



General Terms and Conditions of Membership & Licence Agreement with GS1(MAURITIUS) LTD

The following terms and conditions apply to the Membership of GS1(MAURITIUS) LTD and the Licence to use the GS1 System and numbers granted by GS1(MAURITIUS) LTD to the Member. Use of GS1 Numbers constitutes agreement by the Member to these Terms and Conditions. Failure to observe and abide by these terms and conditions may lead to termination of the Membership and the Licence.

1. DEFINITIONS

The following definitions will apply within these terms and conditions

- 1.1. **"Agreement"** means the present "General Terms and Conditions of Membership & Licence Agreement with GS1 (Mauritius) Ltd"
- 1.2. **"Global Activate Service Component"** means a service offered by GS1 (MAURITIUS) LTD and which consists of a web application software providing the following facilities:
 - Issuance of a Global Company Prefix;
 - Manage barcodes derived from the Global Company Prefix;
 - Barcode image Generation;
 - Product attribute collection and management ;
 - Product attribute sharing; and
 - Import and export of product data.
- 1.3. **"GS1"** means GS1(MAURITIUS) LTD
- 1.4. **"GS1 Numbers"** means the GS1 company prefix and serialized product numbers that are issued to You by GS1 for Your use in accordance with these terms and conditions.
- 1.5. **"Intellectual Property"** means patents, registered designs, utility models, trademarks, applications for any of the foregoing, inventions, unregistered trademarks, copyright, confidential information, know-how, processes and trade secrets and other intellectual property, and equivalents of any of the foregoing anywhere in the world and includes the Trade Mark
- 1.6. **"Licence"** means the licence granted by GS1 to You to use the GS1 Numbers.
- 1.7. **"Licensee"** means You
- 1.8. **"Member"** means You
- 1.9. **"Membership"** means the state of being a member of GS1(MAURITIUS) LTD
- 1.10. **"Products"** means the products manufactured and/or sold by You
- 1.11. **"Application Form"** means the GS1 Application form whereby persons apply to become members of GS1 and for the issue of GS1 Numbers
- 1.12. **"terms and conditions"** means these General Terms and Conditions as varied by time to time by GS1 in accordance with clause 7
- 1.13. **"Trade Marks"** means the trademarks associated with GS1 and/or the GS1 numbering system
- 1.14. **"You"** means the person, company, corporation or other legal entity that has signed the Application Form

applying for membership of GS1 and the issuance of GS1 numbers. "Your" has a corresponding meaning

1.15. "VAT" means Value Added Tax

2. GRANT OF MEMBERSHIP AND LICENCE

- 2.1 If GS1 accepts Your application for membership and issues You with a GS1 company prefix, GS1 also grants You a non-exclusive non-transferable Licence to use those GS1 company prefix in connection with the supply and sale of Your Products.
- 2.2 Upon becoming a member of GS1 (MAURITIUS) LTD, You shall automatically benefit from the Global Activate Service Component which will enable You to generate barcodes and numbers electronically through a unique identification key and a password. Access to the Global Activate Service Component and all information provided by You for purposes of using Global Activate Service Component shall remain strictly confidential.
- 2.3 Membership with GS1 is subject to the condition that each Member shall only be granted one GS1 Number per Business Registration Number. No further GS1 Number shall be granted under the same Business Registration Number and/or Business Registration Card.
- 2.4 The Licence and these terms and conditions come into effect for You on the date on which GS1 issues You with Your GS1 Member Number and will continue until terminated as provided under **clause 14**.
- 2.5 The Member agrees that it is responsible for providing GS1 with the data required for the administration of its membership and that such data is accurate.
- 2.6 Notwithstanding the above clause 2.1, the written permission and approval of GS1(MAURITIUS) LTD is required in the event that You sell the company, brand name, or individual products to a third party and require that Your GS1 Member Number, or specific GS1 Numbers transfers with the products to the new owner. (Such approval to be granted or withheld at GS1's sole discretion; such approval will not be unreasonably withheld).
- 2.7 The granting of a Licence by GS1 (MAURITIUS) LTD is strictly subject to an annual Licence fee as described at subclause 3.2. below. Any failure by a Member to pay such fee shall constitute a breach of this Agreement and shall entitle GS1 (MAURITIUS) LTD to take such legal actions as may be necessary to remedy same.

