

**Title**      **GS1 Membership Agreement**

**Version**    **1.0**

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## 1.0 This Agreement

- 1.1 The GS1 Membership Agreement (**this “Agreement”**) sets out the terms and conditions relating to:
- (a) Your use of GS1 ID Keys and Barcode Symbols and other Authorised GS1 Data Carriers; and
  - (b) Your access to and use of the MyGS1 Portal and the GS1 Services accessed on the Portal including, Verified by GS1 and GS1 Manage My Product.
- 1.2 You, and any person who accepts this Agreement on Your behalf, agree to the terms of the Agreement, and warrant you have full legal capacity and power to enter into the Agreement to satisfy the obligations specified.
- 1.3 This Agreement comprises the following documents:
- (a) the MyGS1 Portal Terms;
  - (b) the Verified by GS1 Terms;
  - (c) the GS1 Manage My Product Terms;
  - (d) the GS1 Membership Agreement; and
  - (e) the GS1 Terms of Trade.

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

## 2.0 Membership and Grant of Licence

- 2.1 GS1 accepts Your GS1 Member Licence Application and grants You a non-exclusive and non-transferable licence to use the GS1 System solely for the Authorised Uses.
- 2.2 You represent and warrant to GS1 Australia that Your GS1 Member Licence Application is true, accurate and complete, in every particular.
- 2.3 You acknowledge that GS1 Australia is a membership based organisation and You must be a GS1 member to access and to use the MyGS1 Portal and GS1 Services.

### 3.0 Term

- 3.1 This Agreement is effective from the date the GS1 Member Licence is granted to You and will be renewed annually by GS1 unless terminated in accordance Clause 17.0.

### 4.0 Your Obligations

4.1 You must:

- (a) comply with the terms of this Agreement and any other agreements with GS1 Australia;
- (b) not at any time during the term of this Agreement, or after its termination, do or omit to do anything whereby GS1 Australia's goodwill, trade, or business may be prejudicially affected or brought into disrepute;
- (c) comply with the GS1 Rules and Standards in relation to use of the GS1 ID Keys and Authorised GS1 Data Carriers, the MyGS1 Portal and any GS1 Services accessed from the Portal, as GS1 Australia may issue from time to time;
- (d) attend training sessions to familiarise Yourself with the GS1 System and GS1 Services as required by GS1 Australia from time to time;
- (e) comply with any regulations, standards or number allocation rules enforced by regulatory bodies which regulate and govern Your use of the GS1 ID Keys; and
- (f) comply with all Applicable Laws.

4.2 You must:

- (a) if You became a subscriber member on or after 10th October 2020, use the Manage My Products service, where the functionality exists, to Assign Your GS1 ID Keys to Your Items and populate required associated Item data, including the provision of Content relating to those Items;
- (b) if You were a subscriber member prior to 10th October 2020, when available, as publicly communicated via the GS1 Australia website, use the Manage My Products service, where the functionality exists:
  - (i) to Assign any **new** GS1 ID Keys Allocated to You (that is, GS1 ID Keys Allocated to You on or after 10th October 2020); and
  - (ii) to Assign any of **Your existing** GS1 ID Keys Allocated to You (that is, GS1 ID Keys Allocated to You prior to 10th October 2020)

to Your Items and populate required associated Item data, including the provision of Content relating to those Items.

- 4.3 Unless otherwise specified by GS1 Australia expressly in writing, You are solely responsible for providing, reviewing, checking, maintaining and updating all Content in relation to Your Items.
- 4.4 You represent and warrant that all Content in relation to Your Items:
- (a) originates from, is authorised, or is approved by You;
  - (b) is correct, accurate, complete or suitable for the intended purpose and that any inaccurate, incomplete, or out-of-date Content will be updated or otherwise removed by You as soon as practicable;
  - (c) does not infringe GS1 Australia's or any third party's Intellectual Property Rights;
  - (d) is not illegal, fraudulent, offensive, misleading, or deceptive or likely to mislead or deceive persons assessing or viewing the Content;
  - (e) does not contain any virus, trojan, worm, or similar deleterious programs; and
  - (f) meets all the requirements in the GS1 Standards
- 4.5 To assist in authentication of GS1 ID Keys still in circulation, You:
- (a) must, on request, provide to GS1 Australia details of all GS1 ID Keys Allocated to You that have been Assigned by You, or for or on behalf of You, or, in the case of Transferred GS1 ID Keys, assigned by a Transferor, or for or on behalf of a Transferor;
  - (b) must, on request, provide to GS1 Australia details of all GS1 ID Keys, (whether or not Allocated to You) and Authorised GS1 Data Carriers that You have processed; and
  - (c) recognise GS1 Australia's right to authenticate GS1 ID Keys, whether still in circulation or not, through checking with GS1 International and GS1 International services, relevant regulatory bodies, and/or any services provided by third parties, through the sharing of basic data and Content with or by access to those services.

## **5.0 Third Party Service Provider's obligations**

- 5.1 You 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 Services. The actions of the Third Party Service Provider will be construed as Your actions for the purposes of this Agreement.
- 5.2 Unless otherwise specified by GS1 Australia in writing, 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) complies with all Your obligations under this Agreement in respect of their use of the GS1 System, GS1 Services and provision of Your Content when acting on Your behalf; and
  - (d) complies with all Applicable Laws.
- 5.3 GS1 Australia may request, and You must provide, evidence that the requirements in Clause 5.2 are satisfied.
- 5.4 Acting reasonably, GS1 Australia may suspend the Third Party Service Provider access to, or use of, Your Content, without liability to GS1 Australia, at any time. GS1 Australia will attempt to notify You of any such suspension.

## **6.0 GS1 Australia's Rights and Obligations**

- 6.1 GS1 Australia represents and warrants that the licence issued under this Agreement will not infringe Intellectual Property Rights of any third parties.
- 6.2 During the Term GS1 Australia will provide You with access to the MyGS1 Portal on the terms set out in Attachment A.
- 6.3 GS1 Australia may, without any liability to You, remove any Content which it reasonably regards as likely to be in, or cause a, breach of this Agreement.
- 6.4 Subject to any requirements under Applicable Laws, GS1 Australia may use Your Content about Your Items for the following purposes:
- (a) to discharge any GS1 Australia licensing obligations;
  - (b) to improve, develop and benefit the GS1 System and GS1 Services;
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- (c) to administer the GS1 System and GS1 Services;
  - (d) for research, development and training;
  - (e) to share with data Recipients participating in the GS1 System;
  - (f) to provide to regulatory bodies for legal, compliance and audit purposes on request;
  - (g) to share with GS1 International and GS1 Member Organisation services such as, but not limited to, services provided within the GS1 Registry Platform which are shared with data Recipients participating in the GS1 System; and
  - (h) for any incidental purposes related to those set out in this clause.
- 6.5 GS1 Australia may make reasonable enquiries of third parties (including, without limit, retailers) to ascertain whether You are acting in breach of this Agreement.
- 6.6 GS1 Australia is not responsible for:
- (a) ensuring the correctness, completeness or suitability of the intended purpose of any Content; and
  - (b) the content or privacy policies or practices of persons or companies associated with Linked Websites.
- 6.7 GS1 Australia may at any time remove from, or prevent from being loaded into, the GS1 Service any GS1 ID keys where those GS1 ID Keys have not been licensed directly to You, or directly to the brand owner, by a recognised GS1 member organisation.
- 6.8 GS1 Australia will otherwise comply with its obligations set out in this Agreement.

## **7.0 Fees and Payment**

- 7.1 The payment of Fees is governed by the GS1 Terms of Trade.
- 7.2 Unless otherwise agreed in writing, You must pay GS1 Australia:
- (a) the GS1 Licence Fee annually in advance; and
  - (b) the GS1 Service Fees, if applicable, communicated to You by GS1 Australia.
- 7.3 GS1 Australia will issue you a tax invoice for the Fees which are exclusive of GST.



