

National Product Catalogue Terms & Conditions

Australian/New Zealand Users

(Effective 1st August 2018)

Table of contents

Terms and Conditions for Australian Users.....	1
1.0 This Agreement	1
2.0 National Product Catalogue	1
3.0 GDSN Participation	5
4.0 GS1 Cloud Brand Owner Terms of Participation (BOTP)	5
5.0 Fees and Payment	6
6.0 Warranties and Indemnities	7
7.0 Liability	8
8.0 Intellectual Property	9
9.0 Privacy, Confidentiality and Security	10
10.0 Term and Termination	11
11.0 Food Product Information	11
12.0 Healthcare Data Providers	12
13.0 Healthcare Recipients	13
14.0 National Product Catalogue for Healthcare Information	13
15.0 Third Party Service Provider Obligations	14
16.0 National Product Catalogue Hosted Mapping Services	15
17.0 National Product Catalogue Business Validation Rules	15
18.0 Ongoing Data Maintenance	16
19.0 General	17
20.0 Definitions	17

Terms and Conditions for New Zealand Users.....	22
1.0 This Agreement	21
2.0 National Product Catalogue	21
3.0 GDSN Participation	25
4.0 GS1 Cloud Brand Owner Terms of Participation (BOTP)	25
5.0 Fees and Payment	26
6.0 Warranties and Indemnities	27
7.0 Liability	28
8.0 Intellectual Property	29
9.0 Privacy, Confidentiality and Security	30
10.0 Term and Termination	31
11.0 Food Product Information	31
12.0 Healthcare Data Providers	32
13.0 Healthcare Recipients	33
14.0 National Product Catalogue for Healthcare Information	33
15.0 Third Party Service Provider Obligations	34
16.0 National Product Catalogue Hosted Mapping Services	34
17.0 National Product Catalogue Business Validation Rules	35
18.0 General	35
19.0 Definitions	36

Annexure A:

GS1 Data Excellence Inc., TERMS OF PARTICIPATION AGREEMENT FOR NON U.S. TRADING PARTNERS.....	41
--	----

Annexure B:

GS1 Cloud Brand Owner Terms of Participation	47
--	----

National Product Catalogue

Terms and Conditions of use for Australian Users

(effective 1st August 2018)

1.0 This Agreement

- 1.1. This Agreement sets out the terms and conditions which govern Your access to and use of the National Product Catalogue (formerly known as GS1net).
- 1.2. By agreeing to be bound by the terms of this Agreement, You also agree to be bound by the terms and conditions of:
 - a) the GS1 Data Excellence, Inc. Terms of Participation Agreement for Non-U.S. Trading Partners (“GDSN Terms”), a copy of which are included in Annexure A and the current version of which can be found at http://www.gs1.org/docs/gdsn/support/GDSN_Terms_of_Participation_on_US.pdf; and
 - b) the GS1 Cloud Brand Owner Terms of Participation (“BOTP”), an example of which are included in Annexure B and the current version of which can be found at https://www.gs1.org/docs/gs1-cloud/GS1_Cloud_Brand_Owners_Terms_of_Participation.pdf .

2.0 National Product Catalogue

- 2.1. GS1 will provide You with a Company Alias (or Global Location Number), User ID and Password (“Sign On”) in order to enable You to access and use the National Product Catalogue. 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 the National Product Catalogue, and then only in accordance with this Agreement. 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. Users must not use any automated scripts to log on or perform any activities on the National Product Catalogue using the online interface.
- 2.2. GS1 will use reasonable endeavours to ensure that the National Product Catalogue performs substantially in accordance with the National Product Catalogue user documentation published by GS1 from time to time.
- 2.3. GS1 may from time to time make modifications to the National Product Catalogue, including its design, functionality and appearance.

- 2.4. You acknowledge that GS1 is not a party to any transaction made through or as a result of the National Product Catalogue and that GS1 has no responsibility:
- a) for the accuracy or completeness of any information placed on the National Product Catalogue by You or by any other party including Vendors or Buyers (including, without limitation, prices of, or trading terms relating to, any products included in a catalogue hosted on the National Product Catalogue); or
 - b) with respect to any product promoted or purchased or sold as a result of the National Product Catalogue or the terms of any such transaction; or
 - c) with respect to the transaction itself (including any claim or dispute relating to that transaction).
- 2.5. You must comply with all applicable laws and all reasonable directions issued by GS1 from time to time in relation to Your use of the National Product Catalogue.
- 2.6. Without limiting any other provision of this Agreement and unless otherwise specified by GS1, You are solely responsible:
- a) as a Vendor, for supplying, maintaining and updating all Content on the National Product Catalogue and administering access to Content by Your trading partners and staff or other representatives;
 - b) as a Vendor, for reviewing and checking all Content on the National Product Catalogue (including, without limitation, any Content updated by GS1 at Your request and any determination or confirmation of the GST classification of food and beverage items by GS1) as correct and complete; and
 - c) as a Vendor or Buyer, for obtaining at Your own cost all equipment and software necessary to enable You to access and use the National Product Catalogue.
- 2.7. You must not permit any third party to access or use the National Product Catalogue without the prior written consent of GS1.
- 2.8. GS1 may access the National Product Catalogue on Your behalf without notice for purposes associated with the National Product Catalogue, including but not limited to administration, training, education and support.
- 2.9. GS1 may share Your company, contact and National Product Catalogue implementation information with National Product Catalogue Recipients upon the Data Recipient request.

Without limiting any other provision of this Agreement, GS1 may at any time provide Content about Your products from the National Product Catalogue and GTIN Search to GS1 Services such as, but not limited to GS1 Cloud, Trusted Data Services, Smart Media, Recall and Recall Health.

This Content will:

- a) contain, for Content to be shared other than with the GS1 Cloud, basic product information such as, but not limited to, product number, product description, brand name, category and net content;

- b) contain for Content to be shared with the GS1 Cloud, the following seven fields: product number or GTIN; brand name; label description; medium resolution image (if available); target market; company name, and product classification (category) subject to such additional or changed fields as be notified by GS1 from time to time by written notice to You; and
- c) be restricted, at the time of sharing, to only Publicly Available Product Data.

With written notice, You may request that GS1 does not provide your Publicly Available Product Data to the GS1 Cloud.

- 2.10. GS1 will use reasonable efforts to ensure that, except as permitted in clauses 2.9 and 3, Content made available through the National Product Catalogue is available only to persons who are registered users of the National Product Catalogue.
- 2.11. You must not, and must ensure that any person accessing or using the National Product Catalogue via Your computer systems does not:
 - a) use any data or information entered onto, or made available to You via, the National Product Catalogue by other members and users of the National Product Catalogue (“Trading Partner Information”) other than for the purposes of conducting transactions and exchanges of data in the manner reasonably contemplated by these terms and conditions;
 - b) repackage, resell, on-supply, distribute or disclose Trading Partner Information to third parties except by the publish and subscribe data exchange processes subscribed to, and provided within, the National Product Catalogue.
- 2.12. GS1 may at any time without consultation with or any liability to You, remove from the National Product Catalogue any Content which it reasonably regards as inappropriate or likely to cause a breach of this Agreement by You, or a breach of any applicable law.
- 2.13. In the event GS1 migrates the National Product Catalogue from one platform to another, or upgrades the software to meet GDSN or BOTP requirements standards, and there are requirements on You for data validation and/or maintenance:
 - a) GS1 will advise You the data validation and/or maintenance requirements to be completed; and
 - b) You acknowledge it is Your responsibility to ensure that the necessary data validation and/or maintenance requirements are completed satisfactorily according to the advice and by the required date whether by Yourself or by Your nominated Third Party Service Provider and that such data validation and/or maintenance is performed entirely at Your cost; and

- c) You acknowledge that if You, or Your nominated Third Party Service Provider, have not completed the required data validation and/or maintenance by the required date GS1 will have the authority to make the required data validation and maintenance changes on Your behalf provided that GS1 gives You at least 30 days written notice of the mapping change requirements. In this event GS1 is not responsible for ensuring that any data altered meets Your business requirements.
- 2.14. GS1 may at any time without consultation with You remove from, or inhibit from being loaded into, the National Product Catalogue any GTINs where those GTINs have not been licenced directly to You, or directly to the brand owner, by a recognised GS1 member organisation.
- 2.15. GS1 may at any time and for any reason without consultation suspend Your access to or use of the National Product Catalogue 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.
- 2.16. If You are a Buyer, You acknowledge and warrant that You are responsible for the ongoing use of any Publisher's Content on the National Product Catalogue accessed by or delivered to You and that any subsequent use of that Content, by You and any of Your service providers, contractors or agents, is only for the purposes intended by the Vendor when publishing to You and that it will be used expressly for Your own business purposes. Furthermore, if you have delivered such Content to Your service providers, contractors or agents, You warrant that You have requested that any such service provider, contractor or agent warrants they will only use that Content for Your business purposes.
- 2.17. You acknowledge that whilst individuals may unsubscribe from certain publications, one (1) individual must be nominated to receive communications from the National Product Catalogue in relation to Your agreement ("Primary Contact"). Due to the business-critical nature of some National Product Catalogue communications, including User Group meetings and Action Alerts, all Primary Contacts are unable to Opt Out of this type of communication without providing a new contact name to take up that position. This is to ensure every business has been communicated to about changes relating to the National Product Catalogue Service.
- To support this, You must immediately advise GS1:
- a) of any change in Your location, email or postal address detailed in the Registration Form; and
- b) if any Contact ceases to be an employee or appropriate contact between
- 2.18. GS1 may vary the terms and conditions contained in this Agreement at any time provided that GS1 provides 14 days notice addressed to the Primary Contact at the address or email address detailed in the Registration Form or as varied in accordance with clause 2.17.
- 2.19. Upon receipt of notice of any variation in accordance with clause 2.18, You may terminate this Agreement by notice in writing to GS1 within 30 days.
- 2.20. GS1 may, at any time, discontinue any product, system, service or catalogue provided through, or associated with, the National Product Catalogue.

3.0 GDSN Participation

- 3.1. The National Product Catalogue is connected to the GDSN, which is an internet based, interconnected network of interoperable data pools, via a central global registry operated by GS1 Data Excellence, Inc. and known as the "GS1 Global Registry". This enables:
- a) GS1 to participate and act as a Data Pool in the GDSN for locally certified master data;
 - b) the publication of key searchable data (namely Your GLN, Your products' GTINs, Your Target Market Country Code, Your Target Market Sub-Division (if applicable) and Your products' GPC Codes) on the GSI Global Registry (not including Product Descriptions, any Product Details or any Pricing); and
 - c) You and other Buyers, Vendors and HealthCare Users to participate in international transactions through the National Product Catalogue.
- 3.2 The GS1 Global Registry and Your access to it via the National Product Catalogue are subject to the GDSN Terms. Accordingly, You acknowledge and agree that Your right to participate and use the National Product Catalogue and to access the GS1 Global Registry or the GDSN are conditional on You being bound by and complying with the GDSN Terms, and that You agree to be bound by the GDSN Terms.

4.0 GS1 Cloud Brand Owner Terms of Participation (BOTP)

- 4.1. **GS1 Cloud overview.** The National Product Catalogue is connected to an internet based platform (which includes associated equipment, systems, software, processes and services (which may include, without limitation, certain features such as key authentication, product validation and product search feature)), operated by GS1 AISBL (an international not for profit association incorporated under Belgian law) or its Affiliates from time to time (the "GS1 Cloud"). The GS1 Cloud provides a means for the communication of trusted product data by Brand Owners (or their Designees), such as You, to Data Recipients through the internet and mobile devices. This clause 4.0 only applies to You if you are a Brand Owner or a Designee of a Brand Owner.
- 4.2. **Permitted use cases.** There are two ways in which You may interact with the GS1 Cloud under this Agreement. Accordingly, as regards the GS1 Cloud, You represent and warrant that you are, and will remain at all relevant times, either a Brand Owner or a Designee of a Brand Owner. For avoidance of doubt, neither the BOTP nor the remainder of this Agreement provides You with a right to access or use GS1 Cloud's services as a Data Recipient, such rights to be the subject of a separate agreement.
- 4.3. **BOTP are binding on You.** You acknowledge and agree that the GS1 Cloud BOTP are incorporated by reference into this Agreement and that You agree to be legally bound by and comply with such terms at all times.

- 4.4. **BOTP may be amended.** You acknowledge that GS1 International AISBL reserves the right to amend the BOTP from time to time. GS1 will endeavor to give You reasonable notice of such amendment prior to the effective date of the amendment. Publication of the amended BOTP on GS1's website shall constitute written notice of such amendment. Your continued use of the National Product Catalogue after such notice shall constitute acceptance of such increase. You acknowledge that Your continued use of the GS1 Cloud after the notice period will be deemed to constitute Your acceptance of the amended BOTP. You may terminate Your participation in the GS1 Cloud (in accordance with clause 13 (Amendments) of the BOTP) if you do not accept the amended BOTP.
- 4.5. **Termination of BOTP.** The BOTP may be terminated by either You, GS1 or GS1 International AISBL in accordance with its terms, independently of, or (in the case of GS1) in addition to, the remainder of this Agreement.
- 4.6. **Effect of termination or expiry of BOTP; data retention.** You acknowledge Your rights to access and use the GS1 Cloud shall cease immediately upon termination or expiry of the BOTP (or termination or expiry of this Agreement, if earlier) and that, pursuant to clause 6 of the BOTP, GS1 and its nominees (including without limitation GS1 International AISBL) may retain and use Your Brand Owner Data for internal purposes and that Data Recipients may continue to use Your Brand Owner Data in accordance with any relevant agreement with GS1 or its nominee.

