

Title	GS1 Smart Media Specific Terms and Condition of Use
Version	1.0
Date	1 July 2024
Doc type	For Australian users

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1.0 This Agreement

1.1 This agreement, which comprises the specific terms for the GS1 Smart Media service ("**GS1 Specific Terms**") and the GS1 General Terms for GS1 Services ("**GS1 General Terms**"), set out the GS1 terms which govern Your access to and use of the GS1 Smart Media service ("**GS1 Service**").

1.2 By accessing and using the GS1 Service, You agree to the:

- (a) GS1 Specific Terms;
- (b) GS1 General Terms.

(collectively, "**the GS1 Terms**").

In the event of an inconsistency in terms of the GS1 Terms, the order of the documents as presented in this clause will prevail to the extent of the inconsistency.

2.0 The Service

2.1 GS1 Australia will provide You with a User ID and Password ("Sign On") in order to enable You to access and use the GS1 Service. You must keep the Sign On details assigned to You confidential at all times and not permit any person, other than Your Authorised Personnel, to use the GS1 Service, and then only in accordance with this Agreement.

2.2 You must comply with any regulatory requirements (and in particular of regulated Healthcare products) of Your Content with regards to limitations or specific requirements relating to advertising or similar which may impact images or statements related to the products.

2.3 GS1 Australia will, at Your request, integrate data from the National Product Catalogue service to the GS1 Service including the creation of visibility settings. You acknowledge that it is Your responsibility to ensure that the Smart Media default visibility settings are appropriate for each item and will adjust any visibility setting to meet Your requirements via the GS1 Smart Media online interface. You will also notify GS1 Australia if there are any changes to the blanket visibility settings in GS1 Smart Media.

- 2.4 GS1 Australia may make changes to the Content to ensure that it meets minimum standards including naming conventions and basic product attributes definition. These changes may include, but are not limited to, updating basic product attributes (GTIN + description), asset naming (file naming to GS1 standards), file format (conversion from TIFF/TIF to JPEG, or CMYK to RGB) and meta data (file naming of clipping paths to GS1 standards). You acknowledge that it is Your responsibility to ensure that any amended Content is correct, accurate, complete or suitable for the intended purpose.
- 2.5 GS1 Australia will, on request of Recipients, make changes to the Content for that Recipient prior to sending the data to the Recipient. These changes may include, but are not limited to, converting accented characters to non-accented and removing special characters such as © or “TM”.

3.0 Publisher’s obligations

- 3.1 You are responsible for setting up and maintaining Your Profile Settings including, but not limited to, settings as to Your Recipients who may have access to Your Content on the GS1 Service.
- 3.2 You may provide to GS1 Australia any Content in relation to Your Products for the GS1 Service by any of the following ways:
- (a) uploading of Content in a manner specified in the GS1 Smart Media Rules;
 - (b) transferring, or linking to, information in relation to Your Products in a manner specified in the GS1 Smart Media Rules;
 - (c) directing a nominated Third Party Service Provider to do any of the above in paragraphs (a) or (b) on Your behalf;
 - (d) transferring information from other GS1 data services such as the National Product Catalogue service, Barcode Check or Photography services; or
 - (e) directing GS1 to do any of the above in (a), (b) or (d) on Your behalf through the use of the Content Creation Service.
- 3.3 Unless otherwise specified by GS1 expressly in writing, You are solely responsible for:
- (a) reviewing, checking, maintaining and updating Your Profile Settings;

- (b) ensuring that Your Product records and associated Content have the appropriate access settings to enable publication to the appropriate Recipients;
- (c) providing, reviewing, checking, maintaining and updating all Content on the GS1 Service in relation to Your Products (including, without limitation, any Content migrated at Your request or direction from any other GS1 data service such as the National Product Catalogue or Content Creation Service);
- (d) ensuring that all Content in relation to Your Products on the GS1 Service:
 - (i) complies with all Applicable Laws;
 - (ii) is correct, accurate, complete or suitable for the intended purpose and any inaccurate, incomplete, out-of-date Content is updated or otherwise removed;
 - (iii) does not infringe GS1's or any third party's intellectual property rights;
 - (iv) is not defamatory, harassing or obscene;
 - (v) is not illegal, fraudulent, inaccurate, incorrect, incomplete, misleading or deceptive or likely to mislead or deceive persons accessing or viewing the Content; and
 - (vi) meets all requirements for Content in the GS1 Standards or as otherwise specified in the GS1 Smart Media Rules;
- (e) obtaining all necessary licences from third parties in relation to Your Content (including, without limitation, from any third party certification organisations); and
- (f) obtaining at Your own cost all equipment and software necessary to enable You to access and use the GS1 Service.

