

“Bee Good News” Terms of Use

DEFINITIONS

"BEE GOOD NEWS" BEE GOOD ELECTRONIC NEWSLETTER SERVICE

"Application Form" to contain customer's details, choice of newsletter template, subscription fee, campaign schedule and is regarded as the first part of the “BEE GOOD NEWS” Agreement together with this document as part two of the Agreement (these terms of use)

"Customer" natural person or company or business entity identified and nominated on the application form accompanying this Terms of Use Agreement

"Newsletter Template" choice of basic or customised newsletter template as requested by “Customer” in application form

"Campaign Schedule" electronic newsletter to be scheduled for monthly, bi-monthly or quarterly campaign sends as detailed in application form

"Effective Date" date of the application form

"Initial Term" from the date of the application “Customer” agrees to a minimum 12-month period or for another period either longer or shorter as mutually otherwise agreed by both parties

“BEE GOOD NEWS” Website" www.beegoodnews.com

"Minimum Commitment" twelve (12) month period unless otherwise agreed

"Subscription Fee" the amount paid each issue by the customer for the "facility services"

"Facility Services" “BEE GOOD NEWS” electronic newsletter / communications services

"Exclusive Publications" any published material provided by the customer, whereby the customer provides the material and claims to be author and owner of such material shall be for their exclusive use or purpose

1.0 SERVICES

1.1 "BEE GOOD NEWS" will provide its "Facility Services" to the "Customer" nominated in the Application Form (accompanying this Terms of Use Agreement), in consideration of the “Subscription Fee” as detailed in the Application Form.

1.2 "Facility Services" shall be provided to "Customer" via the electronic newsletter software portal accessed via the "BEE GOOD NEWS" website. "Customer" will have individual user name and password to access their newsletter portal.

1.3 EXCLUSIVE PUBLICATIONS / MATERIAL. If Customer uses or provides 'exclusive publications' those publications may be used exclusively by the Customer and agreed to by "BEE GOOD NEWS" and the Customer shall indemnify, defend and hold "BEE GOOD NEWS" its officers, directors, employees, and affiliates harmless from any claims losses, damages, penalties or costs (including without limitation reasonable legal fees) arising out of: -

1. Customer's exclusive publications
2. Customer's violation of or alleged violation of any applicable laws or regulations with respect to the exclusive publication material including but not limited to ""BEE GOOD NEWS"" distribution of such material, and to any claims that Customer has violated the rights of any third party (including claims relating to content provided by the Customer).

2.0 TERM AND MINIMUM COMMITMENT

2.1 This Agreement is effective upon the date (the "Effective Date") shown on the Application Form and shall continue for a minimum term of twelve (12) months, unless otherwise agreed and another term is specified ("Initial Term")

2.2 Customer agrees to a minimum twelve (12) months commitment for use of the Services as specified in the application. In the event Customer does not meet its Minimum Commitment, "BEE GOOD NEWS" shall issue a tax invoice for, and Customer shall pay, upon receipt of invoice, the shortfall equal to the difference between the facility Minimum Commitment, less any payments for actual usage made by Customer.

2.3 Either party may terminate this Agreement at any time if the other party breaches any provision of this Agreement in any material respect and fails to cure such breach within thirty (30) days after receipt of written notice of such breach. Notwithstanding the foregoing, "BEE GOOD NEWS" may terminate this Agreement and/or suspend the provision of Services immediately for illegal, fraudulent or improper use of the Services (including without limitation, Customer's use of the Services in contravention of Article 5 or 7) or if deemed reasonably necessary, by "BEE GOOD NEWS", to prevent interruption or disruption to ""BEE GOOD NEWS"" network, its business or other customers, if any portion of an account remains unpaid when due (including without limitation any Minimum Commitment shortfall amount) or for breach, not subject to cure. "BEE GOOD NEWS" shall not be liable to Customer or any third party should "BEE GOOD NEWS" exercise its right to discontinue Services, in whole or in part, or terminate this Agreement pursuant to this Section 2.3. In the event of termination of this Agreement, Customer shall pay to "BEE GOOD NEWS" as liquidated damages, but not as a penalty, the shortfall resulting from Customer's failure to meet its Minimum Commitment as per 2.2.

3.0 INSTALLATION AND TRAINING

"BEE GOOD NEWS" shall provide Initial demonstration and training of electronic newsletter service, and identify procedures for usage. Further support and training after the initial training is available from "BEE GOOD NEWS" however it may require a service fee that will be discussed with customer beforehand.

