

## GS1 UK SUPPLIER SUBSCRIPTION TERMS AND CONDITIONS

These Terms and Conditions set out the terms under which GS1 UK Limited has agreed to provide the Subscriber with a Subscription to access the GS1 UK productDNA Platform as a Service and for the purposes of providing Product Checking Services for uploading Product Data for access by other subscribers to the productDNA Platform.

### 1. DEFINITIONS

The definitions in this clause apply to these Terms and Conditions:

<b>Agreement</b>	the agreement between GS1 UK and the Subscriber for the Subscription to the Platform by the Subscriber and the provision of Product Checking Services, subject to these Terms and Conditions.
<b>Access Details</b>	the user ID and password required to access the Platform (including the Delivery Dashboard).
<b>Authorised Users</b>	means ten (10) users at the Subscriber who have Access Details for the Platform, or such number as otherwise agreed in writing with GS1 UK.
<b>Delivery Dashboard</b>	means the dashboard provided as part of the Platform and accessed by an Authorised User in order to book in Product Checking Services.
<b>GS1 UK</b>	<b>GS1 UK LIMITED</b> incorporated and registered in England and Wales with company number 01256140 whose registered office is at Hasilwood House, 60 Bishopsgate, London, England, EC2N 4AW.
<b>Initial Subscription Term</b>	the initial term of the Subscription being a three (3) year period from the Subscription Start Date.
<b>Intellectual Property Rights</b>	means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
<b>Platform</b>	means the productDNA platform, operated at the internet site notified to the Subscriber from time to time and which is used for accessing and using the Service, including the Delivery Dashboard.
<b>Product</b>	a product supplied by the Subscriber for inclusion of its Product Data on the Platform.
<b>Product Checker</b>	any person engaged by GS1 UK to complete Validations.
<b>Product Checking Fees</b>	the fees payable by the Subscriber to GS1 UK for the Product Checking Services as agreed and set out on the Platform when the Subscriber subscribes to the Platform or as notified to the Subscriber by GS1 UK from time to time, which Product Checking Fees are payable and subject to change in accordance with clause 6.
<b>Product Checking Services</b>	the receipt and storage of Products by the Product Checker, the Validation of Product Data and the updating of the Platform to confirm or reject the

veracity of Product Data, together with the disposal of Products in accordance with agreed terms.

<b>Product Data</b>	means information and data supplied by the Supplier with respect to Products for inclusion in the Platform, which Product Data is subject to Validation.
<b>Product Database</b>	the database within the Platform that comprises the Product Data.
<b>Service</b>	the service enabling various suppliers to upload Product Data to the Platform, Product Checkers to Validate the Product Data, and Subscribers to access and use the Product Data.
<b>Subscription</b>	the subscription granted by GS1 UK to access and use the Service available through the Platform as from the Subscription Start Date, as updated from time to time, including the functionality, user interface, usability and other information, and for the purposes of providing the Product Checking Services for uploading Product Data to the Platform, for the Term, in the Terms and Conditions of this Agreement.
<b>Subscription Fee</b>	the annual subscription fee payable by the Subscriber to GS1 UK as agreed and set out on the Platform when the Subscriber subscribes to the Platform or as notified to the Subscriber by GS1 UK from time to time, which Subscription Fees are payable and subject to change in accordance with clause 6.
<b>Subscription Start Date</b>	the date that the Subscriber subscribes to the Platform by entering their details into the Platform, paying the Subscription Fee and ticking the box to accept the terms and conditions of this Agreement.
<b>Subscription Year</b>	any twelve (12) month period during the Term from the commencement of the Subscription Start Date and each successive twelve (12) month period thereafter (" <b>Successive Subscription Year</b> ").
<b>Supplier</b>	means any supplier of Product Data included in the Platform, which shall include the Subscriber for the purposes of the Products which the Subscriber uploads Product Data into the productDNA Platform for access as part of the Service.
<b>Term</b>	means the term of this Agreement, as described in Clause 2.
<b>Validation or Validate</b>	the process whereby, following a request by the Subscriber, the Product Checker validates by confirming or rejecting through testing the veracity of the Product Data uploaded to the Platform by the Subscriber.
<b>'Working Day or Office Hours'</b>	means 0900 to 1700 UK time, Monday to Friday excluding Bank and statutory holidays observed in England.