5.0 Fees and Payment

- 5.1. You must pay GS1 the Fees. Unless otherwise specified, all Fees are exclusive of GST, and exclusive of any other applicable federal and state taxes and duties (which must be paid by You).
- 5.2. GS1 will issue invoices for the Fees to You from time to time. You must pay those invoices within 30 days from 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. All invoices will be Tax Invoices for GST purposes.
- 5.3. If either party:
- a) is liable to pay GST on a supply made in connection with this Agreement; and
 - b) certifies to the recipient of the supply that it has not priced the supply to include GST,
- then the recipient of the supply agrees to pay that party an additional amount equal to the consideration payable for the supply multiplied by the prevailing GST rate (provided that the party issues a Tax Invoice with respect to that supply).

- 5.4. If You are overdue in payment of any amount, GS1 may charge an administration fee for any overdue amount at the rate of fifty Australian dollars (\$50.00) (exclusive of GST) plus all costs and expenses incurred by its mercantile agents 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 a rate equivalent to two percent (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 in full (together with administration fees and interest).
- 5.5. GS1 reserves the right to charge a fee in relation to bank processing charges imposed on GS1 in respect of payments for this agreement
- 5.6. GS1 may, from time to time, increase the Fee by written notice. Publication of the increased Fee on GS1's website shall constitute written notice of such increase. Your continued use of the National Product Catalogue after such notice shall constitute acceptance of such increase.

6.0 Warranties and Indemnities

- 6.1. In using the National Product Catalogue, You must:
 - a) comply with all applicable laws (including the Competition and Consumer Act 2010 (Cth), and state fair trading legislation);
 - b) use the National Product Catalogue strictly in accordance with this Agreement for the purposes contemplated by this Agreement;
 - c) not tamper with or otherwise modify the National Product Catalogue;
 - d) take all precautions necessary and appropriate in the circumstances to protect the security, privacy and confidentiality of the National Product Catalogue;
 - e) take all precautions necessary and appropriate in the circumstances not to post, send or otherwise make available through the National Product Catalogue any material that contains any virus, trojan, worm or similar deleterious program that may damage or interfere with the operation of the National Product Catalogue;
 - f) not post, send or otherwise make available through the National Product Catalogue any material that:
 - I. infringes the National Product Catalogue's or a 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 the National Product Catalogue;

- g) provide to GS1 information which is reasonably necessary for GS1 to make available the National Product Catalogue and ensure that this information is both accurate and complete and delivered to GS1 in a timely manner;
- h) not breach or attempt to breach the security of the National Product Catalogue; and
- i) not interfere with the normal operation of the National Product Catalogue.

6.2. GS1 agrees to:

- a) comply with all applicable laws in relation to its operation of the National Product Catalogue; and
- b) take reasonable precautions to protect the security, privacy and confidentiality of the National Product Catalogue.

6.3. 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 by You of this Agreement;
- b) any claim against GS1 by a third party relating to Your use of the National Product Catalogue;
- c) a 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.

7.0 Liability

7.1. To the maximum extent permitted by law:

- a) all terms, conditions and warranties which would otherwise be implied into this Agreement and all remedies or liability under any legislation are excluded; and
- b) where any such term, condition or warranty is implied by legislation, or any remedy or liability under any legislation arises, and such legislation provides that the term, condition, warranty, remedy or liability may not be excluded, GS1 limits its liability for breach of that term (at GS1's option) to the resupply or payment of the cost of resupply of the relevant Services. You acknowledge and agree that the foregoing limitation of liability is fair and reasonable in all the circumstances.

7.2. Without limiting clause 7.1, GS1 does not warrant that the National Product Catalogue, GSDN, GS1 Global Registry, GS1 Cloud or any other GS1 Services will be available at or for any particular time, or that they will be free from error or interruption. You acknowledge that despite all reasonable precautions on GS1's part, there is a risk of unauthorised access to, or alteration of, transmissions of data or information to or from Your electronic device or available through the Services.

- 7.3. Without limiting clause 7.1, GS1 does not warrant that support services including (without limitation) Ongoing Data Maintenance will be available at or for any particular time, or that they will be free from error or interruption. GS1 must re-perform any support services not performed in accordance with these Terms provided that GS1 receives notice within 30 days after support services are performed.
- 7.4. To the maximum extent permitted by law, GS1 excludes all liability (whether arising in negligence, breach of contract or under any other legal theory) that it may have for any loss, costs, expense, damage or liability of any kind including, without limitation, loss or corruption of data, any loss of revenue or profits, any failure to realise expected savings, or indirect, consequential, incidental, special exemplary or punitive loss or damage, howsoever caused (including through GS1's negligence), suffered or incurred by You arising from or in connection with:
- a) the access to, use of or reliance on the National Product Catalogue, the GS1 Global Registry, the GDSN or the GS1 Cloud or other Services or any information available through the Services;
 - b) any services, documentation or other products or services provided to You by GS1 (or its nominees) in respect of Your use of the National Product Catalogue, the GS1 Global Registry, the GDSN, the GS1 Cloud or other Services or any information available through the Services;
 - c) arising from any delay, error or failure in the determination, verification or notification to You of the GST classification of food and beverage items in accordance with clause 8.3(c);
 - d) any injury, sickness or death;
 - e) any decision or action taken by You in reliance on information available through the Services;
 - f) any unauthorised access to, or alteration of, transmissions of data or information to or from Your electronic device or available through the Services; or
 - g) any interruption, error or defect in the Services or information available through the Services.
- 7.5. To the maximum extent permitted by law, GS1's total aggregate liability arising under or in connection with this Agreement or its subject matter is limited to an amount equal to the total amount of the Fees paid by You in the twelve (12) months immediately preceding the date that the cause of action (or, if more than one, the first such cause) arises.
- 7.6. The provisions of this clause 7 (Liability) are additional to, and not in lieu of, the terms of the BOTP or GDSN Terms.

8.0 Intellectual Property

- 8.1. Unless otherwise expressly provided in this document, You agree that all intellectual property rights in and to the National Product Catalogue are owned by GS1 or its licensors.

- 8.2. You warrant to GS1 that You own, or are entitled to use the intellectual property rights in the Content, and that You have the right to grant GS1 the licence referred to in clause 8.3.
- 8.3. 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 the National Product Catalogue;
 - b) making that Content (other than the Confidential Content) available to any registered user of the National Product Catalogue (whether that Content is made available in connection with the National Product Catalogue or otherwise) on or after the date on which, according to GS1's rules for the National Product Catalogue from time to time, that Content is made available to all registered users of the National Product Catalogue; and
 - c) making that Content (including Confidential Content) available to the Australian Tax Office or to any other governmental authority or body as required by law (whether that Content is made available in connection with the National Product Catalogue or otherwise) for any purposes associated with the determination or verification of the GST classification of food and beverage items published on the National Product Catalogue.

9.0 Privacy, Confidentiality and Security

- 9.1. GS1's commitment to privacy is set out in the GS1 Australia Privacy and Security Policy available at <http://www.gs1au.org> ("Privacy Policy") You acknowledge that You have read and understood such policy and consent to the collection, use and disclosure of personal information in accordance with it.

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 that policy .

You acknowledge and agree that such terms and purposes include disclosure of personal information to the Australian Tax Office in connection with disclosure of Content pursuant to clause 8.3(c) above.

- 9.2. 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, Agreementors 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.
- 9.3. The Recipient will use the confidential information of the Discloser solely for the purpose of using or operating the National Product Catalogue in accordance with this Agreement.
- 9.4. Confidential information includes:
- a) in the case of GS1, all Sign On details provided to You; and

- b) in the case of You, the Confidential Content.
- 9.5. Confidential information does not include any information that is:
- a) public knowledge at the time it is supplied to Recipient, or becomes public knowledge subsequently other than through breach of an obligation of confidence; or
 - b) in Recipient's lawful possession prior to it being supplied to Recipient.
- 9.6. 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.

10.0 Term and Termination

- 10.1. This Agreement 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 Agreement.
- 10.2. Either party may terminate this Agreement by notice to the other party if:
- a) the other party breaches any term of this Agreement and, if it 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 by giving 30 days notice in writing to the other party.

11.0 Food Product Information

- 11.1. If You are required pursuant to the Food Standards Australia & New Zealand Act 1991, or otherwise, to comply with the Australian New Zealand Food Standards Code ("Code"):
- a) You must, when entering any Content in respect of any product or item, include in the Content any and all information that You are required to include by way of nutrition information upon any label attached to that product or item pursuant to the Code including, without limitation, any nutrition information required under Standard 1.2.8 published pursuant to the Code;
 - b) You warrant that all Content provided by You in accordance with clause 11.1(a) is accurate and complete; and

c) You must keep all Content in respect of any product or item up to date and not allow Content to become out of date or inaccurate, and You will indemnify, and keep indemnified and held harmless, GS1 in respect of any liability, loss, cost or expense arising out of any breach of this Clause 11.0.

11.2. If You wish Your Food Product Information to be made available to organisations that You have not specifically published to, You can opt in to share Your Food Product Information through the designated management process or by contacting the National Product Catalogue administration team directly.

12.0 Healthcare Data Providers

12.1. Subject to clauses 12.2 and 12.3, Healthcare Data Providers may access the National Product Catalogue for Healthcare for the purposes of:

- a) uploading verified, corrected or updated Healthcare Data into the National Product Catalogue for Healthcare for the purpose of making that verified, corrected or updated Healthcare Data available to Healthcare Recipients; and
- b) entering new Healthcare Data into the National Product Catalogue for Healthcare or modifying existing Healthcare Data contained in the National Product Catalogue for Healthcare for the purpose of making that Healthcare Data available to Healthcare Recipients.

12.2. Prior to any Healthcare Data (including, without limitation, new, verified, corrected or updated Healthcare Data) being made available to Healthcare Recipients by Healthcare Data Providers, the Healthcare Data Provider must submit the Healthcare Data to the QA Process in order to:

- a) allow the review and provision of feedback on the Healthcare Data; and
- b) ensure that each Healthcare product is assigned to the correct virtual National Product Catalogue for Healthcare group with the appropriate Anatomical Therapeutic Chemical classification index code.

12.3. The Healthcare Data Provider will not make any Healthcare Data available to Healthcare Recipients unless the release of that information has been approved in the course of the QA Process.

12.4. You:

- a) warrant that all Content (including, without limitation, all Healthcare Data) provided by You is accurate and complete;
- b) must keep all Content (including, without limitation, National Product Catalogue for Healthcare Data) provided by You up to date and not allow such Content to become out of date or inaccurate, and
- c) will indemnify and keep indemnified, and held harmless, GS1 in respect of any and all liability, loss, cost or expense arising out of any breach of this Clause 12.4.

- 12.5. You agree that the Commonwealth, or a third party on behalf of the Commonwealth, may use Your Healthcare Data for the purpose of using the National Product Catalogue for Healthcare.

13.0 Healthcare Recipients

- 13.1. Healthcare Recipients may access the Healthcare Data contained within the National Product Catalogue for Healthcare for the purpose of:
- a) searching the National Product Catalogue for Healthcare; and
 - b) downloading Healthcare Data from the National Product Catalogue for Healthcare for inclusion in their own databases.
- 13.2. Healthcare Recipients must ensure they have downloaded the most recently updated Healthcare Data from the National Product Catalogue for Healthcare and incorporated it within their own Healthcare databases before making their National Product Catalogue for Healthcare databases available to their clients.
- 13.3. On and from the day this Agreement expires or is terminated, You must not use any Healthcare Data downloaded from the National Product Catalogue for Healthcare:
- a) in a manner that would involve operating a service or system similar to the National Product Catalogue for Healthcare; or
 - b) in a manner that suggests that the use of the Healthcare Data is endorsed by, or otherwise has the authority or support of, or is in any way associated with, the Australian Digital Healthcare Agency (formerly NeHTA).
 - c) GS1 does not warrant the accuracy, currency or completeness of any Healthcare Data and will not be liable to You, or any person who obtains Healthcare Data or any data based on, or derived from, Healthcare Data from You and You will indemnify, and keep indemnified and held harmless, GS1 in respect of any such liability.
- 13.4. GS1 does not warrant the accuracy, currency or completeness of any Healthcare Data and will not be liable to You, or any person who obtains Healthcare Data or any data based on, or derived from, Healthcare Data from You and You will indemnify, and keep indemnified and held harmless, GS1 in respect of any such liability.