- 7.4 You must provide GS1 Australia with a Turnover Declaration by 31 May of each relevant year. Where You do not provide the Turnover Declaration, GS1 Australia may charge Your GS1 Licence Fee at the Default Licence Fee Rate in accordance with GS1 Terms of Trade.
- 7.5 You must pay the GS1 Licence Fee while the GS1 ID Keys allocated to You are in Use. Where You do not pay the GS1 Licence Fee or the GS1 Service Fees, GS1 Australia may suspend your right to access the GS1 Services under this Agreement until the Fees are paid.
- 7.6 GS1 Australia may, from time to time, vary the Fees by providing not less than 14 days written notice. Publication of the variation on GS1 Australia's website, including the effective date of the change, shall, unless otherwise advised, constitute written notice of such changes. Your continued use of the GS1 System or GS1 Services after such notice shall constitute acceptance of the change.

## **8.0 Use of GS1 ID Keys and Authorised GS1 Data Carriers**

- 8.1 You:
- (a) may use only GS1 ID Keys for the Authorised Uses;
  - (b) must not Assign or Allocate (or otherwise apply or use in any way) any GS1 ID Keys Allocated by GS1 Australia, GS1 International and other GS1 Member Organisations to any other person (Issued Company) in respect of an Item to identify, track, or trace any Item or thing other than that Issued Company's Item or thing;
  - (c) must not apply or use any numbers that copy (in whole or in part) any numbers comprised in the GS1 system or that are similar in appearance so as to confuse, or to be likely to confuse, persons that the numbers are associated with in any way the GS1 system;
  - (d) must only Assign the GS1 ID Keys Allocated to You in respect of Your Items;
  - (e) must not alter any GS1 ID Keys in any way;
  - (f) must not Assign (or otherwise apply or use) any of Your GS1 ID Keys outside the scope of the original Assignment (whether by You or a Transferor) for that GS1 ID Key;

- (g) recognise GS1 Australia's title to the GS1 ID Keys, Authorised GS1 Data Carriers, and the GS1 system and related intellectual property and must not at any time do, assist any other person to do, or allow to be done, any act or thing which may in any way invalidate, challenge, contest or impair GS1 Australia's rights in regard to GS1 ID Keys, Authorised GS1 Data Carriers and the GS1 system or related intellectual property;
  - (h) must only Assign GS1 ID Keys in accordance with Your Membership Subscription Type as follows:
    - (i) If Your Membership Subscription Type is "Individual Barcode Number" then You are restricted to Assigning GS1 ID Keys Allocated to You as single numbers (whether issued as a single number or a block of single numbers) for use as GTINs regardless of currency of number;
    - (ii) If Your Membership Subscription Type is "Full" then You are restricted to Assigning GS1 ID Keys from the GS1 Company Prefix(es) allocated to You as well as any individual GS1 ID Keys otherwise uniquely Allocated to You by GS1 Australia;
    - (iii) If Your Membership Subscription Type is "Global Location Number" then You are restricted to Assigning GS1 ID Keys Allocated to You as single numbers (whether issued as a single number or a block of single numbers) for use as GLNs regardless of currency of number;
    - (iv) If Your Membership Subscription Type is "Individual Hospital" then You are restricted to Assigning GS1 ID Keys from the GS1 Company Prefixes Allocated to You as well as any individual GS1 ID Keys otherwise uniquely allocated to You; or
    - (v) If Your Membership Subscription Type is "Services Only" then You are not able to Assign GS1 ID Keys Allocated to You other than a GLN to use for Your GS1 Service;
  - (i) are able to apply to license, with payment of appropriate fees, additional GS1 ID Keys Allocated to You by GS1 Australia as single numbers or a block of single numbers for use as GTINs or GLNs in the manner provided for in the relevant application; for all Membership Subscription Types other than "Service Only",
  - (j) in the case of upgrading or downgrading Membership Subscription Types, or transferring GS1 ID Keys across Membership Subscription Types, any GS1 ID Key so transferred must be only used as the original GS1 ID Type and as originally Assigned (whether by You or a Transferor);
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- (k) must not permit or procure anyone else to Assign or Allocate (or otherwise apply) the GS1 ID Keys or Electronic Product Codes (if applicable) Allocated to You to anything (other than to Items manufactured, distributed or managed by or for You under contract);
- (l) must ensure that the Items bear all proprietary notices that GS1 Australia may require from time to time;
- (m) must not sell, transfer, or assign (or attempt to sell, transfer or assign) the GS1 ID Keys Allocated to You by GS1 Australia, with the exception of validly Transferred GS1 ID Keys.

## **9.0 Regulatory Requirements for Medical Products**

- 9.1 You understand that GS1 Australia is a GS1 Member Organisation of GS1 International which has been accredited by certain regulatory agencies as an issuer of Unique Device Identifier. In that capacity, both are subject to certain regulatory obligations such as, but not limited to, reporting of companies that use the GS1 Standards for unique identification of medical devices.
- 9.2 You understand that when You use a GS1 ID Key such as a GTIN to identify an Item that may be characterised as a medical device under the laws of the country where such product is marketed ('Medical Device'), the following rules shall apply:
  - (a) upon making Your Licence Application, You must inform GS1 Australia if a GS1 ID Key will be used to identify a Medical Device and in which country the related product will be marketed;
    - (i) You are, and shall at all times remain, responsible for the information about the Medical Device provided by You to GS1 Australia and for compliance with any applicable regulatory obligations and shall ensure any information provided to GS1 Australia is accurate and up to date at all times;
  - (b) GS1 Australia may monitor correct implementation of the GS1 Standards by You;
  - (c) In the event GS1 Australia identifies a UDI Deficiency, GS1 Australia may inform You in writing of such UDI Deficiency, suggesting a way to correct the UDI Deficiency and requiring You to correct such UDI Deficiency within 90 calendar days from the date of the notification (the 'UDI Correction Period');

- (d) GS1 Australia may monitor whether You have corrected a UDI Deficiency within the UDI Correction Period. Failing such correction, at the latest eight (8) calendar days after expiry of the UDI Correction Period, GS1 Australia may contact You again and seek to amicably resolve the UDI Deficiency;
- (e) If the UDI Deficiency is not corrected within an additional period of 90 days from the expiry of the UDI Correction Period and pertains to a repeated and/or deliberate misuse of the GS1 Standards related to UDI, GS1 International, working with GS1 Australia, may inform the relevant regulator and modify the use (including suspension and revocation) of the GS1 ID Key for UDI implementation in the relevant jurisdiction, as a follow-up action taken in cooperation with the relevant regulator; and
- (f) You acknowledge and agree that GS1 Australia must, in the context of its regulatory obligations, share certain information with the relevant regulators either directly or via GS1 International, including without limitation the fact that You use GS1 ID Keys to identify Medical Devices marketed in the regulator's country, the GS1 ID Key, the name of Your company, as well as any identified and uncorrected UDI Deficiencies. You understand that neither GS1 Australia nor GS1 International may be held liable for any direct or indirect consequences, losses or damages resulting from GS1 Australia and/or GS1 International providing such information to a regulator.

## **10.0 Indemnity**

- 10.1 You agree to indemnify and keep indemnified GS1 and its officers, employees, agents, contractors and service providers ("Those Indemnified") from and against any Loss of any kind which Those Indemnified suffer or incur arising out of or in connection with:
  - (a) Your use of the GS1 ID Keys or Authorised GS1 Data Carriers;
  - (b) any breach or alleged breach of this Agreement or any Applicable Laws by You, a Data Provider or an Authorised User.
- 10.2 You agree to indemnify and keep indemnified GS1 from any Loss arising from or in connection with any action, claim, demand or proceeding by a third party relating to, resulting from, or arising out:
  - (a) of any allegation that use, publication or distribution of Your Content or Data provided by a Data Provider infringes any intellectual property rights of any person;

- (b) any contravention or alleged contravention of Applicable Laws by You, a Data Provider or Authorised User; or
  - (c) any allegation that any Content or Data has been provided in breach of any representations or warranties in this Agreement.
- 10.3 Your liability to indemnify GS1 under this clause will be reduced proportionately to the extent that GS1 contributed to the Loss.