3. FEES

- 3.1 **Registration Fee:** On joining GS1(MAURITIUS) LTD, You must pay a Registration Fee as specified in the Application Form.
- 3.2 **Annual Licence fee is Payable:** You must pay the Licence Fee to GS1 annually within 30 days of the date of GS1's invoice. The annual fee covers the period 1st January to 31st December.
- 3.3 **Amount of Registration Fee and Licence fee:** As at the commencement of the Membership the amount of the Registration Fee and the annual Licence fee is as specified in the Application Form. However, should a subscriber apply for membership in the course of the year, such subscription fee will be computed for payment purposes on a quarterly basis, i.e., the subscriber will have to pay the full fee for the quarter in which he will have joined GS1(MAURITIUS) LTD.
- 3.4 GS1 may, from time to time, increase the Fee by giving You at least 30 days' written notice. On expiry of the notice period the increase shall be effective and due and payable.
- 3.5 **Fees Payable after Termination of Membership:** Where products bearing GS1 Numbers issued to You are already in the marketplace at the time the Licence is terminated, notwithstanding such termination You will remain liable for a fee equivalent to the then current Licence Fee for the period that You continue to distribute those Products.
- 3.6 **VAT:** All amounts payable under this clause are exclusive of VAT. You will also pay any VAT in addition to the base amount payable.

4. YOUR CONDUCT

4.1 Training: You shall be required to register and undergo training as and when may be required by GS1 (MAURITIUS) LTD within 1 year of joining GS1(MAURITIUS) LTD.

Attendance to this training is mandatory and membership with GS1 (MAURITIUS) LTD is subject to the condition that the training will be completed to the satisfaction of GS1 (MAURITIUS) LTD.

The training seeks to ensure that You are provided with all the necessary information required to make use of your GS1 Number, including calculating barcodes, numbering your products, outercase numbering, check digit calculation, symbols construction, international guidelines for symbols placement, and using the Global Electronic Party Information Registry.

Attendance to such training remains your sole responsibility. Any failure to attend which may result in any defect(s) whatsoever in your GS1 Number and/or your Global Trade Item number as a result thereof shall not render GS1 (MAURITIUS) LTD liable and/responsible in any way whatsoever.

Should You acquire any additional GS1 Numbers and/or request to re-activate your previous GS1 Number after a period of 12 months, you shall be required to attend a further training as and when required by GS1 (MAURITIUS) LTD

4.2 Not Prejudice GS1's Goodwill: You will not at any time during the term of the Membership, or after its termination, be a party to any act, matter or thing whereby GS1's goodwill, trade or business may be prejudicially affected or brought into disrepute.

4.3 Standards: You will abide by and comply with the technical standards set out in the GS1(MAURITIUS) LTD manuals/guidelines and such other directions as GS1 may give from time to time.

5. USE OF GS1 NUMBERS AND OTHER INTELLECTUAL PROPERTY

5.1 Use of GS1 Numbers: Upon joining the GS1 (MAURITIUS) LTD, You shall be granted and become the owner of a GS1 Number Prefix which is unique to You and which cannot be sold, given, or otherwise communicated to and/or disposed of.

The GS1 Number shall become your sole and exclusive property and any loss thereof shall not render GS1 (MAURITIUS) LTD liable in any whatsoever.

You are only entitled to use the GS1 Numbers issued to You by GS1. You must not use any numbers issued by GS1 to any other person. You may not use any numbers which purport to be issued by GS1 or which copy the GS1 numbering system. You will only use the GS1 Numbers issued to You in connection with the manufacture, sale and identification of Your Products.

You must not permit anyone else to use or display the company prefix issued to You. They may not lend; lease; rent out or sell.

5.2 Not Alter the Numbers: You will not alter the GS1 Numbers licensed to You in any way.

5.3 Title to Numbers: The Member acknowledges and accepts that GS1 or its licensors will at all times own the rights and title to the GS1 Numbers and all Intellectual Property relating thereto, and the Member will not at any time do or suffer to be done any act or thing which may in any way impair GS1 rights or its licensors' in the GS1 Numbers or related Intellectual Property.

5.4 The GS1 Numbers are the exclusive property of GS1 or its licensors. The Member will acquire no rights in or to the GS1 Numbers or any related Intellectual Property save as specifically stated in these Terms and Conditions. You must ensure that the products bear all proprietary notices that GS1 may require from time to time.

6. GS1 Numbers used for Unique identification of Medical Devices ("Unique Device identifiers" or "UDI")

6.1. You understand that GS1 is a member of the global GS1 organisation ("GS1 Global Office"), which has been

accredited by certain regulatory agencies as an issuer of UDIs and, in that capacity, both are subject to certain regulatory obligations (e.g. reporting of companies that use the GS1 standards for unique identification of medical devices).

