

# Bulk SMS Policy

The SMS Messaging Services ("the Services") offered by Crystalline Technologies ("CTL") to you "the customer" are governed by the following terms and conditions:

## 1. Scope of Agreement

The customer agrees to the terms and conditions specified in this Policy and indicate such acceptance by signing the Agreement to which this Policy is attached. The agreement between CTL and the customer is deemed to be in effect upon signing and receipt by the customer of the username and password required to use the Service(s).

## 2. Bulk SMS messaging service

### 2.1 Security and authentication

Upon acceptance of the agreement by CTL and once the registration process is successfully completed, the customer's username (s) and password (s) will be activated and will be sent to the customer.

The customer's username and password will be the only identifiers by which CTL will identify the customer whilst using the Service(s). The customer acknowledges that no further verification or authentication of the identity of the customer will be undertaken by CTL and consequently, all activities concluded on the CTL site, which can be traced to the customer's username and password, shall be deemed to have been undertaken exclusively by the customer and the customer is therefore legally bound for all transactions resultant from such activities. It is therefore the customer's responsibility to ensure that the username and password are handled with care and not subjected to negligent usage. The customer indemnifies CTL against any claims, actions or damages as a result of the fraudulent or unauthorised use of the customer's username and password or loss thereof.

### 2.2 Risks

Due to the nature of the Service, CTL cannot be held responsible for risks incurred through the use of the Service(s), as well as all risks associated with data security, privacy, availability and reliability of message processing and transmission. Thus, the customer is fully and exclusively liable for any and all risk resultant from the use of the Service(s).

### 2.3 Limitation of liability

The services and all information, products and other content (including third party information, products and content) included in or accessible from the CTL web site or the service, are provided "as is" and are subject to change at any time without notice to the customer. To the fullest extent permitted by law, CTL disclaims all presentations and warranties (express, implied and statutory, including but not limited to the warranties of merchantability and fitness for a

particular purpose, and non-infringement of proprietary rights) as to the services and all information, products and other content (including third party information, products and content) included in or accessible from the CTL sites or the services. In no event shall CTL or any of CTL 's content providers be liable for any damages whatsoever, including but not limited to any direct, indirect, special, consequential, punitive or incidental damages, or damages for loss of use, profits, data or other intangibles, or the cost of procurement of substitute goods and services, arising out of or related to the use, inability to use, unauthorized use, performance or non-performance of the CTL web site or the services, even if CTL has been advised previously of the possibility of such damages and whether such damages arise in contract, negligence, delict, under statute, in equity, at law or otherwise.

### **3. Access to the service**

CTL shall use all reasonable endeavours to ensure that the Services are available on a 24 hour, 7 days a week basis. The customer is responsible for obtaining all devices and services necessary to enable access to the Service and the use of such Services.

#### **3.1 Nature of Services**

##### **3.1.1 Message delivery**

Crystaline endeavours to deliver every message submitted to the iSMS platform within 10-15 Seconds from receipt. Realtime alerts will have higher priority than ordinary bulk messages to ensure that we meet the required service levels.

The customer however acknowledges and accepts that the provision of the Service may be enabled through CTL's agreements with various telecommunications network operators in various countries and CTL are therefore only able to act under the conditions imposed through such agreements. The delivery of SMS messages is subject to the availability and performance of the telecommunications networks and the telecommunications networks technical systems and network and cannot be fully guaranteed by CTL. Specifically, SMS messages submitted through the CTL sites will be transferred to the recipient's mobile terminal within times ranging from a few seconds to a few minutes depending on the conditions prevalent at the time of submission. Also, message delivery performance is subject to the recipient's mobile terminal being switched on and located within an area that is acceptably covered by the recipient's telecommunications service provider. Certain telecommunications networks prevent their subscribers from receiving SMS messages, for reasons beyond CTL's control, and in such cases the delivery of SMS messages is not possible.

#### **3.2 Submission of large message volumes**

When the customer requests a large number of messages to be transmitted (> 100 000 messages per hour) the quality of the Service may be degraded due to capacity and technical constraints imposed by telecommunications networks. In such instances, delays may be encountered and CTL cannot be held liable for consequences resulting from such service degradation. However, upon sufficient advance notice (at least one business week) by the customer to CTL of large volume transmission, CTL shall use all reasonable endeavours to ensure, but cannot guarantee, that such delivery shall be made without disruptions.

### **3.2.1 Message validity**

SMS messages submitted to the CTL site for transmission shall have an assigned validity period of One day (24 Hours) during which time CTL shall, at regular intervals, attempt to effect delivery of the SMS messages. Should the validity of the message expire prior to successful delivery, all unsent messages shall be discarded without notice to the customer.

### **3.3 Privacy of message content**

The handling of messages submitted through the CTL site and network is subject to Zambian and International privacy laws. CTL may be required to maintain SMS message logs of all transmissions and to further make such SMS message transmission reports available to government and legal authorities upon explicit request. The customer acknowledges that SMS messages are transmitted in an unencrypted format and as such CTL cannot guarantee against eavesdropping of SMS messages at any stage in the transmission process.

### **3.4 Changes to service offerings and content**

CTL reserves the right to modify, enhance, discontinue and further develop the Service(s) or its service offerings and contents on the CTL site or any other channel any time without prior notice. However, this will be subject to the Agreement Signed with a specific customer.

## **4. Customer's responsibilities and liability**

### **4.1 Malicious disruptions and damages**

Should the customer be implicated of malicious disruptions or damages to the Service(s) or CTL's site, the customer shall be liable for all damages (whether direct or indirect) and associated costs resultant from such malicious activity.