4.0 PAYMENT TERMS AND RATES

4.1 "BEE GOOD NEWS" will charge the customer, and the customer shall pay for the "services" at the rate nominated in the customer's application form. The services shall include the set-up of the service, the on-going facility costs of provision of the services and additionally for any alteration or change to the services.

4.2 "BEE GOOD NEWS" will charge the customer the set-up fee nominated in the customer's application form. After receipt, the set-up fee work will commence to produce the design of the electronic newsletter template. The facility fee will commence immediately after the first issue has been produced.

4.3 The provision of Services under this Agreement is subject to credit verification and acceptance by "BEE GOOD NEWS". "BEE GOOD NEWS" may cancel or re-schedule payments if "BEE GOOD NEWS" determines, in its sole discretion, that Customer's financial condition or previous payment record warrants such change.

4.4 Customer must notify "BEE GOOD NEWS" of any charge disputed in good faith, with supporting documentation, within thirty (30) days from receipt of the invoice or direct debit, or Customer will be deemed to agree to such charges and no adjustments to charges or invoices will be made.

5.0 CUSTOMER LEGAL COMPLIANCE AND INDEMNIFICATION

5.1 Customer acknowledges that "BEE GOOD NEWS" has no control over some of the content of information and/or distribution lists provided by Customer and transmitted through the Services and that "BEE GOOD NEWS" does not examine the use to which Customer puts the Services or the nature of the information Customer or Customer's users send or receive. Customer agrees not to transmit content through use of the Services that infringes any third party's intellectual property rights or that is unlawful, threatening, abusive, harassing, deceptive, fraudulent, invasive of another's privacy, vulgar, obscene or otherwise contains objectionable material of any kind or nature. Customer also warrants to "BEE GOOD NEWS" that all distribution lists provided by Customer to "BEE GOOD NEWS":

1. are based upon permission or an established business relationship.
2. have not been obtained through Internet harvesting methods or any other unlawful electronic collection of addresses or any other public or private source; and
3. are complete, accurate and updated for any opt-outs, as applicable and required by law. Customer is responsible for maintaining the confidentiality of, and shall not transfer sell or assign, access numbers, passwords and user names provided by "BEE GOOD NEWS" solely for use by Customer. It is the sole responsibility of Customer to use Services in accordance with all applicable local, state, federal and foreign laws and regulations, including but not limited to, laws and regulations pertaining to telemarketing, facsimile advertising, commercial email, personal data privacy and export control.

CUSTOMER ACKNOWLEDGES THAT THE ADVERTISING OF GOODS, PRODUCTS OR SERVICES BY THE TRANSMISSION OF UNSOLICITED VOICE MESSAGES, FACSIMILES, EMAIL OR TEXT MESSAGES MAY BE IN VIOLATION OF FEDERAL, STATE AND FOREIGN LAWS AND REGULATIONS AND MAY SUBJECT THE ADVERTISER TO PENALTIES.

Customer also agrees to comply with all relevant State and Federal SPAM Policies; as such policies may be amended from time to time during the term of this Agreement. Breach by Customer of this Section 5.1 is

grounds for immediate suspension of Services by “BEE GOOD NEWS” and termination of this Agreement. Compliance with this Section 5.1 requires, among other things, that all messages sent by Customer utilising the Services, in whatever medium, contain the valid name and required contact information for Customer, and that Customer shall comply promptly with any "do not call" or "do not send" request.

Customer further acknowledges, and notwithstanding confidentiality provisions herein, that “BEE GOOD NEWS” may disclose usage information about Customer's use of Services to satisfy any law, regulation, government agency request, court order, subpoena or other legal process.

5.1.1 “BEE GOOD NEWS” warrants to the Customer that it is the legal owner of all intellectual property used to provide services to the Customer and shall abide by all applicable local, state, federal and foreign laws and regulations and further acknowledges that it is not in breach and does not intend to breach any third party intellectual property rights. “BEE GOOD NEWS” therefore indemnifies the Customer for any breach either directly or indirectly of any third-party property.

5.2 In the event Customer utilises Services to conduct telemarketing activities or disseminates materials offering the availability of goods or products or services, Customer specifically warrants to “BEE GOOD NEWS”:

1. that it will undertake all required actions necessary to comply with applicable federal, state or foreign "Do Not Call" and telemarketing registration statutes and regulations; and
2. Customer will not utilise the Services in a manner which results in a violation of any applicable laws or regulations with respect to such Services.

