

Terms and Conditions of the GS1 Member Licence Agreement with GS1 Malta covering the use of GTIN Number.

October 2018

The following terms and conditions apply to the licence to use GTIN Number granted by GS1 Malta to the licensee. Use of the GTIN Numbers constitutes agreement by the licensee to these terms & conditions may lead to termination of the licence.

1. Definitions

The following definitions will apply with in these terms and conditions:

- 1.1 **"Business Day"** Means any day of the week except Saturday, Sunday or a national public holiday.
- 1.2 **"GS1"** Means the GS1 Malta, a Maltese constituted body,
- 1.3 **"GTIN Numbers"** Means the GS1 membership number and product numbers that are issued to You by GS1 Malta for Your use in accordance with these terms & conditions.
- 1.4 **"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 Trade Marks.
- 1.5 **"Licence"** Means the licence granted by GS1 Malta to You to use the **GTIN Numbers**.
- 1.6 **"Licensee"** Means You.
- 1.7 **"Products"** Means the products manufactured and/or distributed and; /or sold by You.
- 1.8 **"Registration Form"** Means the GS1 Malta registration form whereby persons apply to become members of GS1 and for the issue of **GTIN Numbers**.
- 1.9 **"Terms and conditions"** Means these terms and conditions as varied from time to time by GS1 Malta in accordance with Clause 9.
- 1.10 **"Trade Marks"** Means the trademarks associated with GS1 And/or the GTIN.UCC numbering system.
- 1.11 **"You"** Means the person, company, corporation or other Legal entity that has signed the Registration Form applying for membership of GS1 Malta and the issuance of GTIN numbers. "Your" has a corresponding meaning.

2. Grant Licence.

If GS1 Malta accepts Your application for membership in GS1 Malta and agrees to also issue You with GTIN Numbers, GS1 Malta also grants You a nonexclusive non-transferable license to use this GTIN numbers in connection with the supply and sale of Your products. The Licence will commence on the date that GS1 Malta issues You with Your GTIN numbers and will continue until terminated as provided in Clause 15.

3. Commencement Date

These and conditions come into effect for you on the later of 1st April 2005 or the date on which the GTIN Numbers are issued to You.

4. Fees

- 4.1 You will pay to GS1 Malta an annual Membership fee. The Membership fee must be paid by You to GS1 Malta in full by no later than the date stipulated by GS1 from time to time.

- 4.2 As at the commencement of the Licence the amount of the annual Membership Fee is as specified to you by GS1 Malta. GS1 Malta may, from time to time, increase or decrease the amount of the Membership fee.
- 4.3 In case of upgrades and/or downgrades in category of membership, an administrative fee will be charged.
- 4.4 Where Products bearing GTIN Numbers issued to You are already in the marketplace at the time of termination of the Licence pursuant to clause 1 5, notwithstanding such termination You will remain liable for a fee equivalent to the membership fee for the period that those Products remain in the marketplace.
- 4.5 You will pay interest at the prevailing commercial rate on any amount due and not paid within the timeframe required by the licence.
- 4.6 All amounts payable under this clause are exclusive of GST

5. Your Conduct

- 5.1 You will not at any time during the term of the Licence, 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.
- 5.2 You will abide by and comply with the technical standards set out in the GS1 Malta guidelines and/or manuals and/or rules set out in GS1 Malta's website and such other directions as GS1 may give from time to time.
- 5.3 You will permit inspection of Your operations and products which relate to the GTIN Numbers at regular intervals to ensure that these terms and conditions are being observed and complied with.
- 5.4 You will provide GS1 Malta with a list of all the items to which You have allocated an GTIN Number whenever required to do so by GS1 Malta.

6. Use of GTIN Numbers and other Intellectual Property

- 6.1 You are only entitled to use the GTIN Numbers issued to You by GS1 Malta. 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 the GTIN.UCC numbering system. You will only use the GTIN Numbers issued to You in connection with the manufacture, sale and identification of Your Products.
- 6.2 You will not alter the GTIN Numbers licensed to You in any way.
- 6.3 You recognise GS1's title to the GTIN 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 GTIN Numbers or related Intellectual Property.
- 6.4 You will not permit anyone else to use or display the GTIN Numbers issued to You.
- 6.5 You shall not at any time, either during the term of this Licence or after termination, directly or indirectly:
 - (i) Challenge call into question or raise any questions concerning the validity or ownership of the GTIN Numbers or related Intellectual Property; or
 - (ii) Use or seek registration of any Intellectual Property including any design which incorporates or includes, or is substantially identical to, or deceptively or confusingly similar to, the GTIN Numbers or related Intellectual Property without GS1 Malta's prior written consent.