The above responsibilities apply even when GS1 has done some action, under Your direction on Your behalf, in relation to Your Profile Settings or Content.

3.4 You acknowledge that GS1 Australia is not party to any transaction between You and Your Recipients or otherwise involving Your Products or any Content in relation to Your Products made available on the GS1 Smart Media service and that GS1 Australia has no responsibility:

- (a) for ensuring the correctness, accuracy, completeness or suitability for intended purpose of any Content in relation to Your Products on the GS1 Smart Media service; or

- (b) with respect to any transaction itself (including any claim or dispute relating to that transaction).
- 3.5 You are solely responsible for management and enforcement of Your Intellectual Property Rights with respect to Your Recipients and their use of Your Content. You agree that GS1 shall not be responsible for any Loss whatsoever incurred by You as the result of any use by Your Recipients of Your Content.
- 3.6 Where You and another person provide Content in relation to the same Product and this creates an issue interfering with the use of the GS1 Australia Service, GS1 Australia will liaise with You and the other person to determine who shall be the provider of that Content. You must use Your best endeavours to assist GS1 Australia in relation to such matters.
- 3.7 To ensure You are provided with a high quality service, GS1 Australia, from time to time, may rely on external service providers. You acknowledge that such external service providers may act beyond our reasonable control and that You will not hold GS1 Australia or its external service providers liable for damages caused by an action or omission attributable to them.
- 3.8 A reference in these GS1 Terms to Content provided by You is a reference to Content provided in any of the ways described in Clause 3.2

4.0 Recipient's obligations

- 4.1 Unless otherwise specified by GS1 Australia expressly in writing, You are solely responsible for:
 - (a) obtaining all necessary licences from the Publisher in relation to Your use of the Publisher's Content; and
 - (b) complying with all Applicable Laws in relation to Your use of the Publisher's Content.
- 4.2 You may receive Content only relating to those Publishers in respect of whom You are a Recipient ("**Your Publishers**") from the GS1 Service by any of the following ways:
 - (a) downloading of Content of Your Publishers in a manner specified in the GS1 Smart Media Rules;
 - (b) transferring, or linking to, information in relation to Your Publishers' Products in a manner specified in the GS1 Smart Media Rules;

- (c) directing a nominated Third Party Service Provider to do any of the above in paragraphs (a) or (b) on Your behalf; or
- (d) directing GS1 Australia to do any of the above in paragraphs (a) or (b) on Your behalf.

For the avoidance of doubt, nothing in this Agreement permits You to access or use Content for any person other than Your Publishers or in any way other than as expressly provided in this Clause 4.2 and You are expressly prohibited from accessing or using any Content for Your own business purposes (other than acting on behalf of Your Publishers to do any of the above in paragraphs (a) or (b)) or for the purposes of resale or redistribution in whole or in part.

4.3 You acknowledge that GS1 Australia is not party to any transaction between You and the Publisher or otherwise in relation to Your use of the Publisher's Content (otherwise than as set out in these GS1 Terms) and that GS1 Australia has no responsibility:

- (a) for ensuring the correctness, accuracy, completeness or suitability for intended purpose of any Content on the GS1 Service; or
- (b) with respect to any transaction itself (including any claim or dispute relating to that transaction).

4.4 You acknowledge that Your access to or use of the Publisher's Content on the GS1 Service may be suspended or terminated, without liability to GS1 Australia, at any time:

- (a) by the Publisher for any reason; or
- (b) by GS1 for any reason including, without limitation, if the Publisher has been suspended or terminated.

GS1 Australia will attempt to notify You of any such suspension or termination but will not be liable to You if it does not do so.

