
  - **Automatic Renewal.**
  - Unless you notify Better Novel Project, LLC before the end of the applicable subscription period that you want to cancel an Upgrade, your Upgrade subscription will automatically renew and you

authorize us to collect the then-applicable annual or monthly subscription fee for such Upgrade (as well as any taxes) using any credit card or other payment mechanism we have on record for you. Upgrades can be canceled at any time.

**10. Responsibility of Website Visitors.** Better Novel Project, LLC has not reviewed, and cannot review, all of the material, including computer software, posted to the Website, and cannot therefore be responsible for that material's content, use or effects. By operating the Website, Better Novel Project, LLC does not represent or imply that it endorses the material there posted, or that it believes such material to be accurate, useful or non-harmful. You are responsible for taking precautions as necessary to protect yourself and your computer systems from viruses, worms, Trojan horses, and other harmful or destructive content. The Website may contain content that is offensive, indecent, or otherwise objectionable, as well as content containing technical inaccuracies, typographical mistakes, and other errors. The Website may also contain material that violates the privacy or publicity rights, or infringes the intellectual property and other proprietary rights, of third parties, or the downloading, copying or use of which is subject to additional terms and conditions, stated or unstated. Better Novel Project, LLC disclaims any responsibility for any harm resulting from the use by visitors of the Website, or from any downloading by those visitors of content there posted.

**11. Content Posted on Other Websites.** We have not reviewed, and cannot review, all of the material, including computer software, made available through the websites and webpages to which the Websites links, and that link to the Websites. Better Novel Project, LLC does not have any control over those non-Better Novel Project, LLC websites and webpages, and is not responsible for their contents or their use. By linking to a non-Better Novel Project, LLC

website or webpage, Better Novel Project, LLC does not represent or imply that it endorses such website or webpage. You are responsible for taking precautions as necessary to protect yourself and your computer systems from viruses, worms, Trojan horses, and other harmful or destructive content. Better Novel Project, LLC disclaims any responsibility for any harm resulting from your use of non-BetterNovelApp websites and webpages.

## **12. Copyright Infringement and Digital Millenium Copyright Act ("DMCA")**

**Policy.** As Better Novel Project, LLC asks others to respect its intellectual property rights, it respects the intellectual property rights of others. If you believe that material located on or linked to by Better Novel Project, LLC violates your copyright, you are encouraged to notify Better Novel Project, LLC at [team@betternovelapp.com](mailto:team@betternovelapp.com) with the following information in accordance with Section 512 of the DMCA: The name, address, and electronic signature of the complaining party [512(c)(3)(A)(i)]; The infringing materials and their Internet location [512(c)(3)(A)(ii-iii)], or if the service provider is an "information location tool" such as a search engine, the reference or link to the infringing materials [512(d)(3)]; Sufficient information to identify the copyrighted works [512(c)(3)(A)(iv)]; A statement by the owner that it has a good faith belief that there is no legal basis for the use of the materials complained of [512(c)(3)(A)(v)]; A statement of the accuracy of the notice and, under penalty of perjury, that the complaining party is authorized to act on the behalf of the owner [512(c)(3)(A)(vi)].

Better Novel Project, LLC will respond to all such notices, including as required or appropriate by removing the infringing material or disabling all links to the infringing material. Better Novel Project, LLC will terminate a visitor's access to and use of the Website if, under appropriate circumstances, the visitor is determined to be a repeat infringer of the

copyrights or other intellectual property rights of Better Novel Project, LLC or others. In the case of such termination, Better Novel Project, LLC will have no obligation to provide a refund of any amounts previously paid to Better Novel Project, LLC.

13. **Intellectual Property.** This Agreement does not transfer from Better Novel Project, LLC to you any Better Novel Project, LLC or third party intellectual property, and all right, title and interest in and to such property will remain (as between the parties) solely with Better Novel Project, LLC. Better Novel App, Better Novel Project, BetterNovelApp.com, BetterNovelProject.com, the Better Novel App logo, the Better Novel Project logo, and all other trademarks, service marks, graphics, icons and logos used in connection with the Website are trademarks or registered trademarks of Better Novel Project, LLC or Better Novel Project, LLC's licensors. Other trademarks, service marks, graphics and logos used in connection with the Website may be the trademarks of other third parties. Your use of the Website grants you no right or license to reproduce or otherwise use any Better Novel Project, LLC or third-party trademarks.
14. **Advertisements.** Better Novel Project, LLC reserves the right to display advertisements in your account unless you have purchased an Ad-free Upgrade.
15. **Attribution.** Better Novel Project, LLC reserves the right to display attribution links such as, but not limited to, 'Write your Story at Better Novel App,' and 'Better Novel App' in the footer and/or background of images shared from the workspace. Footer and/or background credits and the Better Novel App toolbar may not be altered or removed regardless of upgrades purchased.
16. **Changes.** We are constantly updating our services, and that means sometimes we have to change the legal terms under which our services are



offered. If we make changes that are material, we will let you know by posting on one of our blogs, or by sending you an email or other communication before the changes take effect. The notice will designate a reasonable period of time after which the new Terms will take effect. If you disagree with our changes, then you should stop using the Website within the designated notice period. Your continued use of the Website will be subject to the new Terms. However, any dispute that arose before the changes shall be governed by the Terms (including the binding individual arbitration clause) that were in place when the dispute arose.

