

# **Messaging Service (SMS) Terms and Conditions**

This document provides the Terms and Conditions for the bestbet Messaging Service (SMS) (hereafter, the "Service"). By using the Service in any way, you are agreeing to comply with the Terms and Conditions. In addition, when using the Services, you agree to abide by any applicable posted guidelines for all Services which may change from time to time. Should you object to any term or condition of the Terms and Conditions, any guidelines, or any subsequent modifications thereto or become dissatisfied with the Service in any way, your only recourse is to immediately discontinue use of the Service. This is the Service Agreement defining the terms and conditions that govern your use of The bestbet Company ("Company") messaging service. If you are under the age of thirteen (13), we ask that you please check with your parent or guardian before agreeing to utilize this Service and ask them to explain the Terms and Conditions and any aspects that you might not completely understand.

## **A. INFORMATION ABOUT YOU IS PROTECTED WITH OUR PRIVACY POLICY**

Any registration data or certain other information about you is subject to our Privacy Policy. For more information, see our full privacy policy at: <http://www.Best Bet Poker.com/privacy.pdf>.

## **B. NO UNLAWFUL OR HARMFUL USE OF THE SERVICE**

You will not use the Service in any way that is unlawful or harms any customer of the Company or any affiliates, as determined in the Company's sole discretion. The Company may tell you about certain specific harmful uses in a code of conduct or other notices available through the Service, but has no obligation to do so. You may not use the Service in any way that breaches any code of conduct or other notice applicable to the Service.

## **C. NO COMMERCIAL USE OF THE SERVICE EXCEPT IF SPECIFICALLY PERMITTED**

The Service is only for your personal use. You will not use the

Service for commercial purposes, unless expressly stated otherwise and approved in writing at the Company's sole discretion.

#### **D. YOU AGREE TO SUPERVISE THE USE OF THE SERVICE BY YOUR CHILDREN**

The bestbet is concerned about the safety and privacy of all its users, particularly children. Children under the age of thirteen (13) years old are not permitted to use the Service. However, parents and guardians who wish to allow their children under the age of thirteen years old (13) to access the Service should assist them in setting up any relevant accounts and supervise their use of the Service at all times.

#### **E. YOU ARE RESPONSIBLE FOR CONTENT YOU RECEIVE**

You acknowledge that the content sent to your mobile phone or device ("Content"), is the sole responsibility of the person, individual or the organization, from which such Content was requested. This means that you, and not the Company, are entirely responsible for all Content that you receive via the Service. You understand that all messages, texts, files, images, or any other materials posted on, transmitted through, or linked from the Service, are the sole responsibility of the person from whom such Content originated. You understand that the Company does not control, and is not responsible for Content made available through the Service, and that by using the Service; you may be exposed to Content that is offensive, indecent, inaccurate, misleading, or otherwise objectionable. Furthermore, the Content available through the Service may contain links to other websites, which are completely independent of the Company or the Service. The Company makes no representation or warranty (express or implied) as to the accuracy, completeness or authenticity of the information contained on the Service. You agree that you must evaluate, and bear all risks associated with, the use of any Content, that you may not rely on said Content, and that under no circumstances will the Company be liable in any way for any Content or for any loss or damage of any kind incurred as a result of the use of any Content made available via the Service. You acknowledge that the Company does not pre-screen or approve Content, but that the Company shall have the right (but not the obligation) in its sole discretion to refuse, delete or move any Content that is available via

the Service, for violating the letter or spirit of the Terms and Conditions or for any other reason.

You understand that by using the Service, you may be exposed to Content that may be deemed offensive or objectionable as stated above. Under no circumstances will the Company be liable in any way for any Content, including, but not limited to, errors or omissions of any Content, loss or damage of any kind incurred as a result of the use of any Content made available to you via the Service.

