



GS1 US TRUSTMARK LICENSE AGREEMENT AND TERMS OF USE

IMPORTANT – READ CAREFULLY BEFORE PROCEEDING – THIS IS A BINDING LEGAL CONTRACT

GS1 US TRUSTMARK LICENSE AGREEMENT IS THE LEGALLY BINDING TERMS AND CONDITIONS THAT YOU MUST AGREE TO IN ORDER TO USE THE TRUSTMARK TO DEMONSTRATE SUCCESSFUL COMPLETION OF AN IDENTIFIED GS1 US TESTING PROGRAM. YOU UNDERSTAND AND AGREE THAT BY CHECKING THE BOX AND CLICKING THE “ACCEPT” BUTTON, AND/OR DOWNLOADING OR USING ANY PART OF THE SERVICES PROVIDED BY OR THROUGH A TRUSTMARK, THE EARNER (DEFINED BELOW) IS AGREEING TO BE LEGALLY BOUND BY ALL OF THESE TERMS AND CONDITIONS, WHICH INCLUDES A LIMITED LICENSE TO UTILIZE THE TRUSTMARK, DISCLAIMERS OF WARRANTY, AND LIMITATIONS OF LIABILITY. IF EARNER DOES NOT AGREE TO THESE TERMS, EARNER IS NOT PERMITTED TO DOWNLOAD THE TRUSTMARK AND EARNER WILL HAVE NO LICENSE TO USE THE TRUSTMARK IN ANY MANNER.

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

This GS1 US Trustmark License Agreement (this “**Agreement**”) is entered into, by and between GS1 US, Inc. (“**GS1 US**,” “**Company**,” “**We**,” “**Our**,” or “**Us**”) and **Earners**. As used herein “**Earners**,” “**You**,” or “**Your**” refers to the Earner (*i.e.*, the corporation, business, other entity or natural person accessing, downloading or using the Trustmark) and sets forth Your rights and obligations with respect to the use and/or incorporation of the Trustmark (defined below). GS1 US and Earner are collectively hereinafter referred to as the “**Parties**”, or when used individually, a “**Party**”.

1. Definitions.

- A. “**Application**” means any electronic request submitted to the GS1 US, including the payment of any fees to GS1 US required, to obtain the right to display the Trustmark (defined below) by Earner.
- B. “**Certification Standard**” means that Company has independently determined that Earner has successfully met the Trustmark certification requirements set forth by GS1 US in Our sole discretion and is entitled to use and display the Trustmark corresponding to the GS1 US Testing Program certification obtained and upon which the display of a Trustmark is conditioned.
- C. “**Intellectual Property Rights**” means any and all now known or hereafter known tangible and intangible: (a) rights associated with works of authorship throughout the universe, including, without limitation, copyrights, moral rights, and mask-works, (b) trade identities, trademarks, service marks, domain names and trade name rights and similar rights, (c) trade secret rights, (d) patents, designs, algorithms and other industrial property rights, (e) all other intellectual and industrial property rights (of every kind and nature throughout the universe and however designated) (including logos, “rental” rights and rights to remuneration), whether arising by operation of law, contract, license, or otherwise, and (f) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing).d.) “**Trustmark**” means the GS1 US Testing Program Trustmark, which is Our approved image and logo made available by us to Earner in an electronic or other format that is intended for display on a website, application or other online service as well as in other Company-approved advertising campaigns (e.g., print materials, email marketing or display ads) that features a certification mark owned by Company and is made available by us to You if We determine You qualify based upon Earner meeting Our Certification Standard.
- D. “**Trustmark Installation Instructions**” means the set of instructions that You receive when You download the Trustmark.

