



GS1 US DATA HUB® ACCESS AND USE AGREEMENT IMPORTANT – READ CAREFULLY BEFORE PROCEEDING – THIS IS A BINDING LEGAL CONTRACT

YOU UNDERSTAND AND AGREE THAT BY CHECKING THE BOX AND CLICKING THE “ACCEPT” OR “I AGREE” BUTTON, AND/OR DOWNLOADING OR USING ANY PART OF THE PLATFORM (DEFINED BELOW) PROVIDED BY GS1 US, THE COMPANY IS AGREEING TO BE LEGALLY BOUND BY ALL OF THESE TERMS AND CONDITIONS, WHICH INCLUDE A LIMITED LICENSE, DISCLAIMERS OF WARRANTY, AND LIMITATIONS OF LIABILITY. IF YOU DO NOT AGREE TO THIS AGREEMENT, YOU ARE NOT PERMITTED TO ACCESS OR USE THE PLATFORM AND YOU WILL HAVE NO LICENSE TO USE THE PLATFORM.

IMPORTANT: The Platform is a proprietary product and is protected by copyright and other intellectual property laws. It is licensed (not sold) subject to the condition that you agree to and abide by the terms and conditions of this Agreement.

This GS1 US Data Hub Access and Use Agreement (the “**Agreement**”) is entered into by and between the Company (which is both the corporation, organization, business or other entity, as well as the natural person(s) who will access and use the Platform on such entity’s behalf) (“**Company**”, “**You**” or “**Your**”), and GS1 US, Inc. (“**GS1 US**”), and sets forth Company’s rights and obligations with respect to the access and use of GS1 US Data Hub® (“**Data Hub**”). GS1 US and Company are collectively hereinafter referred to as the “**Parties**”, or when used individually, a “**Party**”. Company understands and acknowledges that a subscription to Data Hub includes a right to access and participate in Data Hub only and does not provide any membership in GS1 US, nor a right to any Company Prefix or any other identifier or Program offered by GS1 US. Additional terms and conditions (“**Additional Terms**”) may be required for use and distribution of features available through Data Hub, under certain situations, whether by click through or written agreement (which must be signed by an officer of GS1 US to be enforceable). To the extent of a conflict between this Agreement and Additional Terms, this Agreement shall govern and control in all respects.

