

Title	GS1 Trusted Content Service Terms and Conditions of Use
Date	Effective 1 July 2023
Doc type	For Australian users



Disclaimer

THIS DOCUMENT IS PROVIDED "AS IS" WITH NO WARRANTIES WHATSOEVER, INCLUDING ANY WARRANTY OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR PARTICULAR PURPOSE, OR ANY WARRANTY OTHER WISE ARISING OUT OF THIS SPECIFICATION. GS1 Australia disclaims all liability for any damages arising from use or misuse of this document or its contents, whether special, indirect, consequential, or compensatory damages, and including liability for infringement of any intellectual property rights, relating to use of information in or reliance upon this document. GS1 Australia retains the right to make changes to this document or its contents at any time, without notice. GS1 Australia makes no warranty for the use of this document and assumes no responsibility for any errors which may appear in the document, nor does it make a commitment to update the information contained herein.

Table of contents

1.0	This Agreement	1
2.0	GS1 Australia Subscription Membership	2
3.0	The Service	2
4.0	Your Obligations	4
5.0	Fees and payment	6
6.0	Use of the Service and Indemnities	7
7.0	Liability	8
8.0	Intellectual Property and Moral Rights	9
9.0	Privacy, confidentiality and security	10
10.0	Term and termination	11
11.0	Notices	12
12.0	General	12
13.0	Definitions	13
14.0	Interpretation	14

1.0 This Agreement

This Agreement sets out the terms and conditions which govern Your access to and use of the GS1 Trusted Content Service referred to hereafter as the “**Service**”.

- 1.2 By submitting a Registration Form, You acknowledge that You have read, understood and agree to be legally bound by the terms and conditions set out in this Agreement during the period referred to in Clause 10.1, and that You will be so bound upon GS1 providing confirmation of acceptance of Your Registration Form or otherwise providing You with access to the Service.
- 1.3 Subject to these GS1 Trusted Content Service Terms and Conditions, You may complete a Registration Form for the GS1 Trusted Content service.
- 1.4 Upon acceptance of Your Registration Form, an agreement is formed between You and GS1 comprising the terms and conditions of:
 - (a) these GS1 Trusted Content Service Terms and Conditions; and
 - (b) Your Registration Form,**(Agreement).**
- 1.5 The Agreement does not take effect until Your Registration Form has been received and accepted by GS1, with such acceptance totally at the discretion of GS1, and GS1 has notified You of such acceptance.
- 1.6 You acknowledge and agree that any act or omission of any of Your Authorised Personnel or any other person accessing the Service (including acceptance of the terms of this Agreement or any variation to them) shall be treated as an act or omission of You. Any person accepting the terms of this Agreement on Your behalf warrants that he or she has Your authority to do so.
- 1.7 The terms and conditions detailed in this Agreement do not affect any other terms and conditions to which You are subject including any terms and conditions applying to You as a subscriber member of GS1 or as a user of National Product Catalogue, Smart Media or any other service provided by GS1. You agree to continue to comply with all such terms and conditions, including insofar as they apply to any use of the Service, provided that, to the extent of any inconsistency, the terms and conditions of this Agreement shall prevail in respect of any matter relating directly to the Service.
- 1.8 If there is any inconsistency between the terms and conditions of these GS1 Trusted Content Service Terms and Conditions and the provisions of any Registration Form for this Service, the provisions of the Registration Form will prevail to the extent of that inconsistency.

2.0 GS1 Australia Subscription Membership

- 2.1 GS1 is a membership based organisation and users of GS1 services (including the GS1 Trusted Content Service) are required to be "subscriber members" of GS1 (as that term is used in the Constitution of GS1).
- 2.2 You acknowledge that, if You are not already a "Subscriber Member", by subscribing to the Trusted Content service, You are deemed to be a "Subscriber Member" under the Constitution of GS1 in the category of a "Restricted Services Member" and agree to be bound by the current applicable Membership and Licence Subscription terms and conditions, as well as the GS1 Terms of Trade published on the GS1 Australian website from time to time, for the period of this Agreement.
- 2.3 If You have already subscribed to be a "Subscriber Member" in connection with a GS1 Subscription Membership & Licence Agreement, You remain subject to the terms and conditions of Your GS1 Subscription Membership & Licence Agreement in addition to the terms of this Agreement.