## **11.0 Liability**

- 11.1 To the maximum extent permitted by law, GS1 shall not be liable 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.
- 11.2 Where GS1 is 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, GS1's liability for any breach of such Statutory Warranties shall be limited, at GS1's 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.
- 11.3 To the maximum extent permitted by law and without limiting Clause 11.2, GS1, excludes all liability (whether arising in contract, tort or otherwise) that it may have for any Loss incurred by You arising from or in connection with:
- (a) You or Your personnel breaching this Agreement;
  - (b) Your use of a GS1 Service or the associated Data;
  - (c) the use of, or reliance on, any Content, other service or software which integrates, in any way with the GS1 System or GS1 Service;
  - (d) any unauthorised access to, or alteration of, transmissions of data or information to or from Your electronic device or available through the GS1 Services;

- (e) any interruption, error or defect in the GS1 Services or information available through the GS1 Services; or
- (f) interference with or damage to Your device which arise in connection with Your use of or inability to use the MyGS1 Portal;
- (g) any inaccuracy, incompleteness, error or defect in the GS1 Barcode provided to You;
- (h) any use or reproduction by You of the quality, correctness, accuracy and completeness of the GS1 Barcode when reproduced by You (including any reproduction on packaging); and
- (i) the suitability of the file formats in which the GS1 Barcode is provided to You for Your intended use,  
whether that Loss is direct, indirect or consequential (including loss or corruption of data, loss of any agreement, loss of any business revenue, loss of profits, failure to realise expected profits or savings or any other commercial loss or economic loss of any kind) save to the extent such Loss arises directly from any breach of this Agreement or Applicable Law, negligence or wilful misconduct by GS1 Australia.

11.4 Where You provide Content to GS1 pursuant to this Agreement or Data is shared on Manage My Products by a Data Provider, the relevant party acknowledges that it is solely liable for the Content or Data.

11.5 To the fullest extent permitted by law, where You provide Content to GS1 or where a Data Provider shares Data in the Manage My Products service, GS1 shall not be liable to a third party for any Loss arising out of or in relation to the Content or Data provided. You or the Data Provider, as applicable, are solely liable for loss or damage of any kind (including, without limitation, actual, direct, consequential, indirect, incidental, or punitive loss or damages, even if advised of the possibility of such loss or damage) relating to or arising out of any third party's use of the Content or Data.

11.6 You acknowledge and agree that the Fees charged by GS1 are determined by GS1:

- (a) with a view to making the services accessible for use by persons rather than with the primary motivation of deriving profit; and
- (b) on the assumption that the exclusions and limits on liability and the indemnities and releases from liability granted by You pursuant to this Agreement are, and will remain, enforceable against You, and

accordingly, You agree that the exclusions and limits on liability and the indemnities and releases from liability set out in this Agreement are fair and reasonable.

## **12.0 Intellectual Property and Moral Rights**

- 12.1 All pre-existing Intellectual Property Rights or Moral Rights belong to the party that owned those rights prior to the execution of the Agreement.
- 12.2 Unless otherwise expressly provided, You agree that all registered and unregistered, present or future Intellectual Property Rights and Moral Rights in and to the GS1 Services and GS1 System, Verified by GS1, Manage My Products, any Content and Deliverables and other materials developed by GS1 Australia in the course of providing the GS1 Service or GS1 System, are owned by GS1 Australia or its licensors.
- 12.3 You warrant to GS1 Australia that You own, or are entitled to use the Intellectual Property Rights in the Content and, that You have the right to grant GS1 Australia the licence under Clause 12.5.
- 12.4 You agree that where any claim is made that Your use of the GS1 Service or GS1 System or any data or information provided as part of the GS1 Service or GS1 System, involves or constitutes any breach of the Intellectual Property Rights of GS1 Australia or of any third party, You agree to discontinue all such use upon becoming aware of such claim or upon receipt of any direction from GS1 Australia to do so.
- 12.5 Pursuant to Clause 12.3, and where applicable to the GS1 Service or GS1 System, You grant, or must procure, GS1 Australia a non-exclusive, perpetual, worldwide, irrevocable and royalty free licence, including the right to sublicense, to use, reproduce and adapt Your Content to the extent required for GS1 Australia to perform its obligations under this Agreement without infringing any Intellectual Property or Moral Rights.
- 12.6 For the avoidance of doubt, the licence under Clause 12.5 does not, transfer ownership of Intellectual Property Rights or Moral Rights to GS1 Australia.

### **13.0 Use of Trademarks**

- 13.1 With GS1 Australia's prior written consent, You may use the GS1 Australia Trademarks for marketing purposes and promotion of the Items.
- 13.2 You grant GS1 Australia a non-exclusive, worldwide, royalty free, licence to use Your Trademarks for the purpose of identifying You on GS1 Australia marketing material as a subscriber of the applicable GS1 Service. We shall cease using Your Trademarks immediately upon reasonable request by You.

### **14.0 Privacy**

- 14.1 You acknowledge that You have read and understood the [Privacy Policy](#) and consent to the collection, use and disclosure of Personal Information in accordance with the Privacy Policy and for the purposes of providing You with the services in accordance with this Agreement.
- 14.2 Where You are not an individual, You warrant that You have obtained all necessary consents from any person whose Personal Information is provided by You to GS1 Australia to provide and operate the GS1 Service in the manner contemplated by the GS1 Privacy Policy, this Agreement, the Instructions for Use, and, where applicable, and the National Location Registry Rules.

### **15.0 Confidentiality**

- 15.1 Each party ("Receiving Party") must keep the Confidential Information of the other party ("Discloser") confidential, safe and secure and not disclose it to any person other than:
  - (a) for the purposes contemplated by this Agreement;
  - (b) the Receiving Party's agents, advisors, contractors and Authorised Personnel who have a need to know, provided they are subject to an obligation to keep the confidential information confidential or, in the case of GS1 Australia, as contemplated by this Agreement; or
  - (c) where required to do so by law.



15.2 The Receiving Party will use or disclose the Confidential Information of the Discloser solely for the purpose of using or operating the GS1 Service in accordance with this Agreement, and in the case of GS1 Australia the provision of GS1 Services to You or disclosure to third party certification organisations or government authorities (as applicable).

## **16.0 Modern Slavery**

16.1 You warrant that:

- (a) You and, to the best of Your knowledge and belief having made reasonable enquiries, Your supply chain has not been convicted, or are at risk of being convicted, of any offence involving modern slavery; and
- (b) You shall immediately notify GS1 Australia if You become aware of any actual, potential or perceived modern slavery in Your operation or its supply chain; and
- (c) You and Your supply chain will conduct the business in a manner so as to reduce the risk of modern slavery in Your operations and supply chains.

## **17.0 Termination**

17.1 Acting reasonably, GS1 Australia may immediately terminate the Agreement by giving you prior written notice if:

- (a) You breach a material provision of this Agreement and fail to remedy that breach within 14 days of receiving notice requiring You to do so;
- (b) You engage in any dishonesty, serious misconduct or serious neglect of duty in connection with the GS1 Service;
- (c) You engage in any act or omission that in GS1's reasonable opinion has or will have the likely effect of causing material damage to GS1; or
- (d) the GS1 Master Australian Licence is terminated or GS1 Australia otherwise ceases to hold the necessary licence rights to allocate GS1 ID Keys or Electronic Product Codes in Australia.

17.2 Either party may immediately terminate the GS1 Specific Terms by prior written notice to the other party if:

- (a) the other party breaches any material term of this Agreement which is not capable of being remedied; or

- (b) the other party is subject to an Insolvency Event.
- 17.3 In any other circumstances GS1 Australia may terminate this Agreement by giving three (3) months prior written notice to You.
- 17.4 GS1 Australia may, by written notice to You, suspend performance of its Obligations under this Agreement if in its reasonable opinion Your use of the MyGS1 Portal or the GS1 System:
  - (a) violates any Applicable Laws;
  - (b) infringes another person's rights; or
  - (c) otherwise fails to comply with any of Your Obligations under this Agreement or any other agreement with GS1 Australia.
- 17.5 You may terminate this Agreement when You:
  - (a) cease to Use all GS1 ID Keys; and
  - (b) give one month's written notice to GS1 Australia on a standard GS1 Australia Termination of Subscription Membership & Service Notification Form which is signed by an Authorised Representative of Your organisation.
- 17.6 Before termination can take effect:
  - (a) GS1 Australia must be satisfied that You have ceased to Use the GS1 ID Keys; and
  - (b) within 7 days for the termination date, You must pay to GS1 Australia all Fees owing under this Agreement; and
  - (c) GS1 Australia will suspend Your access to the MyGS1 Portal and associated GS1 Services to which you have subscribed.
- 17.7 Termination of this Agreement may not result in cancellation of your GS1 Services. Termination of Your GS1 Services must be done in accordance with the GS1 General Terms for Services.
- 17.8 Termination of this Agreement does not affect GS1 Australia's or Your rights and obligations accrued prior to termination.

