



Australia

GS1Locatenet

Terms & Conditions of Use for Australian Users



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Terms and Conditions of Use for Australian Users

1 This Contract

- 1.1 This contract sets out the terms and conditions which govern your access to and use of GS1Locatenet.
- 1.2 By submitting a Registration Form you agree to be bound by the terms and conditions set out in this contract and that You will be so bound upon GS1 providing confirmation of acceptance of your Registration Form or otherwise providing You with access to GS1Locatenet.

2 GS1Locatenet

- 2.1 GS1 will provide You with a User ID and Password ("Sign On") in order to enable You to access and use GS1Locatenet. You must keep the Sign On details assigned to You secret at all times and not permit any person, other than your authorised users, to use GS1Locatenet, and then only in accordance with this contract. You must make your authorised users aware of the terms of this contract. You must immediately notify GS1 of any breach of security of the Sign On assigned to You. GS1 may change the Sign On assigned to You at any time.
- 2.2 You may only use GS1Locatenet for your internal business purposes.
- 2.3 GS1 will use reasonable endeavours to ensure that GS1Locatenet performs substantially in accordance with the GS1Locatenet user documentation published by GS1 from time to time.
- 2.4 GS1 may from time to time make modifications to GS1Locatenet, including its design, functionality and appearance.
- 2.5 You acknowledge that GS1 is not a party to any transaction made through or as a result of GS1Locatenet and that GS1 has no responsibility:
 - (a) for the accuracy or completeness of any information placed or published on or accessed through GS1Locatenet by You or by any other party;
 - (b) for any action or transaction undertaken based on information provided to, obtained from or accessed through GS1Locatenet; or
 - (c) in respect of any act, matter or thing arising out of any transaction involving or associated with your use of GS1Locatenet (including any claim or dispute relating to that transaction).
- 2.6 You must comply with all applicable laws and all reasonable directions issued by GS1 from time to time in relation to your use of GS1Locatenet.
- 2.7 Without limiting any other provision of this contract and unless otherwise specified by GS1, You are solely responsible for:
 - (a) supplying, maintaining and updating all Content on GS1Locatenet;
 - (b) the results of all access to Content by your trading partners, staff or other representatives;
 - (c) reviewing and administering Auto Alerts and Registration Notifications in respect of your trading partners and making all necessary variations to your processes and procedures in response to the content of such Auto Alerts and Registration Notifications;
 - (d) reviewing, checking and amending all Content on GS1Locatenet (including, without limitation, any Content updated by GS1 at your request) and ensuring that at all times such Content remains correct, complete and up to date; and
 - (e) obtaining at your own cost all equipment and software necessary to enable You to access and use GS1Locatenet.
- 2.8 You must not permit any third party to access or use GS1Locatenet without the prior written consent of GS1.
- 2.9 GS1 may access GS1Locatenet on your behalf without notice for purposes associated with GS1Locatenet, including administration, training, education and support.
- 2.10 GS1 will use reasonable efforts to ensure that Content made available through GS1Locatenet is available only to persons who are Users.

- 2.11 GS1 may (but is not obliged to), at any time and without any liability to You, amend or remove from GS1Locatenet any Content which it reasonably regards as incorrect, misleading, inappropriate or likely to cause a breach of this contract by You or a breach of any applicable law.
- 2.12 GS1 may at any time and for any reason suspend your access to or use of GS1Locatenet without any liability to You. GS1 will attempt to notify You of any such suspension but will not be liable to You if it does not do so.
- 2.13 You must immediately advise GS1:
- (a) of any change in your location, email or postal address detailed in the Registration Form completed by You; and
 - (b) if the GS1Locatenet Company Administrator ceases to be an employee or appropriate contact between You and GS1, of details of a replacement GS1Locatenet Company Administrator (including the name, address, phone number and email address of the replacement GS1Locatenet Company Administrator).
- 2.14 GS1 may vary the terms and conditions contained in this contract, including the Fee Schedule, at any time provided that GS1 provides 14 days notice addressed to the GS1Locatenet Company Administrator at the address or email address detailed in the Registration Form or as varied in accordance with clause 2.13.
- 2.15 You may terminate this contract by notice in writing to GS1 within 30 days of delivery of notice of any variation in accordance with clause 2.14.
- 2.16 GS1 may, at any time, discontinue any product, system, service, directory or catalogue provided through, or associated with, GS1Locatenet.
- 2.17 GS1 will, from time to time, issue automatic Registration Notifications and Auto Alerts via email to the email address of the GS1Locatenet Company Administrator and to the email addresses of other Company Users. You agree that the GS1Locatenet Company Administrator and all other Company Users, will receive these email notifications from GS1Locatenet and will not request that these notifications be discontinued.
- 2.18 GS1 does not warrant that it will provide Auto Alerts in respect of all changes to information available through GS1Locatenet and you agree that it is your responsibility to review all information available on GS1Locatenet to ensure that information to be utilised by You is current and up to date.

