

## **Terms and Conditions for Membership of GS1 Ireland**

The following Terms and Conditions apply to the Licence to use EAN Numbers issued by GS1 Ireland to the Licensee. Use of the EAN Numbers constitutes agreement by the Licensee to these Terms and Conditions. Failure to observe and abide by these Terms and Conditions may lead to termination of the Licence by GS1 Ireland.

### **1. DEFINITIONS**

The following definitions will apply within these Terms and Conditions:

1.1 **"Business Day"** means any day of the week except Saturday, Sunday or a public holiday in Ireland.

1.2 **"EAN Numbers"** means the EAN global company prefix number and other numbers that are issued to You by GS1 Ireland for Your use in accordance with these Terms and Conditions.

1.3 **"GS1"** means GS1 Ireland, a not for profit association.

1.4 **"Intellectual Property"** means without limitation, discoveries, inventions, patents, improvements, business methods, technologies, utility models, trade marks, service marks, logos, registered designs, information, copyright, confidential information, know-how, processes and trade secrets, semi-conductor chip rights, business names, and equivalents of any of the foregoing anywhere in the world and whether registered or unregistered in relation to any of the foregoing and including any applications for registration of the foregoing.

1.5 **"Licence"** means the licence granted by GS1 Ireland to You to use the EAN Numbers.

1.6 **"Licensee"** means You.

1.7 **"Products"** means the products or services manufactured, provided and/or sold by You.

1.8. **"Registration Form"** means the GS1 registration forms whereby organisations apply to become Members or Trade Associates of GS1.

1.9 **"Terms and Conditions"** means these terms and conditions as varied from time to time by GS1 Ireland in accordance with condition 9.

1.10 **"Trade Marks"** means the brand names, trade marks and service marks (whether registered or not and including any applications for registration) with which GS1 and/or the EAN numbering system is associated. The list may be added to or amended by GS1 by giving written notice to You at any time.

1.11 **"You"** means the person, company, corporation or other legal entity that has signed the Registration Forms and "Your" shall be accordingly construed.

## **2. GRANT OF LICENCE**

If GS1 Ireland accepts Your application for membership and issues You with EAN Numbers, GS1 also grants You a non-exclusive non-transferable licence to use those EAN Numbers in connection with the supply and sale of Your Products. The Licence will commence on the date that GS1 Ireland issues You with Your EAN Numbers and will continue until terminated as provided in condition 15.

## **3. COMMENCEMENT DATE**

**3.1 Effect:** These Terms and Conditions between GS1 and You come into effect on the date on which the EAN Numbers are issued to You.

## **4. FEES**

**4.1 Annual Licence Fee is Payable:** You will pay to GS1 Ireland an annual Licence fee. The Licence fee must be paid by You to GS1 Ireland in full by no later than 30 days following the date of invoice.

**4.2 Amount of Licence Fee:** As at the commencement of the Licence the amount of the annual Licence fee is as specified in the Registration Form. GS1 may, from time to time, change the amount of the Licence fee.

**4.3 Fees Payable after Termination of Membership:** Where Products bearing EAN Numbers issued to You are in the marketplace at the time of termination of the Licence pursuant to condition 15, then notwithstanding such termination, You will be liable to GS1 for a fee equivalent to the annual Licence fee for the period that those Products remain in the marketplace.

**4.4 Default Interest:** In the event of any delay in effecting payment due under these Terms and Conditions by the date specified in condition 4.1, GS1 may charge you interest for late payment in accordance with the provisions of the European Communities (Late Payments in Commercial Transactions) Regulations 2002, such interest to accrue from the date of invoice until the date of actual payment and accruing daily and both before and after judgment. We reserve the right to charge an administration fee for late payment of fees.

**4.5 Value Added Tax:** All amounts payable under this condition 4 are exclusive of VAT, which, if applicable, will be charged at the rate applicable at the date of the invoice.