3.0 The Service

- 3.1 GS1 will use its reasonable endeavours to ensure that the Service performs substantially in accordance with the Service user documentation published by GS1 from time to time. GS1 does not guarantee that the Service will be available, or will so perform, at all times but will use reasonable endeavours to schedule controlled maintenance activities outside of Business Hours.
- 3.2 Subject to the other terms and conditions of this Agreement, GS1 will provide such data and information comprising the service as is nominated in the Registration Form completed by You and accepted by GS1, or as modified and accepted from time to time.
- 3.3 GS1 may from time to time make modifications to the Service, including its design, functionality and appearance and without notice to You. Where this requires a change to the terms of, and annexures to, this Agreement, written notification will be provided.
- 3.4 You acknowledge that GS1 is not a party to any activity or transaction made through or as a result of the Service and that GS1 has no responsibility:
 - (a) for the accuracy or completeness of any information placed or published on or accessed through the Service by You or by any other party;
 - (b) for any requirement for You to comply with any Obligation;
 - (c) for any action or transaction undertaken based on information provided to, obtained from, or accessed through the Service;
 - (d) for any failure by You to comply with any law, including any provision or requirement of the *Australian Consumer Law* or of any person exercising power or authority thereunder; or
 - (e) in respect of any act, matter or thing arising out of any transaction, action or inaction involving or associated with Your use of the Service (including any claim or dispute relating to that transaction, action or inaction),and You hereby release GS1 from any and all liability arising therefrom.

-
- 3.5 GS1 may (but is not obliged to), at any time and without any liability to You, amend or remove from the Service any Content (and any data, text or information entered onto the Service by any third party) which it reasonably regards as incorrect, misleading, inappropriate or likely to cause a breach of this Agreement by You or a breach of any applicable law.
- 3.6 GS1 may at any time and for any reason suspend:
- (a) Your access to or use of the Service; or
 - (b) the access to or use of the Service by any third party (including any trading partner of You),
- without any liability to You.
- Save in the circumstances contemplated by Section 10.4, GS1 will use its reasonable endeavours to provide at least 48 hours notice of such suspension where practicable, however GS1 will not be liable to You for any failure to do so.
- 3.7 GS1 may vary the terms and conditions contained in this Agreement, including the schedule of Fees, at any time provided that GS1:
- (a) provides no less than 30 calendar days notice of the variation by:
 - i. notice addressed to the Primary Contact at the address or email address detailed in the Registration Form or as varied in accordance with clause 4.10 (b); or
 - ii. posting details of the change on the GS1 website,provided that, if You utilise the Service 30 days or more after delivery or posting of any such notice, You will be deemed to have accepted the Agreement as varied; or
 - (b) first requires one of the Authorised Personnel to accept the Agreement, as varied, during the process for accessing or using the Service.
- 3.8 You may terminate this Agreement by notice in writing to GS1 within 30 calendar days of:
- (a) delivery or posting of notice of any variation in accordance with clause 3.7 (a) unless You have accepted the Agreement as varied; or
 - (b) any requirement to accept the Agreement, as varied, being made in accordance with clause 3.7 (b) provided that the Agreement, as varied, has not so been accepted.
- 3.9 GS1 may, at any time, discontinue any product, system, service, directory or catalogue provided through, or associated with, the Service. GS1 will use its reasonable endeavours to provide at least 48 hours notice of any such discontinuance where practicable. Should GS1 discontinue the provision of the Service in its entirety, GS1 must refund to You any Fees paid in advance for that service on a pro rata basis according to the unexpired period for which the Fees have been paid.

- 3.10 You acknowledge that certain data and information is provided to GS1 on the basis that it will not be disclosed to third parties ("Non-disclosure Information") and that data or information provided as part of the Service will not include such data or information. GS1 shall not be obliged to advise You where Non-disclosure Information is withheld or excluded from the data or information provided as part of the Service.