2. Trustmark License and License Restrictions.

- A. Subject to approval of Your Application and to Your ongoing strict compliance with the requirements and restrictions set forth in this Agreement, Company grants You a limited, personal, non-exclusive, non-transferable, non-sublicensable, revocable license, during the term of this Agreement, to download, install, incorporate, display, in accordance with the Trustmark Installation Instructions, a single copy of a designated Trustmark We make available to You and solely for the purpose of identifying that You have been qualified by Us to display such Trustmark, which determination shall be in Our sole discretion. If You first obtain Our prior written permission to display a Trustmark on Earner’s marketing materials (e.g., printed materials, email marketing, display ads, etc.), the license grant in this Section 2(a) shall also apply to any such materials that We have granted written approval for You to use but only in the specific form and formats that We have given Our approval. Your use of the Trustmark may display Our trademarks contained on the Trustmark but We control the use thereof and all goodwill associated with such use inures exclusively to Company. Additionally, the license granted to You to utilize the Trustmark is subject to the Company’s ongoing ability to verify Your identity and Your ongoing compliance with the Certification Standard and terms and conditions set forth in this Agreement.
- B. Company may at any time, reevaluate Your use of Our Trustmark credentials and may require additional information from You, and You may be required to re-confirm Your acknowledgement and acceptance of the terms of this Agreement. If the information You provided to Company is incorrect or has changed, You must immediately notify Company by emailing Us at SPPProgram@gs1us.org. If at any time during an evaluation of Earner, Company determines that Your Certification Standard has changed, Company will notify You by email and you will remove the Trustmark within ten (10) days of Our notice to You. In the event that You fail any Certification Standard attributed to a Trustmark, request a Trustmark for a Certification Standard for which You have not qualified or You fail any Certification Standard attributed to such Trustmark, and/or You no longer qualify for a Trustmark, Company may immediately suspend Your right to display such Trustmark at any time, in Our sole opinion.
- C. You shall not: (i) use any Trustmark for or on behalf of any organization or domain other than the organization and domain named in Your Application; (ii) copy, sell, rent, lease, license, transfer, assign, make derivative works or sublicense any Trustmark, or rights in any Trustmark, in whole or in part, to a third party; (iii) alter or tamper with any Trustmark in any way, including, but not limited to, skewing; modifying the color, size, pattern and fonts; and separating logo elements, or copyright and trademark indicators.; (iv) embed or otherwise make available the Trustmark on a web page or other location in violation of the prior sentence or that contains content that is distasteful, unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another’s privacy, hateful, or racially, ethnically or otherwise objectionable (in Our sole opinion); (v) disassemble, decompile, reverse assemble, reverse compile, reverse engineer, or otherwise translate the Trustmark or otherwise attempt to gain access to the source code to the Trustmark, or use any device, program or service designed to circumvent technological measures employed to control access to, or the rights in, the Trustmark (or purport to permit any third party to do so); (vi) use Company’s name, logos, or other Intellectual Property Rights to market Your Company products or services, or otherwise, without Our prior written consent; (vii) copy the Trustmark, except for installing and loading the Trustmark onto servers for the purpose of executing the Trustmark consistent with the scope of licenses granted hereunder, incorporating Trustmark object code as permitted hereunder, and for creating a limited back-up copy for use consistent with the license(s) granted; (viii) use the Trustmark, or any element thereof, to create (or allow third parties to create) any software product capable of emulating or competing with the Trustmark (or facilitating the emulation of or competition with the Trustmark), or use any of the Trustmark’s components, files, modules, audio-visual content, or related licensed materials separately from the Trustmark; (ix) take any action that will interfere with or diminish Company’s rights in any Trustmark or will interfere with the performance or functionality of the Trustmark. You agree not to circumvent (or in any way attempt to circumvent) the security or rights management features in a Trustmark or any component of a Trustmark that are designed to prevent users from copying, manipulating or retaining the content on the Splash Page made available via a Trustmark. If You believe that a Trustmark has been copied or is being used in any way that constitutes an Intellectual Property Rights infringement, You shall report it immediately to the Company. You represent, warrant and covenant that You (including any content therein), will not: (i) infringe the copyright, trademark, trade secret, or other Intellectual Property, proprietary or other right of others; (ii) violate the privacy, publicity, or other rights of third parties; (iii) be discriminatory, unlawful, tortious, obscene, fraudulent, defamatory, harmful, threatening, pornographic, indecent, vulgar, harassing, discourteous, hateful, abusive or racially, ethnically, religiously, sexually or otherwise offensive,