## **5. YOUR CONDUCT**

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

**5.2 Standards:** You will abide by and comply with the technical standards set out in the GS1 Ireland manuals and guidelines and such other directions as GS1 Ireland may give from time to time.

**5.3 Inspection:** You will permit inspection of Your operations and Products which relate to the EAN Numbers at regular intervals to ensure that these Terms and Conditions are being observed

and complied with and You hereby grant GS1, its agents and employees an irrevocable licence at any time to enter any premises where Your Products are or may be stored, or where Your operations are carried on, to inspect them.

## **6. USE OF EAN NUMBERS AND OTHER INTELLECTUAL PROPERTY**

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

**6.2 Not Alter the Numbers:** You will not alter the EAN Numbers licensed to You in any way.

**6.3 Title to Numbers:** You recognise GS1's right and title to the EAN Numbers and related Intellectual Property and shall not at any time do or suffer to be done any act or thing which may in any way impair GS1's rights in the EAN Numbers or related Intellectual Property. The EAN Numbers are the exclusive property of GS1.

**6.4 Not Permit Display:** You will not permit anyone else to use or display the EAN Numbers issued to You.

**6.5 No Challenge or Misuse of EAN Numbers:** You shall not at any time, either during the term of this Licence or after termination, directly or indirectly:

**6.5.1 Challenge Ownership of Numbers:** challenge, call into question or raise any questions concerning the validity or ownership of the EAN Numbers or related Intellectual Property; or

**6.5.2 Seek Registration of Similar Numbers:** use or seek registration of any Intellectual Property including any design which incorporates or includes, or is substantially identical to, or similar to, the EAN Numbers or related Intellectual Property without GS1's prior written consent.

**6.6 Proprietary Notices:** You will ensure that all proprietary notices that GS1 may require from time to time appear on the Products.

## **7. USE OF EAN NUMBERS AND TRADE MARKS FOR MARKETING & PROMOTIONS**

**7.1 Limited Rights to Use for Marketing/Promotion:** GS1 understands that in the marketing and promotion of the Products, You may also wish to use the EAN Numbers and the Trade Marks. Your only rights to use the EAN Numbers and the Trade Marks on marketing and promotional materials are specified in this condition 7.

**7.2 GS1 Consent:** GS1 must be given prior consent to Your request to use the EAN Numbers and the Trade Marks in marketing and promotional materials. You may only use the EAN Numbers and/or the Trade Marks if GS1 gives its prior approval in writing to such use (such approval to be granted or withheld in GS1's sole discretion). You will submit samples of the proposed marketing

and promotional materials to GS1 for approval at least 15 Business Days prior to the intended date of publication.

**7.3 Correct Reproduction of Trade Marks:** If You are permitted pursuant to this condition 7 to use the Trade Marks for marketing and promotional materials, You must ensure that the Trade Marks are correctly reproduced.

## **8. INTELLECTUAL PROPERTY INFRINGEMENT**

In the event that it comes to Your notice that:

- (a) there is an infringement or suspected infringement of the Intellectual Property in the EAN Numbers or the Trade Marks; or
- (b) the EAN Numbers infringe or are suspected of infringing intellectual property rights of others, You will promptly notify GS1 in writing. GS1 will have control over any steps GS1 may wish to take in relation to the suspected infringement and all such steps shall be at GS1's cost. You will provide all such information and assistance in respect of such suspected infringement as GS1 reasonably requests.

## **9. 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).

## **10. COMPLIANCE WITH EAN RULES**

As long as You remain a member of GS1 You must comply with the terms of the General Specifications and Ecommerce Message Specifications. You should also be aware of and comply with our Objectives and Articles of Association, which are available on request from GS1.

## **11. SURVIVAL**

The covenants and acknowledgements contained in conditions 4.3, 5.1, 8, 12, 13 and 15 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.

## **12. INDEMNITY AND LIMITATION OF LIABILITY**

12.1 You agree to indemnify GS1 in full and hold GS1 harmless against any third party claims, proceedings, suits, losses, damages, judgments, awards, expenses or costs (including legal costs) suffered or incurred by GS1 as a result of the negligence, fault, error, omission, act or breach of You, Your employees, staff, contractors, agents or representatives, relating to these Terms and Conditions.