1. DATA HUB DESCRIPTION.

- A. **Generally.** For purposes of this Agreement, the term “**Platform**” refers to collectively the total server and network equipment, storage systems, software, interfaces, documentation, functionality (such as the GLN lookup tool (“**Lookup Tool**”), network interfaces, and systems management processes which comprise the applications infrastructure for an internet based communications system known as “Data Hub”, and depending on Company’s type of subscription, may include access to and use of the Data Hub Product, Data Hub Location and Data Hub Company (each, a “**Subscription Type**”) among other features and functionality. The term “**Platform Data**” refers to any and all data, information and materials that can be obtained or submitted into the Platform, including, without limitation Your Company Data (defined below). The Platform specifically excludes all hardware, application software and documentation (e.g., Your desktop computers and Internet browser software) owned, licensed and/or used by You to interface with Data Hub. Platform Data may be available through GS1 US or other third party data providers and this Agreement shall apply to Your access and use of the Platform Data regardless of whether You obtain access to the Platform Data through GS1 US or a third party data provider or platform.
- B. **Platform Functionality.** Depending on Your Subscription Type, the Platform supports the ability of subscribers to create and manage Global Trade Item Numbers (“**GTIN(s)**”) and Global Location Numbers (“**GLN(s)**”). Subscribers can utilize the Platform to query Platform Data, including, without limitation GTIN and GLN information, of other companies that have a licensed GS1 Company Prefix(es) from GS1 US, or from another GS1 member organization pursuant to that certain License of GS1 Company Prefix (the “**License Agreement**”). A “**Company Prefix**” is a globally unique number licensed to companies by GS1 US to create the identification numbers such as GTINs and GLNs. Depending on Your Subscription Type, You may be able to perform certain functions, including, without limitation, pushing Company Data to the Platform and creating, managing, sharing, viewing and using Platform Data. The specific limited access and use rights made available through the various functionalities available in the Platform will be specifically described in the materials available when You purchase Your Subscription Type. Generally speaking, “**first party**” subscribers to the Platform will already have obtained a license to use their GS1 Company Prefix pursuant to the License Agreement and will be able to use the Platform to create and manage Company Data, whereas “**third party**” subscribers to the Platform will be granted limited access rights to searching, viewing and using “**first party**” Platform Data available via the Platform. Third parties, such as GS1 US approved solution providers, may be granted the limited right to push or otherwise provide Company Data to the Platform provided they have first obtained the express prior written consent of the owner of such data and confirmed the Company Data is accurate and correct prior to providing the Company Data to the Platform. GS1 US reserves the right to change Your access and use rights to the Platform, Your ability to push Company Data into the Platform and the Platform Data available to You through the Platform, at any time, by providing written notice on the Platform. If GS1 US changes, adds to, subtracts from, suspends or discontinues any features or functionalities available through the Platform (including Your access and use rights to the Platform), GS1 US has no obligation to update this Agreement and this Agreement will continue to govern the Parties’ rights and obligations with respect to the Platform. Further, if You choose to change your Subscription Type after Your initial subscription, our standard Data Hub Access and Use Agreement will govern the Parties’ rights and obligations with respect to Your Subscription to the Platform. To the extent that You allow Your Company Prefix or Your subscription to the Platform to lapse, including, without limitation, for any failure to pay licensing fees or failure to comply with this Agreement: (i) You, and any authorized user acting on Your behalf, will no longer have access to Company Data); and (ii) Your access or any authorized users access to and use of the Platform, and any information created by You or any authorized user on Your behalf, may be suspended by GS1 US, in its sole and absolute discretion. You may be granted the right to have GLNs assigned from one (1) or more GS1 Company Prefixes licensed to and managed by GS1 US. Your providers are covered under Your subscription, including all providers that become self-managed during the duration of Your subscription. You acknowledge and agree Your failure to comply with any of the covenants, conditions and obligations in this Agreement shall constitute a breach of this Agreement and shall be grounds for the immediate termination of this Agreement, of any licenses granted hereunder and cessation of participation in the Platform.
- C. **Lookup Tool.** The Platform includes certain functionality referred to as our Lookup Tool which allows individual users to search Data Hub for GLNs and related Platform Data. GS1 US may provide access to the Lookup Tool for free for conducting searches, limited to 10 results per search, before requiring You to maintain a paid Subscription Type in order to continue using the Lookup Tool. GS1 US reserves the right to change access and use rights of the Lookup Tool, or otherwise entirely remove the Lookup Tool from the Platform, at any time. The Lookup Tool results are shown to help You obtain information about GLNs and other Platform Data we make available through the Lookup Tool, and for no other purpose. You agree to use this Platform Data only for lawful purposes in accordance with this Agreement. GS1 US reserves the right to restrict or terminate Your access to the Platform Data and/or the Lookup Tool if You fail to abide by this Agreement.
- D. **Reservation of Rights.** The Company Prefix used to create a GLN or GTIN is licensed by GS1 US. Any GLN or GTIN assigned by GS1 US is owned by GS1 US and is to be used in accordance with GS1 US recommended rules and guidelines to identify a legal entity, functional entity, or physical location of the Company to be controlled by Company. You may not modify the GLN or GTIN in any way. The GLN or GTIN is to be used only by Company and may not be sold, leased, sublicensed, or subdivided. Nothing in this Agreement shall effect a transfer of copyright, trademark or any other applicable intellectual property rights from GS1 US to Company in the Platform. Company shall under no circumstances remove or otherwise alter any GS1 US copyright, trademark, service mark or other proprietary notices on the Platform.