14.0 National Product Catalogue for Healthcare Information

- 14.1. Healthcare Recipients and Healthcare Data Providers acknowledge and agree that Healthcare Data and information (including personal information) of Healthcare Recipients and Healthcare Data Providers may be made available by GS1 to the Australian Digital Healthcare Agency (formerly NeHTA) and to other persons who:
- a) are associated with, or provide services in respect of, the operation of the National Product Catalogue for Healthcare; or

- b) replace GS1 or the National Product Catalogue as the provider or host of the National Product Catalogue for Healthcare or a similar service established by the Australian Digital Healthcare Agency (formerly NeHTA).
- 14.2. Healthcare Data Providers acknowledge and agree that copies of Data Quality Insights Reports will be made available by GS1 to both the Healthcare Data Providers and additionally to the Australian Digital Healthcare Agency (formerly NeHTA) and Healthcare Data Recipients as a means of monitoring, comparing and improving Data Quality within the National Product Catalogue.

15.0 Third Party Service Provider Obligations

- 15.1. This clause 15.0 applies to You only if You are a Third Party Solution Provider acting on behalf of Vendors or Buyers who are licenced users of the National Product Catalogue ("Your Customers").
- 15.2. Without limiting any other provision of these National Product Catalogue Terms and Conditions and unless otherwise specified by GS1 in writing, You are solely responsible for:
- a) obtaining all necessary licences from Your Customers in relation to Your use of their content;
 - b) complying with all Your Customers' obligations in respect of their use of the National Product Catalogue when acting on Your Customers' behalf; and
 - c) complying with all applicable laws in relation to Your use of Your Customer's content.
- 15.3. You acknowledge that GS1 is not party to any transaction between You, Your Customers or otherwise in relation to Your use of Your Customer's Content (otherwise than as set out in these National Product Catalogue Terms and Conditions) and that GS1 has no responsibility:
- a) for ensuring the correctness, accuracy, completeness or suitability for intended purpose of any Content on the National Product Catalogue service; or
 - b) with respect to any transaction itself (including any claim or dispute relating to that transaction).
- 15.4. You acknowledge that Your access to or use of Your Customer's Content on the National Product Catalogue service may be suspended, without liability to GS1, at any time:
- a) by the Vendor or Buyer for any reason; or
 - b) by GS1 for any reason including, without limitation, if all Vendors or Buyers for whom You act have been suspended or terminated.
- GS1 will attempt to notify You of any such suspension but will not be liable to You if it does not do so.

16.0 National Product Catalogue Hosted Mapping Services

- 16.1. If You have requested GS1 to provide Hosted Mapping Services, You acknowledge:
- a) Hosted Mapping Services are provided on the basis of an agreed one off fee to develop, and an ongoing fee to host, each individual map;
 - b) GS1 will develop each requested individual map according to an agreed written map specification;
 - c) In the event of upgrades to the National Product Catalogue to meet GDSN or GS1 Cloud requirements standards, any maintenance of individual maps to meet the revised standard will be performed at Your cost;
 - d) any maintenance of individual maps to meet Your revised business and technical requirements will be performed at Your cost; and
 - e) It is Your responsibility to ensure that each hosted map performs in accordance with Your agreed written requirements and as such You will indemnify, and keep indemnified and held harmless, GS1 in respect of any liability, loss, cost or expense arising out of any individual map not performing as expected.

17.0 National Product Catalogue Business Validation Rules

- 17.1. You, as a Vendor or Third Party Service Provider:
- a) are entitled to use the National Product Catalogue Business Validation Rules solely against data content that is being loaded into the National Product Catalogue; and
 - b) must not apply the National Product Catalogue Business Validation Rules to any data being loaded to any other system other than the National Product Catalogue other than for the express purpose of loading to the National Product Catalogue.
- 17.2. You, as a Buyer or Third Party Service Provider:
- a) may only apply the National Product Catalogue Business Validation Rules to data that has specifically been sent directly from registered Vendors; and
 - b) must not apply the National Product Catalogue Business Validation Rules to any data received from the National Product Catalogue unless the Vendor exchanging that data is a registered National Product Catalogue user;
 - c) must not apply the National Product Catalogue Business Validation Rules to any data received from the National Product Catalogue where it has been simply passed on as a "GDSN pass-through"; and
 - d) for avoidance of any doubt, have no right to access or use Content from the GS1 Cloud under this Agreement except as provided in clause 4.0. You cannot use the GS1 Cloud as a Data Recipient under this Agreement unless you enter into a separate agreement with GS1.

- 17.3. You acknowledge that You must not share externally the National Product Catalogue Business Validation Rules to any third parties without prior written approval from GS1.

18.0 Ongoing Data Maintenance

- 18.1. An ongoing agreement is automatically entered into between You and GS1 Australia to cover any current or future assistance requirements for loading, managing and maintaining the Content on Your behalf ("Ongoing Data Maintenance").
- 18.2. Ongoing Data Maintenance has no end date, and can be terminated at any time upon issuance of a request in writing by either You or GS1 Australia.
- 18.3. Ongoing Data Maintenance can be requested at any time by submission of an Ongoing Data Maintenance request electronically via the electronic form available on the website www.gs1au.org or via email.
- 18.4. Ongoing Data Maintenance has no minimum spending commitment. GS1 Australia will provide estimates for each Ongoing Data Maintenance request. Each estimate will include the estimated effort required to meet the requirements as well as the time and materials rate applicable at the time of the estimate. Where the price is related to time and materials, the price includes labour but does not include travel expenses (airfares, taxis, accommodation, parking, taxis, mileage and other incidental expenses) and other expenses needed for production of the Deliverables which will be charged to You at cost and only incurred with Your express permission. Each estimate will expire 14 days from the date of each request.
- 18.5. GS1 will invoice You in arrears from time to time but no later than the end of each quarter in which any work is completed. You must pay all invoices within 30 days of the invoice date. GS1 may change credit terms upon reasonable notice at any time when, in GS1's opinion, Your financial condition, previous payment record, or the nature of Your relationship with GS1 so warrants. If any sum due to GS1 remains unpaid after 60 days from the date of invoice:
- a) You must pay GS1 a late payment fee equal to 5% of the invoiced amount; and
 - b) GS1 may terminate these Terms pursuant to clause 10.2.
- 18.6. If GS1 is liable to pay GST on the supply of GS1 Services and Deliverables, then You must pay GS1 an additional amount equal to the price set out in the Details multiplied by the prevailing GST rate.
- 18.7. If GS1 personnel are required to work outside of GS1's normal business hours, GS1 reserves the right to increase its quoted rates to meet any additional costs it may incur.
- 18.8. If any delays in delivery of any Ongoing Data Maintenance request are caused by You or as a result of You not fulfilling Your obligations, GS1 may charge additional costs incurred as a result of such delays and adjust the agreed delivery schedule accordingly.

19.0 General

- 19.1. The parties are independent contractors. Nothing in this Agreement makes a party an agent, partner or joint venturer of the other.
- 19.2. You may not assign this Agreement without GS1's prior written consent.
- 19.3. This Agreement (and the GDSN Terms and the BOTP) are the entire agreement of the parties concerning their respective subject matter.
- 19.4. 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.
- 19.5. 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.
- 19.6. 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 the state of Victoria, Australia, and courts of appeal from them for determining any dispute concerning this Agreement.

20.0 Definitions

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

Affiliate means, with respect to a particular person or entity, any entity that directly or indirectly controls, is controlled by, or is under common control with such person or entity.

BOTP has the meaning given in clause 1.2(b).

Brand Owner means a manufacturer of a product or a retailer with a private label product.

Brand Owner Data has the meaning given in the BOTP.

Buyer means a person using the National Product Catalogue for the purpose of viewing the Content of Vendors and, unless expressly stated to the contrary, includes National Product Catalogue for Healthcare Recipients. Buyer is interchangeable with Recipient and both shall carry the same meaning.

Confidential Content means the prices of, or trading terms relating to, any products included in a catalogue hosted on the National Product Catalogue, which You have designated as being available only to particular trading partners, and other Content to the extent to which, according to GS1's rules for the National Product Catalogue from time to time, it is subject to restrictions on disclosure.

Content means the text, images and other material provided by You to GS1 for purposes of publication on the National Product Catalogue, or by the National Product Catalogue to You as a recipient of publication, and unless expressly stated to the contrary includes National Product Catalogue for Healthcare Data.

Data Pool(s) means those person s or entities, including GS1, that have executed a participation agreement with GS1 Data Excellence, Inc., by which they have agreed to access the GDSN and the GS1 Global Registry on behalf of their subscribing customers. A list of Data Pools from time to time can be found on the GDSN website at www.gs1.org.

Data Quality Insights Reports means detail and summary reports provided by GS1 Australia to Healthcare Suppliers that report on compliance to the applicable National Product Catalogue Validation Rules.

Data Recipient means any person viewing or using any Content and includes, without limitation, consumers, retailers, internet application providers and public authorities.

Designee means a person who is a Brand Owner's authorized party who creates, maintains, manages or delivers Content on behalf of a Brand Owner.

Fees mean GS1's fees for the National Product Catalogue service, as published by it from time to time.

Food Product Information means information regarding food product composition including but not limited to allergens, ingredients, nutrition, dietary and other related information.

GDSN means the Global Data Synchronisation Network which is an internet based, interconnected network of interoperable data pools, connected via a central global registry operated by GS1 Data Excellence, Inc. and known as the "GS1 Global Registry", which enables data synchronization in accordance with the GS1 System Standards.

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

GS1 AISBL means the international not for profit association incorporated under Belgian law with registered office at Avenue Louise 326, 1050 Brussels, Belgium, registered with the register of legal entities (district of Brussels) under number 419.640.608.

GS1 Cloud has the meaning given in clause 4.1.

GS1 Global Registry means a global registry including the index for item and party master data which is accessible to Data Pools certified as being compliant with the GS1 System standards.

GS1 Services means any services or supplies provided or to be provided by GS1 to You other than the Services under this Agreement.

GS1 System standards means an integrated system of global standards (as varied from time to time) that provides for identification and communication of information regarding products, assets, services and locations.

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

GTIN means Global Trade Item Number.

GTIN Search comprises database and access functionality that allows users to obtain a list of GTINs encompassing basic data including but not limited to GTIN, Target Market, Publisher GLN, Publisher Name, Description, tax office (ATO) Approval Status (where applicable), Global Product Classification details and End Availability Date for all active GTINs that have passed their community visibility date.

Healthcare Data means National Product Catalogue for Healthcare product data and information contained within the National Product Catalogue for Healthcare.

Healthcare Data Providers means Healthcare vendors and suppliers or other persons who provide Healthcare Data.

Healthcare Recipients means administrators, developers, maintainers of other electronic health systems and all other persons that access or use Healthcare Data;

Healthcare Users means Healthcare Data Providers or Healthcare Recipients.

Hosted Mapping Services means the provision of a customised hosted mapping solution to facilitate the exchange of data with the National Product Catalogue in a data format different to the standard National Product Catalogue data definitions to meet a National Product Catalogue user's particular requirements.

National Product Catalogue means the on-line catalogue service operated by GS1 which is currently provided at the following website: <https://www.gs1au.org/mygs1/login-mygs1/> or such other website as is notified by GS1 from time to time. It includes a validation component National Product Catalogue Business Validation Rules for the validation of all inbound on-line messages and the GDSN Global Registry which records the GTIN, publisher's GLN, GPC code and Target Market code of each item. The name GS1net is interchangeable with National Product Catalogue and both shall carry the same meaning. For avoidance of doubt, the GS1 Cloud is separate from the National Product Catalogue.

National Product Catalogue Business Validation Rules means a set of business rules used within the National Product Catalogue to define acceptable data content requirements against and across the National Product Catalogue data field(s) and contains an associated rule number, level of error and error message that will result if a validation rule is breached.

National Product Catalogue for Healthcare means the catalogue hosted by GS1 on the National Product Catalogue, and established by the Australian Digital Healthcare Agency formerly known as the National e-Health Transition Authority (NeHTA) containing healthcare product data linked to, among other things, a GTIN.

Ongoing Data Maintenance means the optional service that GS1 provides to assist You, on request, to load or update your Content in the National Product Catalogue,

Primary Contact means the person nominated by You as the "Primary Contact" in the Registration Form and as captured in GS1's CRM system or advised to GS1 pursuant to clause 2.17.

Publicly Available Product Data means GTINs in the National Product Catalogue where the Community Visibility Date field has a value of the current date or earlier in time.

Publisher has the same meaning as Vendor.

QA Process means the course of action taken by the person or persons appointed by the Australian Digital Healthcare Agency (formerly NeHTA), and independent of GS1 Australia, to provide quality assurance services in respect of the National Product Catalogue for Healthcare.

Recipient has the same meaning as Buyer.

Registration Form means the registration form for the National Product Catalogue which is designated by GS1 from time to time.

Services means any services or supplies provided or to be provided by GS1 under this Agreement, any may include, without limitation, the National Product Catalogue, GDSN, GS1 Global Registry or GS1 Cloud.

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 a party authorised by a Vendor or Buyer to manage the transfer of Content to, or from, the National Product Catalogue service on behalf of that Vendor or Buyer.

Vendor means a person using the National Product Catalogue for the promotion (by way of a catalogue or otherwise) of its goods and, unless expressly stated to the contrary, includes Healthcare Data Providers. The term Vendor is interchangeable with Publisher and shall carry the same meaning.