## **18.0 Consequences of Termination**

- 18.1 On termination of this Agreement, GS1 Australia reserves the right to reallocate the GS1 ID Keys to GS1 Australia or another organisation in accordance with the GS1 Allocation Rules.

## 19.0 Notices

- 19.1 All notices in connection with this Agreement must be in writing and take effect from the time they are received unless a later time is specified.
- 19.2 Notices sent by:
- (a) by registered post are taken to be received the day after posting (or seven days after posting if sent to or from a place outside Australia);
  - (b) email are taken to be received at the time shown in the email transmission report. You must ensure emailed notices are able to be received by the intended recipient.
- 19.3 GS1 Australia will send Your notice to the address specified on Your Licence Application or other addresses You may provide.
- 19.4 Notices for GS1 Australia must be sent to Customer Service at GS1 Australia's address as notified to You from time to time.

## 20.0 General

- 20.1 Entire Agreement - This Agreement constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings, and negotiations on that subject matter.
- 20.2 Jurisdiction - This Agreement is governed by the law in force in the State of Victoria, Australia.
- 20.3 Waiver - A provision of this Agreement or a right created under it may not be waived except in writing, signed by the party giving the waiver.
- 20.4 No Assignment - You must not assign, transfer, or sublicense Your rights or obligations under the Agreement generally without the prior written consent of GS1 Australia. GS1 Australia may require, as a condition to its consent to any transfer of Your rights under the Agreement, specifically the Subscription Membership and Licence Agreement, the provision to GS1 Australia of a completed and signed transfer form in respect of the transfer of rights, in such form as may be required by GS1 Australia from time to time.

- 20.5 Force Majeure - An obligation of a party (other than an obligation to pay money) is suspended to the extent the party is prevented from performing that obligation because of an event beyond its reasonable control.
- 20.6 Severability - If any provision of this Agreement is held to be unlawful, invalid, unenforceable or in conflict with any rule of law, statute, ordinance or regulation it must be read down so that is valid and enforceable (or, if it cannot be so read down, severed) so that the validity and enforceability of the remaining provisions are not affected.
- 20.7 Survival: Provisions, conditions and covenants of this Agreement that are intended to have effect after or on termination of the Agreement shall survive termination. Specifically, the following provisions survive termination: Clause 12.0 (Intellectual Property); Clause 13.0 (Use of Trademarks); Clause 10.0 (Indemnity); Clause 11.0 (Limitation of Liability); Clause 15.0 (Confidentiality).
- 20.8 Variations -
- (a) GS1 Australia may vary this Agreement at any time by providing not less than fourteen (14) days' written notice to You.
  - (b) Publication of amended terms and conditions of this Agreement on GS1 Australia's website shall constitute written notice to You. Any such variation notified by GS1 Australia takes effect immediately after such notice period (unless a later date is specified in the notice).
  - (c) If You choose not to accept the variation to the terms and conditions, You must:
    - (i) immediately stop Using the GS1 Identification Keys allocated to You; and
    - (ii) terminate this Agreement in accordance with Clause 17.0.
  - (d) Your continued Use of the GS1 System or GS1 Services after such notice shall constitute acceptance of these amended terms and conditions.

## 21.0 Definitions

In this Agreement, the following words have these meanings unless a contrary intention appears:

**Alliance Number Licence** means the licence provided by a GS1 Member Organisation to a member in respect of a range of numbers that can be assigned to that member's products or items for use in the United States of America.

**Additional Products and Services** means all products and services provided by GS1 Australia other than the GS1 System, including, without limitation, all training, testing, consultancy and data synchronisation services (such as the National Product Catalogue ['NPC'] or SmartMedia).

**Allocation or Allocate** means the process by which GS1 ID Keys are issued and/or registered by GS1 Australia to You or, in the case of Transferred GS1 ID Keys, to the Transferor.

**Applicable Laws** means any and all statutes, regulations, by-laws, ordinances or subordinate legislation in force from time to time which pertains to Your use of, and access to, the GS1 System and GS1 Services

**Assignment or Assign** means the process by which You, or GS1 Australia, assign or relate the GS1 ID Keys, which are Allocated to You, to each of Your Items (including, without limitation, data related to that Item and the GS1 ID Key Type) or, in the case of Transferred GS1 ID Keys, the Transferor or GS1 Australia, assigned or related the GS1 ID Keys to each of Your Items (including, without limitation, data related to that Item and the GS1 ID Key Type).

**Authorised GS1 Data Carriers** means data carriers designed to carry the GS1 ID Keys and other attribute information in a machine readable form and includes two dimensional and three dimensional Barcode Symbols and Radio Frequency Identification (RFID) tags.

**Authorised Personnel** means the primary contact or other parties notified to GS1 in writing from time to time who are expressly authorised to act for and on Your behalf.

**Authorised Uses** means use in Your ordinary business operations in connection with the identification, tracking and tracing of Items at any point in the supply chain in accordance with the terms and conditions of this Agreement.

**Barcode Symbols** means the Authorised GS1 Data Carriers designed to carry the GS1 ID Keys and other attribute information in a machine readable form.

**Barcode Image Generation Tool** is a tool accessed through the MyGS1 Portal and enables the creation of a digital file in a machine readable form of Your specific GTIN as a Barcode Symbol.

**Business Hours** means 9.00am to 5.00pm (AEST) on a day which is not a Saturday, Sunday or public holiday in Melbourne, Australia.

**Confidential Information** means any information, technical data, trade secrets relating to ideas, know-how, concepts, processes, data, plans, materials, product development, Log In details provided and other information, regardless of its form, that the Recipient knows, or ought to reasonably know, is required by the Discloser to be treated as confidential information but does not include any information that is:

- (a) public knowledge at the time it is supplied to Receiving Party, or becomes public knowledge subsequently other than through breach of an obligation of confidence; or
- (b) information that the Discloser ought reasonably know is intended to be disclosed in the course of the Discloser's, or other User's, use of the Service (including Content and Notifications); or
- (c) in the Receiving Party's lawful possession prior to it being supplied to Receiving Party.

**Content** means the text, images, data (including associated weblinks) and other material relating to Items provided by You to GS1 Australia.

**Data** means information about an Item that has been provided to the GS1 Registry Platform by a Data Provider.

**Data Provider** means a person who has provided Data to the GS1 Registry Platform.

**Data Recipient** means any person viewing or using any Data and includes, without limitation, consumers, retailers, internet application providers and public authorities.

**Default Licence Fee Rate** means the fee that is applied when You have not provided the Turnover or confirmed Your Turnover for the relevant year as required under the GS1 Terms of Trade. This rate is used to calculate the GS1 Licence Fee that will be applied in the absence of specific Turnover information. The predetermined fee will be published on the GS1 Website

**Designee** means a person who is a Data Provider's authorised party who creates, maintains, manages or delivers Data on behalf of a Data Provider.

**Fees** means:

- (a) the licence fee for subscription membership payable to GS1 Australia specified in the Licence Application and as communicated to You by GS1 Australia from time to time; or
- (b) any other fee payable for GS1 Services accessed through MyGS1 Portal but not limited to, the Verify by GS1 Service and Manage My Product Service.

**Force Majeure** means an unforeseeable event beyond the reasonable control of a party including act of God, lightning strike, earthquake, high winds, flood, storm, tsunami, landslide, explosion, fire, strikes, civil, disturbances, other industrial actions, war, terrorism, riot, epidemic, pandemic, government action and acts of the enemy.