3 Fees and Payment

- 3.1 Expressions set out in italics in this clause 3 bear the same meaning as those expressions in the GST Act.
- 3.2 You must pay GS1 the Fees.
- 3.3 GS1 will issue invoices for the Fees to You from time to time. You must pay those invoices within 30 days of the date of invoice. Payment may be made by cheque, electronic funds transfer to GS1's nominated bank account, credit card or agreed direct debit authority. An administration surcharge may apply to credit card payments at GS1's option. All invoices will be issued as tax invoices for GST purposes.
- 3.4 To the extent that a party makes a taxable supply in connection with this contract, except where express provision is made to the contrary, and subject to this clause, the consideration payable by a party under this contract represents the value of the taxable supply for which payment is to be made.
- 3.5 Subject to the delivery of a tax invoice, if a party makes a taxable supply in connection with this contract for a consideration which, under the preceding clause represents its value, then the party liable to pay for the taxable supply must also pay, at the same time and in the same manner as the value is otherwise payable, the amount of any GST payable in respect of the taxable supply.
- 3.6 A party's right to payment under the preceding clause is subject to a valid tax invoice being delivered to the party liable to pay for the taxable supply.
- 3.7 For clarity, the amount of the Fees payable by You are exclusive of GST and You must pay GST in addition to the Fees.

4 Warranties and Indemnities

- 4.1 In respect of your use of GS1Locatenet, You must:
- (a) comply with all applicable laws (including the Trade Practices Act 1974 (Cth) and State fair trading legislation);
 - (b) promptly comply with all reasonable directions given by GS1;
 - (c) comply with all instructions, user documentation and other directions for use of the GS1Locatenet ("Instructions for Use") made available by GS1 to You including any Instructions for Use published on the GS1 Website;
 - (d) ensure that all Content is, and remains, accurate and up to date;
 - (e) provide Content in such form (including electronic format), and comply with any standards for the formatting or provision of Content, as are required by GS1 from time to time;
 - (f) use GS1Locatenet strictly in accordance with this contract for the purposes contemplated by this contract;
 - (g) not tamper with or otherwise modify GS1Locatenet;
 - (h) take reasonable precautions to protect the security, privacy and confidentiality of GS1Locatenet;
 - (i) take all reasonable precautions not to post, send or otherwise make available through GS1Locatenet any material that contains any virus, trojan, worm or similar deleterious program that may damage or interfere with the operation of GS1Locatenet or the computer system of any User;
 - (j) not post, send or otherwise make available through GS1Locatenet any material that:
 - (i) infringes GS1's or any third party's intellectual property rights;
 - (ii) is defamatory, harassing or obscene;
 - (iii) is illegal, fraudulent, misleading or deceptive; or
 - (iv) is classified by GS1, in its sole discretion, as inappropriate for inclusion on GS1Locatenet;
 - (k) provide to GS1 information which it reasonably requires in respect of the operation of GS1Locatenet and ensure that this information is both accurate and complete and is delivered to GS1 in a timely manner;
 - (l) not breach or attempt to breach the security of GS1Locatenet; and
 - (m) not interfere with the normal operation of GS1Locatenet.
- 4.2 GS1 agrees to:
- (a) comply with all applicable laws in relation to its operation of GS1Locatenet; and
 - (b) take reasonable precautions to maintain the security of GS1Locatenet.
- 4.3 You agree to indemnify GS1 and keep it indemnified against any liability, loss, cost or damage which GS1 suffers or incurs arising out of or in connection with:
- (a) a breach of this contract by You;
 - (b) any claim against GS1 by a third party relating to, or arising out of, your use of GS1Locatenet;
 - (c) any claim by a third party that any Content infringes the intellectual property rights of that third party; and
 - (d) without limiting the foregoing, any error, inaccuracy, omission, defect, lack of completeness, misrepresentation or other imperfection in respect of any Content.