2. **TERM & TERMINATION.**

- A. **Effective Date & Initial Term.** The term of this Agreement and access to the Platform shall commence upon receipt of Company's payment of the initial subscription fee ("**Effective Date**") and, unless sooner terminated in accordance with this Agreement, Your subscription to the Platform shall continue in effect for a period of one (1) year from the Effective Date (the "**Initial Term**").
- B. **Renewal.** This Agreement shall automatically renew at the end of the Initial Term for successive annual one (1) year terms on each anniversary of the Effective Date (each being a "**Renewal Term**" and collectively with the Initial Term, the "**Term**"), subject to the then applicable terms and conditions established by GS1 US, including, but not limited to, timely payment of all applicable renewal subscription fees and continued compliance with all of the terms and conditions of this Agreement, unless sooner terminated in accordance with this Agreement.
- C. **Termination.** Notwithstanding the above, this Agreement shall terminate upon: (i) a material breach by a Party to perform its obligations under this Agreement (which, in case of Company, shall include, among other things, failure to make any payments when due), which breach continues for a period of thirty (30) days following receipt of written notice by the other Party; (ii) the bankruptcy or insolvency of a Party (in which event no notice shall be required); (iii) the sale of Company to an entity, whether by sale of all or substantially all of Company's assets, merger or consolidation, in which Company is not the surviving party, or sale of equity which results in the transfer of more than fifty percent (50%) of the voting interests in Company, *provided* further that Company must send written notice to GS1 US within ninety (90) days from the close of such sale; or (iv) at any time and for any reason either Party may terminate this Agreement by sending written notice to the other Party at least thirty (30) days prior to the commencement of any Renewal Term. Upon termination, Company shall, unless directed otherwise by GS1 US, immediately cease use of the Platform (and GS1 US shall block Company's access to the Platform). Upon expiration or termination of this Agreement, each Party shall immediately cease use of the other Party's confidential information and shall, within thirty (30) days after any such termination, deliver to the other Party, at its expense or, at the other Party's request, destroy all copies of the other Party's confidential information in any form then in its possession or control, and an appropriate officer of such Party shall provide the other with written acknowledgement thereof.

3. **FEES & INVOICING.**

- A. **Fees.** Provided Company shall maintain an active Company Prefix in good standing with GS1 US, Company shall receive free access to the Platform for one (1) single individual user for a Company employee that is designated by the Company. Such individual, as a representative of the Company, will receive free access to the Platform on behalf of Company. GS1 US reserves the right to discontinue the single user free access program for to the Platform at any time in its sole discretion through written notice to Company (email to suffice). To obtain access to the Platform for users beyond such one individual designated by Company that will receive free access, or any additional Data Hub subscriptions, , except in the event Company is accessing through a free trial or access to the GLN Lookup Tool, Company agrees to pay GS1 US an annual subscription fee (as published on the GS1 US website) for the Term of this Agreement. Company agrees to pay the fees for its access and use of the Platform as contemplated below. GS1 US may suspend Your access to the Platform (and any Platform Data accessible therefrom) or terminate this Agreement, if you You violate the terms of the single user free access through sharing of usernames/passwords or otherwise, if fees are not paid when due (until such time the fees are paid), to prevent imminent harm or damage to a third party or if You are otherwise in breach of any provision of this Agreement until such time the breach is cured.
- B. **Invoicing; Taxes.** GS1 US shall invoice Company the annual fees and any applicable taxes for the Term upon the Effective Date, and for any Renewal Term, no less than thirty (30) days prior to the commencement of each Renewal Term. Company shall pay all invoices within thirty (30) days of receipt of the invoice. In addition to GS1 US fees and any charges under this Agreement, Company is responsible to pay all applicable taxes, which GS1 US is specifically required by law to collect, unless Company has provided GS1 US with a copy of a tax exemption certificate. All fees and charges shall be net of all taxes that Company is required by law to withhold and remit to a taxing authority. GS1 US reserves the right to change the pricing of the subscription to the Platform at the conclusion of any Initial Term or Renewal Term.

4. **PLATFORM AND REGISTRATION DATA.** Company agrees to provide and maintain throughout the Term, current, complete, and accurate data in the Platform, including, without limitation, the data that was derived from Your Company Prefix and any GLN or GTIN data related to Your subscription to the Platform (including that of Your providers (managed and self-managed)) (collectively, "**Company Data**"), regardless of whether such Company Data was provided by You or a third party on Your behalf. Company grants to GS1 US, GS1 AISBL, GS1 international member organizations and other Platform subscribers, a royalty-free, non-exclusive, worldwide right and license to the Company Data (including the right to sublicense (which shall expressly include the right to make the Company Data available on Third-Party Products (defined below) and make derivative works thereof), including, without limitation, the right to facilitate Company's and such other subscriber's use of the Platform and for GS1 US's commercial purposes, which include making the Company Data available to various third parties to help facilitate supply chain management on a worldwide basis, including without limitation, to be pushed into, included and available as part of an international/global registry of company data. You understand that by making Company Data available on the Platform, Your Company Data will be shareable and accessible by other Platform subscribers, including, a global registry available internationally. You understand and agree Platform Data may not be accurate or complete. Without limitation, if the subscribers, members and users of the Platform do not update their Platform Data, the Platform Data may not be current or accurate. Despite the continued availability of Company Data through the Platform, GS1 US undertakes no hosting, security or other obligations relating to any Platform or Company Data and any third party's use thereof.