**You agree not to use the Service:**

- (1) to send content to another person that may be viewed as unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
- (2) to send content that is harmful to minors in any way;
- (3) to impersonate any person or entity, including, but not limited to, a Company official, officer, employee, representative, forum leader, guide or host, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- (4) to forge headers or otherwise manipulate identifiers in order to disguise the origin of any identity used to transmit message through the Service to another;
- (5) to send content to others that may be deemed as unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes or any other form of solicitation;
- (6) to interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies or regulations of networks connected to the Service;
- (7) to intentionally or unintentionally violate any applicable local, state, national or international law, including, but not limited to, regulations promulgated by the U.S. Securities and Exchange Commission, any rules of any national or other securities exchange, including, without limitation, the New York Stock Exchange, the

American Stock Exchange or the NASDAQ, and any regulations having the force of law;

(8) to stalk or otherwise harass another;

(9) to harvest or otherwise collect or store personal data about other users;

(10) in a manner which violates the Fair Housing Act by stating, in any notice or ad for the sale or rental of any dwelling, a discriminatory preference based on race, color, national origin, religion, sex, familial status or handicap (or violates any state or local law prohibiting discrimination on the basis of these or other characteristics).

Any personal information obtained by the Company will not be provided, sold, licensed, rented, assigned or disclosed to Third Parties, except as required by law, nor will we use your phone number to initiate a call or SMS text message to you without your express or implied prior consent (See the Company's Privacy Policy). You acknowledge, consent and agree that the Company may access, preserve, and disclose your personal information and Content if required to do so by law or in a good faith belief that such access preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the Agreement; (c) respond to claims that any Content violates the rights of third-parties; (d) respond to your requests for customer service; or (e) protect the rights, property, or personal safety of the Company, its users and the public.

You understand that the technical processing and transmission of the Service, including your provided information, may involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

## **F. SPAM IS PROHIBITED AND CAUSES DAMAGE**

Without limiting the generality of use of the Service, you will not use the Service to transmit, either directly or indirectly, any bulk mobile messages or unsolicited commercial mobile messages. You will not use the Service in any way that violates the Company's Anti-Spam Policy. A breach of any part of the Federal Anti-Spam Laws or the Company's Anti-Spam Policy is a breach of the Terms and

Conditions and certain federal and state laws, including without limitation the Computer Fraud and Abuse Act (18 U.S.C. § 1030 et seq.), the New York Penal Code and the New York Business and Professions Code. Such violations may subject the sender and his or her agents to civil and criminal penalties.

#### **G. DEALINGS WITH ADVERTISERS IS YOUR RESPONSIBILITY**

Your correspondence or business dealings with, or participation in promotions of, advertisers found on or through the Service, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such advertiser. You agree that the Company shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers on the Service.

#### **H. BESTBET IS NOT RESPONSIBLE FOR LINKED RESOURCES**

The Service may provide, or third parties may provide links to other Mobile Web sites or resources. Because the Company has no control over such sites and resources, you acknowledge and agree that the Company is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any Content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that the Company shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such Content, goods or services available on or through any such site or resource.

#### **I. BESTBET MESSAGING SUBSCRIPTION SERVICES**

You understand that requesting information from The bestbet through the messaging services does not specifically constitute signing up for a subscription service, unless otherwise stated in the promotional material.

#### **J. MANAGEMENT OF AMOUNT OF MESSAGES IS YOUR RESPONSIBILITY**

You understand and agree that management of the amount of messages received through the Service is your own responsibility. You may opt-out of this Service, at any time and for any reason, by texting STOP to 75309.

**K. YOU MAY BE CHARGED A FEE FOR MESSAGE DELIVERY BY YOUR NETWORK OPERATOR**

You understand and acknowledge that your use of the Service from a terminal such as a personal computer or a mobile device is subject to any agreements with your network service provider and any fees they may charge, including but not limited to the fees for access or Content delivery.