4.0 Your Obligations

- 4.1 With the exception of purposes defined in clause 4.7(c), You may only use the Service for Your internal business purposes.
- 4.2 You must comply with all applicable laws, all Instructions for Use, and all reasonable directions issued by GS1 from time to time in relation to Your use of the Service including any Instructions for Use published on the GS1 Website. You acknowledge that any failure to comply with any Instructions for Use may result in the Service failing to operate in the manner intended, and in such event GS1 has the right and sole discretion to terminate this Agreement and Your use of the Service in accordance with clause 10.4.
- 4.3 By submitting a Registration Form You confirm that GS1 has provided the required information, and that You have completed the necessary due diligence, to enable You to make the decision to enter into this Agreement.
- 4.4 You agree that You are responsible for advising GS1 Your Data Requirements in order to receive Content as required.
- 4.5 Where any data or information is provided to You as part of the Service and is incorporated into any document, good or service You publish, provide, supply or otherwise make available to any third party, unless otherwise directed by GS1, You agree to acknowledge GS1 as the source of that data or information provided that:
- (a) Your entitlement to use GS1's name and any logo or trademark of GS1 ("**GS1's name and logos**") is limited to use only to the extent reasonably required to comply with clause 4.2;
 - (b) You must follow all reasonable directions of GS1 in respect of the form of any such acknowledgement and any use of GS1's name and logos; and
 - (c) You must cease all such acknowledgement and use of GS1's name and logos immediately upon request by GS1.
- 4.6 You agree that GS1 may utilise Your name and any logo or trademark of Yours in order to promote the Service and may utilise information provided by You (including in Your Registration Form) for this purpose provided that:
- (a) GS1 must follow all reasonable directions of You in respect of form of any such acknowledgement and any use of Your name and logos; and
 - (b) GS1 must cease all such acknowledgement and use of Your name and logos immediately upon any reasonable request by You.
- 4.7 You must not on-sell or supply any Content provided to You as part of the Service to any third party:
- (a) in the form it is provided to You;

- (b) in a manner that competes with the Service; and
 - (c) unless the Content has been incorporated into a good or service You provide to third parties that is substantially different from the Service, with the exception that:
 - (a) the Content can be shared with Your Third Party Service Provider and provided that You acknowledge and warrant that You are responsible for the ongoing use of any Content accessed by or delivered to You and that any subsequent use of that Content by You, and any of Your Third Party Service Providers, contractors or agents, is only for the purposes intended when accessed by or delivered to You, or any of Your Third Party Service Providers, contractors or agents, and that it will be used expressly for Your own business purposes. Furthermore, if You have delivered such Content to Your Third Party Service Providers, contractors or agents, You warrant that You have requested that any such Third Party Service Provider, contractor or agent warrants they will only use that data or information for Your business purposes; or
 - (b) The parties can make prior written agreement for the exchange of Content to any third party provided that such exchange is done under the same conditions and protections as exist in this Agreement.
- 4.8 Without limiting any other provision of this Agreement and unless otherwise specified by GS1, You are solely responsible for:
 - (a) the results of all access to Content by Your trading partners, staff or other representatives;
 - (b) where the Service is unavailable for any reason, taking all necessary alternate steps to ensure compliance with any Obligations; and
 - (c) obtaining at Your own cost all equipment and software necessary to enable You to access and use the Service.
- 4.9 You agree to appoint and maintain at all times a Service Company Administrator and/or Primary Contact and to ensure that Your Service Company Administrator and/or Primary Contact:
 - (a) maintains, and keeps up to date, Your details and Content on the Service;
 - (b) assigns appropriate roles and levels of access to Your Authorised Personnel; and
 - (c) notifies GS1 of any change to the details of any Authorised Personnel.

4.10 You must immediately advise GS1:

- (a) of any change in Your location, email or postal address detailed in the Registration Form completed or subsequently amended by You; and
- (b) if any of the Authorised Personnel ceases to be an employee, or to act in the capacity as an Authorised Personnel, of details of a replacement Authorised Personnel (including the name, address, phone number and email address of the replacement Authorised Personnel and the Authorised Personnel position they are to hold).

4.11 You acknowledge and agree that:

- (a) all data, information and other goods or services to be delivered to You as part of the Service will be delivered to the Primary Contact; and
- (b) the Primary Contact has all necessary authority required to bind You and to give, and receive, notices and directions on Your behalf.

5.0 Fees and payment

5.1 Expressions set out in italics in this clause 5.0 bear the same meaning as those expressions in the GST Act.

5.2 You warrant that all information provided by You to GS1 in respect of its calculation of the Fees payable by You is complete, accurate and up to date. If requested by GS1, You must provide up to date information for the purposes of the calculation of the Fees payable by You. GS1 may increase the Fees payable by You where any up to date information warrants such increase. GS1 requires that the initial invoice, and any ongoing subscription renewal invoices, be paid and cleared before delivery of the required Content.

5.3 You must pay GS1 the Fees.

5.4 You agree that GS1 may make inquiries of third parties to obtain Your Turnover to determine the Fees applicable to You and to verify any Turnover information provided by You and otherwise Your compliance with this Agreement and GS1 may, in its sole discretion, use this Turnover information to assess or re-assess the Fees payable by You.