Company agrees to provide and maintain current, complete and accurate registration information, as originally set forth in Your application for the purposes of maintaining such data with GS1 US for identifying Company. If any of the registration or account information You used to subscribe to the Platform changes, You must promptly contact the GS1 US.

To the extent that GS1 US advertises that any Platform Data, including Your Company Data has been "**Verified by GS1**", Company understands and acknowledges that "**Verified by GS1**" indicates that GS1 US has performed a limited automated logical check of its internal systems to confirm that GS1 US maintains in its database the constructed product identifier (GTINs) and the GTIN is associated with a licensed prefix in the database and a set of select brand attributes for each GTIN that is considered "**verified**". These brand attributes may include: brand name, product description, product image URL, global product classification, net content and unit of measure and target market. However, GS1 US has not verified the accuracy of the select brand attributes; therefore, the "**Verified by GS1**" seal does not provide a guarantee by GS1 US that the Platform Data is current, complete or accurate, only that GS1 US maintains such brand attribute data in its internal registry. The verification made by the Platform is limited to certain automated logical checks but does not include physical or legal verification of the accuracy of the Platform Data. Company acknowledges that its use of the Platform Data is at Company's own risk and GS1 US will not be responsible for any liability arising from Company's use of the Platform Data, even if it has a "**Verified by GS1**" seal.

You may use, or GS1 US may enable or allow access to Platform Data, including Your Company Data, through third party marketplaces and other third-party platforms, web sites, products and services (each, a "**Third-Party Product**"). You are solely responsible for entering into and complying with any contractual agreement or other terms and conditions that are required by the provider of any Third-Party Product if You access or use the Platform Data through such Third-Party Product. GS1 US does not make any representation or warranties regarding any Third-Party Product or the Platform Data made available through a Third-Party Product. GS1 US shall have no obligation or liability relating to any Third-Party Product, including Your use of the Third-Party Product or Your access to the Platform Data through such Third-Party Product.

5. **TERMS OF USE.** In addition to this Agreement, the terms of use located at <http://www.gs1us.org/terms-of-use> are incorporated by reference. To the extent there is a conflict between this Agreement and the terms of use, this Agreement shall control.

- A. You acknowledge and agree that, subject to Your payment of the applicable subscription fees, You may use the Platform solely for the Company's internal business or educational purposes and GS1 US grants You a limited, revocable, non-exclusive, non-transferable, non-sublicensable license to use and access the Platform for Your internal business and educational purposes only. You agree You will not distribute, sell or resell the Platform,

Platform Data or allow third parties to access the Platform or Platform Data. As a condition of the license, You agree to abide by the restrictions in Section 5(B) below. Notwithstanding the grant of the foregoing license to Company, as between GS1 US and Company, the Platform shall at all times remain the sole property of GS1 US.