You means the entity whose details are set out in the Registration Form and includes Healthcare Data Providers and Healthcare Recipients. Your has a corresponding meaning.

National Product Catalogue

Terms and Conditions of use for New Zealand Users (effective 1st August 2018)

1.0 This Agreement

- 1.1. This Agreement sets out the terms and conditions which govern Your access to and use of the National Product Catalogue (formerly known as GS1net).
- 1.2. By agreeing to be bound by the terms of this Agreement, You also agree to be bound by the terms and conditions of:
 - a) the GS1 Data Excellence, Inc. Terms of Participation Agreement for Non-U.S. Trading Partners (“GDSN Terms”), a copy of which are included in Annexure A and the current version of which can be found at https://www.gs1.org/docs/gdsn/support/GDSN_Terms_of_Participation_on_US.pdf ; and
 - b) the GS1 Cloud Brand Owner Terms of Participation (“BOTP”), an example of which are included in Annexure B and the current version of which can be found at https://www.gs1.org/docs/gs1-cloud/GS1_Cloud_Brand_Owners_Terms_of_Participation.pdf

2.0 National Product Catalogue

- 2.1. GS1 will provide You with a Company Alias (or Global Location Number), User ID and Password (“Sign On”) in order to enable You to access and use the National Product Catalogue. 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 the National Product Catalogue, and then only in accordance with this Agreement. 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. Users must not use any automated scripts to log on or perform any activities on the National Product Catalogue using the online interface.
- 2.2. GS1 will use reasonable endeavours to ensure that the National Product Catalogue performs substantially in accordance with the National Product Catalogue user documentation published by GS1 from time to time.
- 2.3. GS1 may from time to time make modifications to the National Product Catalogue, including its design, functionality and appearance.

- 2.4. You acknowledge that GS1 is not a party to any transaction made through or as a result of the National Product Catalogue and that GS1 has no responsibility:
- a) for the accuracy or completeness of any information placed on the National Product Catalogue by You or by any other party including Vendors or Buyers (including, without limitation, prices of, or trading terms relating to, any products included in a catalogue hosted on the National Product Catalogue); or
 - b) with respect to any product promoted or purchased or sold as a result of the National Product Catalogue or the terms of any such transaction; or
 - c) with respect to the transaction itself (including any claim or dispute relating to that transaction).
- 2.5. You must comply with all applicable laws and all reasonable directions issued by GS1 from time to time in relation to Your use of the National Product Catalogue.
- 2.6. Without limiting any other provision of this Agreement and unless otherwise specified by GS1, You are solely responsible:
- a) as a Vendor, for supplying, maintaining and updating all Content on the National Product Catalogue and administering access to Content by Your trading partners and staff or other representatives; and
 - b) as a Vendor, for reviewing and checking all Content on the National Product Catalogue (including, without limitation, any Content updated by GS1 at Your request) as correct and complete; and
 - c) as a Vendor or Buyer, for obtaining at Your own cost all equipment and software necessary to enable You to access and use the National Product Catalogue.
- 2.7. You must not permit any third party to access or use the National Product Catalogue without the prior written consent of GS1.
- 2.8. GS1 may access the National Product Catalogue on Your behalf without notice for purposes associated with the National Product Catalogue, including but not limited to administration, training, education and support.
- 2.9. GS1 may share Your company, contact and National Product Catalogue implementation information with National Product Catalogue Recipients upon the Data Recipient request.

Without limiting any other provision of this Agreement, GS1 may at any time provide Content about Your products from the National Product Catalogue and GTIN Search to GS1 Services such as, but not limited to GS1 Cloud, Product Vault, Trusted Data Services, ProductRecallNZ and MediaLibrary.

This Content will:

- a) contain, for Content to be shared other than with the GS1 Cloud, basic product information such as, but not limited to, product number, product description, brand name, category and net content;

- b) contain, for Content to be shared with the GS1 Cloud, the following seven fields: product number or GTIN; brand name; label description; medium resolution image (if available); target market; company name, and product classification (category) subject to such additional or changed fields as be notified by GS1 from time to time by written notice to You; and
- c) be restricted, at the time of sharing, to only Publicly Available Product Data.

With written notice, You may request that GS1 does not provide your Publicly Available Product Data to the GS1 Cloud.

- 2.10. GS1 will use reasonable efforts to ensure that, except as permitted in clauses 2.9 and 3, Content made available through the National Product Catalogue is available only to persons who are registered users of the National Product Catalogue.
- 2.11. You must not, and must ensure that any person accessing or using the National Product Catalogue via Your computer systems does not:
 - a) use any data or information entered onto, or made available to You via, the National Product Catalogue by other members and users of the National Product Catalogue (“Trading Partner Information”) other than for the purposes of conducting transactions and exchanges of data in the manner reasonably contemplated by these terms and conditions;
 - b) repackage, resell, on-supply, distribute or disclose Trading Partner Information to third parties except by the publish and subscribe data exchange processes subscribed to, and provided within, the National Product Catalogue.
- 2.12. GS1 may at any time without consultation with You remove from, or inhibit from being loaded into, the National Product Catalogue any GTINs where those GTINs have not been licenced directly to You, or directly to the brand owner, by a recognised GS1 member organisation.
- 2.13. GS1 may at any time without consultation with or any liability to You, remove from the National Product Catalogue any Content which it reasonably regards as inappropriate or likely to cause a breach of this Agreement by You, or a breach of any applicable law.
- 2.14. If You are a Buyer, You acknowledge and warrant that You are responsible for the ongoing use of any Publisher’s Content on the National Product Catalogue accessed by or delivered to You and that any subsequent use of that Content, by You and any of Your service providers, contractors or agents, is only for the purposes intended by the Vendor when publishing to You and that it will be used expressly for Your own business purposes. Furthermore, if you have delivered such Content to Your service providers, contractors or agents, You warrant that You have requested that any such service provider, contractor or agent warrants they will only use that Content for Your business purposes.

- 2.15. In the event GS1 migrates the National Product Catalogue from one platform to another, or upgrades the software to meet GDSN or BOTP requirements standards, and there are requirements on You for data validation and/or maintenance:
- a) GS1 will advise You the data validation and/or maintenance requirements to be completed; and
 - b) You acknowledge it is Your responsibility to ensure that the necessary data validation and/or maintenance requirements are completed satisfactorily according to the advice and by the required date whether by Yourself or by Your nominated Third Party Service Provider and that such data validation and/or maintenance is performed entirely at Your cost; and
 - c) You acknowledge that if You, or Your nominated Third Party Service Provider, have not completed the required data validation and/or maintenance by the required date GS1 will have the authority to make the required data validation and maintenance changes on Your behalf provided that GS1 gives You at least 30 days written notice of the mapping change requirements. In this event GS1 is not responsible for ensuring that any data altered meets Your business requirements.
- 2.16. GS1 may at any time and for any reason without consultation suspend Your access to or use of the National Product Catalogue 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.
- 2.17. You acknowledge that whilst individuals may unsubscribe from certain publications, one (1) individual must be nominated to receive communications from the National Product Catalogue in relation to Your agreement. Due to the business-critical nature of some National Product Catalogue communications, including User Group meetings and National Product Catalogue Community Notices, all National Product Catalogue Champion, National Product Catalogue Administrator, and National Product Catalogue Back-up Administrator contacts are unable to Opt Out of this type of communication without providing a new contact name to take up that position. This is to ensure every business has been communicated to about changes relating to the National Product Catalogue service.
- To support this, You must immediately advise GS1:
- a) of any change in Your location, email or postal address detailed in the Registration Form; and
 - b) if the National Product Catalogue Champion, National Product Catalogue Administrator, or National Product Catalogue Back-up Administrator ceases to be an employee or appropriate contact between You and GS1, details of a replacement contact.
- 2.18. GS1 may vary the terms and conditions contained in this Agreement at any time provided that GS1 provides 14 days notice addressed to the National Product Catalogue Administrator at the address or email address detailed in the Registration Form or as varied in accordance with clause 2.17.
- 2.19. Upon receipt of notice of any variation in accordance with clause 2.18, You may terminate this Agreement by notice in writing to GS1 within 30 days.

- 2.20. GS1 may, at any time, discontinue any product, system, service or catalogue provided through, or associated with, the National Product Catalogue.

3.0 GDSN Participation

- 3.1. The National Product Catalogue is connected to the GDSN, which is an internet based, interconnected network of interoperable data pools, via a central global registry operated by GS1 Data Excellence, Inc. and known as the "GS1 Global Registry". This enables:
- GS1 to participate and act as a Data Pool in the GDSN for locally certified master data;
 - the publication of key searchable data (namely Your GLN, Your products' GTINs, Your Target Market Country Code, Your Target Market Sub-Division (if applicable) and Your products' GPC Codes) on the GS1 Global Registry (not including Product Descriptions, any Product Details or any Pricing); and
 - You and other Buyers, Vendors and HealthCare Users to participate in international transactions through the National Product Catalogue.
- 3.2. The GS1 Global Registry and Your access to it via the National Product Catalogue are subject to the GDSN Terms. Accordingly, You acknowledge and agree that Your right to participate and use the National Product Catalogue and to access the GS1 Global Registry or the GDSN are conditional on You being bound by and complying with the GDSN Terms, and that You agree to be bound by the GDSN Terms.

4.0 GS1 Cloud Brand Owner Terms of Participation (BOTP)

- 4.1. **GS1 Cloud overview.** The National Product Catalogue is connected to an internet based platform (which includes associated equipment, systems, software, processes and services (which may include, without limitation, certain features such as key authentication, product validation and product search feature)), operated by GS1 AISBL (an international not for profit association incorporated under Belgian law) or its Affiliates from time to time (the "GS1 Cloud"). The GS1 Cloud provides a means for the communication of trusted product data by Brand Owners (or their Designees), such as You, to Data Recipients through the internet and mobile devices. This clause 4.0 only applies to You if you are a Brand Owner or a Designee of a Brand Owner.
- 4.2. **Permitted use cases.** There are two ways in which You may interact with the GS1 Cloud under this Agreement. Accordingly, as regards the GS1 Cloud, You represent and warrant that you are, and will remain at all relevant times, either a Brand Owner or a Designee of a Brand Owner. For avoidance of doubt, neither the BOTP nor the remainder of this Agreement provides You with a right to access or use GS1 Cloud's services as a Data Recipient, such rights to be the subject of a separate agreement.
- 4.3. **BOTP are binding on You.** You acknowledge and agree that the GS1 Cloud BOTP are incorporated by reference into this Agreement and that You agree to be legally bound by and comply with such terms at all times.

- 4.4. **BOTP may be amended.** You acknowledge that GS1 International AISBL reserves the right to amend the BOTP from time to time. GS1 will endeavor to give You reasonable notice of such amendment prior to the effective date of the amendment. Publication of the amended BOTP on GS1's website shall constitute written notice of such amendment. Your continued use of the National Product Catalogue after such notice shall constitute acceptance of such increase You acknowledge that Your continued use of the GS1 Cloud after the notice period will be deemed to constitute Your acceptance of the amended BOTP. You may terminate Your participation in the GS1 Cloud (in accordance with clause 13 (Amendments) of the BOTP) if you do not accept the amended BOTP.
- 4.5. **Termination of BOTP.** The BOTP may be terminated by either You, GS1 or GS1 International AISBL in accordance with its terms, independently of, or (in the case of GS1) in addition to, the remainder of this Agreement.
- 4.6. **Effect of termination or expiry of BOTP; data retention.** You acknowledge Your rights to access and use the GS1 Cloud shall cease immediately upon termination or expiry of the BOTP (or termination or expiry of this Agreement, if earlier) and that, pursuant to clause 6 of the BOTP, GS1 and its nominees (including without limitation GS1 International AISBL) may retain and use Your Brand Owner Data for internal purposes and that Data Recipients may continue to use Your Brand Owner Data in accordance with any relevant agreement with GS1 or its nominee.

5.0 Fees and Payment

- 5.1. You must pay GS1 the Fees. Unless otherwise specified, all Fees are exclusive of GST, and exclusive of any other applicable taxes and duties (which must be paid by You).
- 5.2. GS1 will issue invoices for the Fees to You from time to time. You must pay those invoices within 30 days from 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.
- 5.3. An administration surcharge may apply to credit card payments. All invoices will be Tax Invoices for GST purposes.
- 5.4. If either party:
- a) is liable to pay GST on a supply made in connection with this Agreement; and
 - b) certifies to the recipient of the supply that it has not priced the supply to include GST,
- then the recipient of the supply agrees to pay that party an additional amount equal to the consideration payable for the supply multiplied by the prevailing GST rate (provided that the party issues a Tax Invoice with respect to that supply).
- 5.5. For Default and Consequences of Default refer to Clause 7 within GS1 New Zealand Terms and Conditions of Trade, available on the GS1 New Zealand website.

- 5.6. GS1 may, from time to time, increase the Fee by written notice. Publication of the increased Fee on GS1's website shall constitute written notice of such increase. Your continued use of the National Product Catalogue after such notice shall constitute acceptance of such increase.

