



GS1 CLOUD TERMS OF USE

(Version February 2018)

These GS1 Cloud Terms of Use ("**Terms of Use**") are entered into by and between GS1 and Data Recipient, who provides its agreement hereto in writing, by clicking-to-accept these Terms of Use or by using the Service.

1. **Definitions.** In these Terms of Use, 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 User**" means any person or entity accessing or using the GS1 Cloud or the Service through Data Recipient'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 Brand Owner and/or Designee provided to GS1 for publication in and distribution through the GS1 Cloud.
 - e) "**Data Recipient**" means the entity or person agreeing to these Terms of Use.
 - f) "**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).
 - g) "**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).
 - h) "**GS1 Cloud**" means the platform, including all equipment, systems, software and processes necessary to operate it, as operated by GS1 or any of its Affiliates from time to time, to provide the Service.
 - i) "**GS1 Member Organisation**" means a member organisation of GS1; as such term is normally understood with respect to GS1.
 - j) "**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.
 - k) "**Notice & Take Down Procedure**" means the "GS1 Cloud Notice & Take Down Procedure", as published on the Website and amended from time to time.
 - l) "**Party**" means GS1 or Data Recipient.
 - m) "**Policies**" means the Privacy Policy, Notice & Take Down Procedure and any other 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.
 - n) "**Privacy Policy**" means the "GS1 Cloud Privacy Policy", as published on the Website and amended from time to time.
 - o) "**Service**" means the global service provided through the GS1 Cloud enabling participating Brand Owners to share trusted information about their products with Data Recipients and enabling Data Recipients to view and/or use Brand Owner Data.

- p) **“Terms of Use”** means these GS1 Cloud Terms of Use, as amended from time to time in accordance with its terms.
 - q) **“trusted”** means, in relation to data, if such data originates from, is authorised or validated by a Brand Owner.
 - r) **“Value-Added Product”** means a product or service offered by Data Recipient to its end-users that uses the Brand Owner Data and adds appreciable value to it, including, without limitation, by combining it with other data, information or analyses sourced or developed by Data Recipient or by processing or presenting the Brand Owner Data in a novel way. Replicating the Brand Owner Data and/or the Service shall not be considered as adding appreciable value.
 - s) **“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. **General Provisions.** Any access to or use of the GS1 Cloud, the Website and the Service is subject to these Terms of Use, including all terms and conditions referenced herein or any additional terms and conditions and Policies published on the Website. The Policies are hereby incorporated by reference into these Terms of Use. GS1 may amend these Terms of Use and the Policies at any time and the amended Terms of Use and Policies will become effective upon posting thereof on the Website. Data Recipient’s continued access to or use of the GS1 Cloud, the Website or the Service after such posting shall constitute its acceptance of the amended Terms of Use and Policies. Data Recipient will ensure that any information provided to GS1, whether submitted during the registration process or thereafter, is accurate, complete and current at all times.
3. **Service.** Subject to Data Recipient's compliance with these Terms of Use, GS1 (acting through GS1 Member Organisations) will provide Data Recipient with the Service and a license to the Brand Owner Data in accordance with Section 4 and subject to Section 5 hereof. 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 the GS1 Cloud, including to its design, functionalities and appearance, or cease its operation.
4. **License to Brand Owner Data.** As part of the Service, GS1 grants Data Recipient a non-exclusive, non-transferable, non-sublicensable right and license to use the Brand Owner Data in accordance with these Terms of Use, including without limitation the restrictions set out in Section 5 below.
5. **Restrictions.** Data Recipient shall not:
- a) present, publish or use the Brand Owner Data in a manner that is false or misleading;
 - b) use the Brand Owner Data in any way which infringes rights of third parties (including the Brand Owner’s or Designee’s rights) or violates any applicable laws and regulations;
 - c) modify the content of the Brand Owner Data in publishing or disseminating such Brand Owner Data (unless it has express written authorization of the Brand Owner or Designee to do so);
 - d) publish or use the Brand Owner Data in a manner that implies any endorsement by the Brand Owner, the Designee or GS1 (unless it has express written authorisation of the Brand Owner, the Designee or GS1 to do so);
 - e) claim any copyright or other ownership rights to Brand Owner Data;
 - f) use, sell, sublicense, distribute or otherwise make available the Brand Owner Data to third parties, otherwise than as part of a Value-Added Product;