- B. You agree any other use of the Platform, (including any Platform Data), except as expressly provided in Section 5(A), is prohibited. You understand and agree that GS1 US may monitor Your use of the Platform. You represent, warrant and covenant that: (a) You will not use, upload, post, transmit to, distribute or otherwise publish through the Platform any communication, information data, materials or any part thereof which: (i) restricts or inhibits any other user from using and enjoying the Platform including the Platform Data; (ii) is unlawful, threatening, abusive, libelous, defamatory, obscene, vulgar, offensive, pornographic, profane, sexually explicit or indecent or otherwise objectionable; (iii) constitutes or encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate law; (iv) violates, misappropriates, plagiarizes or infringes the rights of GS1 US or any third party, including, without limitation, copyright, trademark, patent, rights of privacy or publicity or any other proprietary right; (v) contains a virus or other harmful component; or (vi) constitutes or contains false or misleading statements of fact or indications of origin; (b) You are at least eighteen (18) years of age and are legally competent to enter into this Agreement and bind Your Company to this Agreement; and (c) You will not and will not permit any third party to: (i) modify or create any derivative work of any part of the Platform; (ii) alter, remove, or obscure any copyright, trademark, or other proprietary notices on the Platform; (iii) disassemble, decompile, reverse assemble, reverse compile, reverse engineer, tamper with, or otherwise translate the Platform or otherwise attempt to gain access to the source code or software of the Platform, or use any device, program or service designed to circumvent technological measures employed to control access to, or the rights in, the Platform (or purport to permit any third party to do so); (iv) sell, license, sublicense, publish, display, distribute, assign, or otherwise transfer the Platform, or any rights in the Platform (in whole or in part) to a third party; (v) use GS1 US's name, logos, or other trademarks to market products or services, without GS1 US's prior written consent; (vi) use the Platform, or any element thereof, to create (or allow third parties to create) any software product capable of emulating or competing with the Platform (or facilitating the emulation of or competition with the Platform), or use any of the Platform's components, files, modules, audio-visual content, or related licensed materials separately from the Platform; (vii) exceed the scope of the licenses granted, including only permitting authorized users of Company to access and use the Platform; (viii) conduct or promote any illegal activities while using the Platform; and/or (ix) take any action which interferes with the performance or functionality of the Platform; and (d) You will provide accurate and complete Company Data to the Platform and You have all necessary rights, approvals and permissions to provide the Company Data to the Platform. Further, You agree You will not: (a) present, publish or use any Platform Data in a manner that is false or misleading, infringes the rights of third parties (including the Platform Data provider's rights) and/or violates any applicable laws and regulations; modify the content of the Platform Data in publishing or disseminating such Platform Data (unless You have express written authorization of GS1 US to do so); (b) publish or use the Platform Data in a manner that implies any endorsement by GS1 US or the Platform Data provider (unless You have prior express written authorization to do so); or (c) use, sell, sublicense, distribute or otherwise make available the Platform Data to third parties, without GS1 US prior express written authorization. Failure to abide by the terms and conditions set forth herein shall constitute a material breach of this Agreement and result in immediate suspension of access to the Platform and termination of this Agreement. Upon GS1 US's written request, You agree to provide us with written documentation (in any form that we reasonably request), that You are in compliance with the terms and conditions of this Agreement, including, without limitation, the requirements set forth in this Section 5(B).
- C. You understand that GS1 US may change, suspend or discontinue any aspect, feature, component or service of the Platform or terminate this Agreement at any time, without prior notice. If GS1 US materially changes the Platform or limits Your use of the Platform other than for Your breach of this Agreement, then within thirty (30) days of making that change, You may terminate this Agreement by providing us with written notice. Thereafter, any continued use of the Platform will constitute Your acceptance of the changed system and/or limited Platform. GS1 US may also impose limits on certain services or features, or restrict Your access to the Platform and the Platform Data available therefrom, without providing prior notice or incurring any liability.
