

GS1 INSIGHT APPLICATION

(APPLICATION CODE AND SERVICE)

TERMS AND CONDITIONS

THESE TERMS AND CONDITIONS FORM A LEGALLY BINDING AGREEMENT (AGREEMENT) BETWEEN YOU, THE INDIVIDUAL, BUSINESS, COMPANY OR ORGANISATION WHO USES THIS APPLICATION CODE, AND US, GS1 AUSTRALIA LTD (ACN 005 529 920). YOU ACKNOWLEDGE AND AGREE THAT THESE TERMS AND CONDITIONS APPLY TO YOUR ACCESS TO, AND USE OF, THIS APPLICATION CODE. IN ACCESSING OR USING THIS APPLICATION CODE, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD, AND AGREE TO BE BOUND BY, THESE TERMS AND CONDITIONS. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, THEN YOU MUST REFRAIN FROM ACCESSING AND USING THIS APPLICATION CODE.

1.0 Amendments to these terms and conditions

We reserve the right to amend these terms and conditions at any time by written notification to You.

2.0 Change to Application Code or Service

We reserve the right to make any changes to this Application Code or any service provided in conjunction with this Application Code ("**Service**") (and collectively known as "**GS1 Insight Application**") as considered by Us necessary or desirable.

3.0 Conditions of use

It is a condition of Your use of the GS1 Insight Application that:

- (a) it is to be used by You;
- (b) You are capable of forming a legally binding contract; and
- (c) You are a body corporate, a partnership, a government authority or agency, an association (incorporated or unincorporated), recognised at law.

4.0 Lawful Purposes

You must use the GS1 Insight Application for lawful purposes only as is or in software code or applications You, or Your agents, develop for Your commercial purposes but not for resale; and ensure that Your access to, or use of, the GS1 Insight Application is not illegal or prohibited by law. In this Agreement, "**You**" includes permitted users referred to in Clause 3(a) above.

5.0 Scope of Licence

The licence granted to You under this Agreement for use of the GS1 Insight Application is limited to a non-transferrable licence to use the GS1 Insight Application in application code developed by You or Your agents as permitted in Clause 3(a) above.

6.0 Information in the GS1 Insight Application

The GS1 Insight Application is intended primarily for use in Australia with respect to products in the supply chain and/or for consumption in Australia, and no warranty or representation is made with respect to the inclusion or completeness of information in respect of products in other countries. We do not warrant or represent the accuracy, completeness, currency or suitability for Your intended use of any information available through the GS1 Insight Application or any use of the GS1 Insight Application in software code or applications You develop using the GS1 Insight Application. All information relating to products sourced or made available through the use of the GS1 Insight Application (including, without limitation, information relating to:

- (a) GS1 Identification Keys and associated product information relating to the allocation of those Identification Keys sourced from the GS1 numbers management and key issuance services;
- (b) Product attributes sourced from the GS1 National Product Catalogue service;
- (c) Multi-media and digital information such as product description and images sourced from the GS1 SmartMedia service) is provided by the third party supplier of those products.

We do not (nor do We accept liability to) verify, validate or otherwise test the accuracy, completeness, currency or suitability for Your intended use of such information. You are responsible for the use of any information available through the GS1 Insight Application. You should make Your own enquiries to check if the information available through the GS1 Insight Application is accurate, complete, current, and suitable for Your intended use.

In the course of making the GS1 Insight Application available to You, We may collect a limited amount of personal information about You. We will use such information solely to facilitate ongoing support, management and marketing of the GS1 Insight Application and related products and services. This information will be managed in accordance with the [GS1 Australia Privacy Policy](#). You can opt out of receiving such marketing communications via the Preference Centre provided in said communications.

7.0 GS1 Insight Application Warranty

We do not warrant or represent that the GS1 Insight Application or any information available through the GS1 Insight Application will be uninterrupted or error-free or defect-free or that errors or defects in the GS1 Insight Application or any such information will be corrected. You acknowledge that despite all reasonable precautions on Our part, there is a risk of unauthorised access to, or alteration of, transmissions of data or information to or from Your computer device or available through the GS1 Insight Application.

8.0 Disclaimer

To the maximum extent permitted by law, We shall not be liable for any loss, damage, cost, expense or liability of any kind including, without limitation, any loss of profits or indirect, consequential, incidental, special exemplary or punitive loss or damage ("**Loss**"), howsoever caused (including through our negligence), suffered or incurred by You arising from or in connection with:

- (a) Your access to, or use of, the GS1 Insight Application or any information available through the use of the GS1 Insight Application;

- (b) any decision or action taken by You in reliance on information available through the use of the GS1 Insight Application;
- (c) any unauthorised access to, or alteration of, transmissions of data or information to or from Your computer device or available through the use of the GS1 Insight Application; or
- (d) any interruption, error or defect in the GS1 Insight Application or information available through the GS1 Insight Application.

The above disclaimer does not attempt or purport to exclude liability under any statute if, and to the extent, such liability cannot be lawfully excluded.

9.0 Statutory warranties

To the fullest extent permitted by law, Our liability under any guarantee, condition or warranty (including, without limitation, any guarantee, condition or warranty of merchantability, acceptable quality, fitness for purpose or fitness for disclosed result), or any other right or remedy, under any legislation or implied into this Agreement by any legislation ("**Statutory Warranties**") is hereby excluded. Any other claims, losses, damages, costs or expenses attributable to any failure to conform to any warranty, will be Our sole responsibility, subject to any exclusions specified in this Clause 9. Where We are liable under any Statutory Warranties, and any legislation avoids or prohibits provisions in a contract excluding or modifying the application of, or exercise of, or liability under, such Statutory Warranties, Our liability for any breach of such Statutory Warranties shall be limited, at Our option, to one or more of the following:

- (a) if the breach relates to goods: the replacement of the goods or the supply of equivalent goods; the repair of such goods; the cost of replacing the goods or of acquiring equivalent goods; or the cost of having the goods repaired; and
- (b) if the breach relates to services: the supplying of the services again or the cost of having the services supplied again.

