

AGREEMENT ON INTELLECTUAL PROPERTY AND DATA MANAGEMENT

THIS AGREEMENT (hereinafter the "**Agreement**"), effective as of the 30 day of June, 2015 (hereinafter the "**Effective Date**"), by and between

GS1 AISBL, an international non-profit making association incorporated in Belgium having a place of business at 326 Avenue Louise, 1050 Brussels, Belgium and registered in the Belgian register of legal entities ("*Banque-Carrefour des Entreprises (BCE)*") under the number 0419.640.608 (hereinafter "**GS1 AISBL**");

and

GS1 AZERBAIJAN a limited liability company incorporated in Azerbaijan having its principal place of business at 90A Xaqani Str.AZ1010-Baku, Azerbaijan and registered in the register of legal entities of Ministry of Taxes Azerbaijan Republic under the number 1400106351, (hereinafter the "**Member Organisation**" or the "**MO**");

hereinafter individually referred to as "**Party**" and collectively referred to as the "**Parties**".

PREAMBLE

WHEREAS this Agreement and the licence granted hereunder form part of the membership agreement between GS1 AISBL and the MO, which is governed by the GS1 AISBL Statutes and by the Code of Practice for GS1 Member Organisations, and according to which membership agreement the MO is recognised by GS1 AISBL as the sole representative of GS1 AISBL in the Territory for which the MO is authorised to operate by the General Assembly.

WHEREAS GS1 AISBL is the owner of the Registered Global Marks listed in **Schedule B** of this Agreement and the MO is desirous of using the Marks in the Territory in connection with the provision of products and/or services supporting the development and implementation of the GS1 System and/or complying with the MO's rights and obligations under the Statutes.

WHEREAS the aim of this Agreement is to lay down the terms and conditions governing the use of the Marks by the MO.

OPERATIVE PROVISIONS

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions

For the purpose of the present Agreement, the following capitalized words or expressions shall have the following meanings.

- 1.1. "**Branding Guidelines**" means the brand manual as referred to in Article 18 and available on: http://mozone.gs1.org/1/brand/downloads/GS1_GlobalBrandManual_V1-2_2015-04-16.pdf which defines the general rules governing the use of the Marks and/or Domain Names in the market.
- 1.2. "**Domain Name(s)**" means any domain name(s) which include(s) any of (or part of) the Marks and which is/are registered and/or used by the MO; any domain name(s) which include(s) any of (or part of) the Marks and which is/are registered and/or used by the MO after the Effective Date of this Agreement shall be automatically included in the present definition.
- 1.3. "**Force Majeure**" means any cause which could not be avoided by means of the due care of the MO, including, but not limited to, acts of God, insurrection, wars and natural disasters, and which renders the normal functioning of the operations of the MO impossible for an indefinite period of time.
- 1.4. "**Global Mark(s)**" means the signs which are held or owned by GS1 AISBL and which are listed and/or depicted in **Schedule A**, as they may be modified, amended, abandoned and/or replaced by other signs from time to time by GS1 AISBL, pursuant to Article 2.4 of this Agreement. Global Mark(s) also means any combination of the signs listed and/or depicted in **Schedule A**. Global Marks include the Registered Global Marks as defined in Article 1.11 of this Agreement.
- 1.5. "**GS1 System**" means the solutions, specifications, standards and guidelines designed, implemented and/or administered by GS1 AISBL.
- 1.6. "**ICC**" means the Internal Compliance Committee of GS1 AISBL supervised by the Management Board.
- 1.7. "**General Assembly**" or "**GA**" means the General Assembly of GS1 AISBL governed by the Statutes.
- 1.8. "**Local Marks**" means any verbal, visual and/or graphic signs, registered or not, including or referring to any of the Global Marks.
- 1.9. "**Management Board**" means the Management Board of GS1 AISBL governed by the Statutes.
- 1.10. "**Marks**" means the Global Marks and the Local Marks.
- 1.11. "**Registered Global Marks**" means the Global Marks which are applied for or registered by GS1 AISBL as trademarks, designs or under any other legal scheme in the Territory, as listed in **Schedule B** and as may be modified from time to time by GS1 AISBL as per Article 2.4 of this Agreement.

- 1.12. "**Statutes**" means the GS1 AISBL statutes applicable at the relevant time.
- 1.13. "**Territory**" means the territory for which the MO is duly authorised to operate as a representative of GS1 AISBL by the General Assembly in accordance with the Rules of Engagement and Neutrality Principles as set out in **Schedule F**.