- D. The Parties acknowledge that since the Internet is neither owned nor controlled by any one entity, GS1 US makes no guarantees that You will be able to access the Platform at any given time, and except as otherwise specifically provided herein, GS1 US shall not be liable to You for failure of accessibility to any Platform.
- E. You acknowledge that Company is not currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("**OFAC**") or any similar sanctions imposed by any other body, governmental or other, to which Company is subject and will not otherwise conduct business with sanctioned entities/countries (or have otherwise received OFAC approval) and are in compliance with OFAC regulations.
6. **RIGHTS TO YOUR FEEDBACK.** Company grants GS1 US, to the extent necessary to facilitate Company's participation in the Platform, a non-exclusive, worldwide right and license to use Company's name, content, Company proprietary information and any other applicable intellectual property, solely for the purpose to carry out the communications and information gathering purposes as required to participate in the Platform. In the event that You provide us any ideas, inventions, messages, text, files, comments, responses, thoughts, criticisms, results, reviews, know-how (whether or not patentable), suggested improvements or other feedback related to the Platform or functionality available therefrom (collectively, the "**Feedback**"), You agree we may use the Feedback to modify our products and services and that You will not be due any compensation, including any royalty related to the product or service that incorporates Your Feedback. With respect to Your Feedback, You assign to GS1 US all rights of every kind and nature therein whether now or hereafter known or created throughout the universe and in perpetuity. Such assignment is irrevocable and royalty-free whether You provide the Feedback on the GS1 US web site or through any other method of communication with us, unless we have entered into a separate agreement with You that provides otherwise. You irrevocably and unconditionally waive all moral rights with respect to the Feedback which may now or at any time be entitled under local intellectual property laws and all other similar legislation throughout the world. GS1 US may also request that You provide such further documentation as we may reasonably request to confirm GS1 US's ownership of the Feedback.
7. **MARKETING COMMUNICATIONS INCLUDING PRESS RELEASES.** Each Party will obtain the other Party's written consent before using its trade name, trademarks, or service marks. Company agrees that GS1 US may refer to Company as a subscriber of the Platform, but neither Company nor GS1 US will issue a press release or marketing material referencing the Platform or GS1 US without the consent of the other Party.
8. **PROPRIETARY & CONFIDENTIAL MATERIALS.** The Platform is protected by intellectual property laws such as copyright pursuant to U.S. copyright and trade secret laws, international conventions and treaties and other laws. GS1 US, or its licensors, own and shall retain all proprietary rights, including any and all patent, copyright, trade secret, trademark and other intellectual property rights, in and to the Platform, and any corrections, bug fixes, enhancements, updates, Materials (defined below) or other modifications to the Platform, whether made by Company, GS1 US or any third party. Company acknowledges that the license(s) granted under this Agreement do(es) not provide Company with title to or ownership of the Platform, but only a right of limited use under the terms and conditions of this Agreement. Company shall keep the Platform free and clear of all claims, liens and encumbrances. Except for the rights expressly granted herein, no other rights are granted to Company with respect to the Platform and all right, title and interest in the Platform shall at all times remain the property of GS1 US or GS1 US's licensors. GS1 US and its licensors reserve all rights not expressly granted in this Agreement. GS1 US may place certain materials on its website relating to each Platform and/or its business ("**Materials**"). All Materials are confidential and proprietary, and are owned or licensed by GS1 US or by third parties. All Materials may be protected by copyright and trade secret laws and international conventions and treaties. You agree not to disclose or make available any of the Materials in any form to any person. You agree to use the Materials only as necessary to exercise Your rights under this Agreement and in a manner which preserves the confidentiality of the Materials. In no event will You share Your user id or password with any third party. You will be responsible for any communication made using Your user id. You acknowledge that Your communications to and from GS1 US in the Platform are not confidential. You furthermore acknowledge that by submitting a communication to the Platform, no confidential, fiduciary, or contractually implied or other relationship is created between You and GS1 US, other than as set forth in this Agreement.