**GCP Licence** means the licence provided by a GS1 Member Organisation to a member in respect of a range of numbers that can be assigned to that member's products or items.

**Global Company Prefix** means a unique string of digits assigned to You by a GS1 Member Organisation to be used to issue GS1 identification keys. GS1 Company Prefixes starting with a zero ('0') become U.P.C. Company Prefixes by removing the leading zero.

**Global Location Number** means a unique identification key used to identify Locations in respect of a User (including You) (and "GLN" has a corresponding meaning).

**GS1** means the collective reference to GS1 Australia, GS1 International and GS1 Member Organisations.

**GS1 Allocation Rules** means the GS1 Standards relating to validation and assignation of GS1 ID Keys (as may be implemented, amended or replaced by GS1 Australia or GS1 International from time to time).

**GS1 Australia** means GS1 Australia Limited ABN 67 005 529 920, a company limited by guarantee.

**GS1 Barcode** means a GS1 Data Carrier designed to carry the GS1 ID Keys and other attribute information in a machine readable form.

**GS1 GSMP** means the community based Global Standard Management Process for creating and maintaining GS1 standards, guidelines and associated collateral.

**GS1 ID Keys** means GS1 Identification Keys in respect of a subscriber member of GS1 Australia, the GS1 Company Prefix and associated range of GS1 Identification numbers, and individual keys Assigned by GS1 Australia that are licensed to that subscriber member by GS1 Australia in accordance with the GS1 Master Australian Licence and any additional related information issued to that subscriber member by GS1 Australia in accordance with the GS1 Standards, regardless of how they are encoded in data carriers. For the avoidance of doubt, a GTIN constitutes a GS1 ID Key.

**GS1 International** means GS1 association international sans but lucratif, an international not for profit association incorporated under Belgian law with registered office at Avenue Louise 326, 1050 Brussels, Belgium, registered with the register of legal entities (district of Brussels) under number 419.640.608.

**GS1 ID Key Type** means the type of GS1 ID Keys issued by GS1 Australia in accordance with the GS1 Master Australian Licence.

**GS1 Licence Fee** the annual licence fee for GS1 membership payable in advance by You specified in the GS1 Membership Licence Application and payable under the GS1 Membership Agreement.

**GS1 Master Australian Licence** means the exclusive licence granted by GS1 International to GS1 Australia to allocate GS1 ID Keys in Australia.

**GS1 Member Organisations** means members of GS1 International and which includes GS1 Australia and 'GS1 Member Organisation' has a corresponding meaning.

**GS1 Registry Platform** means a registry of keys and associated data that includes components including but not limited to infrastructure, global data dictionary, GS1 licence registry, GS1 key registry, data in services, and data out services.

**GS1 Rules and Instructions** means GS1 Standards, or of any other GS1 manual, standard, guideline, rule, specification, direction, instruction, publication or form relating to the Agreement, access and use of the GS1 Services and/or GS1 System and specifically includes the National Location Registry Rules.

**GS1 Services** means any Additional Products or Services offered by GS1 from time to time in addition to the Services under this Agreement such as, but not limited to, Verified by GS1 and Manage My Products.

**GS1 Service Fees** means the fees payable for GS1 Services supplied by GS1 from time to time.

**GS1 Standards** means any and all standards, guidelines and rules relating to the GS1 system (as may be implemented, amended or replaced by GS1 Australia or GS1 International from time to time) and includes, without limitation, the following (as may be implemented, amended or replaced from time to time):

- (a) the GS1 General Specifications, and in particular Section 4 of this document, and referenced management standards, available at <https://www.gs1.org/barcodes-epcrfid-id-keys/gs1-general-specifications>;
  - (b) the GDSN Standards, available at <https://www.gs1.org/standards/gdsn/current-standard>;
  - (c) all other standards, guidelines, rules specified at [https://www.gs1.org/docs/Detailed\\_Log\\_website\\_posting.pdf](https://www.gs1.org/docs/Detailed_Log_website_posting.pdf);
  - (d) all implementation guidelines, technical specifications and other information relating to the foregoing published from time to time on GS1 International's website at [www.gs1.org](http://www.gs1.org); and
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- (e) all implementation guidelines, technical specifications and other information relating to the foregoing published from time to time on GS1 Australia's website.

**GS1 System** means:

the system of issuing or allocating GS1 ID Keys and Barcode Symbols in accordance with the GS1 Master Australian Licence;

- (a) the system of issuing or allocating Electronic Product Codes; and  
(b) electronic business messaging systems, but expressly excludes all Additional Products and Services.

**GS1 Terms of Trade** means GS1s terms and conditions which govern payment and invoicing for the GS1 Services and the Licence issued under this Agreement. They can be viewed at <https://www.gs1au.org/terms-of-trade>.

**GST** means the tax imposed by the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and the related imposition Acts of the Commonwealth.

**GTIN** means Global Trade Item Number.

**GTIN Licence** means the licence provided by a GS1 Member Organisation to its member in respect of a single product or item.

**Inactive Licence** means a GCP Licence, one-off GTIN Licence or Alliance Number Licence that has either expired or terminated under the applicable terms and conditions.

**Item** means a trade item, process, service, shipment, asset, entity, location or other objects or things.

**Insolvency Event** means a party becomes insolvent, has a controller or receiver appointed, enters into liquidation, provisional liquidation or administration, is subject to an arrangement for protection from its creditors, fails to comply with a statutory demand, it is otherwise unable to pay its debts when they fall due or something having a similar effect to the foregoing happens in connection with the party.

**Intellectual Property Rights** means any and all:

- (a) current and future registered and unregistered rights in respect of copyright, designs, semiconductor or circuit layouts, trademarks, trade names, business names, trade secrets, know-how, confidential information, patents, inventions and discoveries;  
(b) applications for grant of any of the above;  
(c) other rights of a similar nature arising (or capable of arising) under statute or at common law in the Commonwealth of Australia or anywhere else in the world; and  
(d) other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation 1967.

**Item** means a trade item, process, service, shipment, asset, entity, location or other objects and things.

**Licence** means the licence granted by GS1 Australia to You to use the GS1 ID Keys under Clause 2.0 of this Agreement.

**Licence Application** means the application whereby You applied to be allocated GS1 ID Keys to which this Agreement relates.

**Linked Websites** means links to other websites as defined in Clause 7.1.

**Loss** means:

- (a) any liability, expenses, losses, damages, claims, suits and costs (including legal costs on a full indemnity basis, whether incurred by or awarded against a party);
- (b) consequential and indirect losses (including loss or corruption of data, loss of any contract, loss of any business revenue, loss of profits, failure to realise expected profits or savings or any other commercial loss or economic loss of any kind);
- (c) damages including those arising of any third party claim.

**Manage My Products** means the key issuance and management service for You to view, manage and issue GS1 ID Keys available through the MyGS1 Portal.

**Manage My Products Terms** means the terms and conditions which govern the access and use of the GS1 Manage My Products service which is accessed through the MyGS1 Portal and the terms are set out in Attachment B;

**Membership Subscription Type** means the type of membership subscription that You have subscribed to either initially when joining or by upgrade or downgrade during the term of the subscription. The Membership Subscription Type determines how many GS1 ID Keys and GS1 ID Key Types that are able to be allocated to You and that You can Assign to Your Items.

**Modern Slavery** has the meaning given in the Modern Slavery Act 2021 (Cth)

**Moral Rights** means moral rights under the Copyright Act 1968 (Cth) or other analogous rights arising under any laws that exist or that may come to exist, anywhere in the world and include a right of attribution of authorship, a right not to have authorship falsely attributed and a right of integrity of authorship.

**MyGS1 Portal** means the MyGS1 member portal as made available online to You by GS1 Australia and includes any solutions or GS1 Services accessible via the MyGS1 Portal.

**MyGS1 Portal Terms** means the terms and conditions which govern the access and use of the MyGS1 Portal and are set out in Appendix B.

**Non-disclosure Information** means data and information that has been designated as, or by its nature is, private and not to be disclosed to third parties.