## 2. TERM

The Agreement shall commence on the Subscription Start Date and shall continue for the Initial Subscription Term and shall thereafter be subject to automatic renewal for periods of twelve (12) months ("**Successive Subscription Term**"), unless either party serves notice of cancellation of this Agreement in writing (email, post or fax) to the other on at least three (3) months, prior to the end of the Initial Subscription Term or prior to the end of each Successive Subscription Term ("**Term**").

## 3. SERVICES TO BE PROVIDED

3.1 GS1 UK agrees, in accordance with the terms of this Agreement, to provide the Subscriber with:

- 3.1.1 the Subscription to access and use the Platform for receiving the Service;
- 3.1.2 upon request from the Subscriber, the Product Checking Services in accordance with clause 5; and
- 3.1.3 the licence referred to in clause 10 to access and use the Product Data from the Platform for its internal business purposes during the Term.
- 3.2 GS1 UK shall provide the Subscriber with Access Details for the Authorised Users to allow them to access the Platform during the Term.
- 3.3 GS1 UK reserves the right at all times, to remove a Subscriber and/or any Product Data from the Service (including from the Product Database) without notice to the Subscriber.
- 3.4 GS1 UK shall use reasonable endeavours to provide the Service in accordance with this Agreement, however any dates provided in connection with availability and/or provision of the Service shall be estimates only and time shall not be of the essence for performance of the Service or the Product Checking Services.
- 3.5 Without limitation, GS1 UK shall have the right to make any changes to the Service or the Product Checking Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of them.
- 3.6 GS1 UK warrants to the Supplier that the Service will be supplied with reasonable care and skill.
- 3.7 GS1 UK does not provide any warranty or representation in relation to the Product Data, which is supplied by Suppliers and Validated by Product Checkers. GS1 UK has taken all reasonable steps to seek accuracy in the Product Data provided by Suppliers and/or Validated by Product Checkers, but GS1 UK shall not be liable in any way in respect of inaccurate, incomplete, out of date or misleading Product Data provided by Suppliers, Validated by Product Checkers, or otherwise included within the Platform.

#### 4. SUBSCRIBER'S OBLIGATIONS

- 4.1 The Subscriber hereby agrees:
  - 4.1.1 to access, view and use the Product Database only in accordance with the terms of this Agreement;
  - 4.1.2 not to provide access to the Platform and/or the Service to any other person, company, organisation or service other than to Authorised Users, unless GS1 UK otherwise agrees in writing;
  - 4.1.3 not to share the Access Details with anyone that is not an Authorised User;
  - 4.1.4 not to extract or otherwise download or use the Product Data outside of the Platform and/or to transfer the Product Data to any other third party;
  - 4.1.5 not to allow access to the Platform and/or the Product Data outside of the Subscriber organisation in any way, including (but not limited to) seeking to commercialise or otherwise make the Product Data available to any other third party;
  - 4.1.6 to be responsible for obtaining and maintaining suitable data processing equipment, computer operating systems, communications equipment, Internet connection services and software and any other computer hardware, software or services which may be required to use the Service;
  - 4.1.7 to obtain and maintain all necessary licences, permissions and consents which may be required to upload the Product Data for publishing on the Platform and access and use by subscribers (including, but not limited to, any required data protection consents from relevant individuals, if applicable); and
  - 4.1.8 to indemnify GS1 UK against any claims made by any subscriber or third party relating to the Product Data and/or any unauthorised use of the Service by the Subscriber.
- 4.2 If GS1 UK shall be prevented or delayed from performing any of its obligations under this Agreement by reason of any failure by the Subscriber to comply with a term of this Agreement ('**Subscriber Default**') then notwithstanding anything else contained in this Agreement:-
  - 4.2.1 GS1 UK shall without limiting any other rights or remedies, have the right to suspend performance of the Service until the Subscriber remedies the Subscriber Default, and to rely on the Subscriber Default to relieve GS1 UK from the performance of any of its obligations to the extent the Subscriber Default prevents or delays its performance of any of its obligations;
  - 4.2.2 GS1 UK shall not be liable for any costs or losses sustained or incurred by the Subscriber arising directly or indirectly from GS1 UK's failure or delay to perform any of its obligations as set out in this Agreement; and

- 4.2.3 the Subscriber shall reimburse GS1 UK on written demand for any costs or losses sustained or incurred by GS1 UK arising directly or indirectly from the Subscriber Default.