6.0 Warranties and Indemnities

- 6.1. In using the National Product Catalogue, You must:
- a) comply with all applicable laws (including but not limited to the Fair Trading Act 1986, the Commerce Act 1986 and the Consumer Guarantees Act 1993);
 - b) use the National Product Catalogue strictly in accordance with this Agreement for the purposes contemplated by this Agreement;
 - c) not tamper with or otherwise modify the National Product Catalogue;
 - d) take all precautions necessary and appropriate in the circumstances to protect the security, privacy and confidentiality of the National Product Catalogue;
 - e) take all precautions necessary and appropriate in the circumstances not to post, send or otherwise make available through the National Product Catalogue any material that contains any virus, trojan, worm or similar deleterious program that may damage or interfere with the operation of the National Product Catalogue;
 - f) not post, send or otherwise make available through the National Product Catalogue any material that:
 - I. infringes the National Product Catalogue's or a 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 the National Product Catalogue;
 - g) provide to GS1 information which is reasonably necessary for GS1 to make available the National Product Catalogue and ensure that this information is both accurate and complete and delivered to GS1 in a timely manner;
 - h) not breach or attempt to breach the security of the National Product Catalogue; and
 - i) not interfere with the normal operation of the National Product Catalogue.
- 6.2. GS1 agrees to:
- a) comply with all applicable laws in relation to its operation of the National Product Catalogue; and
 - b) take all reasonable precautions to protect the security, privacy and confidentiality of the National Product Catalogue.

- 6.3. 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 by You of this Agreement;
 - b) any claim against GS1 by a third party relating to Your use of the National Product Catalogue;
 - c) a 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.

7.0 Liability

- 7.1. To the maximum extent permitted by law:
- a) all terms, conditions and warranties which would otherwise be implied into this Agreement and all remedies or liability under any legislation are excluded; and
 - c) where any such term, condition or warranty is implied by legislation, or any remedy or liability under any legislation arises, and such legislation provides that the term, condition, warranty, remedy or liability may not be excluded, GS1 limits its liability for breach of that term (at GS1's option) to the resupply or payment of the cost of resupply of the relevant Services. You acknowledge and agree that the foregoing limitation of liability is fair and reasonable in all the circumstances.
- 7.2. Without limiting clause 7.1, GS1 does not warrant that the National Product Catalogue, GSDN, GS1 Global Registry, GS1 Cloud or any other GS1 Services will be available at or for any particular time, or that they will be free from error or interruption. You acknowledge that despite all reasonable precautions on GS1's part, there is a risk of unauthorised access to, or alteration of, transmissions of data or information to or from Your electronic device or available through the Services.
- 7.3. Without limiting clause 7.1, GS1 does not warrant that support services will be available at or for any particular time, or that they will be free from error or interruption. GS1 must re-perform any support services not performed in accordance with these Terms provided that GS1 receives notice within 30 days after support services are performed.

- 7.4. To the maximum extent permitted by law, GS1 excludes all liability (whether arising in negligence, breach of contract or under any other legal theory) that it may have for any loss, costs, expense, damage or liability of any kind including, without limitation, loss or corruption of data, any loss of revenue or profits, any failure to realise expected savings, or indirect, consequential, incidental, special exemplary or punitive loss or damage, howsoever caused (including through GS1's negligence), suffered or incurred by You arising from or in connection with:
- a) the access to, use of or reliance on the National Product Catalogue, the GS1 Global Registry, the GDSN or the GS1 Cloud or other Service or any information available through the Services;
 - b) any services, documentation or other products or services provided to You by GS1 (or its nominees) in respect of Your use of the National Product Catalogue, the GS1 Global Registry, the GDSN, the GS1 Cloud or other Services or any information available through the Services;
 - c) arising from any delay, error or failure in the determination, verification or notification to You of the GST classification of food and grocery items in accordance with clause 8.3(c);
 - d) any injury, sickness or death;
 - e) any decision or action taken by You in reliance on information available through the Services;
 - f) any unauthorised access to, or alteration of, transmissions of data or information to or from Your electronic device or available through the Services; or
 - g) any interruption, error or defect in the Services or information available through the Services.
- 7.5. To the maximum extent permitted by law, GS1's total aggregate liability arising under or in connection with this Agreement or its subject matter is limited to an amount equal to the total amount of the Fees paid by You in the twelve (12) months immediately preceding the date that the cause of action (or, if more than one, the first such cause) arises.
- 7.6. The provisions of this clause 7 (Liability) are additional to, and not in lieu of, the terms of the BOTP or GDSN Terms.

8.0 Intellectual Property

- 8.1. Unless otherwise expressly provided in this document, You agree that all intellectual property rights in and to the National Product Catalogue are owned by GS1 or its licensors.
- 8.2. You warrant to GS1 that You own, or are entitled to use the intellectual property rights in the Content, and that You have the right to grant GS1 the licence referred to in clause 8.3.
- 8.3. 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 the National Product Catalogue;

- b) making that Content (other than the Confidential Content) available to any registered user of the National Product Catalogue (whether that Content is made available in connection with the National Product Catalogue or otherwise) on or after the date on which, according to GS1's rules for the National Product Catalogue from time to time, that Content is made available to all registered users of the National Product Catalogue; and
- c) making that Australian market specific Content (including Confidential Content) available to the Australian Tax Office or to any other Australian governmental authority or body as required by law (whether that Content is made available in connection with the National Product Catalogue or otherwise) for any purposes associated with the determination or verification of the GST classification of food and grocery items published on the National Product Catalogue.

9.0 Privacy, Confidentiality and Security

- 9.1. GS1's commitment to privacy is set out in the "Privacy Statement" available at www.gs1nz.org. 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.

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 that statement.

You acknowledge and agree that such terms and purposes include disclosure of personal information to the Australian Tax Office or Inland Revenue Department in connection with disclosure of Content pursuant to clause 8.3(c) above.

- 9.2. 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, Agreementors 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.
- 9.3. The Recipient will use the confidential information of the Discloser solely for the purpose of using or operating the National Product Catalogue in accordance with this Agreement.
- 9.4. Confidential information includes:
- a) in the case of GS1, all Sign On details provided to You; and
 - b) in the case of You, the Confidential Content.
- 9.5. Confidential information does not include any information that is:
- a) public knowledge at the time it is supplied to Recipient, or becomes public knowledge subsequently other than through breach of an obligation of confidence; or

- b) in Recipient's lawful possession prior to it being supplied to Recipient.
- 9.6. You are advised that privacy complaints about acts or practices of GS1 may be investigated by the Privacy Commissioner who can request that GS1 change its privacy practices in appropriate circumstances.

10.0 Term and Termination

- 10.1. This Agreement 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 Agreement.
- 10.2. Either party may terminate this Agreement by notice to the other party if:
- a) the other party breaches any term of this Agreement and, if it 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 by giving 30 days notice in writing to the other party.

11.0 Food Product Information

- 11.1. If You are required pursuant to the Food Standards Australia & New Zealand Act 1991, or otherwise, to comply with the Australian New Zealand Food Standards Code ("Code"):
- a) You must, when entering any Content in respect of any product or item, include in the Content any and all information that You are required to include by way of nutrition information upon any label attached to that product or item pursuant to the Code including, without limitation, any nutrition information required under Standard 1.2.8 published pursuant to the Code;
 - b) You warrant that all Content provided by You in accordance with clause 11.1(a) is accurate and complete; and
 - c) You must keep all Content in respect of any product or item up to date and not allow Content to become out of date or inaccurate,
- and You will indemnify, and keep indemnified and held harmless, GS1 in respect of any liability, loss, cost or expense arising out of any breach of this Clause 11.0.
- 11.2. If You wish Your Food Product Information to be made available to organisations that You have not specifically published to, You can opt in to share Your Food Product Information through the designated management process or by contacting the National Product Catalogue administration team directly.

12.0 Healthcare Data Providers

- 12.1. Subject to clauses 12.2 and 12.3, Healthcare Data Providers may access the National Product Catalogue for Healthcare for the purposes of:
- a) uploading verified, corrected or updated Healthcare Data into the National Product Catalogue for Healthcare for the purpose of making that verified, corrected or updated Healthcare Data available to Healthcare Recipients; and
 - b) entering new Healthcare Data into the National Product Catalogue for Healthcare or modifying existing Healthcare Data contained in the National Product Catalogue for Healthcare for the purpose of making that Healthcare Data available to Healthcare Recipients.
- 12.2. Prior to any Healthcare Data (including, without limitation, new, verified, corrected or updated Healthcare Data) being made available to Healthcare Recipients by Healthcare Data Providers, the Healthcare Data Provider must submit the Healthcare Data to the QA Process in order to:
- a) allow the review and provision of feedback on the Healthcare Data; and
 - b) ensure that each Healthcare product is assigned to the correct virtual National Product Catalogue for Healthcare group with the appropriate Anatomical Therapeutic Chemical classification index code.
- 12.3. The Healthcare Data Provider will not make any Healthcare Data available to Healthcare Recipients unless the release of that information has been approved in the course of the QA Process.
- 12.4. You:
- a) warrant that all Content (including, without limitation, all Healthcare Data) provided by You is accurate and complete; and
 - b) must keep all Content (including, without limitation, National Product Catalogue for Healthcare Data) provided by You up to date and not allow such Content to become out of date or inaccurate; and
 - c) will indemnify and keep indemnified, and held harmless, GS1 in respect of any and all liability, loss, cost or expense arising out of any breach of this Clause 12.4.
- 12.5. You agree that the Commonwealth, or a third party on behalf of the Commonwealth, may use Your Healthcare Data for the purpose of using the National Product Catalogue for Healthcare.

13.0 Healthcare Recipients

- 13.1. Healthcare Recipients may access the Healthcare Data contained within the National Product Catalogue for Healthcare for the purpose of:
 - a) searching the National Product Catalogue for Healthcare; and
 - b) downloading Healthcare Data from the National Product Catalogue for Healthcare for inclusion in their own databases.
- 13.2. Healthcare Recipients must ensure they have downloaded the most recently updated Healthcare Data from the National Product Catalogue for Healthcare and incorporated it within their own Healthcare databases before making their National Product Catalogue for Healthcare databases available to their clients.
- 13.3. On and from the day this Agreement expires or is terminated, You must not use any Healthcare Data downloaded from the National Product Catalogue for Healthcare:
 - a) in a manner that would involve operating a service or system similar to the National Product Catalogue for Healthcare; or
 - b) in a manner that suggests that the use of the Healthcare Data is endorsed by, or otherwise has the authority or support of, or is in any way associated with, the Australian Digital Healthcare Agency (formerly NeHTA).
- 13.4. GS1 does not warrant the accuracy, currency or completeness of any Healthcare Data and will not be liable to You, or any person who obtains Healthcare Data or any data based on, or derived from, Healthcare Data from You and You will indemnify, and keep indemnified and held harmless, GS1 in respect of any such liability.

14.0 National Product Catalogue for Healthcare Information

- 14.1. Healthcare Recipients and Healthcare Data Providers acknowledge and agree that Healthcare Data and information (including personal information) of Healthcare Recipients and Healthcare Data Providers may be made available by GS1 to the Australian Digital Healthcare Agency (formerly NeHTA) and to other persons who:
 - a) are associated with, or provide services in respect of, the operation of the National Product Catalogue for Healthcare; or
 - b) replace GS1 or the National Product Catalogue as the provider or host of the National Product Catalogue for Healthcare or a similar service established by the Australian Digital Healthcare Agency (formerly NeHTA).
- 14.2. Healthcare Data Providers acknowledge and agree that copies of Data Quality Insights Reports will be made available by GS1 to both the Healthcare Data Providers and additionally to the Australian Digital Healthcare Agency (formerly NeHTA) and Healthcare Data Recipients as a means of monitoring, comparing and improving Data Quality within the National Product Catalogue.

15.0 Third Party Service Provider Obligations

- 15.1. This clause 15.0 applies to You only if You are a Third Party Solution Provider acting on behalf of Vendors or Buyers who are licenced users of the National Product Catalogue ("Your Customers").
- 15.2. Without limiting any other provision of these National Product Catalogue Terms and Conditions and unless otherwise specified by GS1 in writing, You are solely responsible for:
- c) obtaining all necessary licences from Your Customers in relation to Your use of their content;
 - d) complying with all Your Customers' obligations in respect of their use of the National Product Catalogue when acting on Your Customers' behalf; and
 - e) complying with all applicable laws in relation to Your use of Your Customer's content.
- 15.3. You acknowledge that GS1 is not party to any transaction between You, Your Customers or otherwise in relation to Your use of Your Customer's Content (otherwise than as set out in these National Product Catalogue Terms and Conditions) and that GS1 has no responsibility:
- a) for ensuring the correctness, accuracy, completeness or suitability for intended purpose of any Content on the National Product Catalogue service; or
 - b) with respect to any transaction itself (including any claim or dispute relating to that transaction).
- 15.4. You acknowledge that Your access to or use of Your Customer's Content on the National Product Catalogue service may be suspended, without liability to GS1, at any time:
- a) by the Vendor or Buyer for any reason; or
 - b) by GS1 for any reason including, without limitation, if all Vendors or Buyers for whom You act have been suspended or terminated.
- GS1 will attempt to notify You of any such suspension but will not be liable to You if it does not do so.