5 Liability

- 5.1 To the maximum extent permitted by law:
- (a) all terms, conditions and warranties which would otherwise be implied in this contract are excluded; and
 - (b) where any implied term may not be excluded, GS1 limits its liability for breach of that term (at GS1's option) to:
 - (i) if the breach relates to services:
 - (A) the resupplying of the services again; or
 - (B) payment of the cost of having the services supplied again; and
 - (ii) if the breach relates to goods:
 - (A) the replacement of the goods or the supply of equivalent goods;
 - (B) the repair of the goods;
 - (C) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (D) the payment of the cost of having the goods repaired.
- 5.2 Without limiting clause 5.1, GS1 does not warrant that GS1Locatenet will be available at or for any particular time or that it will be free from error or interruption.
- 5.3 To the maximum extent permitted by law, You agree that GS1 shall not be liable to You for any loss, cost, expense, liability or damage ("Loss") (whether arising in negligence, breach of contract, breach of any other law or otherwise) arising from:
- (a) this contract;
 - (b) your use of or reliance on GS1Locatenet;
 - (c) any failure to provide all or part of GS1Locatenet; or
 - (d) any support services, documentation or other products or services provided to You by GS1 in respect of your use of GS1Locatenet.
- 5.4 You agree that GS1 shall not be liable to You for any direct, indirect or consequential Loss (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).

6 Intellectual Property

- 6.1 Unless otherwise expressly provided in this document, You agree that all intellectual property rights in and to GS1Locatenet are owned by GS1 or its licensors.
- 6.2 You warrant to GS1 that You own, or are entitled to use, the intellectual property rights in all Content and that You have the right to grant GS1 the licence referred to in clause 6.3.
- 6.3 You grant GS1 a non-exclusive, perpetual, irrevocable and royalty free licence to use, reproduce and adapt the Content for the purposes of:
- (a) providing and operating GS1Locatenet; and
 - (b) making the Content available to any User (whether in connection with GS1Locatenet or otherwise).

7 Privacy, Confidentiality and Security

- 7.1 GS1's commitment to privacy is set out in the "Privacy Statement" available at the GS1 Website (by clicking "Privacy"). You acknowledge that You have read and understood the Privacy Statement and consent to the collection, use and disclosure of personal information in accordance with the Privacy Statement.
- 7.2 Where You are an individual, You understand and agree to GS1 obtaining information about You and using or disclosing personal information about You on the terms and for the purposes set out in the GS1 Privacy Statement and for the purposes of providing you with the services contemplated by this contract.
- 7.3 You are advised that complaints about acts or practices of GS1 may be investigated by the Privacy Commissioner who has power to award compensation against GS1 in appropriate circumstances.
- 7.4 Each party ("Recipient") must keep the confidential information of the other party ("Discloser") confidential, safe and secure and not disclose it to any person other than:
- (a) the Recipient's agents, advisors, contractors and personnel who have a need to know, provided they are subject to an obligation to keep the confidential information confidential; or
 - (b) where required to do so by law.
- 7.5 Save as otherwise provided in, or contemplated by, this contract, the Recipient will use the confidential information of the Discloser solely for the purpose of using or operating GS1Locatenet in accordance with this contract.
- 7.6 You must not disclose your Sign On details to any person other than your staff, contractors or agents who have a need to know for the purposes of You accessing and using GS1Locatenet in the manner contemplated by this contract.
- 7.7 Subject to clause 7.8, confidential information of a party means trade secrets, ideas, know-how, concepts, processes, data, plans, materials, product development and other information, regardless of its form, that the Recipient knows, or ought reasonably know, is required by the Discloser to be treated as confidential information.
- 7.8 Confidential information does not include any information that is:
- (a) public knowledge at the time it is supplied to the Recipient, or becomes public knowledge subsequently other than through breach of an obligation of confidence;
 - (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 GS1Locatenet (including Content); or
 - (c) in the Recipient's lawful possession prior to it being supplied to Recipient.

