

# PODIUM MESSAGING TERMS AND CONDITIONS

**BY OPTING IN (AS DEFINED BELOW) TO RECEIVE MESSAGES FROM PODIUM CORPORATION, INC. ("PODIUM"), YOU ACCEPT THESE MESSAGING TERMS & CONDITIONS ("TERMS") AND AGREE TO RESOLVE DISPUTES WITH PODIUM THROUGH BINDING ARBITRATION (AND WITH LIMITED EXCEPTIONS, NOT IN COURT), AND YOU WAIVE ANY RIGHT TO PARTICIPATE IN CLASS ACTIONS, ALL AS DETAILED IN THE SECTION 5 (DISPUTES) BELOW.**

These Terms apply to text messages (SMS and RCS, referred to as "messages" herein) between you and Podium; they do not apply to any communications between you and any Podium customers using the Podium services.

## **1. MESSAGE PROGRAMS.**

Podium sends different types of messages for different purposes. If you elect to receive marketing messages from Podium, such messages may include offers, promotions, updates, alerts, and other marketing communications related to Podium's products and services.

Podium also sends operational messages to Podium account holders, such as authentication requests and account alerts. If your business location has enrolled in Podium Operator - Podium's AI-powered business assistant that communicates directly with business staff via messaging - you may receive proactive business updates, operational alerts, and on-demand report messages.

## **2. OPTING IN.**

By signing up for or otherwise consenting to receive messages from Podium ("opt-in"):

- You authorize Podium to use automated and/or non-automated technology to send marketing and other messages, including AI-generated content, to the phone number associated with your opt-in (i.e., the number listed on the opt-in form or instructions, the number from which you send your opt-in, or the number tied to the Podium account associated with your opt-in);
- You acknowledge your consent to receive messages from Podium is not a condition of purchase;
- You agree you are signing your opt-in; and
- You confirm you are the subscriber to the phone number associated with your opt-in.

Generally, Podium's message marketing campaigns will not exceed 10 messages per month. However, the number of marketing messages and frequency with which you receive marketing messages from Podium may vary. If your business has enrolled in Podium Operator, the number of Podium Operator messages you may receive varies by the configurations of your business.

Message and data rates may apply. If you have any questions about your messaging or data plan, contact your wireless provider. Use of Podium's Webchat communications tool is subject to Podium's [Acceptable Use Policy](#), which may be updated by Podium from time to time.

## **3. OPTING OUT.**

You may opt out of receiving messages from Podium at any time. To stop receiving marketing messages from Podium, reply "REMOVE" to any Podium marketing message you receive. If you unsubscribe from Podium marketing messages and wish to resubscribe, reply "JOIN."

To stop receiving all messages from Podium, including Podium Operator and any other operational or transactional messages, reply "STOP" to any message you receive from Podium. If you unsubscribe from all Podium messages and wish to resubscribe, reply "START."

#### 4. PRIVACY.

Data obtained from you in connection with messages between you and Podium includes your phone number, your carrier, the date, time, and content of your messages, and other information you provide to Podium via message. You consent to the processing of the information we obtain in accordance with our [Privacy Policy](#).

#### 5. DISPUTES.

5.1 Generally. In the interest of resolving disputes between you and Podium in the most expedient and cost effective manner, and except as described in Sections 5.2 and 5.3, you and Podium agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND PODIUM ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.

5.2 Exceptions. Despite the provisions of Section 5.1, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law in aid of arbitration; or (d) to file suit in a court of law to address an intellectual property infringement claim.

5.3 Opt-Out. If you do not wish to resolve disputes by binding arbitration, you may opt out of the provisions of this Section 5 within 30 days after the date that you agree to these Terms by sending a letter or email that specifies: your full legal name, the phone number(s) you use to send messages to and receive messages from Podium, and a statement that you wish to opt out of arbitration, to Podium Corporation, Inc., Attention: Legal Department – Arbitration Opt-Out, 1650 W. Digital Dr., Lehi, UT 84043 or [legal@podium.com](mailto:legal@podium.com).

5.4 Arbitrator. Any arbitration between you and Podium will be settled under the Federal Arbitration Act and administered by the American Arbitration Association (“AAA”) under its Consumer Arbitration Rules (collectively, “AAA Rules”) as modified by these Terms. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at 1-800-778-7879, or by contacting Podium. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.

5.5 Notice of Arbitration; Process. A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if that other party has not provided a current physical address, then by electronic mail (“Notice of Arbitration”). Podium’s address for Notice of Arbitration is: Podium Corporation, Inc., 1650 W. Digital Dr., Lehi, UT 84043, USA, with a mandatory copy to [Legal@podium.com](mailto:Legal@podium.com). The Notice of Arbitration must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (“Demand”). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice of Arbitration is received, you or Podium may commence an arbitration proceeding. All arbitration proceedings between the parties will be confidential unless otherwise agreed by the parties in writing. During the arbitration, the amount of any settlement offer made by you or Podium must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the arbitrator awards you an amount higher than the last written settlement amount offered by Podium in settlement of the dispute prior to the award, Podium will pay to you the higher of: (i) the amount awarded by the arbitrator; or (ii) \$5,000.

5.6 Fees. If you commence arbitration in accordance with these Terms, Podium will reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in Salt Lake City, Utah, but if the claim is for \$10,000 or less or you are located in Australia, you may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator or (b) through a non-appearance based telephone hearing. If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil

Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, you agree to reimburse Podium for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator's ruling on the merits.

5.7 No Class Actions. YOU AND PODIUM AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and Podium agree otherwise, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

5.8 Enforceability. If Section 5.7 or the entirety of this Section 5 is found to be unenforceable, or if Podium receives an opt-out notice from you, then the entirety of this Section 5 will be null and void and, in that case, the exclusive jurisdiction and venue for any action arising out of or related to any message between you and Podium or these Terms will be the state courts located in Salt Lake County or Utah County, Utah or the United States District Court for the District of Utah, or you are located in Australia, the courts of Victoria, Australia.

## **6. CONTACT US.**

For additional information, reply HELP to any Podium message you receive or call 1-833-276-3486.