4.5 You acknowledge and warrant that You are responsible for the ongoing use of any Publisher's Content on the GS1 Service accessed by or delivered to You and that any subsequent use of that Content, by You and any of Your Third Party Service Providers, contractors or agents, is only for the purposes intended by the Publisher when publishing to You and that it will be used expressly for Your own business purposes. Furthermore, if You have delivered such Content to Your Third Party Service Providers, contractors or agents, You warrant that You have requested that any such Third Party Service Provider, contractor or agent warrants they will only use that Content for Your business purposes.

5.0 Third Party Service Provider's obligations

- 5.1 You, in Your capacity as Publisher and/or Recipient, are responsible for any Third Party Service Provider acting on Your behalf with respect to the use and access of the GS1 System or GS1 Service. The actions of the Third Party Service Provider will be construed as Your actions for the purposes of the GS1 Terms.
- 5.2 You must ensure that the Third Party Service Provider:
- (a) has the requisite authority to act on Your behalf and You must provide evidence of such authority to GS1 Australia on request;
 - (b) has all necessary licences in relation the use of Your Content;
 - (c) has read, understood and agrees to the GS1 Terms; and
 - (d) complies with all Applicable Laws.
- 5.3 GS1 Australia may elect not to provide, or to suspend or terminate, at any time the Third Party Service Provider access to and use of, the GS1 Service until such time as GS1 Australia has evidence that the requirements in Clause 5.2 are satisfied.
- 5.4 Unless otherwise specified by GS1 Australia in writing, where You have subscribed to the Service via a Third Party Service Provider You acknowledge that GS1 Australia is not a party to any transaction between You and the Third Party Service Provider. The terms and conditions of any agreement between You and the Third Party Service Provider are not binding on GS1 Australia and do not in any way affect the GS1 Terms. Should your agreement with the Third Party Service Provider cease to be in force you will remain a subscriber of the GS1 Service until You terminate your subscription in accordance with the GS1 General Terms.
- 5.5 You may deal or exchange Content only relating to Your Customers with the GS1 Smart Media service by any of the following ways:
- (a) uploading or downloading Content in a manner specified in the GS1 Smart Media Rules;
 - (b) transferring, or linking to, information in relation to Your customer's Products in a manner specified in the GS1 Smart Media Rules; or
 - (c) directing GS1 Australia to do any of the above in paragraphs (a) or (b) on Your behalf.

For the avoidance of doubt, nothing in this Agreement permits You to access or use Content for any person other than Your Customer or in any way other than as expressly provided in this Clause 5.5 and You are expressly prohibited from accessing or using any Content for Your own business purposes (other than acting on behalf of Your Customers to do any of the above in paragraphs (a) or (b)) or for the purposes of resale or redistribution in whole or in part.

5.6 You acknowledge that GS1 Australia is not party to any transaction between You, Your Customer or otherwise in relation to Your use of Your Customer's Content (otherwise than as set out in these GS1 Smart Media Terms and Conditions) and that GS1 Australia has no responsibility:

- (a) for ensuring the correctness, accuracy, completeness or suitability for intended purpose of any Content on the GS1 Smart Media service; or
- (b) with respect to any transaction itself (including any claim or dispute relating to that transaction).

5.7 You acknowledge that Your access to or use of Your Customer's Content on the GS1 Service may be suspended or terminated, without liability to GS1 Australia, at any time:

- (a) by Your Customer for any reason or by GS1Australia if notified by Your Customer that You no longer act on their behalf; or
- (b) by GS1 Australia for any reason including, without limitation, if the Publishers or Recipients for whom the Third Party Service Provider acts have been suspended or terminated.

GS1 Australia will attempt to notify You of any such suspension or termination but will not be liable to You if it does not do so.

6.0 Fees and payment

6.1 You must pay GS1 Australia the Fees for the GS1 Smart Media Service as communicated to You in writing by GS1 Australia.

6.2 Unless otherwise agreed to in writing between You and GS1 Australia, the payment provisions in the GS1 General Terms will apply to the payment of the Fees.

7.0 Termination

7.1 Without affecting other rights or obligations under the GS1 Terms, either Party may terminate the GS1 Specific Terms in accordance with the GS1 General Terms.

- 7.2 You understand that each GS1 Specific Terms You have agreed to are separate and independent and terminating these GS1 Specific Terms will not affect other GS1 Specific Terms or the GS1 General Terms in force with GS1 Australia.