5.5 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 electronic funds transfer or BPAY 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.

5.6 If You fail to pay the Fees on the due date for payment:

- (a) GS1 may suspend or terminate Your access to, and use of, the Service in accordance with clause 3.6 or 10.0;

- (b) For any overdue amount GS1 may charge an administration fee of \$50.00 (exclusive of GST) plus all costs and expenses incurred by it and its mercantile agents, legal advisors or other consultants or contractors in respect of anything instituted or being considered against You as a liquidated sum (which You hereby acknowledge is a genuine pre-estimate of the costs of GS1 in collecting such amount), together with interest calculated at the rate of 2% higher than the rate for the time being fixed under Section 2 of the *Penalty Interest Rates Act 1983* (Vic) from (and including) the date the payment was due until (but excluding) the date it is received.
- 5.7 To the extent that a party makes a *taxable supply* in connection with this Agreement, except where express provision is made to the contrary, and subject to this clause, the *consideration* payable by a party under this Agreement represents the value of the *taxable supply* for which payment is to be made.
- 5.8 Subject to the delivery of a tax invoice, if a party makes a *taxable supply* in connection with this Agreement 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*.
- 5.9 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.
- 5.10 For clarity, unless expressly stated to the contrary, the amount of the Fees payable by You are exclusive of GST and You must pay GST in addition to the Fees.

6.0 Use of the Service and Indemnities

- 6.1 In respect of Your use of the Service, You must:
 - (a) comply with all applicable laws (including the *Australian Consumer Law* and applicable State fair trading legislation);
 - (b) promptly comply with all reasonable directions given by GS1;
 - (c) comply with all Instructions for Use;
 - (d) use the Service strictly in accordance with this Agreement and for the purposes contemplated by this Agreement;
 - (e) provide to GS1 information which it reasonably requires in respect of the operation of the Service and ensure that this information is both accurate and complete and is delivered to GS1 in a timely manner;
 - (f) not breach or attempt to breach the security of the Service;
 - (g) not interfere with the normal operation of the Service;
 - (h) not alter, reformat, distribute or on-supply any data or information provided as part of the Service in a manner that may misrepresent or mislead any person; and

- (i) not use the Service or any data or information provided as part of the Service in a manner that may cause damage or loss to GS1 or to any person who has supplied that data or information (or any part thereof) to GS1.
- 6.2 GS1 agrees to:
 - (a) comply with all applicable laws applying to it in respect of the operation of the Service; and
 - (b) take commercially reasonable precautions to ensure that the security of the Service is not breached.
- 6.3 You agree to indemnify GS1 and keep it indemnified against any Loss which GS1 suffers or incurs arising out of or in connection with:
 - (a) Your use of the Service or any Content, data, or information provided as part of the Service;
 - (b) a breach of this Agreement by You;
 - (c) any claim against GS1 by a third party relating to, or arising out of, Your use of the Service, other than in relation to a claim by a third party that any Content infringes the intellectual property rights or Moral Rights of that third party where You have acted in accordance with this Agreement;
 - (d) any access to, or use of, the Service by any employee, contractor, agent or associate of You;
 - (e) any claim by a third party that any Content infringes the intellectual property rights or Moral Rights of that third party; and
 - (f) any failure by You to comply with any Instructions for Use which can be solely attributed to Your negligence, wilful misconduct or unlawful acts.

7.0 Liability

- 7.1 To the maximum extent permitted by law:
 - (a) all terms, conditions and warranties which would otherwise be implied in this Agreement 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, or 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.

-
- 7.2 Without limiting clause 7.1, GS1 does not warrant that the Service will be available at or for any particular time or that it will be free from error or interruption.
- 7.3 To the maximum extent permitted by law, You agree that GS1 shall not be liable to You for any Loss (whether arising in negligence, breach of contract, and breach of any other law or otherwise) arising from:
- (a) this Agreement;
 - (b) Your failure to access or use the Service in accordance with any Instructions for Use;
 - (c) Your use of, or reliance on, the Service;
 - (d) any failure to provide all or part of the Service; or
 - (e) any support services, documentation or other products or services provided to You by GS1 in respect of Your use of the Service.
- 7.4 Each Party agrees that it shall not be liable to the other Party 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).
- 7.5 GS1 does not warrant that the entitlement to use, or use of, the Service satisfies all or any legal or statutory obligations, standards or laws ("**Obligations**") referred to in the *Australian Consumer Law*.
- 7.6 You acknowledge and agree that the Fees charged by GS1 are determined by GS1 on the assumption that the exclusions and limits on liability and the indemnities and releases from liability granted by You pursuant to this Agreement are, and will remain, enforceable against You, and You agree that the exclusions and limits on liability and the indemnities and releases from liability set out in this Agreement are fair and reasonable.