9. **THIRD PARTY SYSTEMS AND LINKS.** If GS1 US publishes a list of system requirements and/or compatible equipment for use in conjunction with the Platform, that list neither constitutes an endorsement of that software, data or equipment, nor any warranty or representation that the software, data or equipment will function to Your satisfaction. GS1 US has no control over equipment that is manufactured and/or distributed by third parties, Your use of equipment is solely Your responsibility and GS1 US will not be responsible for any defects, malfunctions or any other problems that may arise in Your use of equipment. The Platform may contain links to other worldwide web Internet sites. Links to and from the Platform and any other site do not constitute an endorsement by GS1 US of such site, or of its owner or provider, or of any products or services offered for sale thereby or information contained on those sites.
10. **INDEMNIFICATION.** You agree to indemnify, defend and hold GS1 US, GS1 AISBL, GS1 international member organizations and all their respective officers, directors, owners, agents, employees and affiliates (collectively, "**Indemnified Parties**") harmless from and against any and all claims, liability, damages, losses, costs, expenses, and fees (including reasonable attorneys' fees and court costs) incurred by the Indemnified Parties as a result of or arising from: (i) any information or materials posted or transmitted to the Platform by You that infringes, violates, or misappropriates any copyright, trademark, trade secret, trade dress, patent, publicity, privacy, or other right of any person or entity; (ii) modifications, alterations or enhancements of the Platform or Platform Data made by You or a third party on Your behalf; (iii) Your violation or alleged violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities in connection with Your use of the Platform; and (iv) You or any third party on Your behalf's failure to provide accurate or complete Company Data to the Platform or Your failure to have the necessary rights or permissions to provide the Company Data to the Platform; and (v) Your breach or alleged breach of this Agreement. You will cooperate as fully required by GS1 US in the defense of any claim subject to the indemnification obligations set forth herein. Notwithstanding the foregoing, GS1 US retains the exclusive right to settle, compromise, and pay any and all claims. GS1 US reserves the right to assume the exclusive defense and control of any claims. You will not settle any claims without, in each instance, the prior written consent of an officer of GS1 US. Furthermore, You release the Indemnified Parties from any claims, demands and/or damages, actual or consequential, of every kind and nature, known or unknown, suspected and unsuspected, disclosed or undisclosed, arising out of or in any way related to any transaction instituted or made via the Platform by You, on Your behalf, or by Your customers.
11. **DISCLAIMER.** YOU ACKNOWLEDGE THAT YOUR USE OF THE PLATFORM AND PLATFORM DATA OBTAINED THEREFROM OR FROM OTHER THIRD PARTY PLATFORM DATA PROVIDERS, IS AT YOUR OWN RISK. YOU AGREE NEITHER GS1 US, GS1 AISBL, NOR ANY GS1 INTERNATIONAL MEMBER ORGANIZATIONS (COLLECTIVELY, "**GS1 ENTITIES**") WILL BE RESPONSIBLE FOR ANY LIABILITY ARISING FROM OR RELATED TO YOUR USE OF THE PLATFORM AND PLATFORM DATA OBTAINED THEREFROM OR FROM THIRD PARTIES (EVEN IF VERIFIED BY GS1) AND THAT YOU ARE SOLELY LIABLE FOR ANY DAMAGES ARISING FROM USE OF THE PLATFORM OR PLATFORM DATA AND YOU WILL INDEMNIFY AND HOLD THE GS1 ENTITIES HARMLESS FROM ALL SUCH LIABILITY. THE PLATFORM AND PLATFORM DATA, INCLUDING ALL CONTENT, SOFTWARE, FUNCTIONS, MATERIALS AND INFORMATION MADE AVAILABLE THEREON OR ACCESSIBLE THROUGH, IS PROVIDED ON AN "**AS IS**" AND "**AS AVAILABLE**" BASIS. THE GS1 ENTITIES MAKE NO GUARANTEES THAT THE PLATFORM DATA IS CURRENT, COMPLETE OR ACCURATE OR IS SUITABLE FOR REGULATORY PURPOSES OR COMPLYING WITH REGULATORY REPORTING REQUIREMENTS. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, THE GS1 ENTITIES MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER FOR OR RELATING TO ANY OF THE MATERIALS, OR RELATING TO ANY LINKS TO OTHER SITES OR FOR ANY BREACH OF SECURITY ASSOCIATED WITH THE TRANSMISSION OF INFORMATION TO OR THROUGH THE PLATFORM, ANY THIRD PARTY PLATFORM OR ANY LINKED SITE. FURTHERMORE, THE GS1 ENTITIES DISCLAIM ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE GS1 ENTITIES DO NOT WARRANT THAT THE PLATFORM, THE PLATFORM DATA OR THE OPERATION OF THE PLATFORM WILL BE UNINTERRUPTED, OR THAT THE MATERIALS WILL BE ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED, OR THAT THE PLATFORM OR PLATFORM DATA IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS.
12. **LIMITATION OF LIABILITY.** YOU AGREE THAT NEITHER THE GS1 ENTITIES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS OR REPRESENTATIVES, WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, DATA TRANSMITTED TO OR FROM THE PLATFORM, OR LOSS OF DATA RESULTING FROM THE USE OR THE INABILITY TO USE THE PLATFORM (WHETHER OR NOT ANY SUCH INABILITY TO USE THE PLATFORM OR PLATFORM DATA ARISES FROM ANY ACTION OR NEGLIGENCE OF THE GS1 ENTITIES OR OTHER THIRD PARTIES), OR FROM ANY ERRORS CONTAINED IN THE MATERIAL EXCHANGED OR OTHERWISE TRANSFERRED ON OR THROUGH THE PLATFORM OR FOR ANY TRANSACTION MADE ON THE PLATFORM, OR ARISING FROM ANY OTHER MATTER RELATING TO THE PLATFORM OR PLATFORM DATA. THE TOTAL AGGREGATE LIABILITY OF THE GS1 ENTITIES UNDER THIS AGREEMENT, WHETHER ON ACCOUNT OF ACTIONS OR CLAIMS BASED IN CONTRACT, EQUITY, TORT OR OTHERWISE, WILL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY YOU TO GS1 US UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE DATE ON WHICH THE CLAIM OR CAUSE OF ACTION FIRST AROSE.