16.0 National Product Catalogue Hosted Mapping Services

- 16.1. If You have requested GS1 to provide Hosted Mapping Services, You acknowledge:
- a) Hosted Mapping Services are provided on the basis of an agreed one off fee to develop, and an ongoing fee to host, each individual map;
 - b) GS1 will develop each requested individual map according to an agreed written map specification;
 - c) In the event of upgrades to the National Product Catalogue to meet GDSN or GS1 Cloud requirements standards, any maintenance of individual maps to meet the revised standard will be performed at Your cost;

- d) any maintenance of individual maps to meet Your revised business and technical requirements will be performed at Your cost; and
- e) It is Your responsibility to ensure that each hosted map performs in accordance with Your agreed written requirements and as such You will indemnify, and keep indemnified and held harmless, GS1 in respect of any liability, loss, cost or expense arising out of any individual map not performing as expected.

17.0 National Product Catalogue Business Validation Rules

17.1. You, as a Vendor or Third Party Service Provider:

- a) are entitled to use the National Product Catalogue Business Validation Rules solely against data content that is being loaded into the National Product Catalogue; and
- b) must not apply the National Product Catalogue Business Validation Rules to any data being loaded to any other system other than the National Product Catalogue other than for the express purpose of loading to the National Product Catalogue.

17.2. You, as a Buyer or Third Party Service Provider:

- a) may only apply the National Product Catalogue Business Validation Rules to data that has specifically been sent directly from registered Vendors; and
- b) must not apply the National Product Catalogue Business Validation Rules to any data received from the National Product Catalogue unless the Vendor exchanging that data is a registered National Product Catalogue user;
- c) must not apply the National Product Catalogue Business Validation Rules to any data received from the National Product Catalogue where it has been simply passed on as a "GDSN pass-through"; and
- d) for avoidance of any doubt, have no right to access or use Content from the GS1 Cloud under this Agreement except as provided in clause 4.0. You cannot use the GS1 Cloud as a Data Recipient under this Agreement unless you enter into a separate agreement with GS1.

17.3. You acknowledge that You must not share externally the National Product Catalogue Business Validation Rules to any third parties without prior written approval from GS1.

18.0 General

18.1. The parties are independent contractors. Nothing in this Agreement makes a party an agent, partner or joint venturer of the other.

18.2. You may not assign this Agreement without GS1's prior written consent.

18.3. This Agreement (and the GDSN Terms and the BOTP) are the entire agreement of the parties concerning their respective subject matter.

- 18.4. 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.
- 18.5. An obligation of a party (other than an obligation to pay money) will be suspended to the extent the party is prevented from performing that obligation because of an event beyond its reasonable control.
- 18.6. This Agreement is governed by New Zealand law. By agreeing to the terms and conditions of this Agreement You are submitting to the non-exclusive jurisdiction of the courts of New Zealand or any court that may hear appeals from those courts for determining any dispute concerning this Agreement.

19.0 Definitions

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

Affiliate means, with respect to a particular person or entity, any entity that directly or indirectly controls, is controlled by, or is under common control with such person or entity.

BOTP has the meaning given in clause 1.2(b).

Brand Owner means a manufacturer of a product or a retailer with a private label product.

Brand Owner Data has the meaning given in the BOTP.

Buyer means a person using the National Product Catalogue for the purpose of viewing the Content of Vendors and, unless expressly stated to the contrary, includes National Product Catalogue for Healthcare Recipients. Buyer is interchangeable with Recipient and both shall carry the same meaning.

Confidential Content means the prices of, or trading terms relating to, any products included in a catalogue hosted on the National Product Catalogue, which You have designated as being available only to particular trading partners, and other Content to the extent to which, according to GS1's rules for the National Product Catalogue from time to time, it is subject to restrictions on disclosure.

Content means the text, images and other material provided by You to GS1 for purposes of publication on the National Product Catalogue, or by the National Product Catalogue to You as a recipient of publication, and unless expressly stated to the contrary includes National Product Catalogue for Healthcare Data.

Data Pool(s) means those person s or entities, including GS1, that have executed a participation agreement with GS1 Data Excellence, Inc., by which they have agreed to access the GDSN and the GS1 Global Registry on behalf of their subscribing customers. A list of Data Pools from time to time can be found on the GDSN website at <http://www.gs1.org>

Data Quality Insights Reports means detail and summary reports provided by GS1 Australia to Healthcare Suppliers that report on compliance to the applicable National Product Catalogue Validation Rules.

Data Recipient means any person viewing or using any Content and includes, without limitation, consumers, retailers, internet application providers and public authorities.

Designee means a person who is a Brand Owner's authorized party who creates, maintains, manages or delivers Content on behalf of a Brand Owner.

Fees mean GS1's fees for the National Product Catalogue service, as published by it from time to time.

Food Product Information means information regarding food product composition including but not limited to allergens, ingredients, nutrition, dietary and other related information.

GDSN means the Global Data Synchronisation Network which is an internet based, interconnected network of interoperable data pools, connected via a central global registry operated by GS1 Data Excellence, Inc. and known as the "GS1 Global Registry", which enables data synchronization in accordance with the GS1 System Standards.

GS1 means GS1 New Zealand Incorporated.

GS1 AISBL means the international not for profit association incorporated under Belgian law with registered office at Avenue Louise 326, 1050 Brussels, Belgium, registered with the register of legal entities (district of Brussels) under number 419.640.608.

GS1 Cloud has the meaning given in Clause 4.1.

GS1 Global Registry means a global registry including the index for item and party master data which is accessible to Data Pools certified as being compliant with the GS1 System standards.

GS1 Services means any services or supplies provided or to be provided by GS1 to You other than the Services under this Agreement.

GS1 System standards means an integrated system of global standards (as varied from time to time) that provides for identification and communication of information regarding products, assets, services and locations.

GST has the meaning given to that term in the Goods and Services Tax Act 1985.

GTIN means Global Trade Item Number.

GTIN Search comprises database and access functionality that allows users to obtain a list of GTINs encompassing basic data including but not limited to GTIN, Target Market, Publisher GLN, Publisher Name, Description, tax office (ATO) Approval Status (where applicable), Global Product Classification details and End Availability Date for all active GTINs that have passed their community visibility date. GTIN Search replaces the GS1net Registry functionality.

Healthcare Data means National Product Catalogue for Healthcare product data and information contained within the National Product Catalogue for Healthcare.

Healthcare Data Providers means Healthcare vendors and suppliers or other persons who provide Healthcare Data.

Healthcare Recipients means administrators, developers, maintainers of other electronic health systems and all other persons that access or use Healthcare Data.

Healthcare Users means Healthcare Data Providers or Healthcare Recipients.

Hosted Mapping Services means the provision of a customised hosted mapping solution to facilitate the exchange of data with the National Product Catalogue in a data format different to the standard National Product Catalogue data definitions to meet a National Product Catalogue user's particular requirements.

National Product Catalogue means the on-line catalogue service operated by GS1 which is currently provided at the following website: <http://www.gs1nz.org> or such other website as is notified by GS1 from time to time. It includes a validation component National Product Catalogue Business Validation Rules for the validation of all inbound on-line messages and the GDSN Global Registry which records the GTIN, publisher's GLN, GPC code and Target Market code of each item. The name GS1net is interchangeable with National Product Catalogue and both shall carry the same meaning. For avoidance of doubt, the GS1 Cloud is separate from the National Product Catalogue.

National Product Catalogue Business Validation Rules means a set of business rules used within the National Product Catalogue to define acceptable data content requirements against and across the National Product Catalogue data field(s) and contains an associated rule number, level of error and error message that will result if a validation rule is breached.

National Product Catalogue for Healthcare means the catalogue hosted by GS1 on the National Product Catalogue, and established by the Australian Digital Healthcare Agency formerly known as the National e-Health Transition Authority (NeHTA) containing healthcare product data linked to, among other things, a GTIN.

Primary Contact means the person nominated by You as the "Primary Contact" in the Registration Form or advised to GS1 pursuant to clause 2.17.

Publicly Available Product Data means GTINs in the National Product Catalogue where the Community Visibility Date field has a value of the current date or earlier in time.

Publisher has the same meaning as Vendor.

QA Process means the course of action taken by the person or persons appointed by the Australian Digital Healthcare Agency (formerly NeHTA), and independent of GS1 New Zealand, to provide quality assurance services in respect of the National Product Catalogue for Healthcare.

Recipient has the same meaning as Buyer.

Registration Form means the registration form for the National Product Catalogue which is designated by GS1 from time to time.

Services means any services or supplies provided or to be provided by GS1 under this Agreement, any may include, without limitation, the National Product Catalogue, GDSN, GS1 Global Registry or GS1 Cloud.

Tax Invoice has the meaning given to that term in Goods and Services Tax Act 1985.

Third Party Service Provider means a party authorised by a Vendor or Buyer to manage the transfer of Content to, or from, the National Product Catalogue service on behalf of that Vendor or Buyer.

Vendor means a person using the National Product Catalogue for the promotion (by way of a catalogue or otherwise) of its goods and, unless expressly stated to the contrary, includes Healthcare Data Providers. The term Vendor is interchangeable with Publisher and shall carry the same meaning.

You means the entity whose details are set out in the Registration Form and includes Healthcare Data Providers and Healthcare Recipients. **Your** has a corresponding meaning.

Annexure A

GS1 Data Excellence Inc.

TERMS OF PARTICIPATION AGREEMENT FOR NON U.S. TRADING PARTNERS

This GS1 Data Excellence, Inc. Terms of Participation Agreement ("Participation Agreement") is made and entered into between GS1 Data Excellence, Inc., a Delaware not-for-profit corporation ("GS1 Data Excellence"), and the person(s) or entity(ies) which are identified as a Trading Partner hereunder.

1. Definitions. The parties have agreed on the following definitions to apply to this Participation Agreement.

"Data Pool(s)" means those persons or entities that have executed a Global Registry Access and License Agreement ("GRALA") with GS1 Data Excellence, by which they have access to use the GDSN and the GS1 Global Registry™ on behalf of subscribing customers. A list of certified data pools can be found on the GDSN website at www.gs1.org

"Global Data Synchronization Network" or "GDSN" means a network of interoperable Data Pools and the GS1 Global Registry™ that enables data synchronization per the GS1 System Standards.

"GDSN Data" means any and all Trading Partner data or information exchanged within or through the GDSN and/or registered in the GS1 Global Registry including but not limited to Trading Partner Proprietary Information.

"GDSN Participant(s)" means any Data Pool(s) and/or Trading Partner(s) as defined herein.

"GS1 Global Registry™" means a global registry for item and party master data which is accessible to Data Pools certified as being compliant within the GS1 System Standards.

"GS1 System Standards" means an integrated global standards system that provides for accurate identification and communication of information regarding products, assets, services and locations.

"Non GDSN Member" means any third person, party or entity which is neither a Trading Partner nor Data Pool as defined herein.

"Source Trading Partner" means the owner of GDSN Data.

"Trading Partner(s)" shall mean the manufacturer, supplier, wholesaler, distributor, retailer or other member of global supply and demand chain which has agreed to and indicated its written acceptance to the Participation Agreement, pursuant to which Trading Partner is entitled to participate in the GDSN, subject to Trading Partner's selected Data Pool's compliance with its obligations to GS1 Data Excellence.

"Trading Partner Proprietary Information" means any and all information relating to Trading Partner's products, product formulations, pricing, cost data, methods, processes, designs, secrets, techniques, capabilities, permissions, instructions, specifications, requirements, orders, shipments, business or project descriptive materials, marketing information, customer information and any other information owned by, or to which Trading Partner has the lawful right to use, and employed by Trading Partner for the purpose of facilitating Trading Partner's participation in the GDSN, which is not otherwise in the public domain and which is treated as confidential by Trading Partner.

2. Subscription to GDSN. Upon written acceptance of the terms and conditions of this attachment and upon Company's selected Data Pool's payment of the applicable Data Pool fee to GS1 Data Excellence, Trading Partner shall be deemed to have been granted by GS1 GDSN a subscription for the right to participate in the GDSN and, in furtherance thereof, to utilize the GS1 Global Registry™. Trading Partner acknowledges that Trading Partner is not obtaining any license or ownership to the GS1 Global Registry™ or to any proprietary technology, processes, concepts or other proprietary intellectual property or confidential information of GS1 Data Excellence pertaining to the GDSN or to the GS1 Global Registry™. Trading Partner's rights are limited to participation in the GDSN in accordance with the terms and conditions stated herein. Trading Partner may register certain attributes in the GS1 Global Registry™, including, without limitation, (i) the Global Trade Item Number® ("GTIN®"), (ii) the Global Location Number (GLN) of the data source, (iii) the target market country code, (iv) the target market subdivision code, (v) the catalogue item classification, (vi) the GLN of the source Data Pool, (vii) the registry catalogue item state and (viii) the item status; however, Trading Partner acknowledges and understands that the registration, publication, subscription and synchronization functions of the GS1 Global Registry™ are to be performed by Trading Partner's selected Data Pool(s).

3. Conditions to Subscription. Trading Partner acknowledges and agrees that its failure to comply with any of the following material covenants, conditions and obligations, or any of the other terms and conditions contained in this attachment, shall constitute a breach hereof and shall be grounds for the immediate termination by GS1 Data Excellence of Trading Partner's participation in the GDSN.