You acknowledge and agree that reliance by Us on this limitation of liability is fair and reasonable in all the circumstances.

10.0 Other warranties

In the event You engage third parties or agents to develop software code or applications using the GS1 Insight Application You warrant that those third parties or agents will be contracted by You with obligations substantially the same as the obligations You have in this agreement, and that You are responsible for ensuring their compliance with those obligations.

The GS1 Insight Application incorporates the use of third party tools available from Microsoft PowerApps. We do not warrant the performance or license of those third party products and You warrant that You have properly licensed the Microsoft PowerApps tools such that they can lawfully be used in conjunction with the GS1 Insight Application.

11.0 Maintenance and support

Except as required under applicable law, We have no obligation to provide any maintenance and support services for the GS1 Insight Application however may elect to do so at our discretion.

12.0 Product Claims

We acknowledge, and You acknowledge, that We are responsible for addressing any claims made by any third party relating to the GS1 Insight Application itself, including but limited to:

- (a) product liability claims;
- (b) any claim that the GS1 Insight Application fails to conform to any applicable legal or regulatory requirement; and
- (c) claims arising under consumer protection or similar legislation.

Notwithstanding the above We acknowledge, and You acknowledge, that You are responsible for addressing any claims made by any third party relating to the use or incorporation of the GS1 Insight Application in any software or service You create and/or operate, including but not limited to:

- (a) product liability claims; and
- (b) claims arising under consumer protection or similar legislation.

13.0 Indemnity

You agree to indemnify, and keep indemnified, GS1 Australia Ltd, its officers, employees and agents ("**those indemnified**") against all loss, damage, cost, expense or liability of any kind suffered or incurred by those indemnified in connection with:

- (a) any breach of any obligation or warranty under this Agreement by You (including, without limitation, any use of the GS1 Insight Application by a third party contrary to the terms of this Agreement);
- (b) any wilful misconduct by You; or
- (c) any negligent act or omission by You.

14.0 Copyright

All copyright in the GS1 Insight Application and the information available through the GS1 Insight Application (including, without limitation, text, graphics, logos, icons, sound recordings and software) is owned by GS1 Australia Ltd or the third party supplier of the material. Except as expressly authorised, and subject to the conditions prescribed under the *Copyright Act 1968 (Cth)* or except as expressly permitted by these terms and conditions, You may not, in any form or by any means:

- (a) copy, adapt, reproduce, store, distribute, print, display, perform, publish, communicate to the public, make available to public or create derivative works of the whole or any part of the materials or information available on the GS1 Insight Application except as expressly permitted by, or as is reasonably contemplated by, the normal use of the GS1 Insight Application; or
- (b) commercialise the whole or any part of the information provided on the GS1 Insight Application, without Our express written permission or, in the case of third party material, from the owner of the copyright in that material.

In the event that You decide to retain the use of the GS1 branding in the GS1 Insight Application You must not alter, deface or change the appearance of the branding in any way without prior express written permission. Additionally, You will not make claims that GS1 endorses Your use of the GS1 Insight Application or in, or in connection with, any software code or applications You, or Your agents, develop using the GS1 Insight Application.

15.0 Trademarks

GS1 Insight is a trademark of GS1 Australia Ltd (ACN 005 529 920). GS1 is a trademark of GS1, association International sans but lucratif, and used under licence by Us. If You use any trademarks owned, or licensed, by Us in reference to Us or the GS1 Insight Application, You must include a statement attributing that trademark to Us or our licensor (as the case may be). You must not use any of Our or our licensor's trademarks:

- (a) in or as the whole or part of Your own trademarks;
- (b) in connection with any business, products or services which are not Ours;
- (c) in a manner which may be confusing, misleading or deceptive to any person; or
- (d) in a manner that disparages Us or the GS1 Insight Application.

16.0 Intellectual Property Rights

We acknowledge, and You acknowledge, that in the event of any third party claim that the GS1 Insight Application or Your possession and use of the GS1 Insight Application infringes that third party's intellectual property rights, We will be solely responsible for the investigation, defence, settlement and discharge of any such intellectual property infringement claim.



17.0 Termination

We may terminate this Agreement and Your access to the GS1 Insight Application if You breach any provision of these terms and conditions. We may, at Our discretion, terminate this Agreement and Your access to all or part of the GS1 Insight Application without the need to provide reasons with three months written notice, such notice being delivered by email to Your nominated email address, or such address as advised by You to Us from time to time. Upon Termination You must cease all use of the GS1 Insight Application. Termination of this Agreement will not end those provisions that are capable of surviving the ending of this Agreement.

18.0 General provisions

We shall not be liable for any delay or failure to perform Our obligations under this Agreement if such a delay or failure is due to circumstances beyond Our reasonable control. If We waive, in whole or part, any rights available to us under this Agreement on one occasion, this does not mean that those rights will automatically be waived on any other occasion. If any provision of this Agreement is held to be invalid, unenforceable or illegal for any reason, it is to be read down to give it as much effect as possible, or if it is not capable of having any effect at all, it is to be severed from this Agreement, in which case, the remainder of this Agreement shall nevertheless continue in full force. The laws governing this Agreement will be the laws in the State of Victoria, Australia and You irrevocably submit to the non-exclusive jurisdiction of the courts of that State.

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