as determined by us in Our sole discretion; (iv) misrepresent the Earner that actually earned a Trustmark; (v) contain any virus, Trojan horse, worm, time bomb, cancelbot, or other disabling device or other harmful component intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information; (vi) advocate or encourage any illegal activity; or (vii) have the potential to create liability for us or cause us to violate the requirements of or to lose the services, in whole or in part, of Our Internet service providers or other suppliers. We may disable the ability for You to display the Trustmark if You violate any of the terms of this Agreement (as determined by us in Our sole discretion), or for any or no reason, without any liability to You.

- D. As consideration for the right to display a Trustmark, You shall meet and maintain the Certification Standard associated with such Trustmark, as may be amended by Company from time to time.
- E. The Trustmark is owned by Company, is copyrighted and is licensed not sold. Except as to the limited license granted to You under Section 2(a) above, Company retains all ownership rights, Intellectual Property Rights, licensing rights and all other interests in and to its Trustmark and all other trademarks, service marks and certification marks of the Company, now or hereafter in existence, as well as all goodwill associated with Your use or exploitation of such property. You agree that Our permission to You to use a Trustmark does not provide You (or any third party) with any Intellectual Property Rights, in or to the Trustmark. You agree to not make any commercial use of any Trustmark, in whole or in part, nor to sell, lease, hypothecate, transfer, license, encumber or otherwise exploit same, in whole or in part, or purport to give any third party permission to do so. This includes a prohibition on You or a third party overlaying or otherwise associating advertising with the Trustmark unless You first submit an Application and obtain Our prior written approval. Except as expressly granted in this Agreement, You will have no rights to the source code for the Trustmark and You agree that only Company has the right to maintain, enhance, or otherwise modify the Trustmark.
- F. You agree to include, and not remove or alter, Our trademark, copyright or other proprietary rights notices, as provided by us on a Trustmark and You agree to comply with Trustmark usage guidelines that may be provided by GS1 US from time to time. Additionally, in connection with the Trustmark, We may post specific technical, integration and display requirements on Our website that Earner is required to comply with when incorporating the Trustmark. Any such requirements are expressly incorporated in this Agreement by this reference and You agree to strictly comply with all such requirements as We post on the GS1 US website and/or give You notice of from time to time. Upon Our written request, You agree to provide us with written documentation (in any form that We reasonably request), that You are in compliance with the terms and conditions of this Agreement, including, without limitation, the requirements set forth in Section 2(c).

3. Your License to Us.

- A. You grant us a non-exclusive, royalty-free, unrestricted, unconditional, unlimited, worldwide right and license (with right to sublicense) to use Your name, Your data, logos, trademarks, trade names, and service marks, copyrights, and any other materials or information You provide during enrollment (collectively, the "**Earner Materials**") to: (i) advertise, market, promote and publicize Our Trustmark program and Our products and services in any manner and methods, including, without limitation, placing Your name and logo on the GS1 US website; and (ii) display any such Earner Materials in Your Trustmark, on Your profile page on the GS1 US website in Our sole discretion. Additionally, during the term of this Agreement, You grant us all permissions necessary to host the Trustmark on Your website, application or other online service owned or controlled by You or for which You display the Trustmark in connection with GS1 US Testing Program.
- B. In the event that You provide us any ideas, thoughts, criticisms, suggested improvements or other feedback related to the Trustmark (collectively, the "**Feedback**"), You agree We may use the Feedback to modify Our products and services and that You will not be due any compensation, including any royalty related to the product or service that incorporates Your Feedback. You grant to us an irrevocable, worldwide, royalty-free, fully paid, perpetual, license to use, reproduce, modify, translate, distribute, perform, display, import, sell, offer for sale, make, have made and otherwise exploit the Feedback in any form, media, or technology, whether now known or hereafter developed, and to allow others to do the same. This is true whether You provide the Feedback on the GS1 US website or through any other method of communication with us, unless We have entered into a separate agreement with You that provides otherwise. Company may, at its sole discretion, provide You with assistance in installing and configuring the Trustmark on Your website or Earner's Material (collectively, "**Services**"). If, during the course of providing Services, Company develops or modifies the Trustmark, or creates any other materials or intellectual property (collectively "**Materials**"), whether or not at Earner's suggestion or direction, then all title, right and interest whatsoever (including, but not limited to, copyright, right to create derivative works, patents, trademarks, trade secrets, mask works, moral rights and any other intellectual property or proprietary rights) in all such Materials will vest and remain with Company.