8.0 Intellectual Property and Moral Rights

- 8.1 Unless otherwise expressly provided in this document, You agree that all intellectual property rights in and to the Service are owned by GS1 or its licensors.
- 8.2 You agree that where any claim is made that Your use of the Service, or any data or information provided as part of the Service, involves or constitutes any breach of the intellectual property rights of GS1 or of any third party, You agree to discontinue all such use upon becoming aware of such claim or upon receipt of any direction from GS1 to do so.
- 8.3 You warrant that Your performance of this contract (including provision of any Content, data or information) or the use of any Content, data or information by GS1 and its personnel, and any registered user of the Service and their personnel, in accordance with this contract will not infringe the Moral Rights of the personnel of GS1 or any registered user. You must use reasonable endeavours to ensure that none of Your personnel or Your third party's personnel will institute, maintain or support any claim or proceeding against GS1, GS1's personnel, or registered users of the Service or their personnel, for infringement of any of their Moral Rights.

9.0 Privacy, confidentiality and security

- 9.1 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.
- 9.2 Where You are an individual, You understand and agree to GS1 obtaining, using and 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 Agreement and the Instructions for Use.
- 9.3 Where You are not an individual, You warrant that You have obtained all necessary consents and authorisations from any person whose Personal Information is provided by You to GS1 (including Personal Information relating to Company Users) for the use by GS1 of that Personal Information for the purposes of providing and operating the Service and otherwise in the manner contemplated by the GS1 Privacy Statement, this Agreement and the Instructions for Use.
- 9.4 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.
- 9.5 Each party ("Recipient") must use reasonable endeavours to keep the confidential information of the other party ("Discloser") confidential, safe and secure and not disclose it to any person other than:
 - (a) for the purposes contemplated by this Agreement;
 - (b) to 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
 - (c) where required to do so by law.
- 9.6 Save as otherwise provided in, or contemplated by, this Agreement, the Recipient will use the confidential information of the Discloser solely for the purpose of using or operating the Service in accordance with this Agreement.
- 9.7 Subject to clause 9.8, in this clause, "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 to reasonably know, is required by the Discloser to be treated as confidential information.
- 9.8 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 the Service (including Content); or
 - (c) in the Recipient's lawful possession prior to it being supplied to Recipient.

10.0 Term and termination

10.1 This Agreement commences on the first to occur of:

- (a) GS1 advising You of acceptance of Your Registration Form;
- (b) You accepting the terms of the Agreement during access to the Service website; or
- (c) You accessing or using the Service,

and continues, subject to payment by You of the applicable Fees until June 30 of the financial year of commencement ("**Initial Term**"). Once the Initial Term expires, this Agreement shall be deemed to have been renewed for an additional period of 12 months ("**Renewal Term**") and, at the expiry of each Renewal Term an additional Renewal Term, with fees due and payable for each Renewal Term as per Clause 5.3, until either party chooses to terminate this Agreement upon the next expiration or earlier by sending a written notice to the other party in accordance with Clause 10.3.

10.2 Either party may terminate this Agreement by written notice to the other party if:

- (a) the other party breaches any term of this Agreement 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.

10.3 Either party may terminate this Agreement at any time, without cause, by giving no less than 30 days notice in writing to the other party. In the event You choose to terminate this Agreement within two (2) billable quarters of joining, GS1 reserves the right to implement an 'Early Termination Penalty Fee' equal to the unpaid remainder of Your annual contracted schedule fee.

10.4 GS1 may, immediately terminate this Agreement by giving notice to You if:

- (a) You breach any of the provisions of Clause 6.1; or
- (b) You fail to pay any amount payable to GS1 pursuant to this Agreement on the due date for payment.

10.5 Termination of this Agreement in accordance with this clause 10.0 or any other provision of this Agreement or otherwise in accordance with law shall not affect any accrued right or remedy of either party.