6.2. You understand that when it uses GS1 Numbers to identify a product that may be characterised as a medical device under the laws of the country where such product is marketed (a “Medical Device”), the following rules shall apply:

- (a) upon applying for a license You must inform GS1 if a GS1 Number will be used to identify a Medical Device and in which country the related product will be marketed;
- (b) You are and shall at all times remain responsible for the information about the Medical Device provided by it to GS1 and for compliance with any applicable regulatory obligations and shall ensure any information provided to MO is accurate and up to date at all times;
- (c) GS1 may monitor correct implementation of the GS1 Standards by You;
- (d) In case GS1 identifies a Deficiency (as defined in section 3 below), GS1 may inform You in writing (addressed to Your usual contact person) of such Deficiency, suggesting a way to correct the Deficiency and requiring You to correct such Deficiency within 90 calendar days from the date of the notification (the “Correction Period”).
- (e) GS1 may monitor whether You have corrected a Deficiency within the Correction Period. Failing such correction, at the latest eight (8) calendar days after expiry of the Correction Period, GS1 may contact You again and seek to amicably resolve the Deficiency.
- (f) If the Deficiency is not corrected within an additional period of 90 days from the expiry of the Correction Period and pertains to a repeated and/or deliberate misuse of the GS1 Standards related to UDI, GS1 Global Office, working with the GS1 MO, may inform the regulator and modify the use (incl. suspension and revocation) of the GS1 Company Prefix for UDI implementation in the relevant jurisdiction, as a follow-up action taken in cooperation with the relevant regulator.
- (g) You acknowledge and agree that GS1 must, in the context of its regulatory obligations, share certain information with the relevant regulators either directly or via GS1 Global Office, including without limitation: the fact that You use the GS1 Number to identify Medical Devices marketed in the regulator’s country, the GS1 Number, the name of Your company, as well as any identified and uncorrected Deficiencies. You understand that neither GS1 nor GS1 Global Office may be held liable for any direct or indirect consequences, losses or damages resulting of GS1 and/or GS1 Global Office providing such information to a regulator.

6.3. For the purpose of this section, a “Deficiency” means any of the following: a misconstruction of the identifier, a mismatch between the name of the company holding the license for the GS1 Key and the company using the GS1 Key or any other inaccurate, incomplete, or outdated information.

7. USE OF TRADEMARKS FOR MARKETING/PROMOTION

With GS1’s prior written consent, You may use the GS1 Trade Marks for marketing and promotion of the products. You must ensure that the Trademarks are reproduced only in accordance with the manner, form and other guidelines specified to You by GS1 from time to time.

8. VARIATION OF TERMS AND CONDITIONS

GS1 has the right to vary these terms and conditions at any time by giving written notice to You. Any such variation notified by GS1 shall take effect immediately (unless a later date is specified in the notice).

9. COMPLIANCE WITH GS1 RULES

As long as You remain a member of GS1, you must comply with the terms of the standards, specifications, policies, and terms of use of GS1 Numbers as issued from time to time by GS1. The Member understands that such standards, specifications, policies, and terms of use may require modification and amendment and that such modifications and amendments may be made without prior notice. The Member acknowledges that such standards, specifications, policies, and terms of use are deemed to form part of these Terms and Conditions. Failure to comply with these standards, specifications, policies, and terms of use may result in revocation of a Member's GS1 Numbers and even termination of Membership in accordance with condition 12.

10. SURVIVAL

The covenants and acknowledgements contained in clauses 3.5 4.2, 10 and 11 shall remain in force and effect after the termination or expiry of the Licence for any reason and shall not be deemed waived, merged, or extinguished upon such termination or expiry.

11. INDEMNITY

You agree to indemnify GS1 against claims, suits, losses, damages, or costs suffered or incurred by GS1 as a result of Your conduct, Your use of the GS1 Numbers and any breach of these terms and conditions by You.

12. CONFIDENTIALITY

12.1 You will always keep confidential and secure, and not exploit or otherwise misuse, any information of GS1's which is identified as or would reasonably be expected to be, proprietary, confidential or commercially sensitive.

You will only disclose that information to the extent:

- (a) necessary to perform Your obligations under the Licence and on a "need-to-know" basis only;
- (b) GS1 authorises it in writing; or
- (c) as required by law.

13. MARKET RESEARCH

13.1 GS1 may from time to time, conduct market research with respect to its products, services and outreach potential. All such research shall be conducted in accordance with the laws, regulations, rules, and guidelines of the relevant governmental and quasi-governmental bodies including, but not limited to, GS1. The foregoing shall not be applicable to any information that is publicly available when provided or which thereafter becomes publicly available. Member hereby grants GS1 the right to use such information which is publicly available for the purpose of conducting the aforementioned research.

14. TERMINATION

GS1 shall have the right to terminate the Licence immediately by giving notice if:

14.1 Failure to Pay Licence fee: You fail to pay the annual Licence fee by its due date. This means that You can no longer use the number(s) allocated to You. This withdrawal shall be advised to the numbering organisations around the world and a request will be made to them to inform their retailers not to accept

products bearing those code

14.2 Breach: You commit a breach of Your obligations under these terms and conditions:

14.3 Insolvency: You are declared bankrupt, go into liquidation, have a receiver or statutory manager appointed, or (being a company) are wound up otherwise than for the purpose of a reconstruction; or

14.4 Head Licence Terminates: GS1 ceases to hold the necessary licence rights to issue GS1 numbers in Mauritius.

14.5 Termination by either Party: Either GS1 or You may otherwise terminate this Licence in any other circumstances by giving six months written notice to the other party

14.6 No Release from Obligations: Termination of this Licence does not relieve either GS1 or You from liability arising from any prior breach of the terms of this Licence.