### **4.2 SMS content**

The customer accepts full responsibility for the content of SMS messages transmitted by CTL on the customer's behalf. The customer agrees not to submit any SMS messages for transmission by CTL, the content whereof is improper, immoral or unlawful or which contains any violent, offensive, discriminatory, illegal or pornographic material. The customer must reasonably ensure that the content of SMS messages does not cause disturbance or harassment to the recipient thereof. The customer agrees not to submit any SMS messages for transmission by CTL, the content whereof make reference to any of CTL's competitors or to products or services provided by CTL's competitors. For the purposes of this clause "CTL competitors" shall include any third party who provides products or services in competition with any products or services offered by CTL and/or who provides wireless telephony services in Zambia, Malawi, Mozambique, Zimbabwe or any other territory or country within which CTL either directly or indirectly operates or is active. CTL is bound to ensure the delivery of a valued service and will not tolerate spamming of SMS messages by the customer.

Therefore the customer is not permitted to send messages to recipients who have advised that they do not wish to receive SMS messages of a particular or any kind. Failure to abide by the provisions of this clause will result in the suspension of access to the Services, without recourse to any Service fees paid to CTL, and the customer shall be liable for and hereby indemnifies CTL (including its agents, shareholders, employees, officers and subsidiaries) against any claims, loss or damages caused as a consequence of the failure by the customer to abide by the provisions of this clause.

The customer agrees that it may only send messages to the subscribers of CTL's telecommunications networks partners or 3<sup>rd</sup> party partners.

### **4.3 Customer's responsibilities and liability**

CTL reserves the absolute right not to deliver any SMS message unless and until the identification of the originator thereof, or its authorised representative, is known and understood by CTL.

### **4.4 Termination of the service(s)**

At any time during the tenure of this agreement, the customer acknowledges that CTL reserves the right to terminate the customer's username and/ or password, discard and remove any content, for any reason, including without limitation, for non-use of the Service or if CTL, in its reasonable opinion, believes that the customer has contravened or breached any provision of this agreement without notice. CTL may also, at its sole discretion, at any time cease to provide the Service, or any part thereof and to make modifications and changes to the Service and the content of the CTL site from where it is accessed and offered. The customer also fully understands, accepts, and further indemnifies CTL fully against any claims by the customer or any third party as a result of such termination of Service, or part thereof.

## **5. Billing**

### **5.1 SMS billing methodology**

This Agreement shall maintain the general SMS Billing standard of charging on Submission of SMS.

The customer agrees to pay the charges, to CTL, as set out in the application form. Should there be a disputed transaction, CTL shall endeavour to make the necessary investigations to the best of its abilities and attempt to rectify the discrepancy, but should such investigations prove to be inconclusive, the message transaction logs, as maintained by CTL shall be deemed to be true and accurate for accounting purposes. The eventual delivery of SMS messages is largely dependent on the effective functioning of the recipient's mobile terminal and the telecommunications network partner's network, systems and infrastructure. Consequently, CTL cannot guarantee the delivery of messages that may be affected by possible network outages and errors on the part of any telecommunications network and CTL shall not refund the customer for undeliverable messages.

## 5.2 Pricing

The customer acknowledges that pricing is subject to change without due notice and is entirely controlled by the telecom partners used by Crystalline Technologies. Where a remote telecom provider cannot be used, connectivity may be switched to direct connectivity to the local telecom providers in order to ensure continuity of service following communication with the customer.

## 6. Complaints

All complaints relating to the services provided to the customer must be directed to CTL, in writing and within 7 business days of the event causing the objection at the following address:

P. O. Box 32907, Lusaka, Zambia or Fax2Email: +27 or directly to the following email: [info@crystalline.co.zm](mailto:info@crystalline.co.zm) & [support@crystalline.co.zm](mailto:support@crystalline.co.zm) for the attention of the eMarketing Manager.

## 7. Intellectual property rights

The information, media, systems, content and Services provided by CTL through the CTL site for the customer's use, including all intellectual property rights therein, is the sole property of CTL and the customer shall at no stage acquire any rights therein or thereto.

## 8. Applicable law

The laws of the Republic of Zambia govern this contract. The customer fully acknowledges that any disputes resulting in legal intervention shall be concluded within the jurisdiction of the Republic of Zambia and that the applicable laws of the Republic of Zambia shall prevail.

## 9. Interpretation and nullification of clauses

The customer accepts to agree to all aspects of this agreement and shall comply with all laws, regulations and restrictions that applies to the customer. CTL shall be entitled to modify the terms and conditions of this Policy in writing from time to time. Any delay in the enforcement of any term of this agreement shall not be deemed to be a waiver of such right(s).

## 10. Addresses

The customer's address for the delivery of all notices, including any legal notices, shall be the physical address provided by the customer when registering for the Service. CTL's address for the delivery of all notices, including any legal notices, shall be:

Crystalline Technologies LTD  
Plot 4897, Los Angeles Boulevard,  
P.O. Box 32907,  
Longacres, Lusaka,  
Zambia

Email: [info@crystalline.co.zm](mailto:info@crystalline.co.zm)

A party may at any time change that party's address on 10 days' notice in writing to the other provided that the chosen address consists of or includes a physical address. Any notice given in connection with this agreement shall be delivered by hand or be sent by prepaid registered post.

Notice as set out above shall be deemed to have been duly given if delivered on the first business day after the date of delivery and if sent by post 10 days after posting.