**Obligations** means legal or statutory obligations, standards or laws.

**Personal Information** has the meaning given under the Privacy Act 1988 (Cth) and includes any information or opinion whether true or not or whether recorded in a material form or not, about an identified individual or an individual who is reasonably identified from the information or opinion.

**Privacy Policy** means the GS1 Australia Privacy Policy which is set out at <https://www.gs1au.org/gs1-australia-privacy-policy/>

**Statutory Warranties** means those warranties defined in Clause 11.1.

**Third Party Service Provider** means a party authorised by You to apply for or manage GS1 ID Keys and to manage the provision and sharing of Content for the purposes of this Agreement.

**Trademarks** means any word, name, symbol or design or any combination thereof:

(a) associated with GS1 Australia; the GS1 System and/or GS1 Services; and/or

(b) associated with Your Items,

and are governed by the licensing consent under Clause 13.0.

**Transfer** means the process by which GS1 ID Keys that were issued to a Transferor are transferred by, and with the formal written approval of, GS1 Australia to You.

**Transferor** means the person(s) to whom GS1 ID Keys had previously been Allocated by GS1 Australia.

**Turnover Declaration** means the declaration You must provide to GS1 Australia in accordance with the GS1 Terms of Trade.

**UDI Deficiency** means a misconstruction of the UDI, a mismatch between the name of the company holding the license for the GS1 ID Key and the company using the GS1 ID Key or any other inaccurate, incomplete or outdated information related to the UDI.

**Unique Device Identifier** or **UDI** means a GS1 ID Key such as a GTIN used for unique identification of a medical device.

**Use** means the manufacture, sale, trade, exchange, storage, distribution, or management of Items to which GS1 ID Keys have been assigned by You and those Items are in your direct or indirect possession, custody and/or control.

**Us** or **We** means GS1 Australia Limited (ACN) and the company with which You made this Agreement.

**Verified by GS1** or **VbG** means the service provided by GS1 Australia to its customers to obtain Data from the GS1 Registry Platform.

**Verified by GS1 Terms** means the terms which govern the access and use of Verified by GS1 and which are set out in Attachment A.

**You** means the individual, company, corporation, or other legal entity named in the Licence Application. 'Your' has a corresponding meaning.

## 22.0 Interpretation

In this contract, unless the context requires otherwise:

- (a) headings are for convenience and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to a clause, paragraph, schedule or annexure is a reference to a clause, paragraph, schedule or annexure of this contract;
- (f) a reference to this agreement includes any schedules or annexures;
- (g) a reference to any document or agreement includes reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (h) a reference to "\$", "\$A" or "dollar" is a reference to Australian currency;
- (i) a reference to a time or date in connection with the performance of an obligation is a reference to the time or date in the State, Territory or other place where that obligation is to be performed;
- (j) a reference to a party includes its executors, administrators, successors and permitted assigns;
- (k) words and expressions denoting natural persons include bodies corporate, partnerships, associations, governments and governmental authorities and agencies and vice versa;
- (l) a reference to any legislation, statutory instrument or regulation shall be construed in accordance with the Acts Interpretation Act 1901 (Cth) (or the equivalent State legislation, as applicable) and includes that legislation as amended from time to time; and
- (m) "include", "includes" and "including" are not words of limitation.

## **ATTACHMENT A**

### **MyGS1 Portal Terms and Condition**

In addition to the terms of the Agreement, the following terms and conditions in this Attachment A apply when you access and use the MyGS1 Portal (“MyGS1 Terms”).

If You use the MyGS1 Portal, where there is an inconsistency between this Agreement and the MyGS1 Portal, the MyGS1 Portal Terms will prevail to the extent of any inconsistency.

#### **1.0 Terms of Use**

- 1.1 The MyGS1Portal is provided to assist GS1 Members to access various resources and tools to utilise the GS1 system and other GS1 Services including the Verified by GS1 Service (Attachment B) and the Manage My Products Service (Attachment C).
- 1.2 To access the MyGS1 Portal, You must register and activate Your account by selecting a user name and password. You are responsible for keeping this user name and password secure and are responsible for all use and activity carried out under this user name.
- 1.3 Acting reasonably, We may terminate or suspend Your access to the MyGS1 Portal if You cease to be, or are suspended as, a GS1 Member for any reason or You are in breach of Your Obligations under this Agreement or any other agreement between You and GS1 Australia.
- 1.4 In accessing and using the MyGS1 Portal, You agree and understand that:
  - (a) You will only use the MyGS1 Portal strictly in accordance with this Agreement;
  - (b) You are required to provide true and accurate information to GS1 Australia in respect of any transaction or lodgement made through the MyGS1 Portal;
  - (c) the information on the MyGS1 Portal is of a general nature only and has been prepared without taking account of the objectives, requirements or needs of any particular person or company. Nothing in the content on the MyGS1 Portal is, or is intended to be, professional or legal advice;

- (d) the MyGS1 Portal is provided to You strictly on an “as is” and “as available” basis. You must take Your own precautions to ensure that the process which You employ for accessing the MyGS1 Portal does not expose You to the risk of viruses, malicious code or other forms of interference emanating from access to the MyGS1 Portal via the internet, which may damage the systems on Your device;
  - (e) We do not warrant that Your access to the MyGS1 Portal will be free from interruptions, errors or viruses. For the avoidance of doubt, to the fullest extent permitted at law, we are not liable to You, or any other person, and do not accept responsibility for any Loss suffered as a result of interference with or damage to the systems on Your device which arises in connection with Your use of or inability to use the MyGS1 Portal;
  - (f) You must maintain Your own separate copies of all data You input onto the MyGS1 Portal. While We use and employ data backup processes and other procedures to prevent data loss, We make no representation or warranty that there will be no loss of data;
  - (g) You must not to provide false or misleading information or engage in misleading or deceptive conduct in connection with the MyGS1 Portal;
  - (h) You must not access or attempt to access materials or functions on the MyGS1 Portal You are not authorised to use;
  - (i) You must not to interfere with or disrupt (or attempt to interfere or disrupt) the rights of others to use the MyGS1 Portal;
  - (j) You must not use the MyGS1 Portal to conduct or solicit the performance of any illegal activity; and
  - (k) You are responsible for actively managing correspondence sent by GS1 Australia to You through the MyGS1 Portal.
- 1.5 Acting reasonably, We may suspend or remove access to some or all of the MyGS1 Portal, conditionally or unconditionally, in our absolute discretion. Some parts of the MyGS1 Portal may only be available to certain classes of GS1 Members.
- 1.6 Acting reasonably, We may accept or reject any request placed through the MyGS1 Portal at our discretion. We may cancel any request if there is an error or omission in the request or if the request is unable to be processed.
- 1.7 The MyGS1 Portal may provide functionality to pay Your Fees relating to the GS1 System and GS1 Services ordered by You as prescribed on the MyGS1 Portal or invoiced by us.
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- 1.8 All payments are made by a secure server, which will encrypt each transaction as a security precaution, and all payments must be made in Australian Dollars only.

## **2.0 Barcode Image Generation Tool**

- 2.1 You understand that when you use the Barcode Image Generation Tool to generate GS1 Barcodes through the MyGS1 Portal that You are responsible for:
- (a) the quality, correctness, accuracy and completeness of the GS1 Barcode;
  - (b) the quality, correctness, accuracy and completeness of any reproduction of the GS1 Barcode;
  - (c) ensuring that You can use the GS1 Barcode in the file formats provided; and
  - (d) testing and verifying the GS1 Barcode that every application of the GS1 barcode meets the requirements of the relevant ISO Standard.

## **3.0 Linked Websites**

- 3.1 The MyGS1 Portal may contain links to other websites (Linked Websites). Those links are provided for convenience only and may not remain current or be updated by us.
- 3.2 We are not responsible for the content or privacy policies or practices of persons or companies associated with Linked Websites. We will not be liable to You, or any other person, for any loss arising in respect of use or access to Linked Websites. When You access any Linked Websites, You do so entirely at Your own risk.
- 3.3 Our linking to Linked Websites should not be construed as an endorsement, approval or recommendation by us, or the owners or operators of those Linked Websites, of any information, graphics, materials, products or services referred to or contained on those Linked Websites, unless and to the extent expressly stipulated to the contrary.