4. Term and Termination.

- A. This Agreement shall remain in effect until termination in accordance with the terms hereof. Either Party may terminate this Agreement for convenience upon thirty (30) days written notice to the other. The provisions of Sections 4, 5 and 8 through 19 shall survive termination of this Agreement.
- B. We may discontinue providing the services necessary for the Trustmark to be utilized by Earner at any time for any reason without any liability to You by providing You with thirty (30) days written notice of termination of this Agreement. Additionally, Company reserves the right to immediately discontinue the services necessary to display the Trustmark, remove any Trustmark and terminate this Agreement if: (i) You cease to maintain the Certification Standard associated with such Trustmark; (ii) Company discovers that the information that You provided during enrollment is no longer valid; (iii) You fail to perform Your obligations set forth in this Agreement; (iv) You violate or fail to comply with any of the terms and conditions set forth in this Agreement; (v) You terminate or suspend Your business, or has wound up or liquidated, voluntarily or otherwise, or fails to make reasonable assurances of its ability to timely and fully meet its obligations under this Agreement within a reasonable time upon a reasonable request; or (vi) You use the Trustmark for any unlawful purpose.
- C. Upon termination or expiration of this Agreement, You shall immediately cease displaying any Trustmark in any tangible or intangible medium (including on printed materials) and You grant Company the right to immediately deactivate any services that we use to display the Trustmark on Your website or Earner Materials.

5. Representations and Warranties. You represent and warrant to Company that: (i) You have the corporate power and authority to enter into, and perform Your obligations under, the Agreement; (ii) no consent, approval, or authorization of, or exemption by, or filing with, any governmental authority or any third-party is required to be obtained or made by You in connection with the execution, delivery, and performance of this Agreement or the taking by You of any other action contemplated hereby; (iii) all information You provide in Your Application is true and correct at the time of submission, and such information (including any domain name or email address) does not infringe, misappropriate or violate the Intellectual Property Rights or any other rights of any third party; (iv) You will use the Trustmark in accordance with this Agreement only; and (v) You will not make any unauthorized representation or warranty to any third party relating to the Trustmark.

6. Proprietary Rights. Except as otherwise expressly provided herein, nothing in this Agreement shall create any right of ownership or license in and to the other Party's Intellectual Property Rights, and each Party shall continue to independently own and maintain its Intellectual Property Rights.

7. Modifications to Trustmark License Agreement. The Trustmark and Our related services are evolving. Accordingly, Company may at any time: (i) revise the terms of this Agreement, including any fees or assessments, and (ii) change the criteria of any Certification Standard. Any such change will be binding and effective thirty (30) days after publication of the change on Company's website, or upon notification to You by email. If You do not agree with the change, You may terminate this Agreement at any time by notifying Company. Any such modifications become effective upon the earlier to occur of: (i) Your acknowledgement of such modifications; or (ii) Your continued access to and/or posting of the Trustmark after We post notice of such modifications. It is Your sole responsibility to check the GS1 US website from time to time to view any such changes to the terms in this Agreement and You agree that posting changes there is sufficient notice to You. If You do not agree to any changes, if and when such changes may be made to this Agreement, You must cease access to or use of the Trustmark.