**17. Termination.** Better Novel Project, LLC may terminate your access to all or any part of the Website at any time, with or without cause, with or without notice, effective immediately. If you wish to terminate this Agreement or your Better Novel App account (if you have one), you may simply discontinue using the Website. All provisions of this Agreement which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

**18. Disclaimer of Warranties.** The Website is provided “as is”. Better Novel Project, LLC and its suppliers and licensors hereby disclaim all warranties of any kind, express or implied, including, without limitation, the warranties of merchantability, fitness for a particular purpose and non-infringement. Neither Better Novel Project, LLC nor its suppliers and licensors, makes any warranty that the Website will be error free or that access thereto will be continuous or uninterrupted. You understand that you download from, or otherwise obtain content or services through, the Website at your own discretion and risk. In any dispute with us, your sole remedy is to stop using your account and cancel any fee-based services.

Better Novel Project, LLC makes no warranty that access to the Website will be uninterrupted, error-free, timely, secure, or will operate at any particular speed or frequency. Better Novel Project, LLC makes no guarantees as to availability of the service with respect to scheduled or unscheduled downtime. Your use of the service is on an "as-is" basis.

19. **Limitation of Liability.** In no event will Better Novel Project, LLC, or its suppliers or licensors, be liable with respect to any subject matter of this agreement under any contract, negligence, strict liability or other legal or equitable theory for: (i) any special, incidental or consequential damages; (ii) the cost of procurement for substitute products or services; (iii) for interruption of use or loss or corruption of data; or (iv) for any amounts that exceed the fees paid by you to Better Novel Project, LLC under this agreement during the twelve (12) month period prior to the cause of action. Better Novel Project, LLC shall have no liability for any failure or delay due to matters beyond their reasonable control. The foregoing shall not apply to the extent prohibited by applicable law.
20. **General Representation and Warranty.** You represent and warrant that (i) your use of the Website will be in strict accordance with the Better Novel Project, LLC Privacy Policy, with this Agreement and with all applicable laws and regulations (including without limitation any local laws or regulations in your country, state, city, or other governmental area, regarding online conduct and acceptable content, and including all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside) and (ii) your use of the Website will not infringe or misappropriate the intellectual property rights of any third party.
21. **Indemnification.** You agree to indemnify and hold harmless Better Novel Project, LLC, its contractors, and its licensors, and their respective directors,

officers, employees and agents from and against any and all claims and expenses, including attorneys' fees, arising out of your use of the Website, including but not limited to your violation of this Agreement.

22. **Translation.** These Terms of Service were originally written in English (US). We may translate these Terms into other languages. In the event of a conflict between a translated version of these Terms of Service and the English version, the English version will control.

23. **Miscellaneous.** This Agreement constitutes the entire agreement between Better Novel Project, LLC and you concerning the subject matter hereof, and they may only be modified by a written amendment signed by an authorized executive of Better Novel Project, LLC, or by the posting by Better Novel Project, LLC of a revised version. Except to the extent applicable law, if any, provides otherwise, this Agreement, any access to or use of the Website will be governed by the laws of the state of Maryland, U.S.A., excluding its conflict of law provisions, and the proper venue for any disputes arising out of or relating to any of the same will be the state courts located in Howard County, Maryland and federal courts located in Baltimore City, Maryland. Except for claims for injunctive or equitable relief or claims regarding intellectual property rights (which may be brought in any competent court without the posting of a bond), any dispute arising under this Agreement shall be finally settled in accordance with the Comprehensive Arbitration Rules of the Judicial Arbitration and Mediation Service, Inc. ("JAMS") by three arbitrators appointed in accordance with such Rules. The arbitration shall take place in Columbia, Maryland, in the English language and the arbitral decision may be enforced in any court. The prevailing party in any action or proceeding to enforce this Agreement shall be entitled to costs and attorneys' fees. If any part of this Agreement is held invalid or unenforceable, that part will be

construed to reflect the parties' original intent, and the remaining portions will remain in full force and effect. A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach thereof. You may assign your rights under this Agreement to any party that consents to, and agrees to be bound by, its terms and conditions; Better Novel Project, LLC may assign its rights under this Agreement without condition. This Agreement will be binding upon and will inure to the benefit of the parties, their successors and permitted assigns.