- g) cache or otherwise store a copy of any Brand Owner Data for a period of more than twelve (12) hours;
 - h) download or attempt to download more than the volume of Brand Owner Data which the Service permits to download in a given period;
 - i) decompile, reverse-engineer alter, or in any way tamper (or attempt to do so) with all or part of the of the Service, the GS1 Cloud, the Website or any software comprised therein (including to extract the source code of the software used to provide the Service), nor cause, permit or assist any other person directly or indirectly to do any of the above;
 - j) act or attempt to act in any way that interferes with the proper working of, or places an unreasonable burden on, the infrastructure of the Website, or that would damage, compromise the security of, or disrupt the Website or any connected network;
 - k) use or attempt to use the Website to collect personal information about individuals, without GS1's prior express written consent;
 - l) use or attempt to use the Website to collect any metadata, without the prior express written consent of GS1.
6. **Account.** Data Recipient 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 Data Recipient's account and for the Authorised Users' compliance with these Terms of Use. Upon registration, Data Recipient will receive login details for use by Authorised Users only. Data Recipient shall maintain the confidentiality of such login details and notify GS1 immediately of any unauthorised use thereof.
7. **Fees.** The Service is made available by GS1 currently free of charge for accessing the available attributes (GTIN, Target Market, Brand, Label Description, Company Name, GCP, medium resolution image) and under the volume and frequency thresholds determined on the Website. Fees may apply between Data Recipient and the GS1 Member Organisation through which it has been granted access to the GS1 Cloud. GS1 may introduce fees by amending the Terms of Use in accordance with clause 2 hereof. By continuing to access and use the Service after the introduction of applicable fees, Data Recipient shall be bound by any such fees.
8. **Suspension and Termination.** GS1 may suspend Data Recipient's access to and use of the Service with immediate effect by a written notice to Data Recipient if Data Recipient (or an Authorised User of Data Recipient) commits a material breach of any provision of these Terms of Use and until such breach is cured. If the breach remains uncured for fifteen (15) consecutive days, GS1 shall have the right to terminate Data Recipient's access to and use of the Service by written notice with immediate effect. If the breach is cured to GS1's satisfaction, Data Recipient's access to and use of the Service shall be restored. Either Party may terminate access to and use of the Service at any time for any reason without a right to indemnification (subject to section 11 herein) by giving thirty (30) days' notice in writing to the other Party. Any terms which, by their nature, extend beyond termination of the Service shall survive such termination.
9. **DISCLAIMER OF WARRANTIES.** THE GS1 CLOUD DISPLAYS BRAND OWNER DATA THAT IS NOT OWNED NOR CONTROLLED BY GS1 AND THEREFORE THE BRAND OWNER DATA IS MADE AVAILABLE ON AN 'AS IS' AND 'AS AVAILABLE' BASIS. NEITHER GS1 NOR THE GS1 MEMBER ORGANISATIONS, NOR THE BRAND OWNERS NOR THE DESIGNEES REPRESENT OR WARRANT THAT THE DATA IS ACCURATE, COMPLETE AND/OR UP-TO-DATE. USE OF THE BRAND OWNER DATA, THE SERVICE, THE

GS1 CLOUD AND THE WEBSITE IS AT DATA RECIPIENT'S SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, GS1 MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ANY MATTER, INCLUDING THE BRAND OWNER DATA, THE SERVICE, THE GS1 CLOUD AND THE WEBSITE. ANY SUCH REPRESENTATIONS OR WARRANTIES ARE EXPRESSLY DISCLAIMED.

10. **LIMITATION OF LIABILITY.** TO THE FULLEST EXTENT PERMITTED BY LAW, GS1, THE GS1 MEMBER ORGANISATIONS, THE BRAND OWNER AND THE DESIGNEES SHALL NOT BE LIABLE FOR ANY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO ACTUAL, DIRECT, CONSEQUENTIAL, INDIRECT, INCIDENTAL OR PUNITIVE DAMAGES, WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, THAT MAY ARISE FROM DATA RECIPIENT'S USE OF THE WEBSITE, THE SERVICE, THE GS1 CLOUD OR THE BRAND OWNER DATA OR FOR ANY FAILURE OR REFUSAL BY GS1 TO GRANT DATA RECIPIENT ACCESS TO THE WEBSITE, THE SERVICE, THE GS1 CLOUD OR THE BRAND OWNER DATA, OR ANY HARM, EFFECTS OR DAMAGES SUFFERED BY DATA RECIPIENT AS A RESULT THEREOF.
11. **Indemnity.** Data Recipient shall fully indemnify, hold harmless and defend GS1, its Affiliates and the GS1 Member Organisations 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 third party which arise out of, relate to or result from any use by Data Recipient of the Brand Owner Data, the Service, the GS1 Cloud or the Website in breach of these Terms of Use or any applicable laws or regulations. 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.** All (intellectual property) rights, title and interest in and to the Website, the GS1 Cloud, the Service and the Brand Owner Data 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 Use.
13. **Privacy.** GS1 will handle any personal data regarding Data Recipient or its Authorised Users in accordance with the Privacy Policy.
14. **Amendments.** Data Recipient acknowledges that GS1 reserves the right to amend these Terms of Use from time to time. GS1 agrees that the amended Terms of Use shall be made available to Data Recipient at least thirty (30) days prior to the effective date and shall become effective as against Data Recipient on the effective date thereof. 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.
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 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 Use 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 Use 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.** Data Recipient shall not assign or otherwise transfer its rights or obligations under these Terms of Use in whole or in part without the prior written consent of GS1. GS1 may assign its rights or obligations under these Terms of Use to an Affiliate without Data Recipient's consent.
19. **Law.** These Terms of Use 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 Use. Notwithstanding this, Data Recipient 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 Use 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.