

ACCEPTABLE USE POLICY

Scope	This Acceptable Use Policy (“ AUP ”) specifies the manner in which customers of Everlytic, and of Everlytic’s Resellers, may make use of the services supplied by Everlytic.
Statement of Compliance	This focus of this AUP is to ensure (i) customers make use of the services provided by Everlytic in a responsible and lawful matter and (ii) compliance with all applicable laws, regulations and industry codes of contact including, without limitation, the following South African legislation and industry codes of conduct: <ul style="list-style-type: none"> • Consumer Protection Act 68 of 2008 • Protection of Personal Information Act 4 of 2013 • Films and Publications Act 65 of 1996 • Electronic Communications and Transactions Act 25 of 2002 • WASPA Code of Conduct
Agreement Cross References	This AUP applies in respect of Everlytic’s Terms of Agreement and the passthrough terms contemplated in Everlytic’s Reseller Agreement.
Version	April 2024
Revalidation Date	Reviewed annually
Policy Location	The AUP is available online here .

1. Definitions

In this AUP, unless expressly stated or the context clearly requires otherwise, the following words and expressions, when used in title case, shall have the following meaning:

- 1.1 **“Agreements”** means, collectively, the commercial agreements relating to the supply of the Services being Subscriber Agreements and Reseller Agreements;
- 1.2 **“Applicable Laws”** means all legislation, regulations and industry codes of conduct that are applicable to the Customer and the Customer’s use of the Services, including, without limitation, the Consumer Protection Act 68 of 2008, Protection of Personal Information Act 4 of 2013; Films and Publications Act 65 of 1996, Electronic Communications and Transactions Act 25 of 2002 and the Code of Conduct of the Wireless Application Service Providers’ Association (WASPA);
- 1.3 **“Communication Message”** means any message facilitated and transmitted via the Everlytic Platform including, but not limited to, SMS texts, Emails, Voice Broadcasts and web push notifications;
- 1.4 **“Contact”** means the intended recipient of Communication Messages transmitted by a Customer;
- 1.5 **“Customers”** means, collectively, Everlytic Customers and Reseller Customers;
- 1.6 **“Everlytic Customers”** means customers of Everlytic who have entered into a Subscriber Agreement;
- 1.7 **“Everlytic Platform”** means the software and hardware infrastructure through which Everlytic delivers its Services to Customers;
- 1.8 **“Personal Information”** shall have the meaning ascribed to it in the Protection of Personal Information Act 4 of 2013 and all regulations made in terms thereof;
- 1.9 **“Reseller”** means a party who has entered into a Reseller Agreement;
- 1.10 **“Reseller Agreement”** means the master reseller agreement entered into between Everlytic and a Reseller for marketing and resale of the Services to Reseller Customers;

- 1.11 **“Reseller Customer”** means a third party who has concluded a contract with a Reseller for the receipt of the Services;
- 1.12 **“Services”** means the bulk Communication Message services supplied, in terms of any of the applicable Agreements, by Everlytic to Everlytic Customers and to Resellers, for on-sale to the Reseller Customers;
- 1.13 **“Subscriber Agreement”** means Everlytic’s contract for delivery of the Services to its customers, which incorporates:
- a) Everlytic’s Terms of Agreement; and
 - b) Support and Service Levels.

2. Purpose of the AUP

- 2.1 The purpose of this AUP is to:
- 2.1.1 endeavour to secure Everlytic’s and the Customer’s compliance with the Applicable Laws; and
 - 2.1.2 protect the integrity of Everlytic’s Services and the Everlytic Platform.

3. Customer Undertaking and indemnity

- 3.1 The Customer acknowledges and agrees that:
- 3.1.1 it exercises sole control over the content of the information contained in the Communication Messages distributed by it using the Everlytic Platform; and
 - 3.1.2 Everlytic is accordingly has no control over and is not responsible for the content of any Communication Messages or other messages transmitted via the Everlytic Platform by the Customer; and
 - 3.1.3 it shall be bound by and comply with the obligations and undertakings specified in this AUP.
- 3.2 The Customer indemnifies Everlytic, its affiliates, shareholders, directors and officers and holds them harmless against any third party claims, damages, fines, and costs (including attorney’s fees and expenses) arising directly or indirectly out of or relating in any manner to:
- 3.2.1 any violation of any provision of the AUP by the Customer;
 - 3.2.2 any violation of the Applicable Laws, or the rights of others, by the Customer; and/or
 - 3.2.3 the content of any Communication Message distributed by the Customer.