## **5 PRODUCT CHECKING SERVICES**

- 5.1 If the Subscriber requires any Product Checking Services, then it must:
- 5.1.1 upload Product Data for the Product to the Platform for Validation;
  - 5.1.2 book Products into the Product Checking Service on the Platform by securing a slot in the Product Checking Services Delivery Dashboard and to ensure delivery to in line with this booked delivery slot;
  - 5.1.3 deliver the Product to the Product Checker within the delivery slot booked appropriately identified and packaged to protect against damage in transit;
  - 5.1.4 review and take any action associated to a check or dispute within 48 hours of the action being notified via the Service; and
  - 5.1.5 where Products are to be collected following a Product check taking place (as indicated in the Delivery Dashboard / Platform, book Product collections within 48 hours of the Product check being completed and collect Product within 72 hours of the product check being completed. Product marked for collection but not collected within this timeline may be disposed of.
- 5.2 GS1 UK shall use reasonable endeavours to procure that the Product Checker completes the Validation within the three (3) Working Days of receipt of the Product.
- 5.3 GS1 UK shall use all reasonable endeavours to ensure that the Product Checking Services will be supplied with reasonable care and skill, but it does not warrant that they will be error free or any level of accuracy.
- 5.4 If the Subscriber requires the return of a Product following Validation, then it must organise the return directly with the Product Checker.

## **6. PAYMENT AND EXPENSES**

- 6.1 Subject to the terms of this Agreement, the Subscriber agrees to pay GS1 UK:-
- 6.1.1 the Subscription Fee for the first Subscription Year within thirty (30) Working Days of GS1 UK providing its initial invoice for the Subscription Fee;
  - 6.1.2 the Subscription Fee for each Successive Subscription Year by the commencement of that Successive Subscription Year. Invoices in this regard will be sent at least thirty (30) days in advance of the commencement of the Successive Subscription Year; and
  - 6.1.3 the Product Checking Fees incurred during each month within thirty (30) days of receipt of GS1 UK's invoice in that regard.
- 6.2 Access to the Service is dependent on all amounts payable by the Subscriber under this Agreement being paid by those times specified in Clause 6.1.
- 6.3 Without prejudice to GS1 UK's right to terminate for non-payment in accordance with Clause 12, if any sum payable under this Agreement is not paid by the date due then GS1 UK may suspend or stop any set-up work and/or suspend the Subscriber's access to the Service until such payment is received in full and cleared funds.
- 6.4 The Subscriber hereby further agrees that GS1 UK may upon the commencement of each Successive Subscription Year increase the Subscription Fee and the Product Checking Fees by such an amount as shall reflect the percentage increase (if any) between the Index of Consumer Prices (all items) produced by Her Majesty's Government last published before the date of such anniversary and that published at the same time the previous year, not to exceed 4%.
- 6.5 All amounts payable under this Agreement are exclusive of Value Added Tax which shall be paid by the Subscriber at the rate and in the manner for the time being prescribed by law.

## **7. SERVICE LEVELS**

- 7.1 The Service shall be provided through the Platform for access to it by the Subscriber on an ongoing basis at 98% availability during Office Hours on a Working Day, other than in circumstances of scheduled maintenance or downtime where reasonable notice has been provided, or in circumstances where urgent maintenance is required.
- 7.2 GS1 UK reserve the right to make changes to the Service at any time without notice.
- 7.3 GS1 UK will from time to time and without notice make modifications to the Service in order to ensure that the Service conforms to any changes in legislation or new regulations.

7.4 GS1 shall provide reasonable telephone and email support to the Supplier during Office Hours during the Term.

## **8. DATA PROTECTION**

8.1 No data contained within the Product Database shall be Personal Data as defined in applicable data protection legislation in the UK, as amended from time to time (“**DP Laws**”). Notwithstanding this, where the Product Database does contain any Personal Data (the nature of which will be contact data about individuals at organisations of Suppliers who provide Product Data, for the purposes of the Supplier’s subscription to the productDNA Platform), the respective Suppliers of the Product Data shall be the data controllers in respect of any Personal Data contained within the Product Database and GS1 UK shall be a data processor, for the purposes of any DP Laws.