A. Access and Participation in GS1 Global Registry/GDSN. Trading Partner shall participate in the GDSN and obtain access to the GS1 Global Registry™ through one Data Pool which has complied with all applicable GS1 GDSN certification requirements. However, based on a Trading Partner's business needs, a Trading Partner may join more than one Data Pool to obtain access to the GS1 Global Registry™ and GDSN. If Trading Partner undertakes to become a Data Pool, it must separately execute a Global Registry Access and License Agreement with GS1 Data Excellence.

B. GDSN Data. All GDSN Data must comply with GS1 System Standards, either directly or through third party data alignment via a GDSN Data Pool.

C. Standards and Policies. Trading Partner shall comply with all standards and policies adopted and/or implemented by GS1 Data Excellence from time to time governing the GDSN and the GS1 Global Registry™, including, but not limited to, access and service level standards, acceptable use policies, developmental and technical functionality, certification and marketing, educational and training policies and standards. Trading Partner acknowledges that GS1 Data Excellence reserves the right to amend and modify such standards and policies and may introduce modifications, changes, enhancements, new versions and new releases to all or part of the GDSN from time to time. GS1 Data Excellence agrees that each policy and standard will be published and will be made available to Trading Partner's Data Pool at least 120 days prior to the effective date, and further acknowledges that such amendment, modification, changes, etc. shall become effective as against such Trading Partner on the effective date thereof. Trading Partner agrees that in the event of any ambiguity, inconsistency or other question of interpretation concerning any standards or policies adopted by GS1 Data Excellence, the determination of the GS1 Data Excellence Board of Directors shall be conclusive and binding.

D. Participation Agreement. Trading Partner acknowledges that GS1 Data Excellence reserves the right to amend, modify or change this Participation Agreement from time to time. GS1 Data Excellence agrees that the amended, modified or changed Participation Agreement shall be made available to Trading Partner's Data Pool at least 120 days prior to the effective date for submission to Trading Partner, and Trading Partner agrees that the amended, modified or changed Participation Agreement shall become effective as against such Trading Partner on the effective date thereof, shall operate as written acceptance by the Trading Partner as of the effective date thereof and shall supersede and replace all prior Participation Agreements between GS1 Data Excellence and Trading Partner.

E. Fees. GS1 Data Excellence does not charge the Trading Partner a separate subscription fee to participate in the GDSN. GS1 Data Excellence collects its annual fees from the Data Pool directly, which annual payment allows the Data Pool to provide coverage to all of its Trading Partners to participate in the GDSN. The Trading Partner's selected Data Pool retains the discretion to charge its Trading Partners and allocate its costs across its Trading Partners as it deems necessary.

F. Help Desk. Trading Partner acknowledges and agrees that GS1 Data Excellence shall not be responsible for providing help desk support or any other support or resource services to Trading Partner and that help desk support resources and services shall be provided exclusively by or on behalf of Trading Partner's Data Pool.

G. Disclosure of GDSN Data.

(a) Trading Partner acknowledges that it shall not disclose, disseminate, provide or make available the GDSN Data of a Source Trading Partner to a Non GDSN Member without the Source Trading Partner's prior written consent. (b) A Trading Partner shall not represent itself as a GDSN certified data pool, a GDSN certified data source or the like in the absence of its execution of an active GRALA with GS1 Data Excellence.

H. Trading Partner Information Security.

(a) GS1 Data Excellence, shall during the term of this Agreement, provide security for Trading Partner's Proprietary Information within the GDSN at least at levels and in the manner in which GS1 Data Excellence secures its own proprietary information, but in no event less than a reasonable degree of care.

(b) GS1 Data Excellence hereby acknowledges that the Trading Partner Proprietary Information shall at all times remain the sole property of Trading Partner. GS1 Data Excellence agrees that it will not disclose, disseminate, provide, or make available any Trading Partner Proprietary Information in any form to any person without Trading Partner's prior written consent, except to those persons whose access is necessary to facilitate Trading Partner's Participation in the GDSN.

(c) Notwithstanding the foregoing, nothing herein shall prevent GS1 Data Excellence from disclosing Trading Partner's Proprietary Information upon GS1 Data Excellence establishing that the Trading Partner Proprietary Information: (i) has been published or has become part of the public domain other than by acts or omissions of GS1 Data Excellence, its employees, agents or contractors; (ii) was lawfully in the possession of GS1 Data Excellence at the time of disclosure to it and was not acquired by GS1 Data Excellence directly or indirectly from Trading Partner; (iii) was received after disclosure to GS1 Data Excellence by a third party who had a lawful right to disclose such information to GS1 Data Excellence; or (iv) was independently developed by GS1 Data Excellence without knowledge or use of the Trading Partner Proprietary Information.

(d) GS1 Data Excellence hereby agrees to indemnify and hold Trading Partner harmless from and against any claims made against Trading Partner which arise as a result of a breach by GS1 Data Excellence of the terms of this Paragraph 3H.

I. DISCLAIMER OF WARRANTIES. TRADING PARTNER ACKNOWLEDGES AND AGREES THAT GS1 Data Excellence MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY MATTER, AND ANY SUCH REPRESENTATIONS OR WARRANTIES ARE EXPRESSLY DISCLAIMED, INCLUDING BUT NOT LIMITED TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE OF OR PARTICIPATION IN THE GDSN OR THE GS1 GLOBAL REGISTRY™ OR ANY COMPONENT THEREOF OR ANY INFORMATION OR DATA DERIVED THEREFROM.

J. LIMITATION OF LIABILITY. EXCEPT AS SET FORTH IN PARAGRAPH 3H ABOVE, GS1 GDSN SHALL NOT BE LIABLE FOR ANY DAMAGES WHATSOEVER, CONSEQUENTIAL, INDIRECT, INCIDENTAL PUNITIVE OR OTHERWISE THAT MAY ARISE FROM THE TRADING PARTNER'S PARTICIPATION IN THE GDSN OR THE USE OF THE GS1 GLOBAL REGISTRY™ BY TRADING PARTNER OR FOR ANY FAILURE OR REFUSAL BY GS1 GDSN TO GRANT TRADING PARTNER ACCESS TO THE GDSN OR GS1 GLOBAL REGISTRY™ BASED ON A BREACH BY THE TRADING PARTNER'S SELECTED DATA POOL OF ITS OBLIGATIONS TO GS1.

K. Term; Termination. The term of this Participation Agreement shall commence on the day of Trading Partner's written acceptance of the terms and conditions herein, and unless sooner terminated, superseded or replaced in accordance with the terms hereunder, shall continue in effect for a period of one year there from (the "Initial Term.") This Participation Agreement shall renew automatically at the end of the Initial Term (each being a "Renewal Term") subject to Trading Partner's selected Data Pool being in good standing with regard to GS1 Data Excellence and continued compliance by the Trading Partner of all the terms and conditions herein. Notwithstanding the above, either party may terminate this Participation Agreement (i) immediately, if the other party breaches any material provision of this Participation Agreement and fails to cure such breach within 30 days of receipt of written notice of such breach from the non-breaching party or (ii) during the Initial Term or the Renewal Term by providing 60 days prior written notice to the other party.

L. Law. The terms in this Participation Agreement shall be governed by and construed in accordance with the laws of the Country, Nation, Republic or Union agreed upon between Trading Partner and the Data Pool which is applicable to claims or disputes arising under the agreement between the Data Pool and its Trading Partner for data pool services or data synchronization services. If Trading Partner has a registered business office in the United States, then the terms in this Participation Agreement shall be governed by and construed by the laws of State of Delaware without regard to the principles of conflict of laws.

M. Notices. All notices required to be given hereunder shall be in writing and shall be deemed delivered (i) when delivered by hand, (ii) one business day after being given to a nationally or internationally recognized overnight carrier, (iii) when sent by confirmed facsimile with a copy sent by other means as permitted in this section, or (iv) six days after deposit in the United States mail by registered or certified mail, return receipt requested, and fourteen days after deposit in international mail.

Notice to GS1 Data Excellence shall be given to:

GS1 Global Office GS1 Legal Counsel Blue Tower
326 Avenue Louise, Bte 10
B-1050 Brussels Belgium
cc: Sanjay Mandloi, President, GS1 Global Solutions
President, GS1 Data Excellence, Inc.

at above address

N. Survival of Clauses. GS1 Data Excellence and Trading Partner acknowledge and agree that those Paragraphs of this Participation Agreement which by their terms must survive the expiration or termination of this Participation Agreement shall survive the expiration or termination of this Participation Agreement.


O. Entire Agreement. This Participation Agreement sets forth the entire understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained.

P. Publicity. Neither party will use the other party's name or trademarks in any advertising, sales promotion or publicity matters without the other party's written consent.

Q. Assignment. This Participation Agreement shall inure to the benefit of, and be binding upon and enforceable by, the parties hereto and their respective successors and permitted assigns. Trading Partner shall not assign its rights or obligations under this Participation Agreement in whole or in part without the prior written consent of GS1 Data Excellence, which consent shall be in GS1 Data Excellence's reasonable discretion; provided, however, that Trading Partner may assign any of its rights and obligations hereunder without the consent of GS1 Data Excellence (but with prior notice) (i) to any existing or newly formed wholly-owned subsidiary of Trading Partner or (ii) to any entity that acquires all or substantially all of the stock or assets of Trading Partner. GS1 Data Excellence may assign its rights or obligations under this Participation Agreement without the consent of Trading Partner. GS1 Data Excellence shall provide written notice to Trading Partner of any such assignment.

4. Terms of GDSN Subscription. Trading Partner acknowledges and agrees that, as a condition to its participation in the GDSN and utilization of the GS1 Global Registry™, it shall be obligated to comply with the terms and conditions as set forth in this Participation Agreement, as such terms may be amended, modified or changed from time to time. Furthermore, Trading Partner acknowledges and agrees that GS1 Data Excellence is, and is intended to be, a third party beneficiary to this Participation Agreement, and shall be entitled to (i) enforce any rights granted to GS1 Data Excellence by the Participation Agreement directly against Trading Partner, (ii) seek damages directly against Trading Partner for any breaches by Trading Partner of the obligations set forth in the Participation Agreement or (iii) terminate Trading Partner's participation in the GDSN and utilization of the GS1 Global Registry™ to the extent Trading Partner breaches any of the terms and conditions herein.

GS1 Data Excellence, Inc.

By: 

Name: Sanjay Mandloi

Title: President

Annexure B

GS1 CLOUD BRAND OWNER TERMS OF PARTICIPATION (Version February 2018)

These GS1 Cloud Brand Owner Terms of Participation (“**Terms of Participation**”) are entered into by and between GS1 and the entity which is identified as Company hereunder, and which provides its acceptance hereto in any of the following ways: in writing, by accepting the publication of Brand Owner Data to the GS1 Cloud as a recipient in the GDSN, by click-to-accept, by reference to these Terms of Participation in another agreement or otherwise. These Terms of Participation are effective as of the date on which they were first accepted by Company in accordance with any of the above methods.

- 1. Definitions.** In these Terms of Participation, capitalised terms shall have the following meaning:
- a) “**Affiliate**” means, with respect to a particular person, any entity that directly or indirectly controls, is controlled by, or is under common control with such person.
 - b) “**Authorised Users**” means any person or entity accessing or using the GS1 Cloud and the Service through Company’s account.
 - c) “**Brand Owner**” means a manufacturer or a retailer with private label products.
 - d) “**Brand Owner Data**” means product data expressed as data attributes (whether in the form of text, images or otherwise) owned by or licensed to Company and provided to GS1 for publication in and distribution through the GS1 Cloud.
 - e) “**Data Recipient**” means a party viewing and/or using the Brand Owner Data, in or through the GS1 Cloud, subject to the acceptance of the GS1 Cloud Terms of Use.
 - f) “**Data Source**” means the party (GS1 Member Organisation, data pool, etc) that has executed an agreement with GS1 or an Affiliate of GS1 pursuant to which such party provides Brand Owner Data collected in another service or database operated by it to the GS1 Cloud from time to time.
 - g) “**Designee**” means a party authorised by a Brand Owner to create, maintain, manage and/or deliver its principal’s Brand Owner Data (including, without limitation, a distributor or a content provider), it being understood that such party must be able to demonstrate its authority to provide and license Brand Owner Data to GS1 for the purpose of the GS1 Cloud and grant the license set out in Section 3 at all times and at GS1’s first request.
 - h) “**GDSN**” means the Global Data Synchronisation Network, a network of interoperable data pools and the GS1 Global Registry™ that enables data synchronization per the GS1 System standards.