2. Ownership and management of the Global Marks

- 2.1. Without prejudice to the exclusive rights granted explicitly to the MO under this Agreement, GS1 AISBL is the sole and only Party who shall hold, own, and/or have exclusive and/or proprietary rights on, any and all Global Marks in the Territory, including the right to protect and register any and all Global Marks as trademarks, designs, and/or under any other legal scheme in the Territory. The MO shall have no such right.
- 2.2. On or prior to the execution of this Agreement, the MO shall provide GS1 AISBL with (i) the true and complete list of the Global Marks, if any, with respect to which the MO has applied for or has secured a trademark, design or other protection or registration in the Territory or in any other country or region and (ii) an assignment contract, fully and validly executed by the MO, definitively conveying to GS1 AISBL for one (1) EURO all the rights, titles and interests of the MO in and to such Global Marks, and in and to the registrations related thereto, in the format of the template contract which is attached to this Agreement as **Schedule C**. The MO shall have no right under this Agreement until the above conditions precedents have been fulfilled.
- 2.3. The MO hereby agrees and acknowledges that GS1 AISBL may undertake any necessary measures to record in the name of GS1 AISBL the transfer(s) of such Global Mark(s) as referred to in Article 2.2 of this Agreement. The MO shall provide any assistance that GS1 AISBL may reasonably require in order to record said transfers with any appropriate government authority, trademark office or registry and the MO shall execute any document necessary to that purpose. GS1 AISBL shall reimburse the reasonable external costs incurred by the MO for the transfer of these Global Marks, except with respect to the Global Marks that the MO had registered outside the Territory and for the transfer of which the MO shall bear the costs.
- 2.4. GS1 AISBL may, during the course of this Agreement, add additional signs to the list of the Global Marks and/or modify, amend, abandon and/or replace any of the Global Marks. GS1 AISBL shall inform the MO in due course of such addition, amendment, modification, abandonment or replacement. In the event that GS1 AISBL seeks to add any trademark that is validly registered and used by the MO to the list of Global Marks, GS1 AISBL shall first secure the consent of the MO, and such sign shall only be added to the list of Global Marks by written agreement of the Parties. In such case, the MO agrees and commits to transfer, at GS1 AISBL's expenses, all the rights, titles and interests in the trademark added to the list of Global Marks to GS1 AISBL. GS1 AISBL shall not abandon the registration of any Registered Global Mark in the Territory without having consulted with the MO about such abandonment. In the event that GS1 AISBL abandons the registration of a Registered Global Mark in the Territory, and upon request of the MO, GS1 AISBL may authorise, exceptionally and on a case by case basis, the MO to register the abandoned (and thus non-registered) Global Mark in the Territory. Such abandoned Global Mark shall then be considered for the purposes of this Agreement, and in particular Article 13, as a Local Mark. The MO shall provide a solid business case justification in support of any such request.

- 2.5. The MO may, during the course of this Agreement, propose to GS1 AISBL to register in the Territory a Global Mark that the MO has been using or intends to use in the Territory pursuant to Article 3 and that is not yet registered in the Territory, and hence to add such Global Mark to the list of Registered Global Marks. The MO shall provide a solid business case justification in support of any such request.
- 2.6. By way of a derogation to Article 20, in case of disagreement between the Parties as to such addition (Article 2.5) or abandonment (Article 2.4) of a Registered Global Mark pursuant to this Agreement, the matter shall be referred to the ICC, whose decision shall be final and binding on the Parties.

3. Licenceto use the Global Marks

During the term of this Agreement and subject to the conditions set forth herein,GS1 AISBL hereby grants to the MO, and the MO accepts, an exclusive, non-transferable, royalty-free licence to use the Global Marks in the Territoryin relation to certainproducts and/or servicesas defined in Article 7 of this Agreement, with right to grant sub-licences pursuant to Article 5of this Agreement (hereinafter the "**Licence**").

4. Exclusivity

Notwithstanding the right of the MO to grant sub-licences under Article 5 of this Agreement, the Licence granted hereunder is exclusive to the extent that the Global Marks can only be used in the Territory by:

- (i) the MO, and
- (ii) GS1 AISBL within the scope of its corporate purpose according to the Statutes and in particular article 2 of said Statutes.