5.3 Customer shall indemnify, defend and hold “BEE GOOD NEWS” its officers, directors, employees, and affiliates harmless from any claims, losses, damages, penalties or costs (including, without limitation, reasonable Lawyer's fees) arising out of:

1. Customer's use of the Services;
2. Customer's violation of or alleged violation of any applicable laws or regulations with respect to the Services, including but not limited to, any claims that Customer's use of the Services violated the rights of any third party (including those claims relating to the content provided by Customer or “BEE GOOD NEWS” use of Customer's distribution lists on behalf of Customer), claims relating to the transmission of unsolicited documents, or the attempted transmission of a document to a residence telephone or for any errors in data or distribution information provided by Customer; or
3. infringement of any intellectual property rights of any third party.

6.0 DISCLAIMERS AND LIMITATION OF LIABILITY

6.1 “BEE GOOD NEWS” DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PURPOSE. “BEE GOOD NEWS” TOTAL LIABILITY FOR DAMAGES ARISING OUT OF OR RELATING TO THE SERVICES OR THIS AGREEMENT, WHETHER TO CUSTOMER OR ANY OTHER PARTY AND REGARDLESS OF THE FORM OF ACTION, IS LIMITED TO AN AMOUNT EQUIVALENT TO THE CHARGES BY “BEE GOOD NEWS” TO CUSTOMER FOR THE PARTICULAR SERVICE PERFORMED BY “BEE GOOD NEWS” DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE OF EVENT, ACT OR OMISSION GIVING RISE TO THE LIABILITY.

6.2 IN NO EVENT SHALL "BEE GOOD NEWS" BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT OR OTHER MONETARY LOSS; LOSS OR INTERRUPTION OF DATA OR COMPUTER TIME; ALTERATION OR ERRONEOUS TRANSMISSION OF DATA; ACCURACY OF DATA; UNAUTHORIZED ACCESS TO OR USE OF DATA PROCESSED OR TRANSMITTED BY, TO OR THROUGH THE SERVICE; PROGRAM ERRORS; OR PATENT, TRADE SECRET OR COPYRIGHT INFRINGEMENT) EVEN IF "BEE GOOD NEWS" IS ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

7.0 INTELLECTUAL PROPERTY

7.1 The Customer acknowledges that ""BEE GOOD NEWS"" product offerings are derived from data provided to "BEE GOOD NEWS" by its employees and/or third-party suppliers.

7.2 "BEE GOOD NEWS" represents and on this basis the Customer acknowledges that the ""BEE GOOD NEWS"" product and service offerings were developed, compiled, prepared, revised, selected and arranged by "BEE GOOD NEWS" and others (including certain information sources) through the application of certain business processes and standards of judgment developed and applied through the expenditure of substantial time, effort and financial means.

7.3 "BEE GOOD NEWS" represents and on this basis the customer acknowledges that "BEE GOOD NEWS" owns or is entitled to all proprietary rights in or in respect of the ""BEE GOOD NEWS"" product or service offerings and all relevant copyrights, trademark, patents, business processes, innovations brands and other intellectual property relating to ""BEE GOOD NEWS"" product and service offerings, this does not include any material provided Customer to "BEE GOOD NEWS".

7.4 The Customer may not reverse engineer, decompile or disassemble ""BEE GOOD NEWS"" product or service offerings without ""BEE GOOD NEWS"" express written consent.

7.5 ""BEE GOOD NEWS"" product and service offerings may not be used in a manner inconsistent with these terms.

8.0 GENERAL

8.1 Should any provision of this Agreement be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining terms of this Agreement shall not be affected or impaired thereby.

8.2 The failure of either party to enforce any term or condition of this Agreement shall not constitute a waiver of either party's right to enforce each and every term and condition of this Agreement.

8.3 This Agreement shall not be assigned by Customer without the prior written consent of "BEE GOOD NEWS".

8.4 This Agreement shall be binding upon and inure to the benefit of the parties' successors, legal representatives and authorised assigns.

8.5 Articles 4.0, 5.0, 6.0 and 7.0 and 8.0 shall survive termination of this Agreement.

8.6 This Agreement shall be interpreted and governed by the Federal Laws of Australia without regard to its rules governing conflicts of law, and the parties agree to submit to the exclusive jurisdiction of the relevant State or Federal courts to resolve any disputes arising hereunder.

8.7 Each party enters into this Agreement solely for its own benefit and purpose. This Agreement in no way confers any rights upon, or imposes obligations on either of the parties toward, any third party, including but not limited to any receipt of messages transmitted through the Services.