8.2 Where Personal Data is processed within the Platform:

8.2.1 GS1 UK agrees to comply with its obligations as a data processor in accordance with applicable DP Laws; and

8.2.2 the Subscriber agrees to comply with applicable DP Laws and to only process such Personal Data (if applicable) for the purposes of using the Service within the Platform, including (but not limited) obtaining all relevant consents required from any Authorised Users to the use of their Personal Data within the Platform for the purposes of accessing and using the Service.

8.3 In addition to the above, the parties agree that where they process personal data (as defined in DP Laws) that they shall:

8.3.1 not transfer any personal data outside of the EEA unless the data controller provides its prior written consent;

8.3.2 only permit staff duly authorised by the processor to have access to the personal data and the processor shall ensure appropriate controls and restrictions are in place to ensure that only authorised staff can access the personal data;

8.3.3 ensure that all staff who have access to and/or process personal data are obliged to keep the personal data confidential;

8.3.4 take reasonable steps to ensure the reliability of all employees and sub-contractors;

8.3.5 ensure that all employees and sub-contractors are informed of the confidential nature of the personal data;

8.3.6 provide all reasonable assistance to the data controller in ensuring that a data subject’s rights under DP Laws are adhered to;

8.3.7 make available to the data controller all information necessary to demonstrate compliance with this Agreement and permit the data controller at its own expense to audit (during the processor’s business hours only) the processor’s compliance with this Agreement, upon providing reasonable notice of such request;

8.3.8 having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against the accidental loss or destruction of, or damage to, personal data to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the personal data to be protected. The processor shall take all reasonable steps to ensure compliance with those measures and discharge its obligations under this Agreement with all due skill, care and diligence; and

8.3.9 preserve the integrity of personal data and prevent the corruption or loss of such personal data.

## **9. INTELLECTUAL PROPERTY**

9.1 The Subscriber acknowledges that any and all Intellectual Property Rights which subsist in or arise in connection with the Service, the Platform (including the database within the Platform) and the way in which the Product Data is displayed in the Platform or used by GS1 UK, anywhere in the world, belong to GS1 UK or its licensors and that the Subscriber has no right in or to the Service, Platform (including the database within the Platform), and/or use of the Product Data held within the Platform, save the right to use the Platform as permitted by this Agreement for the Term.

9.2 All Intellectual Property Rights of whatever nature and wherever in the world in the Product Data belong to the Suppliers of the Product Data or their licensors and are subject to the rights to use the Product Data as set out in Clause 10 below.

- 9.3 For the entire Term of this Agreement, the Subscriber (and all of its Authorised Users) authorises GS1 UK to include their corporate names, logos, and any of their trademarks on its website for the proper delivery of the Services.
- 9.4 Except as expressly set out in this Agreement, the Subscriber undertakes not to:
- 9.4.1 make alterations to, or modifications of, the whole or any part of the Service or permit any part of it to be combined with, or become incorporated in, any other programs;
  - 9.4.2 not to disassemble, de-compile, reverse engineer or create derivative works based on the whole or any part of the Service nor attempt to do any such things except to the extent that (by virtue of section 296A of the Copyright, Designs and Patents Act 1988) such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Service with another software program, and provided that the information obtained by the Subscriber during such activities:
    - 9.4.2.1 is used only for the purpose of achieving inter-operability of the Service with another software program;
    - 9.4.2.2 is not disclosed or communicated without GS1 UK's prior written consent to any third party to whom it is not necessary to disclose or communicate it; and
    - 9.4.2.3 is not used to create any software which is substantially similar to the Service.
- 9.5 If in the event that the Subscriber's use of the Service (as contemplated by this Agreement) infringes or, in GS1 UK's opinion, is likely to be held to infringe any Intellectual Property Right belonging to a third party in the UK, GS1 UK may at its option and expense:
- 9.5.1 procure the right for the Subscriber to continue using the Service free from any liability for such infringement; or
  - 9.5.2 modify the Service so as to avoid the infringement.
- 9.6 The Subscriber acknowledges that GS1 UK is not responsible for the accuracy of any Product Data.
- 9.7 This Clause 9 states GS1 UK's entire obligation and liability and the Subscriber's sole remedy in respect of any infringement or alleged infringement of any Intellectual Property Rights arising from the acquisition, possession or use of the Service including the Product Data. All other obligations in relation to infringement or alleged infringement of the Intellectual Property Rights or any person which but for this clause would have effect are hereby excluded.