- 6.6 You will ensure that all proprietary notices that GS1 Malta may require from time to time, appear on the Products.
- 6.7 You shall abide by the GTIN Allocation rules made available to you in the form of manuals/leaflets/website or any other form which GS1 Malta may from time to time determine

7. Use of GTIN Numbers and Trade Marks for Marketing and Promotional Purposes

- 7.1 GS1 Malta understands that in the marketing and promotion of the Products, you may also wish to use the GTIN Numbers and the Trade Marks. Your only rights to use the GTIN Numbers and the Trade Marks on marketing and promotional materials are specified in this clause.
- 7.2 GS1 Malta must be given prior written notice of Your desire to use the GTIN Numbers and Trade Marks in marketing and promotional materials. You may only use the GTIN Numbers and/or Trade Marks if GS1 Malta gives its approval by written notice to such use (such approval to be granted or withheld in GS1 Malta's sole discretion). You will submit samples of the proposed marketing and promotional materials to GS1 Malta for approval at least 15 Business Days prior to the intended date of publication.
- 7.3 If You are permitted 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 GTIN Numbers or the Trade Marks; or
- (b) the GTIN Numbers infringe or are suspected of infringing intellectual property rights of others,

You will promptly notify GS1 Malta in writing. GS1 Malta will have control over any steps GS1 Malta may wish to take in relation to the suspected infringement and all such steps will be at GS1 Malta's cost. You will provide information and assistance in respect of such suspected infringement as GS1 Malta reasonably requests.

9. Variation of Terms and Conditions

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

10. Compliance with the GS1 Malta Statute

As long as You remain a member of GS1 Malta, you must comply with the Statute of GS1 Malta.

11. Survival

The covenants and acknowledgements contained in clauses 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

You agree to indemnify GS1 Malta against claims, suits, losses, or costs suffered or incurred by GS1 Malta as a result of Your conduct, your use of the GTIN Numbers, and any breach of these terms and conditions by You (except to the extent GS1 Malta causes or contributes to the claims, suits, losses, damages or costs).

13. Confidentiality

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

- only disclose that information the extent:
- a) necessary to perform Your obligations under the Licence and on a "need-to-know" basis only;
 - b) GS1 Malta authorises it in writing; or
 - c) As required by law.

14. Assignment and Sublicenses

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

15. Termination

- 15.1 GS1 Malta shall have the right to terminate the Licence Immediately by giving notice if:
- I. You fail to pay the annual GS1 Malta Membership Fee by its due date;
 - II. You commit a Breach of Your obligations under these terms and conditions and/or under the GS1 Malta Statute;
 - III. 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
 - IV. GS1 Malta ceases to hold the necessary Licence rights to issue GTIN Numbers in Malta.

15.2 Either GS1 Malta or You may otherwise v terminate this Licence in any circumstances as per Articles 5, 7 and 8 of the GS1 Malta Statute.

15.3 Termination of this Licence does not relieve either GS1 Malta 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 all direct and indirect use of the GTIN Numbers and related Intellectual Property;
- 16.2 Return (without retaining copies thereof) all material, notes, data, instructions and other papers, samples, materials and property GS1 Malta has supplied or other items which contain GS1 's confidential information or Intellectual Property relating to the GTIN Numbers; and
- 16.3 Cease applying the GTIN Numbers to any of Your products manufactured, distributed 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 Malta and You will make genuine efforts to resolve the dispute by negotiation. Nothing in this clause prevents either GS1 Malta or You from applying to a court for urgent relief.

18. Notices

All notices and other communications required under this Licence shall be in writing and shall be delivered personally, by post, or sent by fax transmission. Any such notice shall be deemed given when so delivered personally, or if sent by fax transmission on the next following business day, or the next day after sending by post within Malta. Notices for You will be sent to the address specified on your Certificate of Membership (or such other address as You may notify GS1 Malta of from time to time). Notices for GS1 Malta must be sent to the Chief Executive of GS1 Malta at GS1 Malta's address as notified to You from time to time.

19. General Legal Provisions

- 19.1. The terms and conditions are governed by the Laws of Malta, and GS1 Malta and You submit to the non-exclusive jurisdiction of the Maltese courts.
- 19.2. No waiver, extension or excuse (as the case may be) shall be deemed to arise unless it is in writing and signed by the relevant party providing it.
- 19.3. If any provision contained in these terms and conditions is held to be illegal, invalid or unenforceable, it shall be severable, shall be deemed to be deleted from these terms and conditions and shall not affect the validity or enforceability of other provisions in these terms and conditions.

20. Data Protection

20.1 Data protection officer: Personal data obtained by GS1 Malta in relation to individuals are processed in accordance with the Data Protection Act 2003. GS1 Malta's data protection officer is the Chief Executive Officer and can be contacted at:

GS1 Malta, "IVY House", 150, Suite 1,
Canon Road, St. Venera SVR 9034
T +356 21 33 72 25/8
E info@gs1mt.org www.gs1mt.org

20.2 Use of personal data: GS1 Malta 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 Malta 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 Malta.

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 GTIN. UCC prefix.

20.3 Access to personal data: Pursuant to the Act, individuals have the right, subject to certain exceptions, to receive a copy of any information GS1 Malta holds about them. Individuals seeking such information should apply to GS1 Malta's data protection officer.

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

20.5 All new members will be required to attend a Basics of Barcoding Training Seminar.

How to contact GS1

If You have any questions in relation to privacy, please contact GS1 Malta on:
Tel: + 356 21337225/8 between 9.00 am and 4.00pm, Monday to Friday, or write to:
GS1 Malta, "IVY House", 150, Suite 1, Canon Road, St. Venera SVR 9034

GS1 Malta Member Details:

I, holder of Identity Card number _____
and residing at _____

acting on behalf of the below mentioned company as duly authorised/acting on my own personal capacity, declare that I am authorised to bind the Company/bind myself, to abide with the Statute and Terms and Conditions of GS1 Malta as well as any amendments thereto that may occur from time to time following approval at a General Meeting of the same GS1 Malta.

Company Name: _____

Signature: _____

Name in block letters: _____

Date: _____