## **ATTACHMENT B**

### **Verified by GS1 Service**

In addition to the terms of the Agreement, the following terms and conditions in this Attachment A also apply if You elect to use Verified by GS1 on the MyGS1 Portal (“Verified by GS1 Terms”).

If You use the Verified by GS1 service, where there is an inconsistency between this Agreement and the Verified by GS1, the Verified by GS1 Terms will prevail to the extent of any inconsistency.

#### **1.0 Verified by GS1 Service**

- 1.1 This Attachment B sets out the terms and conditions which govern Your access to, and use of, the Verified by GS1 service as a Data Recipient.
- 1.2 Subject to Verified by GS1 Terms, GS1 Australia will provide such data and information comprising the Verified by GS1 service as is published by GS1 Australia from time to time.
- 1.3 GS1 Australia will use its reasonable endeavours to ensure that the Verified by GS1 service performs substantially in accordance with the user documentation published by GS1 Australia from time to time. GS1 Australia does not guarantee that the Verified by GS1 service will be available, or will so perform, at all times but will use reasonable endeavours to schedule controlled maintenance activities outside of Business Hours.
- 1.4 GS1 Australia may from time to time make modifications to the Verified by GS1 service, including its design, functionality and appearance and without notice to You. Where this requires a change to the terms of and annexures to, this Agreement, written notification will be provided.
- 1.5 You acknowledge that GS1 Australia is not a party to any activity or transaction made through or as a result of the Verified by GS1 service and that, to the fullest extent permitted at law, GS1 Australia has no responsibility:
  - (a) for the accuracy or completeness of any information placed or published on or accessed through the Verified by GS1 service by You or by any other party;
  - (b) for any requirement for You to comply with any Obligation;



- (c) for any action or transaction undertaken based on information provided to, obtained from, or accessed through the Verified by GS1 service;
  - (d) for any failure by You to comply with any Applicable Law; or
  - (e) in respect of any act, matter or thing arising out of any transaction, action or inaction involving or associated with Your use of the Verified by GS1 service (including any claim or dispute relating to that transaction, action or inaction),  
and You, to the fullest extent permitted at law, hereby release GS1 from any and all liability arising therefrom.
- 1.6 Acting reasonably, GS1 may, at any time and without any liability to You, amend or remove from the Verified by GS1 service any Content which it reasonably regards as incorrect, misleading, inappropriate or likely to cause a breach of this Agreement by You or a breach of any applicable law.
- 1.7 Acting reasonably, GS1 Australia may at any time and for any reason suspend:
- (a) Your access to or use of Verified by GS1; or
  - (b) the access to or use of Verified by GS1 by any third party (including Your trading partner(s)),
  - (c) without any liability to You.
- 1.8 GS1 Australia will use its reasonable endeavours to provide at least 48 hours notice of such suspension where practicable, however GS1 Australia will not be liable to You for any failure to do so.
- 1.9 GS1 Australia may, at any time, discontinue any product, system, service, directory or catalogue provided through, or associated with, the Verified by GS1 service. GS1 will use its reasonable endeavours to provide at least 48 hours notice of any such discontinuance where practicable. Should GS1 Australia discontinue the provision of the Verified by GS1 service in its entirety, GS1 Australia must refund to You any Fees paid in advance for that service on a pro rata basis according to the unexpired period for which the Fees have been paid.
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- 1.10 You acknowledge that certain data and information is provided to GS1 Australia on the basis that it will not be disclosed to third parties (“Non-disclosure Information”) and that data or information provided as part of the Verified by GS1 service will not include such data or information. GS1 Australia shall not be obliged to advise You where Non-disclosure Information is withheld or excluded from the data or information provided as part of the Verified by GS1 service.

## **2.0 Restrictions on Data Use**

- 2.1 You, as a Data Recipient, shall not:
- (a) present, publish or use Data in a manner that is false or misleading; infringes rights of third parties (including Data Provider or Designee’s rights) and/or violates any applicable laws and regulations;
  - (b) modify the Content of Data in publishing or disseminating such Data (unless You have express written authorisation of Data Provider or Designee to do so);
  - (c) publish or use Data in a manner that implies any endorsement by Data Provider, Designee or GS1 Australia (unless You have express written authorisation of the Data Provider, the Designee or GS1 Australia to do so);
  - (d) use, sell, sublicense, distribute or otherwise make available the Data to third parties, otherwise than as part of a Value-Added Product and, if applicable, You shall ensure that any third party (including, but not limited to, solution providers, agents, subsidiaries, and sub-contractors) You make Data available to is also bound by the restrictions as set out in this clause. For the purpose of this Clause, “Value-Added Product” means a product or service offered by You to Your end-users that uses the Data and adds appreciable value to it, including, without limitation, by combining it with other data, information or analyses sourced or developed by You or by processing or presenting the Data in a novel way. Replicating the Data and/or the Service shall not be considered as adding appreciable value; and
  - (e) decompile, reverse-engineer, alter, or in any way tamper (or attempt to do so) with all or part of the of the Verified by GS1 service or any software or solution comprised therein or connected thereto, nor cause, permit or assist any other person directly or indirectly to do any of the above.
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### **3.0 Inactive Licence**

- 3.1 In the event that You, as a Data Recipient, encounter a GS1 ID Key that relates to an Inactive Licence:
- (a) You may assist GS1 by notifying GS1 Australia of said GS1 ID Key; and
  - (b) if You are a sales organisation, GS1 Australia recommends that You also notify Your suppliers of such Inactive Licence for the supplier to notify its respective GS1 Member Organisation.

### **4.0 Suspension and termination**

- 4.1 The agreement to use the Verified by GS1 service commences on You accessing or using the Verified by GS1 Service, and continues, subject to payment by You of any applicable Fees, until June 30 of each year of use or part thereof, until either party chooses to terminate these Verified by GS1 Terms in accordance with this Agreement.

### **5.0 Warranties**

- 5.1 You agree and understand that:
- (a) the Verified by GS1 service displays Data that is not owned nor controlled by GS1 International or GS1 Australia, therefore the Data is made available on an 'as is' and 'as available' basis;
  - (b) verifications made by the Verified by GS1 service are limited to automated logical checks and do not include physical or legal validations of the accuracy of the Data. GS1, the Data Providers or Designees do not represent or warrant that the Data is accurate, complete and/or up-to-date. Use of the Data, and the Verified by GS1 service is at Your sole risk.
- 5.2 Neither GS1 Australia nor GS1 International represent or warrant that the Verified by GS1 service will be secure or free from error or interruption; and
- 5.3 Neither GS1 International nor GS1 Australia represent or warrant that the Verified by GS1 service and the Data are suitable for any regulatory purpose, including without limitation any regulatory reporting requirements in the healthcare sector.

## ATTACHMENT C

### Manage My Products Service

In addition to the terms of the Agreement, the following terms and conditions in this Attachment C apply if You elect to access and use Manage my Products on the MyGS1 Portal (“Manage my Products Terms”).

If You use the Manage My Products Service, where there is an inconsistency between the Agreement and the Manage My Products Terms, the Manage My Products Terms will prevail in the extent of any inconsistency.