## **10. PRODUCT DATA LICENCE**

- 10.1 The Subscriber acknowledges that by providing its Product Data to GS1 UK (as a Supplier) that such Product Data shall be licensed to GS1 UK on a non-exclusive, sublicensable, royalty-free, worldwide, perpetual basis for the purposes of holding such Product Data within the Platform and allowing access to such Product Data as part of the Platform. The Subscriber further acknowledges that any number of Subscribers shall be permitted to access and use the Product Data for their internal business purposes, together with other nominated third parties to whom GS1 UK may wish to make the Product Data available to. Respective Suppliers remain the owners or primary licensors of their own Product Data at all times, which is subject to the licence under this Clause 10.1.
- 10.2 In consideration of the Subscriber agreeing to abide by the terms of this Agreement and the payment of the Subscription Fee due under it, GS1 UK grants to the Subscriber a non-exclusive, non-sublicensable, non-transferable, licence to access and use Product Data contained within the Platform (whether such Product Data is its own or that of another Supplier which is made available as part of the database within the Platform), for its own internal business purposes and as anticipated under this Agreement and on its terms, during the Term ("**Licence**").
- 10.3 Except as expressly set out in the Licence, the Subscriber undertakes:
- 10.3.1 not to copy the Product Database in any way, except where such copying is incidental to normal use of the Product Data in accordance with this Agreement or where it is necessary for the purpose of back-up or operational security of the Product Data;
  - 10.3.2 not to rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Product Database and/or Product Data;
  - 10.3.3 not to make alterations to, or modifications of, the whole or any part of the Product Database and/or Product Data nor permit the Product Database and/or Product Data, or any part of it, to be combined with, or become incorporated in, any other programs, unless such alterations are to its own Product Data and that such alterations have been approved by GS1 UK and/or a Product Checker in accordance with the terms of this Agreement;
  - 10.3.4 to keep all copies of the Product Data secure; and

- 10.3.5 to supervise and control use of the Product Database and/or Product Data and ensure that the Product Database and/or Product Data is used by the Subscriber's employees and Authorised Users in accordance with the terms of this Agreement.
- 10.4 For the avoidance of doubt, the Subscriber agrees that throughout the Term it shall not assign rights or allow the use of the Service or any Product Data obtained from the Service to any other person, company or firm.

## 11. CONFIDENTIALITY

Excluding the Product Data which may be used in accordance with the terms of this Agreement, a party ("**receiving party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("**disclosing party**"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under this Agreement, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to this Agreement. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This Clause 11 shall survive termination of this Agreement.

## 12. TERMINATION

- 12.1 Notwithstanding anything else contained herein, this Agreement may be terminated by GS1 UK with immediate effect:
- 12.1.1 if the Subscriber fails to pay any invoice raised by GS1 UK pursuant to this Agreement by the due date;
- 12.1.2 on giving the Subscriber notice in writing if it commits any material breach of any term of this Agreement;
- 12.1.3 by either party, with immediate effect, on giving notice in writing to the other if:-
- 12.1.3.1 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or
- 12.1.3.2 the Subscriber's financial position deteriorates to such an extent that in the opinion of GS1 UK, the Subscriber's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy.
- 12.2 Without limiting its other rights or remedies, GS1 UK may suspend provision of the Services under the Agreement or any other contract between GS1 UK and the Subscriber if the Subscriber fails to pay any amount due under this Agreement on the due date for payment.