8.0 Definitions

In these GS1 Specific Terms, the following words have these meanings unless a contrary intention appears. Other meanings not specified below are set out in the GS1 General Terms:

Content means Product images, Product photography, Product information, Product certifications, Product related reports or other digital data and files relating to Products provided by the Publisher to GS1 for purposes of inclusion in the GS1 Smart Media service and includes, without limitation:

- (a) any images, photography, information, certification, reports and other digital data and files updated by GS1 on the Publisher's behalf; and
- (b) any images, photography, information, certification, reports and other digital data and files transferred from, or linked to, in accordance with the GS1 Smart Media Rules (including, without limitation, data transferred from, or linked to, from other GS1 data services such as the National Product Catalogue service) (whether by You or GS1 Australia on the Publisher's behalf); and
- (c) any images, photography, information, certification, reports and other digital data and files provided by any third party on the Publisher's behalf; and
- (d) any images, photography, information, certification, reports or other digital data linked to in any website designated by the Publisher.

Content Creation Service means the service that GS1 optionally provides to assist with production, management and sharing of product images and on-pack data for digital marketing.

Current GS1 Smart Media Subscriber means, in respect of a date, any person who has completed a Registration Form for the GS1 Smart Media service that has been accepted by GS1 Australia and GS1 Australia has notified that person of acceptance prior to that date and whose access to the GS1 Smart Media service has not been terminated at that date.

GS1 Smart Media service means the service of providing an electronic database of Content for the purpose of enabling Publishers to exchange their Content in relation to their Products with Recipients, operated by GS1 Australia.

GS1 Smart Media Rules means GS1's rules (if any) for the GS1 Smart Media service issued from time to time in relation to:

- (a) access to the GS1 Smart Media service by Users;
- (b) the process of designation by Publishers of Recipients for disclosure of Content (made available through the GS1 Smart Media service);
- (c) disclosure of Content to Recipients;
- (d) processes, methods and tools used for uploading and download of Content;
- (e) mandatory requirements for Content; and
- (f) other matters in relation to the operation by GS1 of the GS1 Smart Media service or the use of GS1 Smart Media service by Users.

GS1 Standards means any standards (as varied from time to time) that provides for identification and communication of Content and information regarding products, assets, services and locations and includes specifically the Product Image Specification GS1 Standards Document (as varied from time to time).

Publisher means a person who is either:

- (a) located in Australia and/or New Zealand and who is a supplier of commercial quantities of Products anywhere in the world; or
- (b) located outside of Australia or New Zealand and who is a supplier of commercial quantities of Products in Australia and/or New Zealand, and who provides, or is likely to provide, Content for use in the GS1 Smart Media service in relation to that person's Products. For the sake of clarity, GS1 may elect not to accept any Registration Form from a person as a Publisher if GS1 Australia is not satisfied, and until such time as the person satisfies GS1, that the person is supplying, or intends to supply, commercial quantities of Products.

Recipient means any person who is a Trading Partner of a Publisher (or a person who is likely to become a Publisher). For the sake of clarity, GS1 Australia may elect not to accept any Registration Form from a person as a Recipient if GS1 Australia is not satisfied, and until such time as the person satisfies GS1 Australia, that the person is a Trading Partner of a Publisher or person likely to become a Publisher.

Registration Form means the registration form for the GS1 Smart Media service, in such form as is designated by GS1 Australia from time to time.

Third Party Service Provider means a party authorised by a Publisher or Recipient to manage the transfer of Content to, or from, the GS1 Smart Media service on behalf of that Publisher or Recipient.

Trading Partner means, in respect of a Publisher:

- (a) a retailer (including online retailer), wholesaler or buying group of the Publisher's Products;

- (b) a government department or agency who acquires the Publisher's Products (including any government health department or health agency) or any public or private hospital or other health care services provider who acquires the Publisher's Products; or
- (c) a person belonging to any similar class of persons published by GS1 Australia from time to time as being a "Trading Partner" who acquires the Publisher's Products.

User means a person using the GS1 Smart Media service for the purpose of accessing the Content in relation to Products and includes, without limitation:

- (a) a Publisher; or
- (b) a Recipient; or
- (c) GS1 Australia, or any other person authorised by GS1 Australia, for the purpose of providing access to other persons to view the Content in accordance with this Agreement.