8. Data Rights. GS1 US uses the data You provide, including the name, title and contact information for all entities and/or persons utilizing the Trustmark for the purpose of administering Your participation in the Certification Standard and to make You aware of and/or to market other upcoming GS1 US events, products and/or services. You hereby represent that You have the right to make any data You provide to GS1 US for these purposes. To this end, GS1 US may disclose Your data to third party service providers. GS1 US may also disclose Your data as disclosed in Our Privacy Policy located at <http://www.gs1us.org/privacy-policy> and Terms of Use located at <http://www.gs1us.org/terms-of-use>. If You do not want GS1 US to use Your data in order to market to You other upcoming GS1 US events, products and/or services, You may opt-out by contacting GS1 US via email at SPPProgram@gs1us.org. Any opt-out is only effective as to the actual individual requesting to opt-out. If You happen to be located or otherwise a resident of the EU, please review Section 12 of Our Privacy Policy (located at <http://www.gs1us.org/privacy-policy>), which contains Our supplemental privacy notice that applies to You.

9. Disclaimers of Warranties. THE TRUSTMARK AS WELL AS ALL SOFTWARE, MATERIALS, AND TECHNOLOGY USED TO PROVIDE ANY OF THE FOREGOING, ARE PROVIDED ON AN "AS IS" BASIS AND COMPANY AND ITS LICENSORS, IF ANY, MAKE NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE TRUSTMARK, DOCUMENTATION OR OTHER ACCOMPANYING MATERIAL OR SERVICES. COMPANY SPECIFICALLY DISCLAIMS (AND EARNER WAIVES) ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, OR WARRANTIES ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USE OF TRADE. IMPLIED WARRANTIES ON THE TRUSTMARK THAT CANNOT BE LEGALLY DISCLAIMED, IF ANY, ARE LIMITED TO THIRTY (30) DAYS. ALL UNIFORM COMMERCIAL CODE WARRANTIES ARE EXPRESSLY DISCLAIMED BY COMPANY. COMPANY DOES NOT WARRANT THAT THE OPERATION OR OTHER USE OF THE TRUSTMARK WILL BE UNINTERRUPTED OR ERROR FREE OR WILL NOT CAUSE DAMAGE OR DISRUPTION TO EARNER'S DATA, COMPUTERS OR NETWORKS OR THAT ERRORS WITH THE TRUSTMARK WILL BE FIXED BY COMPANY. COMPANY FURTHER MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING SERVICES OR ANY TECHNICAL SUPPORT AND THE PARTIES AGREE THAT COMPANY SHALL NOT BE HELD LIABLE OR RESPONSIBLE IN ANY WAY FOR COMPANY'S ACTIONS OR OMISSIONS IN PROVIDING SERVICES OR SUPPORT SERVICES. THESE DISCLAIMERS OF WARRANTY CONSTITUTE AN ESSENTIAL PART OF THESE TERMS. SOME STATES/JURISDICTIONS DO NOT ALLOW LIMITATIONS ON DURATION OF AN IMPLIED WARRANTY, SO THE ABOVE LIMITATION MAY NOT FULLY APPLY TO EARNER TO THE EXTENT REQUIRED TO COMPLY WITH APPLICABLE LAW.

10. Indemnity. You agree to indemnify, defend and hold harmless Company, its directors, shareholders, officers, agents, employees, successors and assigns from any and all third party claims, suits, proceedings, judgments, damages, and costs (including reasonable attorneys' fees and expenses) arising out of, in connection with, or by reason of: (i) Your breach or alleged breach of warranties, representations, and obligations under this Agreement; (ii) any infringement, misappropriation or violation of an Intellectual Property or other right of any person or entity by means of information or content provided by You, including Earner Materials; (iii) violation or alleged violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities in connection with Your use of the Trustmark or Your activities in connection with GS1 US Testing Program; or (iv) services provided by You or any act or omission on Your part. Company shall promptly notify You of any such claim, and You shall bear full responsibility for the defense of such claim (including any settlements); provided, however, that: (a) any settlement in which any payment, admission or other affirmative act is required of Company shall be subject to Company's advance written approval; and (b) Company shall have the right to participate in the defense or settlement of a claim with counsel of its choice at its own expense.