## 13. EFFECTS OF TERMINATION

- 13.1 Any termination of this Agreement (howsoever occasioned) shall not (save where expressly stated otherwise) affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- 13.2 The Subscriber shall immediately pay to GS1 UK all of GS1 UK's outstanding unpaid invoices. For any services (including access to the Service and the Product Checking Services) supplied but for which no invoice has been submitted, GS1 UK shall submit an invoice, which shall be payable by the Supplier immediately on receipt.
- 13.3 Forthwith upon the termination of this Agreement, the Licence will terminate, and the Subscriber shall destroy or permanently delete any software which has been supplied by GS1 UK and certify in writing to GS1 UK that it has destroyed and permanently erased from its computer systems.

- 13.4 Forthwith upon the termination of this Agreement, access to the Service (including for the avoidance of doubt access to the Platform) shall cease. Any Access Details shall be disabled and shall no longer be used by the Subscriber to access the Service.
- 13.5 GS1 UK may but is not obliged within five (5) Working Days following termination to remove Product Data published on the Platform as at the time of termination. The Subscriber acknowledges that other subscribers may continue to use such Product Data following termination if they have accessed it through the Platform prior to termination, and in this regard the Subscriber acknowledges that GS1 UK has no control over other subscribers' use of this Product Data following termination and the Subscriber shall have no claims against GS1 UK in this regard and shall continue without limitation to indemnify GS1 in accordance with clause 13.6.
- 13.6 The Subscriber will indemnify GS1 UK and keep GS1 UK fully and effectively indemnified against all costs, claims, demands, expenses and liabilities of whatsoever nature including legal costs on an indemnity basis, arising out of or in connection with any claim:
- 13.6.1 that GS1 UK's or a subscriber's use of the Product Data supplied by the Subscriber for the purpose of enabling GS1 UK to provide the Service and/or include the Product Data on the Platform (including for access and use by subscribers as contemplated hereunder) infringes the Intellectual Property Rights (of whatever nature) of any third party; and/ or
- 13.6.2 from a subscriber due to its use of old, incorrect or misleading Product Data supplied by the Subscriber for the purposes of the Service.

#### **14. LIABILITY**

- 14.1 This clause 14 sets out the entire financial liability of GS1 UK (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Subscriber:
- 14.1.1 arising under or in connection with this Agreement;
- 14.1.2 in respect of any use made by the Subscriber of the Service (including the Product Checking Service); and
- 14.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 14.2 Except as expressly and specifically provided in this Agreement:
- 14.2.1 GS1 UK shall have no liability for any damage caused by errors or omissions in any information, instructions or data provided to GS1 UK by the Subscriber in connection with the Services, or any actions taken by the Subscriber;
- 14.2.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and
- 14.2.3 the Service and the Product Checking Services are provided to the Subscriber on an "as is" basis.
- 14.3 Nothing in this Agreement excludes the liability of GS1 UK:
- 14.3.1 for death or personal injury caused by GS1 UK's negligence; or
- 14.3.2 for fraud or fraudulent misrepresentation.
- 14.4 Subject to clauses 14.2 and clause 14.3:
- 14.4.1 GS1 UK shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and
- 14.4.2 GS1 UK's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the total Subscription Fees and the Product Checking Fees paid by the Subscriber during the 12 months immediately preceding the date on which the claim arose.
- 14.5 The Subscriber shall indemnify GS1 UK and keep GS1 UK fully and effectively indemnified on demand against any loss or damage to any property or injury to or death of any person caused by any negligent act or omission or wilful misconduct of the Subscriber, the Subscriber's employees, agents or sub-contractors and/or for breach of the Terms and Conditions of this Agreement and accept liability in relation to the same without limit.
- 14.6 This clause 14 shall survive termination of this Agreement.