#### 1.0 The Manage My Products Service

- 1.1 This Attachment C sets out the terms and conditions which govern Your access to, and use of, the Manage My Products service as a GS1 Australia subscriber member.
- 1.2 Subject to the other terms and conditions of this Agreement, GS1 Australia will provide such data and information comprising the Manage My Products service as is published by GS1 Australia from time to time.
- 1.3 GS1 Australia will use its reasonable endeavours to ensure that the Manage My Products service performs substantially in accordance with the user documentation published by GS1 Australia from time to time. GS1 Australia does not guarantee that the Manage My Products service will be available, or will so perform, at all times but will use reasonable endeavours to schedule controlled maintenance activities outside of Business Hours.
- 1.4 GS1 Australia may from time to time make modifications to the Manage My Products service, including its design, functionality and appearance and without notice to You. Where this requires a change to the terms of, and annexures to, this Agreement, written notification will be provided.
- 1.5 You acknowledge that GS1 is not a party to any activity or transaction made through, or as a result of, the Manage My Products service and that GS1 has no responsibility:
  - (a) for the accuracy or completeness of any information placed or published on or accessed through the Manage My Products service by You or by any other party;

- (b) for any requirement for You to comply with any Obligation;
  - (c) for any action or transaction undertaken based on information provided to, obtained from, or accessed through the Manage My Products service;
  - (d) for any failure by You to comply with any law, including any provision or requirement of the Australian Consumer Law or of any person exercising power or authority thereunder; or
  - (e) in respect of any act, matter or thing arising out of any transaction, action or inaction involving or associated with Your use of the Manage My Products service (including any claim or dispute relating to that transaction, action or inaction), and You hereby release GS1 from any and all liability arising therefrom.
- 1.6 Acting reasonably, GS1 may (but is not obliged to), at any time and without any liability to You, amend or remove from the Manage My Products service any Content which it reasonably regards as incorrect, misleading, inappropriate or likely to cause a breach of this Agreement by You or a breach of any applicable law.
- 1.7 Acting reasonably, GS1 Australia may at any time and for any reason suspend:
- (a) Your access to or use of the Manage My Products service; or
  - (b) the access to or use of the Manage My Products service by any third party (including any trading partner of You),  
without any liability to You.
- 1.8 GS1 Australia will use its reasonable endeavours to provide at least 48 hours notice of such suspension where practicable, however GS1 will not be liable to You for any failure to do so.
- 1.9 GS1 Australia may, at any time, discontinue any product, system, service, directory or catalogue provided through, or associated with, the Manage My Products service. GS1 Australia will use its reasonable endeavours to provide at least 48 hours notice of any such discontinuance where practicable. Should GS1 Australia discontinue the provision of the Manage My Products service in its entirety, GS1 Australia may refund to You any Fees paid in advance for that service on a pro rata basis according to the unexpired period for which the Fees have been paid.

- 1.10 You acknowledge that certain data and information is provided to GS1 Australia on the basis that it will not be disclosed to third parties (“Non-disclosure Information”) and that data or information provided as part of the Manage My Products service will not include such data or information. GS1 Australia shall not be obliged to advise You where Non-disclosure Information is withheld or excluded from the data or information provided as part of the Manage My Products service.

## **2.0 Restrictions on data use**

- 2.1 You, as a Data Provider, shall:
- (a) not present, publish or use Data in a manner that is false or misleading; infringes rights of third parties (including Data Provider or Designee’s rights) and/or violates any Applicable Laws;
  - (b) not modify the content of Data in publishing or disseminating such Data (unless You have express written authorisation of Data Provider or Designee to do so);
  - (c) ensure that any third party (including, but not limited to, solution providers, agents, subsidiaries, and sub-contractors) You make Data available to is also bound by the restrictions as set out in this Clause 2.0.; and
  - (d) not decompile, reverse-engineer, alter, or in any way tamper (or attempt to do so) with all or part of the of the Manage My Products service or any software or solution comprised therein or connected thereto, nor cause, permit or assist any other person directly or indirectly to do any of the above.
- 2.2 If GS1 Australia, in its sole discretion, suspects or believes that Data is submitted to or published in the Manage My Products service and/or in violation of this agreement (e.g. it violates a third party’s intellectual property rights), it may take appropriate remedial action including, without limitation, by temporarily suspending the availability of or definitively removing the said Data from the Manage My Products service.
- 2.3 If a Data Provider acts on behalf of (e.g. as an agent, distributor, content provider) a Principal Data Provider (e.g. a manufacturer) to create, maintain, manage and/or deliver its Principal Data Provider’s Data, the Data Provider must be able to demonstrate its authority to provide the Principal Data Provider’s Data for the purpose and grant the licence set out in this Agreement at all times and on GS1 Australia’s first request.
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### 3.0 Your Obligations

- 3.1 You must, in using the Manage My Products service, comply with the following:
- (a) maintain the Assignment of each and every one of Your GS1 ID Keys to the Item (including, for the avoidance of doubt, data related to the Item and the GS1 ID Key Type) originally Assigned (whether by You or any Transferor) to that GS1 ID Key;
  - (b) ensure that the Item data (including any Content) for each of Your GS1 ID Keys is accurate;
  - (c) ensure that any Assignment of GS1 ID Keys to Items by You that was not Assigned through the Manage My Products service (“Manual Assignations”) is uploaded by You into the Manage My Products service in a timely manner;
  - (d) check that all details of Manual Assignations so uploaded are accurate in every case;
  - (e) not Assign any GS1 ID Keys to Items through the Manage My Products service until You have uploaded all outstanding Manual Assignations into the Manage My Products service;
  - (f) provide to GS1 Australia, in the form so specified in GS1 Australia’s application for Transferred GS1 ID Keys as notified from time to time, full and complete details of the Assignment for each and every one of the Transferred GS1 ID Keys, to be uploaded by GS1 Australia into the Manage My Products service;
  - (g) check that all details of Assignations of Transferred ID Keys so uploaded are accurate in every case; and
  - (h) not Assign any Transferred GS1 ID Keys to any Items until You have checked that all details of Assignations of Transferred GS1 ID Keys have been uploaded by GS1 Australia into the Manage My Products service and that they are accurate.
- 3.2 You acknowledge and agree that a failure by You to comply with Your obligations in clause may result in consequences to You and third parties including, without limitation:
- (a) instances of Your GS1 ID Keys being Assigned to more than one Item;
  - (b) the inability to register Your GS1 ID Keys as part of the GS1 system and to share Your GS1 ID Keys with trading partners;
  - (c) the unavailability to You of all or certain functionality of the Manage My Products service; and
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- (d) the requirement (including the requirement of Your trading partners) for You to recall or take back Items, Assign new GS1 ID Keys to affected Items, relabel or repackage affected Items, and to undergo further testing of GS1 ID Keys and other related costs, expenses and liabilities.
- 3.3 To the fullest extent permitted at law, GS1 Australia excludes all liability (whether arising in negligence, breach of contract or otherwise at law) in connection with any loss, damage, cost, expense or liability suffered or incurred by You arising from or in connection with Your failure to so comply with Your obligations in clause including, without limitation, as a result of any or all of the consequences referred to above.

#### **4.0 Suspension and termination**

- 4.1 The Agreement to use the Manage My Products Service commences on You accessing or using the Manage My Products Service, and continues, subject to payment by You of any applicable Fees, until June 30 of each year of use or part thereof, until either party chooses to terminate the Manage my Product Terms by sending a written notice to the other party in accordance with the Agreement.
- 4.2 Notwithstanding termination of the Agreement, GS1 Australia may retain the Data provided by Data Provider in the Manage My Products service. By default such Data will be shown but marked as no longer updated. Data Provider may however request that GS1 Australia no longer shows the data.

#### **5.0 Disclaimers and warranties**

- 5.1 Data Provider understands and agrees that its Data (including any weblinks) is shared by GS1 Australia with Data Recipients (which may include consumers) through both local and global GS1 Services such as but not limited to the GS1 Registry Platform.
  - 5.2 Data Provider understands that Data will be validated against and shall comply with the GS1 GSMP approved data validation rules and any other technical specifications that may be implemented and/or as amended from time to time. Data Provider shall be responsible for the quality of the data.
  - 5.3 Data Provider represents and warrants that its Data:
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- (a) originates from, is authorised or approved (validated) by the Data Provider;
  - (b) does not violate any third-party rights, including privacy rights, copyrights, trademarks, patents or other intellectual property rights of any third party, or violates any applicable laws or regulations; and
  - (c) does not contain any virus, Trojans, worms, logic bombs or any other materials which are malicious or technologically harmful.
- 5.4 GS1 Australia does not represent or warrant that the Manage My Products service will be secure or free from error or interruption.
- 5.5 GS1 Australia does not represent or warrant that the Manage My Products service and the Data are suitable for any regulatory purpose, including without limitation any regulatory reporting requirements in the healthcare sector. To the fullest extent permitted by law, GS1 Australia makes no representations or warranties, express, implied or otherwise, regarding any matter, including the Data, and the Manage My Products service. Any such representations or warranties are expressly disclaimed.