8 Term and Termination

- 8.1 This contract commences on the date on which You agree to these terms and conditions and continues, subject to payment by You of the applicable Fees, until terminated in accordance with this contract or otherwise in accordance with law.
- 8.2 Either party may terminate this contract by written notice to the other party if:
- (a) the other party breaches any term of this contract and, if the breach is capable of being remedied, does not remedy it within 14 days after receipt of notice requiring it to do so; or
 - (b) the other 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.
- 8.3 Either party may terminate this contract at any time by giving 30 days notice in writing to the other party.
- 8.4 GS1 may, immediately terminate this contract if:
- (a) You breach any of the provisions of clause 4.1; or
 - (b) You fail to pay any amount payable to GS1 pursuant to this contract on the due date for payment.

9 General

- 9.1 The parties are independent contractors. Nothing in this contract makes a party an agent, partner or joint venturer of the other.
- 9.2 You may not assign this contract without GS1's prior written consent.
- 9.3 This contract is the entire agreement between the parties concerning its subject matter.
- 9.4 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.
- 9.5 This contract is governed by the law in force in Victoria. You submit to the non-exclusive jurisdiction of the courts of Victoria and courts of appeal from them for determining any dispute concerning this contract.

10 Definitions

- 10.1 In this contract the following words have these meanings unless a contrary intention appears:

Auto Alerts means email notifications sent by GS1Locatenet to the GS1Locatenet Company Administrator and other Company Users to notify changes made to the data held in GS1Locatenet by other Users in respect of whom You have subscribed to receive these notifications.

Company Users means persons or email addressees in respect of whom the GS1Locatenet Company Administrator has created user accounts in GS1Locatenet to enable the receipt by that person or addressee of Auto Alerts and/or Registration Notifications.

Content means the text, information and other materials provided by You to GS1 (or directly to GS1Locatenet) for the purposes of publication on GS1Locatenet.

Fees mean GS1's fees for the use of and access to GS1Locatenet, as published by it from time to time, including on the GS1 Website.

GS1Locatenet means the on-line Global Location Number directory service operated by GS1 via the GS1 Website.

GS1Locatenet Company Administrator means the person nominated by You as the "GS1Locatenet Company Administrator" in the Registration Form or advised to GS1 pursuant to clause 2.13.

Global Location Number means a unique identification key used to identify physical locations or legal entities in respect of a User (including You).

GS1 means GS1 Australia Limited (ABN 67 005 529 920).

GS1 Website means the website maintained by GS1 at: www.gs1au.org or www.gs1locatenet.com.au or such other website or websites as are maintained by GS1 for the purposes of providing GS1Locatenet.

GST has the meaning given to that term in the GST Act.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

Registration Form means the registration form utilised for applying for access to GS1Locatenet in the format determined by GS1 from time to time.

Registration Notifications means email notifications sent by GS1Locatenet to the GS1Locatenet Company Administrator and to other Company Users to notify that a new User has registered for GS1Locatenet.

Sign On has the meaning given in clause 2.1.

Tax Invoice has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999.

User means a person that has been approved by GS1 to access and/or maintain content in GS1Locatenet.

You means the entity whose details are set out in the Registration Form (and "your" has a corresponding meaning).

11 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 contract 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
- (m) "include", "includes" and "including" are not words of limitation.



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