11. Limitations of Liability. YOU ACKNOWLEDGE AND AGREE THAT WE ARE ONLY WILLING TO PROVIDE ACCESS TO THE TRUSTMARK, IF YOU AGREE TO CERTAIN LIMITATIONS OF OUR LIABILITY TO YOU AND TO THIRD PARTIES. IN NO EVENT WILL COMPANY, ITS PARENT, AFFILIATES, OFFICERS, DIRECTORS, AGENTS OR EMPLOYEES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL AND CONSEQUENTIAL DAMAGES OR LIKE DAMAGES, INCLUDING, LOST PROFITS, GOODWILL, LOST OPPORTUNITIES AND INTANGIBLE LOSSES, ARISING IN CONNECTION WITH THE TRUSTMARK, SERVICES OR THESE TERMS, INCLUDING, FOR EXAMPLE AND CLARITY ONLY, DAMAGES RESULTING FROM LOST DATA, LOST EMPLOYMENT OPPORTUNITIES, OR BUSINESS INTERRUPTIONS, OR RESULTING FROM THE USE OR ACCESS TO, OR THE INABILITY TO USE OR TO ACCESS, THE TRUSTMARK OR CONTENT. THESE LIMITATIONS OF LIABILITY APPLY REGARDLESS OF THE NATURE OF ANY CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY, AND WHETHER OR NOT COMPANY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

EARNER AGREES THAT ITS SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIMS ARISING IN CONNECTION WITH ANY VIOLATION BY US OF THIS AGREEMENT IS TO DISCONTINUE USING THE TRUSTMARK. IN THE EVENT THAT A COURT DETERMINES THAT THE PRECEDING SENTENCE IS UNENFORCEABLE, OUR AGGREGATE LIABILITY FOR ALL CLAIMS ARISING IN CONNECTION WITH ANY VIOLATION OF THESE TERMS WILL NOT EXCEED TEN DOLLARS (U.S. \$10.00). Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for certain types of damages. Accordingly, some of the above limitations and disclaimers may not apply to You. To the extent that We may not, as a matter of applicable law, disclaim any warranty or limit Our liabilities, the scope and duration of such warranty and the extent of Our liability will be the minimum permitted under such applicable law.

WITHOUT LIMITING THE FOREGOING, UNDER NO CIRCUMSTANCES WILL WE OR EARNERS BE HELD LIABLE FOR ANY DELAY OR FAILURE IN PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM ACTS OF NATURE, WEATHER, FORCES, OR CAUSES BEYOND OUR REASONABLE CONTROL, INCLUDING, WITHOUT LIMITATION, INTERNET FAILURES, COMPUTER EQUIPMENT FAILURES, TELECOMMUNICATION EQUIPMENT FAILURES, OTHER EQUIPMENT FAILURES, ELECTRICAL POWER FAILURES, STRIKES, LABOR DISPUTES, RIOTS, TERRORIST ATTACK FIRE, STRIKE, EPIDEMIC, PANDEMIC, INSURRECTIONS, CIVIL DISTURBANCES, SHORTAGES OF LABOR OR RAW MATERIALS, FIRES, FLOODS, STORMS, EXPLOSIONS, ACTS OF GOD, WAR, ENACTMENT, RULE, ORDER OR ACT OF ANY GOVERNMENT OR GOVERNMENTAL INSTRUMENTALITY (WHETHER FEDERAL, STATE, OR LOCAL) GOVERNMENTAL ACTIONS, ORDERS OF DOMESTIC OR FOREIGN COURTS OR TRIBUNALS, OR NON-PERFORMANCE OF THIRD PARTIES, OR OTHER CAUSE OF SIMILAR OR DIFFERENT NATURE NOT REASONABLY WITHIN THE CONTROL OF GS1 US OR EARNER .

12. Force Majeure. Neither party shall be deemed in default hereunder, nor shall it hold the other Party responsible for, any cessation, interruption or delay in the performance of its obligations hereunder due to events beyond the reasonable control of such Party.