12.2 Notwithstanding any other provision contained in these Terms and Conditions, GS1 shall not be liable to You for any indirect or special, incidental, punitive or consequential loss or damages, whether occasioned by the negligence, fault, error, omission, act or breach of GS1, its employees and contractors and sub-contractors and which shall include, without limitation, loss of contracts, loss of business, loss of customers, revenue or profits, loss of use or data, loss of savings or anticipated savings, loss of investments, loss of goodwill or reputation, capital costs or loss of extra

administrative cost whether or not foreseeable, arising out of or in connection with these Terms and Conditions, whether in an action based on statute, contract, equity or tort including negligence or otherwise at law.

### **13. 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 that:

- (a) it is 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.

### **14. ASSIGNMENT AND SUBLICENCE**

You shall not assign, transfer or sublicense Your rights and obligations under the Licence.

### **15. TERMINATION**

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

**15.1.1 Failure to Pay Licence Fee:** You fail to pay the annual Licence fee by its due date;

**15.1.2 Breach:** You commit a breach of Your obligations under these Terms and Conditions;

**15.1.3 Insolvency:** You are declared bankrupt, or make any composition or arrangement with, or conveyance or assignment for the benefit of Your creditors, or any application is made under any Bankruptcy Act for the time being in force for a sequestration of Your estate, or a trustee is granted by You on behalf of Your creditors, or if You, being a company, have a petition presented for your winding up or enter into voluntary or compulsory liquidation (except for the purpose of a bona fide solvent reconstruction or amalgamation), or if a receiver or examiner is appointed over any of Your undertaking or assets on behalf of debenture holders or creditors or otherwise;

**15.1.4 Cease Trading:** You cease or threaten to cease trading; or

**15.1.5 Head Licence Terminates:** GS1 Ireland ceases to hold the necessary licence rights to issue EAN numbers in Ireland.

**15.2 Termination by either Party:** You may otherwise terminate this Licence in any other circumstances by giving six month's written notice to GS1. GS1 may otherwise terminate this Licence in any other circumstances by giving one month's written notice to You.

**15.3 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.

## **16. CONSEQUENCES OF TERMINATION**

On termination of this Licence, Your rights under this Licence shall terminate and You will immediately comply with the following:

- 16.1 **Cease to Use Intellectual Property:** cease all direct or indirect use of the EAN Numbers and related Intellectual Property;
- 16.2 **Return Materials:** return (without retaining copies thereof) all material, notes, data, instructions and other papers, samples, materials and property GS1 has supplied or other items which contain GS1's confidential information or Intellectual Property relating to the EAN Numbers; and
- 16.3 **Cease applying EAN Numbers to Products:** cease applying the EAN Numbers to any of Your Products manufactured or sold by You after the termination date.

## **17. 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. Nothing in this condition prevents either GS1 or You from applying to a court for urgent relief.

## **18. NOTICES**

All notices and other communications required or permitted under this Licence shall be in writing and shall be delivered personally, sent by post or sent by facsimile transmission (and promptly confirmed by post). Any such notice shall be deemed given when so delivered personally, or if sent by facsimile transmission on the next following business day in the country in which it is received, or the next Business Day after sending by post within Ireland or five Business Days after sending by post to a location outside Ireland. 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 Director of GS1 Ireland at GS1's address as notified to You from time to time.

## **19. DATA PROTECTION**

19.1 **Data protection officer:** Personal data obtained by GS1 in relation to individuals are processed in accordance with the Data Protection Acts, 1988 and 2003, as updated, extended and modified (the "Acts"). GS1's data protection officer is the Membership Services Advisor and can be contacted at GS1 Ireland, 84/86 Lower Baggot Street, Dublin 2, Ireland. Tel: +353 1 605 1539 or email [info@gs1ie.org](mailto:info@gs1ie.org).