**L. ACCESS FROM OR DELIVERY TO MOBILE NETWORK IS NOT GUARANTEED**

Service or Content access or delivery to a mobile device may fail due to circumstances or conditions beyond the Company's control. The Service may not retry delivery to your mobile device. You agree and acknowledge that a delivery attempt from the Service or the Company's server shall be accepted as the agreed and acceptable provision of the agreed Service regardless of whether the intended delivery was actually successful.

You understand and acknowledge that network services, including but not limited to mobile network services, are outside of the Company's control and influence and that the Company may not be able to assist in resolution of such problems. You agree that the Company is not responsible for your use of the service outside of the Company servers and is not responsible or liable for problems arising in the network outside of the Company's servers.

**M. YOUR SERVICE MAY BE LIMITED BY YOUR OPERATOR OR YOUR DEVICE**

You agree and accept that your use of the Service may be limited by your network operator or by the capabilities or capacities of your terminal or mobile device. The Company may implement protective mechanisms in the Service to ensure that you may not initiate a service that your network or your device cannot support. Any such

protective mechanism relies on publicly available information about your registered mobile network operator and device and information and, as such, may not be accurate.

The bestbet messaging services is only available in the United States. The participating carriers for bestbet text messaging services are AT&T, Alltel, Verizon Wireless, Sprint, T-Mobile®, Cellular One, US Cellular, and Nextel/Boost.

## **N. MOBILE NETWORK OPERATORS MAY NOT SUPPORT PREPAID USERS**

You acknowledge that certain operators do not support or offer certain mobile network services, such as delivery of messaging and mobile Internet access, to users of their prepaid services. You understand and agree that the Service may not, in part or in whole, be available to you if you have such prepaid service and your mobile network operator does not support required mobile network services required for the Service.

## **O. MISCELLANEOUS LEGAL PROVISIONS**

**Indemnity.** You agree to indemnify and hold the Company's officers, subsidiaries, affiliates, successors, assigns, directors, officers, agents, service providers, suppliers and employees, harmless from any claim or demand, including reasonable attorney fees and court costs, made by any third party due to or arising out of Content you submit, post or make available through the Service, your use of the Service, your violation of the Terms and Conditions, your breach of any of the representations and warranties herein, or your violation of any rights of another.

**Limitation of Liability.** UNDER NO CIRCUMSTANCES SHALL THE COMPANY BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM ANY ASPECT OF YOUR USE OF THE COMPANY'S SITE OR THE SERVICE, WHETHER THE DAMAGES ARISE FROM USE OR MISUSE OF THE COMPANY'S SERVICE, FROM INABILITY TO USE THE COMPANY'S SERVICE, OR THE INTERRUPTION, SUSPENSION,

MODIFICATION, ALTERATION, OR TERMINATION OF THE COMPANY'S SERVICE. SUCH LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF OTHER SERVICES OR PRODUCTS RECEIVED THROUGH OR ADVERTISED IN CONNECTION WITH THE COMPANY'S SERVICE OR ANY LINKS ON THE COMPANY'S WEBSITE, AS WELL AS BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH OR ADVERTISED IN CONNECTION WITH THE COMPANY'S SERVICE OR ANY LINKS ON THE COMPANY'S WEBSITE. THESE LIMITATIONS SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

**General Information and Jurisdiction.** The Terms and Conditions constitute the entire agreement between you and the Company and govern your use of the Service, superseding any prior agreements between you and the Company. The Terms and Conditions and the relationship between you and the Company shall be governed by the laws of the State of New York without regard to its conflict of law provisions. You and the Company agree to submit to the personal and exclusive jurisdiction of the courts located within the county of New York, New York. The failure of the Company to exercise or enforce any right or provision of the Terms and Conditions shall not constitute a waiver of such right or provision. If any provision of the Terms and Conditions is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Terms and Conditions remain in full force and effect. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Service or the Terms and Conditions must be filed within one (1) year after such claim or cause of action arose or be forever barred.