8.8 If "BEE GOOD NEWS" elects to issue a press release pertaining to this Agreement, "BEE GOOD NEWS" and Customer agree to cooperate in a joint press release, subject to both parties' prior review and approval, announcing the execution of this Agreement. Customer agrees to allow "BEE GOOD NEWS" to name Customer as a client of "BEE GOOD NEWS" in any marketing material "BEE GOOD NEWS" may create from time to time. "BEE GOOD NEWS" will not use Customer Marks, other than the corporate name of Customer, in any such materials without the prior written consent of Customer, which consent shall not be unreasonably withheld.

8.9 Each party acknowledges that, in the course of performing its duties under this Agreement, it may obtain information relating to the business, the Services and to the other party that is of a confidential and proprietary nature ("Proprietary Information"). Such Proprietary Information may include, but is not limited to, trade secrets, know-how, inventions, techniques, processes, computer programs, schematics, data, customer lists, financial information and sales and marketing plans. Without limiting the foregoing, this Agreement and the pricing terms referenced herein shall be considered Proprietary Information of "BEE GOOD NEWS". Each party and its employees and agents shall at all times, during the term of this Agreement and thereafter, keep in trust and confidence all Proprietary Information and shall not use such Proprietary Information other than in the course of their duties under this Agreement, nor shall either party or its employees and agents disclose any of such Proprietary Information to any person without the other party's prior written consent. Each party acknowledges that any such Proprietary Information received by the other party shall be received as a fiduciary of the other party. Each party further agrees to immediately return to the other party or destroy all Proprietary Information in its possession, custody or control in whatever form held (including all copies of all written documents relating to that) upon termination of this Agreement or at any time, or from time to time, upon the request of the other party.

8.10 This Agreement, including any schedules or exhibits, or amendments thereto (including amendments pursuant to Section 8.11 hereof), constitutes the entire agreement between the parties relating to the subject matter hereof, and supersedes all other agreements between the parties relating to the matters discussed herein, whether written or verbal. Other than this Agreement, there are no verbal agreements, representations, warranties, undertakings or other agreements between the parties.

8.11 "BEE GOOD NEWS" may amend at any time the provisions of this Agreement relating to Customer's compliance with laws and "BEE GOOD NEWS" Privacy and SPAM Policies by, at "BEE GOOD NEWS" election:

1. posting revised terms and conditions ("Amended Terms") on the "BEE GOOD NEWS" Website; or
2. delivering the Amended Terms to Customer at the address, fax or email address provided herein (such delivery may be included in invoices for the Services delivered to Customer). All Amended Terms shall automatically be effective thirty (30) days after such amendment is posted on the "BEE GOOD NEWS" Website or delivery to Customer as provided above.
3. CUSTOMER AGREES TO BE RESPONSIBLE FOR REGULARLY REVIEWING THE "BEE GOOD NEWS" WEBSITE TO OBTAIN TIMELY NOTICE OF ANY SUCH AMENDED TERMS AND "BEE GOOD NEWS" THEN-CURRENT TERMS AND CONDITIONS AND PRIVACY AND SPAM POLICIES. BY USING THE

SERVICES AFTER POSTING OR DELIVERY OF AMENDED TERMS, CUSTOMER WILL BE DEEMED TO HAVE ACCEPTED AND BE BOUND BY SUCH AMENDED TERMS.

4. No such amendment by "BEE GOOD NEWS" shall serve to constitute a default or termination by "BEE GOOD NEWS" of this Agreement, nor shall such amendment serve to be a basis for Customer's termination of this Agreement.

9.0 ASSIGNMENT

9.1 "BEE GOOD NEWS" is entitled and authorised by the customer without the need of having to obtain the customer's written consent to assign to a third party its entitlements, benefits and obligations that arise under this agreement.

9.2 To affect the directors of "BEE GOOD NEWS" are similarly authorised to do all such things and sign all such documents necessary and incidental to the carrying out of such assignment.

9.3 "BEE GOOD NEWS" is absolved from an obligation if any, to give to the customer prior notice of its intention to assign.

10 COMPLAINTS

"BEE GOOD NEWS" is serious about providing to you a professional quality service and if you have a complaint about any of the services provided to you, then you should take the following steps: -

1. Contact "BEE GOOD NEWS" by email contact@beegoodnews.com with details about your complaint.
2. If your complaint is not satisfactorily resolved within 14 days then "BEE GOOD NEWS" shall appoint a mediator registered with the Australian Commercial Disputes Centre (ACDC) for resolution of any dispute.

These Terms of Use were last revised May 2017 and are subject to periodic revisions and updates.