19.2 **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 an individual 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.

**19.3 Access to personal data:** Pursuant to the Acts, individuals have the right, subject to certain exceptions, to receive a copy of any information GS1 holds about them on payment of a fee. Individuals seeking such information should apply to GS1's data protection officer.

## **20. GENERAL LEGAL PROVISIONS**

**20.1 Governing Law:** The Terms and Conditions are governed by the law of Ireland and GS1 and You submit to the non-exclusive jurisdiction of the Ireland courts.

**20.2 Waiver:** A waiver by either party to these Terms and Conditions of any breach by the other party of any of these Terms and Conditions or the acquiescence of such party in any act which but for such acquiescence would be a breach as aforesaid, will not operate as a waiver of any rights or the exercise thereof, unless such waiver is in writing and signed by the relevant party providing it.

**20.3 Severance:** If any provision contained in these Terms and Conditions is agreed by the parties to be illegal, void, invalid or unenforceable, or if any court or arbitrator of competent jurisdiction in a final decision so determines, it shall be severable and shall be deemed to be deleted from these Terms and Conditions with effect from the date of such agreement or as declared by a decision of the said court or arbitrator or such earlier date as the parties may agree and shall not affect the validity or enforceability of other provisions in these Terms and Conditions.

### **GS1 Data Protection Policy**

**GS1 Ireland is bound by the provisions of the Data Protection Acts 1988 and 2003, which set out a number of principles concerning the protection of any personal information that GS1 may collect from individuals.**

This document sets out how GS1 will collect, use and disclose any PERSONAL information and Your rights to access and correct that information. GS1 recommend that You read this carefully and retain it for future reference.

#### **Your personal information**

Personal Information held by GS1 may include Your name, current and previous addresses, telephone/mobile phone number, Your EAN•UCC prefix, email address, company bank account and occupation.

#### **Your rights**

While You are not obliged to provide personal information to GS1, without this information GS1 may not be able to provide You with an appropriate level of service and/or issue You with a licence to use EAN Numbers.

You may request access to personal information GS1 hold about You and ask GS1 to correct it if

You believe it is incorrect or out of date. GS1 Ireland's nominated data controller is the Membership Services Advisor.

### **Use of Your personal information**

GS1 takes all reasonable steps to ensure that the personal information collected, used and disclosed is accurate, complete and up-to-date. While GS1 Ireland will not sell Your personal information to third party organisations, from time to time GS1 we may make details about your usage of EAN Numbers available to other parties including but not limited to other GS1 offices.

### **Your personal information may be used in order to:**

- provide GS1 services to You and to manage and administer those services and Your account;
- maintain and develop the GS1 business systems and infrastructure;
- gain an understanding of Your needs in order for GS1 to provide You with a better service;
- research and develop GS1 services; and
- inform You of industry news and developments.

GS1 may also use Your personal information to promote and market other products and services provided, which GS1 consider may be of interest to You. If You do not wish GS1 to contact You in this regard please tick the appropriate box on the membership application form or contact GS1 directly on +353 1 605 1539 and speak to the Membership Services Advisor.

### **GS1 may disclose your personal information to organisations outside GS1 Ireland. The organisations to which GS1 may disclose information include:**

- GS1 related companies
- GS1 professional advisers, including GS1 lawyers, accountants and auditors;
- service providers, contractors and agents who manage the services GS1 provide to You;
- Your authorised representatives or legal advisers;
- government and regulatory authorities and other organisations, as required or authorised by law;
- GS1 may also disclose Your name and company contact details to persons enquiring as to who has been allocated a particular EAN•UCC prefix.

### **How to contact GS1**

If You have any questions in relation to privacy, please contact GS1 on + 353 1 605 1539 between 9.30 am and 5.00pm, Monday to Friday, or write to GS1 Ireland, Confederation House, 84/86 Lower Baggot Street, Dublin 2, Ireland.

This Privacy Policy Statement is current as at January 2005. We may change or update the Policy from time to time.