

# West Message Terms of Service

Last Updated: November 30, 2023

## 1. Acceptance of Terms

Welcome to West Message, a service operated by Pendulum Solutions, LLC, doing business as West Message ("West Message," "we," "us," or "our"). By using our services, software, or website (collectively, the "Service"), you agree to be bound by the following terms and conditions ("Terms of Service").

## 2. Description of Service

West Message provides a platform for brand marketing and communication services, offering both free and subscription-based services that allow users to communicate with and engage their audiences.

## 3. User Conduct and Responsibilities

You are responsible for all content you transmit through the Service. You agree not to use the Service to:

- Send spam or other unsolicited messages.
- Transmit content that is unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, invasive of one's privacy, or otherwise objectionable.
- Impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity.
- Violate any applicable local, state, national, or international law.

By using the service, you affirm that you have obtained all required consents and permissions to communicate with your customers in the form of text messages via our Services. Failure to secure such permission constitutes a breach of these Terms and may result in immediate termination of your account.

## 4. Privacy and Data Protection

Your privacy is important to us. Please refer to our Privacy Policy for information on how we collect, use, and disclose your information.

## 5. Fees and Payments

West Message offers both free and paid services. If you choose to subscribe to a paid service, you agree to pay all applicable fees. Fees are non-refundable, except as required by law. You agree to pay all fees or charges to your account based on West Message's fees, charges, and billing terms.

### **Account Credits**

West Message operates on a credit-based system for usage of its text messaging and multimedia messaging services. Account credits are required for sending messages through the Service, and they must be purchased in advance. The following outlines the cost structure for sending messages:

- Text Message (SMS): Each text message (SMS) sent through our Services will cost one (1) account credit.
- Multimedia Message (MMS): Each multimedia message (MMS) sent through our Services will cost five (5) account credits.

Please note that when sending a message using the Service, each text message counts as one credit (i.e. if you send a text message to 100 recipients, that requires 100 credits). It is your responsibility to ensure you have sufficient account credits to utilize our Services. Failure to maintain adequate account credits may result in the inability to send messages or make full use of the Service. Prices for account credits are subject to change and will be updated in accordance with these Terms.

### **Monetized/Paid Messaging Lists**

As part of our Service, West Message offers the capability for users to create monetized or paid messaging lists. Here's how it works:

- Setting Up a Paid List: You can choose to monetize your messaging list by setting a subscription fee that your subscribers will pay monthly to access your exclusive content. This feature allows you to generate revenue directly from your audience.
- Transaction Fees: For each transaction (i.e., each subscription payment from a subscriber), West Message will charge a transaction fee of 2.9% plus \$0.30. This fee is automatically deducted from the subscription payment.
- Service Fee: In addition to the transaction fee, West Message will also charge a service fee amounting to 10% of each transaction. This fee covers the use of our

platform, including maintenance, support, and continuous improvement of our services.

- **Payment to Users:** As a user generating revenue through paid messaging lists, you will receive your funds on a monthly basis, on the first day of each month, beginning one full month after gaining your first paid subscriber. Payments will be made via Zelle, ensuring a quick and secure transfer of your earnings.
- **Earnings Calculation:** Your monthly earnings will be calculated as follows: from the total amount collected from subscribers, the transaction fee (2.9% + \$0.30 per transaction) and the service fee (10%) will be deducted. The remaining amount will be your revenue, which will be transferred to you via Zelle.
- **Financial Responsibility:** It is your responsibility to ensure that your bank account is correctly linked to Zelle for the receipt of payments. West Message is not responsible for any errors in fund transfers due to incorrect account information provided by the user. You are responsible for accurately reporting the income earned through the Service in compliance with relevant tax laws and regulations.

Please note that the rates and fees described above are subject to change. Any changes will be communicated to our users in accordance with our Terms of Service.

## 6. Intellectual Property Rights

All content included on the Service, such as text, graphics, logos, images, as well as the compilation thereof, and any software used on the Service, is the property of West Message or its suppliers and protected by copyright and other laws that protect intellectual property and proprietary rights.

## 7. Termination

We reserve the right to terminate or suspend your account and access to the Service immediately, without prior notice or liability, for any reason whatsoever, including, without limitation, if you breach the Terms of Service.

## 8. Disclaimers; Limitation of Liability

The Service is provided on an "AS IS" and "AS AVAILABLE" basis. West Message makes no representations or warranties of any kind, express or implied, as to the operation of the Service or the information, content, materials, or products included on

the Service. In no event shall West Message, nor its directors, employees, partners, agents, suppliers, or affiliates, be liable for any indirect, incidental, special, consequential or punitive damages.

#### 9. Indemnification

You agree to indemnify, defend, and hold harmless West Message, its officers, directors, employees, agents, licensors, suppliers, and any third-party information providers to the Service from and against all losses, expenses, damages, and costs, including reasonable attorneys' fees, resulting from any violation of these Terms of Service or any activity related to your account (including negligent or wrongful conduct) by you or any other person accessing the Service using your account.

#### 10. Modifications to Terms of Service

West Message reserves the right to change these Terms of Service at any time. Your continued use of the Service following the posting of changes will mean you accept those changes.

#### 11. Governing Law

These Terms of Service shall be governed by and construed in accordance with the laws of California, USA, without giving effect to any principles of conflicts of law.

#### 12. Contact Information

For any questions regarding these Terms of Service, please contact us at [contact@westmessage.com](mailto:contact@westmessage.com)

By using West Message, you acknowledge that you have read, understood, and agree to be bound by these Terms of Service.