4. Acceptable Use of the Services

- 4.1 The Customer acknowledges and agrees that it shall comply in all respects with the rules for the acceptable use of the Services as set out herein.
- Compliance with Applicable Laws
- 4.2 While making use of the Services, a Customer shall ensure that it complies with the Applicable Laws.
- 4.3 A Customer is responsible for determining which Applicable Laws apply to it. Should the Customer be subject to any laws or regulations with which the Services do not comply, then Everlytic will not be liable for such non-compliance.
- Content of Communication Messages
- 4.4 The Customer is prohibited from:
- 4.4.1 disseminating unlawful or discriminatory materials, including but not limited to, misappropriated intellectual property, child pornography and/or any hate-speech material; and
 - 4.4.2 using false or misleading header or subject line information. The “From” and “Reply-to” fields as well as routing information must be accurate and identify the Customer.

Spam

- 4.5 Everlytic prohibits the sending of any kind of unwanted, unsolicited Communication Messages that are sent out in bulk (spam). Unsolicited means that the intended recipient has not granted verifiable permission for the message to be sent to them.
- 4.6 Accordingly, the Customer shall ensure that the data imported into their account on the Everlytic Platform complies with the following:
- 4.6.1 the Contact must:
- a) have opted-in from the Customer's website; or
 - b) have given the Customer permission to send them Communication Messages; or
 - c) be an existing client of the Customer or have transacted with the Customer in the past 2 (two) years; and
- 4.6.2 the Customer must be able to verify where it acquired the data by having proof of the source thereof.
- 4.7 A Customer may not import a Contact's information if;
- 4.7.1 it was purchased, rented, or acquired from a third-party list of email addresses; or
- 4.7.2 the Contact/s email addresses have been scraped or "copied and pasted" from websites.
- 4.8 Should a Customer be unsure of the integrity of the data, it must inform Everlytic before proceeding to distribute Communication Messages to such Contacts.

Direct Marketing

- 4.9 For the purpose of this AUP, "Direct Marketing" means to approach a person by way of Communication Message for the direct or indirect purpose of (i) promoting or offering to supply, in the ordinary course of business, any goods or services to that person, or (ii) requesting the person to make a donation of any kind for any reason.
- 4.10 Should the Customer engage in Direct Marketing, the Customer shall comply with the Applicable Laws in relation thereto both in its jurisdiction and the jurisdiction(s) in which its Contacts reside.
- 4.11 For Customers operating in the Republic of South Africa or having Contacts that reside in the Republic of South Africa, such Customers must:
- 4.11.1 facilitate the receipt of demands to desist or stop sending Communication Messages;
- 4.11.2 not distribute Communication Messages to a Contact:
- a) once an instruction to desist or stop has been received from such Contact; or
 - b) such Contact is pre-emptively blocked;
 - c) on Sundays or public holidays;
 - d) on Saturdays before 9am and after 1pm; or
 - e) on any other day before 8am or after 8pm.

Minors

Should the Customer import any data pertaining to a minor, the Customer warrants that it has obtained the necessary consent to process such minor's information and to distribute Communication Messages to such minor, in accordance with the Applicable Laws in the jurisdiction in which the minor resides.

Security

- 4.12 The Customer shall not under any circumstances circumvent, or allow any other party to circumvent, user authentication or security of the Everlytic Platform. Violations of the security of the Everlytic Platform by the Customer may result in civil and/or criminal liability.
- 4.13 Examples of Everlytic Platform security violations include, without limitation:
- 4.13.1 unauthorised access to or use of data, including any attempt to probe, scan or test the vulnerability of the Everlytic Platform or to breach security or authentication measures without the express, written authorisation of Everlytic;
- 4.13.2 interference with the Services used by any other Customer including, without limitation, deliberate attempts to overload the Everlytic Platform.

WASPA Code of Conduct

- 4.14 The Wireless Application Service Providers Association (WASPA) is an association representing the interests of mobile application service providers operating in South Africa. Its code of conduct (“WASPA Code of Conduct”) is available at <https://waspa.org.za/code-of-conduct/> and applies to all mobile application services offered by WASPA members to customers in South Africa (“WASPA Services”).
- 4.15 Although a Customer may not be a member of WASPA, should such Customer provide or market WASPA Services to clients in South Africa, it will be subject to certain provisions of the WASPA Code of Conduct and shall ensure and undertakes that it:
 - 4.15.1 has read and understands the requirements of the WASPA Code of Conduct; and
 - 4.15.2 shall provide and/or market the WASPA Services in a manner consistent with such requirements.

5. Amendment of the AUP

- 5.1 To ensure the AUP remains aligned with relevant prevailing legislation and industry codes of conduct, Everlytic reserves the right to amend or alter the provisions of this AUP from time to time.
- 5.2 Each revised AUP will be uploaded on Everlytic’s website and Everlytic Customers, and Resellers will be notified via email. Resellers shall be obliged to notify the Reseller Customers.