



## General Terms and Conditions of Membership & Licence Agreement with GS1 Mauritius

The following terms and conditions apply to the Membership of GS1 Mauritius and the **Licence** to use the GS1 System and numbers granted by GS1 Mauritius 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. **"GS1"** means GS1 Mauritius.
- 1.2. **"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
- 1.3. **"Intellectual Property"** means patents, registered designs, utility models, trade marks, applications for any of the foregoing, inventions, unregistered trade marks, 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 Marks
- 1.4. **"Licence"** means the licence granted by GS1 to You to use the GS1 Numbers.
- 1.5. **"Licensee"** means You
- 1.6. **"Member"** means You
- 1.7. **"Membership"** means the state of being a member of GS1 Mauritius
- 1.8. **"Products"** means the products manufactured and/or sold by You
- 1.9. **"Application Form"** means the GS1 Application form whereby persons apply to become members of GS1 and for the issue of GS1 Numbers
- 1.10. **"terms and conditions"** means these General Terms and Conditions as varied by time to time by GS1 in accordance with clause 7
- 1.11. **"Trade Marks"** means the trade marks associated with GS1 and/or the GS1 numbering system
- 1.12. **"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
- 1.13. **"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. 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 in clause 12.
- 2.3. 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.
- 2.4. Notwithstanding the above clause 2.1, the written permission and approval of GS1 Mauritius 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)

### 3. FEES

- 3.1. **Registration Fee:** On joining GS1 Mauritius, 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.

**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 are required to register and undergo training, within 1 year of joining GS1 Mauritius. Make sure you attend the first course, which is mandatory for all new members.

**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 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:** 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.

**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. **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.

**5.5.** 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.

**5.6.** You must ensure that the products bear all proprietary notices that GS1 may require from time to time.

#### **6. USE OF TRADE MARKS 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 Trade Marks are reproduced only in accordance with the manner, form and other guidelines specified to You by GS1 from time to time.

#### **7. 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).

#### **8. COMPLIANCE WITH GS1 RULES**

8.1 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.

## 9. 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.

## 10. 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.

## 11. CONFIDENTIALITY

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.

## 12. TERMINATION

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

**12.1. 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 codes.

**12.2. Breach:** You commit a breach of Your obligations under these terms and conditions

**12.3. 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

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

**12.5. 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

**12.6. 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.

## 13. CONSEQUENCES OF TERMINATION

**13.1.** 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.

**13.2.** 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.

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

## 14. DISPUTE RESOLUTION

Where any dispute arises in relation to the Licence or any matter arising under it, GS1 and You will make genuine efforts to resolve the dispute by negotiation. Any dispute arising in connection with the present contract shall be settled under the Mediation Rules of the Arbitration and Mediation Center of the Mauritius Chamber of Commerce and Industry (MARC). In the event that no settlement is thereby reached within 15 days of the

commencement of the mediation, or such further period as the parties shall agree in writing, the dispute shall be finally settled under the Arbitration Rules of the Arbitration and Mediation Center of the Mauritius Chamber of Commerce and Industry (MARC), by one arbitrator appointed in accordance with the said rules.

## **15. NOTICES**

**15.1.** 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.

**15.2.** 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 Secretary-General of GS1 at GS1's address as notified to You from time to time.

## **16. DATA PROTECTION**

**16.1 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.

**16.2 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.

## **17. GENERAL PROVISIONS**

**17.1.** 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.

**17.2.** This Licence is governed by the laws in force in Mauritius.

**17.3.** 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.

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

## **18. ANNEX**

**18.1.** 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.

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

## **19 Notes:**

**19.1.** We will only issue Your certificate of membership of GS1 Mauritius 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.

**19.2.** We reserve to ourselves the right in our sole and absolute discretion to ask You from time to time to submit a 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.

**19.3.** 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.