13. Confidential Information. Earner agrees that the information and reports provided to Earner regarding the Trustmark and access and use of the Trustmark contains confidential information, including trade secrets, know-how and other information that are the exclusive property of Company or its licensors. During the period this Agreement is in effect and at all times after its termination, Earner shall maintain the confidentiality of this information and shall not sell, license, sublicense, publish, display, distribute, disclose, or otherwise make available this information to any third party nor use such information except as expressly authorized by this Agreement. Earner shall not disclose any such information concerning the Trustmark to parties who are not employees or permitted agents or contractors (including, without limitation, outsourcers) of Earner without Company's prior written consent. Earner agrees that Earner will take appropriate action by instruction, agreement, or otherwise with Earner's employees and permitted agents and contractors to satisfy Earner's obligations under this Agreement with respect to use, protection, and security of Company's confidential information. It is further understood and agreed that money damages alone would not be a sufficient remedy for any breach of Earner's obligations under this Section 13. In the event of a breach or anticipatory breach of this Section, Company will be entitled to seek equitable relief in addition to any other rights or remedies provided by law or under this Agreement, without the need to post any bond or surety or establish a likelihood of harm. The obligations of confidentiality and restriction on use contained herein shall not apply to any confidential information that Earner is clearly able to demonstrate: (i) is required to be disclosed by applicable law or regulation; provided, Earner first gives Company notice and an opportunity to limit the disclosure; (ii) was lawfully received by the Earner from a third party, which third party was, to the knowledge of the Earner, free of any obligation of



confidentiality; (iii) was already in the lawful possession of the Earner without an obligation to maintain its confidentiality prior to disclosure by Company; or (iv) becomes known to the general public not due to any act or omission by Earner.

14. Severability. If any term or provision of this Agreement is held invalid, illegal or unenforceable in any jurisdiction, this shall not invalidate or render unenforceable any other term or provision of this Agreement. Upon such determination the affected term or provision shall not be rendered void but shall be deemed amended to such extent as is necessary so that the term or provision can be interpreted and enforced to the full extent possible to carry out the intent of the parties.

15. Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of New Jersey, without regard to conflicts of laws provisions. You will only bring any action or proceeding arising out of or related to this Agreement in the appropriate state or federal court located in Mercer County in the State of New Jersey. Any cause of action You may have with respect to the GS1 US Testing Program must be commenced within one (1) year after the claim or cause of action arises. If for any reason a court of competent jurisdiction finds any provision of this Agreement, or any portion thereof, to be unenforceable, that provision will be enforced to the maximum extent permissible so as to effect the intent of the Agreement, and the remainder of the Agreement will continue in full force and effect.

16. OFAC Acknowledgement. Earner acknowledges that it is not currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC") or any similar sanctions imposed by any other body, governmental or other, to which Earner is subject and will not otherwise conduct business with sanctioned entities/countries (or have otherwise received OFAC approval) and are in compliance with OFAC regulations.

17. Waiver. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

18. Non-Assignment. You may not assign this Agreement nor the rights granted hereunder, in whole or in part, and whether by operation of contract, law or otherwise, without Company's prior express written consent. Such consent shall not be unreasonably withheld or delayed.

19. Notices and Communications

You will make all notices, demands or requests to Company with respect to this Agreement in writing to:

GS1 US, Inc.
Princeton South Corporate Center
300 Charles Ewing Boulevard
Ewing, NJ 08628
Attn: Legal Counsel

For contractual purposes, You: (i) consent to receive communications from Us in an electronic form; and (ii) agree that all terms and conditions, agreements, notices, documents, disclosures, and other communications ("**Communications**") that We provide to You electronically satisfy any legal requirement that such Communications would satisfy if it were in a writing. Your consent to receive Communications and do business electronically, and Our agreement to do so, applies to all of Your interactions and transactions with Us. The foregoing does not affect Your non-waivable rights. You may withdraw Your consent to receive Communications electronically by contacting us in the manner described above. If You withdraw Your consent, from that time forward, You must stop using the Trustmark. The withdrawal of Your consent will not affect the legal validity and enforceability of any obligations or any electronic Communications provided or business transacted between Us prior to the time You withdraw Your consent. Please keep Us informed of any changes in Your email or mailing address so that You continue to receive all Communications without interruption.

20. Entire Agreement. This Agreement constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.