**15. COMPLIANCE WITH LAWS**

- 15.1 In performing its obligations under this Agreement, the parties shall comply with applicable laws and each will inform the other as soon as it becomes aware of any changes in the applicable laws.
- 15.2 The Subscriber acknowledges that GS1 UK and its appropriate subcontractors must comply with applicable laws and regulations related to trade practices, including (without limitation) United States laws and regulations, restricting trade with countries and entities subject to United States economic sanctions, as well as entities identified on United States export controls lists. These controls extend both to the GS1 UK's subcontractors' direct participation in cross-border transportation and to their "facilitation" of such transactions through services such as warehousing, packing, and preparing shipping documents. These United States controls are in addition to any controls imposed by the European Union, the United Nations, or any other national or supra-national governmental authority with jurisdiction over the shipment or associated services, which shall also apply.
- 15.3. The Subscriber agrees not to request Product Checking Services or any other services in connection with countries, regions, and/or entities subject to applicable economic sanctions and/or export control restrictions absent appropriate government authorization (current countries/regions include (without limitation): Cuba, Iran, Syria, Sudan, North Korea or the Crimea Region of Ukraine). The Subscriber further agrees that a Product Checker may refuse to receive, process, or release an order or shipment that appears to the Product Checker to involve a restricted country, region, or party, without any liability to the Subscriber. In the case of cross-border transactions for which the Product Checker is providing transportation or customs-related services, the Subscriber agrees that it will provide the Product Checker within a reasonable time before export or entry, with complete and accurate information required for import and export documents, including product descriptions, quantities, weights, values, country of origin, harmonized tariff code, export classification, and any required government authorization.
- 15.4 The Subscriber agrees to indemnify GS1 UK and/or any applicable Product Checker against all costs, claims, damages or expenses incurred by the GS1 UK and/or any applicable Product Checker due to any failure by the Subscriber to comply with the terms of this Clause 15.

**16. ASSIGNMENT**

- 16.1 GS1 UK may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under this Agreement and may subcontract or delegate in any manner any or all of its obligations under this Agreement to any third party or agent.
- 16.2 The Subscriber shall not, without the prior written consent of GS1 UK, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement.

**17. FORCE MAJEURE**

- 17.1 For the purposes of this Agreement, "Force Majeure Event" means an event beyond the reasonable control of either party including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of either party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 17.2 Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under this Agreement as a result of a Force Majeure Event.
- 17.3 If the Force Majeure Event prevents either party from complying with its obligations for more than 4 consecutive weeks, the affected party shall, without limiting its other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the other.

**18. WAIVER OF REMEDIES**

No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver or any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party is exclusive of any right, power or remedy available to that party and each such right, power or remedy shall be cumulative.

**19. ENTIRE AGREEMENT**

- 19.1 This Agreement sets out the entire agreement and understanding between the parties, and supersedes all proposals and prior agreements, arrangements and understandings between the parties, relating to its subject matter. Any variation or amendment to this Agreement must, to be effective, be in accordance with clause 24.
- 19.2 Any samples, drawings, descriptive matter or advertising issued by GS1 UK, and any descriptions or illustrations contained in GS1 UK's promotional literature, are issued or published for the sole purpose of giving an approximate idea of the Services described in them and shall not form part of the Agreement.
- 19.3 These terms apply to the exclusion of any other terms that the Subscriber seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

**20. NOTICES**

- 20.1 All notices which are required to be given hereunder shall be in writing and shall be sent to GS1's address or the Subscriber's address as provided at the time of subscribing to the Platform, or such other address in England as either party may designate by written notice given in accordance with the provisions of this clause 20. Any such notice may be delivered personally or by first class pre-paid letter, facsimile transmission or e-mail and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by facsimile transmission or e-mail, on successful transmission.
- 20.2 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

**21. SEVERABILITY**

- 21.1 Notwithstanding that the whole or any part of any provision of this Agreement may prove to be illegal or unenforceable, the other provisions of this Agreement and the remainder of the provision in question shall remain in full force and effect.
- 21.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

**22. THIRD PARTIES**

A person who is not a party to the Agreement shall not have any rights to enforce its terms in accordance with the Contracts (Rights of Third Parties) Act 1999.

**23. NO PARTNERSHIP**

Nothing in the Agreement shall constitute, is intended or be deemed to constitute a partnership or joint venture between the parties hereto or constitute or be deemed to constitute either party the agent of the other for any purpose whatsoever and neither party shall have any authority or power to bind the other or to contract in the name of or create a liability against the other.

**24. VARIATION**

Except as set out in this Agreement, no variation of the Agreement, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by both parties.

**25. SUB-CONTRACTS**

GS1 UK may enter into any sub-contract with any person for the performance of any part of the Agreement.

**26. GOVERNING LAW AND JURISDICTION**

This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including contractual and non-contractual disputes or claims), shall be governed by and construed in accordance with the laws of England and Wales and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.