13. **MISCELLANEOUS.**
- A. **Binding Nature; Assignment.** This Agreement will be binding on the Parties, their respective successors, and permitted assigns. Company may not resell, assign or transfer any of its rights or obligations under this Agreement without the prior written consent of GS1 US; provided that Company, upon not less than fifteen (15) business days prior written notice, may assign its rights and obligations under this Agreement to an affiliate that expressly assumes in writing Company's obligations and responsibilities hereunder and Company shall remain fully liable for and shall not be relieved from the full performance of and compliance with all obligations under this Agreement.
- B. **Due Authority; Binding Agreement.** Each Party represents and warrants to the other Party that: (i) it has full power and authority to enter into this Agreement and to perform its respective obligations herein; and (ii) this Agreement represents a valid and legally binding obligation of such Party and is enforceable against such Party in accordance with the terms hereof.
- C. **Entire Agreement.** This Agreement constitutes the entire agreement between You and GS1 US with respect to Your access and use of the Platform. GS1 US reserves the right, at its sole discretion, to change, modify, add, or remove any portion of this Agreement, in whole or in part, at any time. Notification of changes to the Agreement will be either posted on the Platform or in writing to the last address provided by You to GS1 US. If GS1 US materially changes, modifies, adds, removes or limits Your use of the Platform, other than for Your breach, then within thirty (30) days of making that change, You may terminate this Agreement. Thereafter, any continued use of the Platform will constitute Your acceptance of changed or modified Agreement.
- D. **Governing Law & Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of New Jersey, without regard to conflicts of laws' provisions. You will only bring any action or proceeding arising out of or related to this Agreement in the appropriate state or federal court located in Mercer County in the State of New Jersey. Any cause of action You may have with respect to Your access and use of the Platform must be commenced within one year after the claim or cause of action arises. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or any portion thereof, to be unenforceable, that provision will be enforced to the maximum extent permissible so as to effect the intent of the Agreement, and the remainder of the Agreement will continue in full force and effect.
- E. **Notice.** Unless expressly stated otherwise herein, any notice, demand, request or delivery required or permitted to be given by either Party pursuant to the terms of this Agreement shall be in writing and shall be deemed given: (i) when delivered personally; (ii) on the next business day after timely delivery to an overnight courier; (iii) on the third business day after deposit in the U.S. mail (certified or registered mail return receipt requested, postage prepaid); or (iv) upon confirmation of receipt by facsimile transmission. Any notice shall be addressed as follows: (a) if to Company, at the address provided by Company to GS1 US; or (b) if to GS1 US, to:
- GS1 US, Inc.
Princeton South Corporate Center 300
Charles Ewing Blvd.
Ewing, NJ 08628

Attention: Legal Department

- F. Relationship of Parties. Neither Party is an agent for the other and has no authority to represent or bind the other Party as to any matters, except as expressly authorized in this Agreement. GS1 US has the sole right and obligation to supervise, manage, contract, subcontract, direct, procure, perform or cause to be performed, all work to be performed by GS1 US under this Agreement.
- G. Survival. GS1 US and Company acknowledge and agree that Sections 4 through 13 will survive the expiration or termination of this Agreement.
- H. Third Party Beneficiary. The Parties hereto hereby acknowledge and agree that GS1 AISBL is an intended third party beneficiary of this Agreement and shall have the full right and authority to enforce Section 10 directly against Company.
- I. Waiver of Default; Cumulative Remedies. A delay or omission by either Party to exercise any right or power under this Agreement shall not be construed to be a waiver, nor shall any waiver by either Party in the performance of any covenant (or breach thereof) be construed to be a waiver of any other or succeeding breach. No waiver or discharge shall be valid unless in writing and signed by an authorized representative of the Party. All remedies provided for in this Agreement shall be cumulative and in addition to (and not in lieu) of any other remedies available to either Party at law, in equity or otherwise.