15. CONSEQUENCES OF TERMINATION

15.1 On termination of this Licence, Your rights under this Licence terminate and you must:

(a) immediately cease applying the company prefix and Bar codes to any of Your Products manufactured or sold by You after the termination date;

(b) cease to Use Intellectual Property: cease all direct or indirect use of the GS1 Numbers, Intellectual Property other than in connection with Products manufactured or sold prior to the termination date;

(c) within 7 days, pay to GS1 all amounts due to GS1 under this Licence at the termination date; and

(d) if case of non-payment after 7 days, GS1 reserves the right to take all necessary legal steps to recover the said payments. All costs will be borne by You.

15.2 You are not entitled to any rebate or refund of the Licence Fee or any other fees or charges paid under this Licence, unless this Licence expressly states otherwise.

15.3 The termination or expiry of this Licence does not affect those provisions which by their nature survive termination, including clauses 10 and 11.

16. DISPUTE RESOLUTION

16.1 Where any dispute arises in relation to the contract or any matter arising under it, GS1 and You will make genuine efforts to resolve the dispute by negotiation. In the event that parties fail to remedy the dispute via negotiation, the present contract may at any time be referred, by consenting parties, to mediation under the Mediation Rules of The Mediation and Arbitration Center - Mauritius (MARC).

16.2 In the event no mediation is attempted, or if mediation is attempted and no settlement is reached within fifteen (15) days of the commencement of the mediation, or such further period as the parties shall agree in writing, the dispute, controversy, difference or claim shall be referred, or referred back as the case may be, to be finally resolved by arbitration administered by MARC under the MARC Arbitration Rules in force when the Request for Arbitration is submitted.

16.3 The seat of arbitration shall be Port Louis, Mauritius.

16.4 The number of arbitrators shall be one.

16.5 The arbitration proceedings shall be conducted in English.

17. NOTICES

17.1 All notices and other communications in connection with this Licence:

(a) must be in writing; and

(b) take effect from the time they are received unless a later time is specified.

17.2 Notices for you will be sent to the address specified on Your Registration Form (or such other address as you may notify GS1 of from time to time). Notices for GS1 must be sent to the Chief Executive Officer of GS1 at GS1's address as notified to You from time to time.

18. DATA PROTECTION

18.1 Use of personal data: GS1 uses data obtained from Members for general administration purposes, including but not limited to, building up a database of Members and invoicing Members. From time to time, unless a Member or an individual representative of a Member indicates that they would not like to receive such information, GS1 may use the contact details of such individuals to contact them by post, fax, email or telephone to brief them about GS1 activities and developments relevant to their membership of GS1.

18.2 Consent: The Member confirms that it has obtained the necessary consents of any person whose personal data is made available to GS1 by the Member in connection with these Terms and Conditions, for such person's personal data to be used by GS1.

19. TERMS AND CONDITIONS

19.1 These General Terms and Conditions and Application Form constitute the entire agreement of the parties about its subject matter and supersedes all previous agreements, understanding and negotiations on that subject matter.

19.2 This Licence is governed by the laws in force in Mauritius.

19.3 A provision of this Licence or a right created under it may not be waived except in writing, signed by the party giving the waiver.

19.4 You must not assign, transfer or sublicense Your rights or obligations under this Licence.

20. ANNEX

20.1 Sets out the scale of the registration and licence fee and fees for mandatory training payable when You join. Thereafter You are only required to pay the subscription on an annual basis on the 1st January each year.

To enable us to establish the rate of the Annual Subscription payable by You please ask Your Accountant / Auditors to complete the attached statement and send it to us.

20.2 Sets out the fees charged by us where You ask us to carry out training on Your behalf in respect to Your staff.

21. NOTES

21.1 We will only issue Your certificate of membership of GS1(MAURITIUS) LTD and the GS1 Numbers You require once You have paid Your registration fee, Annual subscription fee, training fee and sent us the requested documents mentioned in the Application Form.

21.2 We reserve to ourselves the right in our sole and absolute discretion to ask You from time to time to submit fresh statement/evidence of your annual turnover for the purposes of confirmation of the rate of Annual Subscription payable by You.

If Your reported turnover has increased placing You in a higher scale, then the increased subscription fee will come into effect on the next renewal date.

21.3 All subscriptions are payable within 30 (thirty) days of the date of issue on the renewal (invoice).

NOTICE Failure to pay may lead to us cancelling Your membership and withdrawing Your allocated bar codes.