- i) **"GS1"** means GS1 AISBL, an international not for profit association incorporated under Belgian law with registered office at Avenue Louise 326, 1050 Brussels, Belgium, (RPM Brussels:419.640.608).
- j) **"GS1 Cloud"** means the platform, including all equipment, systems, software and processes necessary to operate it, operated by GS1 or any of its Affiliates from time to time to provide the Service.
- k) **"GS1 Cloud Terms of Use"** means the terms applying to any view and/or use by a Data Recipient of the Brand Owner Data made available to it in the GS1 Cloud, available on the Website, as amended from time to time.
- l) **"GS1 Member Organisation"** means a member organisation of GS1; as such term is normally understood with respect to GS1.
- m) **"GS1 system"** means the specifications, standards, and guidelines administered by GS1.
- n) **"Information Provider"** means the person or entity that effectively uploads the Brand Owner Data to the GS1 Cloud, which may include without limitation the Brand Owner, a Designee or the Data Source.
- o) **"Metadata"** means any and all data captured through Data Recipients' use of the GS1 Cloud, including statistics reflecting or based on Data Recipients' interactions with the GS1 Cloud and information submitted by Data Recipients when using the GS1 Cloud, such as information entered by Data Recipients into an interface associated with the GS1 Cloud.
- p) **"Notice & Take Down Procedure"** means the "GS1 Cloud Policy on the Notice & Take Down Procedure", as published on the Website, as amended from time to time.
- q) **"Party"** means Company or GS1.
- r) **"Policies"** means the Privacy Policy and the Notice & Take Down Procedure and any policies adopted, implemented, and/or modified by GS1 from time to time, governing operational aspects of the GS1 Cloud and made available on the Website.
- s) **"Privacy Policy"** means the "GS1 Cloud Privacy Policy", as published on the Website.
- t) **"Service"** has the meaning given in section 2 below.
- u) **"trusted"** means, in relation to data, if such data originates from, is authorised or validated by a Brand Owner.
- v) **"Website"** means a section of the website designed, owned and controlled by GS1 where the Service is offered (www.gs1.org/gs1-cloud or any successor website).

- 2. Service.** The GS1 Cloud is a platform through which GS1 and the GS1 Member Organisations are providing a global service which enables Brand Owners (directly or via a Designee) to share trusted data about their products with Data Recipients and enables Data Recipients to view and/or use such trusted data (the "Service"). GS1 will provide the Service with reasonable skill and care and in accordance with applicable laws and regulations. GS1 does not represent or warrant that the Service will be secure or free from error or interruption. GS1 may from time to time make modifications to the Service and/or to GS1 Cloud, including to its design, functionalities and appearance, or cease its operation.
- 3. License Grant.** Company is a Brand Owner or a Designee and wishes to share Brand Owner Data via the Service. Subject to the terms and conditions of these Terms of Participation, (a) Company hereby grants to GS1, and GS1 hereby accepts such grant, a non-exclusive, world-wide, non-transferable (except as expressly set out herein), royalty-free right and license (including the right to sub-license to Data Recipients subject to the GS1 Cloud Terms of Use) to use the Brand Owner Data for any purpose related to the GS1 Cloud and the Service, and (b) GS1 hereby grants to Company (acting through its Authorised Users), and Company hereby accepts such grant, a right of access to the GS1 Cloud and the Service for its own business purposes (including, without limitation or for the management of its own Brand Owner Data, administration of its Authorised Users). For the avoidance of doubt, Company may also use the Service as a Data Recipient and enjoy access to all available Brand Owner Data subject to Company consenting to the GS1 Cloud Terms of Use.
- 4. Company Obligations.**
- a) Company covenants, represents and warrants that it shall not make available in the GS1 Cloud any Brand Owner Data, which:
- (i) is not trusted;
 - (ii) violates any privacy rights, copyrights, trademarks, patents, or other intellectual property rights of any third party or violates any applicable laws or regulations;
 - (iii) does not comply with the GS1 system or violates applicable Policies;
 - (iv) contains or introduces a virus, Trojans, worm, logic bomb or any other materials which are malicious or technologically harmful;
 - (v) restricts, inhibits or interferes with any other party's use of the GS1 Cloud; or
 - (vi) subjects, GS1 and/or the GS1 Cloud to all or part of any license obligations relating to any open source software.
- b) Company shall not decompile, reverse-engineer, alter, or in any way tamper with all or part of the GS1 Cloud or any internet site or any software comprised therein, nor cause, permit or assist any other person directly or indirectly to do any of the above.

- c) Company shall be responsible and liable for all access to and use of the GS1 Cloud, the Website and the Service by Authorised Users or otherwise through Company's account and for the Authorised Users' compliance with these Terms of Participation. Upon registration, Company will receive login details for use by Authorised Users only. Company shall maintain the confidentiality of such login details and notify GS1 immediately of any unauthorised use or threatened use thereof.

5. Quality of Brand Owner Data.

- a) Company shall make reasonable efforts to:
 - (i) provide Brand Owner Data of the best quality available to it on an ongoing basis, and
 - (ii) inform GS1 promptly upon becoming aware of any inaccuracy or other quality issue relating to the Brand Owner Data published or distributed through in the GS1 Cloud.
- b) GS1 may, but has no obligation to, monitor and verify that the Brand Owner Data, as submitted to or published in the GS1 Cloud, complies with the provisions of these Terms of Participation. If GS1, in its sole discretion, suspects or believes that certain Brand Owner Data is submitted to or published in the GS1 Cloud in violation of these Terms of Participation (e.g. it violates a third party's intellectual property rights), it may take appropriate remedial action in its sole discretion (including without limitation by temporarily suspending the availability of or definitively removing the said Brand Owner Data from the GS1 Cloud). In exercising its rights pursuant to this Section, GS1 shall use reasonable efforts to adhere to the Notice & Take Down Procedure.
- c) GS1 may, but has no obligation to, share information with Company in the form of automated reports pertaining to basic data quality checks effectuated in the GS1 Cloud. Company understands that these reports are provided as a courtesy only and that it shall use such reports at its sole risk.

6. Termination.

- a) Notwithstanding any other arrangements between Company and a Data Source, either Party may terminate the participation of Company to the GS1 Cloud (i) with immediate effect if the other Party breaches any material provision of these Terms of Participation and fails to cure such breach within 15 days of receipt of written notice of such breach from the other Party, (ii) if either Party starts any insolvency or liquidation proceedings (in which case no notification shall be required), and (iii) at any time for any reason by giving thirty (30) days' notice in writing to the other Party. GS1 also reserves the right to limit the visibility of the Brand Owner Data Company's participation to the GS1 Cloud if it is in breach of a contract with a GS1 Member Organisation (e.g. it is no longer current in its payment obligations towards such GS1 Member Organisation). GS1 will notify Company of any termination in accordance with section 15 below. For the avoidance of any doubt, a termination of Company's participation to the GS1 Cloud shall not affect any other agreement Company may have with GS1 or any of its Affiliates in relation to the GDSN.
- b) Upon termination of the participation of Company to the GS1 Cloud: (i) Company's rights to access and use the GS1 Cloud under these Terms of Participation shall cease; (ii) all Brand Owner Data in the GS1 Cloud shall cease to be made available to Data Recipients, but GS1 may retain any of the Brand Owner Data for its records and for internal purposes; and (iii) any Brand Owner Data which has been shared with any Data Recipient prior to such termination may continue to be used by such Data Recipient in accordance with the GS1 Cloud Terms of Use, and GS1 shall under no circumstances be liable for any action or inaction of such Data Recipient. The provisions of Sections 1, 4 b), 5 b), 9, 10, 11, 12, 15 and 19 shall survive termination.

7. Further Warranties of Company. Company covenants, represents and warrants that (i) these Terms of Participation represents a valid and legally binding obligation on it and is enforceable against it in accordance with its terms, (ii) it has full power and authority to grant the license as referred to in Section 3 and to perform its obligations herein and (iii) the use of Brand Owner Data by GS1 and/or Data Recipients (for the latter, in compliance with the GS1 Cloud Terms of Use) shall not infringe any copyrights, trademarks, patents, database rights or other intellectual property rights of any third party nor violate any applicable laws or regulations.

8. Warranties of GS1. GS1 covenants, represents and warrants that (i) these Terms of Participation are enforceable against GS1 in accordance with its terms and (ii) GS1 shall not use the Brand Owner Data for any purposes other than the GS1 Cloud and the Service.

9. DISCLAIMER OF WARRANTIES. COMPANY ACKNOWLEDGES AND AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER GS1 NOR THE GS1 MEMBER ORGANISATIONS MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED (OTHER THAN THOSE SET OUT IN SECTION 8 ABOVE), REGARDING ANY MATTER, INCLUDING THE GS1

CLOUD, THE SERVICE, ANY BRAND OWNER DATA PUBLISHED TO OR DISTRIBUTED THROUGH THE GS1 CLOUD, AND ANY REPORTS, DATA OR INFORMATION PROVIDED BY GS1 TO COMPANY. ANY SUCH REPRESENTATIONS OR WARRANTIES ARE EXPRESSLY DISCLAIMED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, GS1 DOES NOT REPRESENT OR WARRANT THAT THE GS1 CLOUD WILL BE AVAILABLE AT OR FOR ANY PARTICULAR TIME OR THAT IT WILL BE SECURE OR FREE FROM ERROR OR INTERRUPTION.

- 10. LIMITATION OF LIABILITY.** EXCEPT FOR VIOLATIONS OF SECTION 8 ABOVE, TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER GS1 NOR THE GS1 MEMBER ORGANISATIONS SHALL BE LIABLE TO COMPANY FOR ANY HARM, EFFECTS OR DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO ACTUAL, DIRECT, CONSEQUENTIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER SUCH LIABILITY IS BASED ON (I) BREACH OF CONTRACT, (II) BREACH OF WARRANTY OR OTHERWISE, (III) COMPANY'S, COMPANY'S AUTHORISED USERS' OR A DATA RECIPIENT'S USE OF THE GS1 CLOUD AND/OR THE BRAND OWNER DATA, (IV) A FAILURE OR REFUSAL BY GS1 TO GRANT ACCESS TO THE GS1 CLOUD OR (V) A BREACH BY THE INFORMATION PROVIDER AND/OR BY A DATA RECIPIENT OF ANY OF THEIR/ITS OBLIGATIONS TO GS1.
- 11. Indemnity.** Company shall fully indemnify, hold harmless and defend GS1, its Affiliates, as well as any GS1 Member Organisation and, for each of the aforementioned, their directors, officers, employees, and agents from and against all claims, actions, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including reasonable attorneys' fees and costs), brought by any consumer, government agency or other third party which arise out of, relate to or result from (i) any allegation that any use, publication or distribution of Brand Owner Data infringes any patent, copyright, trademark, data base right or other intellectual property right; (ii) any breach or alleged breach of these Terms of Participation or any applicable laws or regulations by Company and/or its Authorised Users; and/or (iii) any allegation that any Brand Owner Data has been made available in the GS1 Cloud by Company in breach of Section 4 a) or Section 7. Notwithstanding the aforementioned, GS1 shall retain the right to assume the defence and conduct of the claim in its sole discretion as well as the right to settle any such claim.
- 12. Intellectual Property and Confidentiality.** Unless otherwise expressly provided in these Terms of Participation, Company agrees that all intellectual property rights in and to the Website, the GS1 Cloud, the Service and any Metadata are owned by GS1 or its licensors. Each Party will keep the other Party's confidential information in the strictest confidence and only use such information for the purpose of performing its obligations or exercising its rights pursuant to these Terms of Participation.

- 13. Amendments.** Company acknowledges that GS1 reserves the right to amend these Terms of Participation from time to time. GS1 agrees that the amended Terms of Participation shall be made available to Company (either directly to its Authorised Users or via its selected Data Source) at least thirty (30) days prior to the effective date and shall become effective as against Company on the effective date thereof, unless Company terminates its participation in accordance with section 6 (a) (iii). The continued use of the Service by the Data Recipient after the aforementioned period of thirty (30) days shall be deemed to constitute the Data Recipient's consent to the amended Terms of Use.
- 14. Privacy.** GS1 will handle any personal data (including any personal data of an Authorised User) in accordance with the Privacy Policy on the Website.
- 15. Notices.** All notices required to be given hereunder shall be in writing (email included) to the other Party's registered business address, principal place of business or address identified on its webpage or the (email) address identified when registering to use the Service or otherwise updated by the Authorised User from time to time.
- 16. Severability.** If any provision of these Terms of Participation is deemed to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect to the fullest extent permitted by law.
- 17. No Waiver.** Failure by GS1 to assert a right under these Terms of Participation shall not be deemed as a waiver to exercise such right. No waiver of any right set forth herein shall be deemed effective unless given in writing and signed by the GS1.
- 18. Assignment.** Company shall not assign its rights or obligations under these Terms of Participation in whole or in part without the prior written consent of GS1. GS1 may assign its rights or obligations under these Terms of Participation to an Affiliate without Company's consent. GS1 shall provide written notice to Company of any such assignment.
- 19. Law.** These Terms of Participation shall be governed by and construed in accordance with the laws of Belgium, without regard to principles of conflict of laws. In addition, each of the Parties consents and agrees to submit itself to the exclusive jurisdiction of any court located in Brussels, Belgium, for any actions, suits or proceedings arising out of or relating to these Terms of Participation. Notwithstanding the above, Company agrees that GS1 shall nevertheless be allowed to apply for injunctive remedies or relief (or other equivalent types of urgent legal remedy) in any jurisdiction.
- 20. Translations.** These Terms of Participation are originally drafted in English. Any translation is made available as a courtesy only and, in case of discrepancy between the original English version and the translation, the English version shall prevail.