10.6 The provisions of clause 6.0, 7.0, 8.0, 9.0, 10.0, 11.0, 12.0 and 13.0 shall survive termination of this Agreement.

11.0 Notices

- 11.1 All notices and other communications in connection with these GS1 Trusted Content Services Terms and Conditions:
- (a) must be in writing; and
 - (b) take effect from the time they are received unless a later time is specified.
- 11.2 If sent by registered post, notices and other communications are taken to be received the day after posting (or seven days after posting if sent to or from a place outside Australia).
- 11.3 Notices and other communications sent by email are taken to be received at the time shown in the email transmission report at the time that the whole communication was sent.
- 11.4 It is Your responsibility to ensure that notices sent to You, or Your staff, by email are able to be received by the intended recipient and are not blocked, bounced or sent to off-line folders.
- 11.5 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). You may specify a different address for the GS1 Smart Media service or National Product Catalogue service.
- 11.6 Notices for GS1 must be sent to the Compliance Officer of GS1 at GS1's address as notified to You from time to time.

12.0 General

- 12.1 The parties are independent contractors. Nothing in this Agreement makes a party an agent, partner or joint venturer of the other.
- 12.2 You may not assign this Agreement without GS1's prior written consent, such consent not to be unreasonably withheld.
- 12.3 This Agreement is the entire agreement between the parties concerning its subject matter.
- 12.4 In the event You subscribe to other GS1 services, and have executed a subscription agreement for those services, the terms and conditions of those service agreements govern those services alone and do not have any meaning or relevance to, or affect upon, these terms and conditions.
- 12.5 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.
- 12.6 This Agreement is governed by the law in force in the state of Victoria, Australia. You submit to the non-exclusive jurisdiction of the courts of Victoria and courts of appeal from them for determining any dispute concerning this Agreement.

13.0 Definitions

In this Agreement the following words have these meanings unless a contrary intention appears:

Australian Consumer Law has the meaning given in the *Competition and Consumer Act 2010*.

Authorised Personnel means the Primary Contact, Service Company Administrator, Invoice or Payment Contact and Company Users.

Business Hours means 9.00am to 5.00pm (AEST) on a day which is not a Saturday, Sunday or public holiday in Melbourne, Australia.

Company Users means persons or email addressees in respect of whom the Service Company Administrator has created user accounts in the Service to enable the receipt by that person or addressee of alerts and/or notifications.

Content means the text, data, information, and other materials provided to You.

Data Requirements means the data attributes, data frequency, data format and file sharing method advised to GS1 on a Data Requirements Form used to determine applicable price levels and to enable appropriate delivery of the Content as required.

Fees mean GS1's fees for the use of and access to the Service, as published by GS1 from time to time, including on the GS1 website, or as agreed to by GS1 in writing (and "**Fee**" has a corresponding meaning).

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

GS1 Smart Media Service means the product photography and content sharing service operated by GS1 which is more particularly described on the GS1 Website.

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

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).

Instructions for Use means any reasonable instructions, user documentation and other directions for use of the Service made available by GS1 to You (including any instructions relating to the Service published on the GS1 Website).

Loss means any liability, expenses, losses, damages and costs (including legal costs on a full indemnity basis, whether incurred by or awarded against a party) and consequential and indirect losses or damages including those arising of any third party claim.

Moral Rights means a right of attribution of authorship, a right not to have authorship falsely attributed and a right of integrity of authorship.

National Product Catalogue means the data synchronisation service operated by GS1 known as "National Product Catalogue" and which is more particularly described on the GS1 Website.

Obligations has the meaning given in Section 7.5.

Personal Information has the meaning given in the *Privacy Act 1988 (Cth)*.

Primary Contact means the person nominated by You as the “Primary Contact” in the Registration Form or advised to GS1 pursuant to clause 4.9.

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

Service means the GS1 Trusted Content Service which is more particularly described on the GS1 Website.

Service Company Administrator means the person nominated by You as the “Service Company Administrator” in the Registration Form or advised to GS1 pursuant to clause 4.9.

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

Third Party Service Provider means any organisation, entity or individual that is engaged by You to manage Content on Your behalf.

Turnover means Your Australian based revenue, including all related entities in which You have a majority interest, for a 12-month period regardless of the number of Items utilising the GS1 System.

You means the entity whose details are set out in the Registration Form (and “you”, “your” and “Your” has a corresponding meaning).

14.0 Interpretation

In this Agreement, 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 Agreement;
- (f) a reference to this Agreement 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 includes that legislation as amended from time to time; and
- (m) “include”, “includes” and “including” are not words of limitation.