5. Sub-licences

- 5.1. The Licence includes the right for the MO to grant sub-licences relating to the use of the Global Marks in the Territory subject to the terms and conditions defined in this Agreement and in particular the present Article5. For the avoidance of doubt, sub-licensees are prohibited from applying for, or registering, any of the Marks, any sign that includes any of the Marks, or any confusingly similar marks or variations thereof.
- 5.2. All sub-licences granted hereunder shall
 - a. be reported promptly and in writing to GS1 AISBL;
 - b. be negotiated in good faith and the MO undertakes and guarantees that the terms and conditions of the sub-licences shall not in any way prevent the MO's compliance with any of its obligations under, or contradict any of the provisions of, the present Agreement and shall not absolve the MO from responsibility for its covenants, agreements, obligations and liabilities hereunder;
 - c. provide for the automatic and immediate termination of the sub-licenceupon termination of this Agreement, without any liability whatsoever resulting for GS1 AISBL from the existence or termination of the sub-licence, unless the termination of this Agreement is due to a breach of the Agreement by GS1 AISBL;
 - d. provide for the prohibition on the part of the sub-licensees from (i) applying for, or registering, any of the Marks, any sign that includes any of the Marksor any confusingly similar marks or variations thereof, and (ii) granting sub-licences relating to the use of the Marks, and

- e. not be detrimental in any way to GS1 AISBL's interests or activities.
- 5.3. The right for the MO to grant sub-licences is limited to the right of sub-licensees to use the Global Marks
- a. always together with the name of the MO consisting in the combination of (i) the denomination "GS1" and (ii) the designation of the Territory, and
 - b. in specific circumstances and according to specific guidelines which shall be further defined and agreed upon by the General Assembly, including but not limited to the right to use the Global Marks as seals for certified solution providers.

6. Registration and use of the Local Marks and the Domain Names by the MO

- 6.1. During the term of this Agreement and subject to the conditions set forth herein, the MO shall have the right, but not the obligation, to register and to use the Local Marks and the Domain Names in the Territory in relation to certain products and services as defined in Article 7 of this Agreement.

The MO shall have the right to register the Local Marks only with respect to the products and services defined in Article 7 and only in its Territory. The MO shall not have the right to own or apply for:

- (i) national registrations in countries that are not part of its Territory;
- (ii) registrations that cover multiple territories (e.g., Community (EU) trademarks) unless
 - it is the only option to cover its Territory where, for instance, no national mark exists for its Territory (e.g., Benelux trademarks);
 - its Territory covers the exact same countries as covered in the registration.

GS1 AISBL shall use reasonable efforts to assist the MO to obtain registrations for such Local Marks and Domain Names, including, without limitation, by providing GS1 AISBL's written consent.

- 6.2. Local Marks and Domain Names, existing as of the Effective Date and/or in the future, shall comply with the terms and conditions of this Agreement and with the obligations of the MO under the Statutes. They shall, among other things, comply with Article 7 of this Agreement and not be detrimental in any way to GS1 AISBL and/or the GS1 System. The registration or use of a non-compliant Local Mark or Domain Name shall be held as a material violation of this Agreement.
- 6.3. Subject to the terms and conditions of this Agreement, the MO shall also have the right to grant licences relating to the use of the Local Marks and/or Domain Names in the Territory, with no right to grant sub-Licences. The terms and provisions contained in Articles 5.2 and 5.3 of this Agreement shall equally apply to any licences granted on the Local Marks and/or Domain Names under the present Article 6.3. For the avoidance of doubt, the MO's licensees are prohibited from applying for, or registering, any of the Marks, any sign that includes any of the Marks or any confusingly similar marks or variations thereof.
- 6.4. On or prior to the execution of this Agreement, the MO shall provide GS1 AISBL with the true and complete lists of (i) all the Local Marks and/or Domain Names, if any, which the MO is using in the Territory at the Effective Date or has used at any time during the three (3) years preceding the Effective Date and of (ii) all the Local Marks and/or Domain Names, if any, with respect to which the MO has applied for or has secured a trademark, design or other

protection or registration in the Territory or in any other country or region. GS1 AISBL shall maintain a database of said disclosed Local Marks of its member organisations.

- 6.5. The Local Marks and/or corresponding Domain Names registered by the MO outside of the Territory, if any, shall be transferred for one (1) EURO by the MO either to GS1 AISBL or to the member organisation authorised to operate as a representative of GS1 AISBL in that other country or region, at the request and choice of GS1 AISBL in the format of the template contract which is attached to this Agreement as **Schedule D**. The MO shall have no right under this Agreement until the above conditions precedents have been fulfilled.
- 6.6. In the event that GS1 AISBL modifies, amends, abandons and/or replaces any of the Global Marks pursuant to Article 2.4 of this Agreement, each change affecting a Global Mark shall be implemented in the corresponding Local Mark(s) and/or Domain Name(s) in the Territory. As a consequence, the MO shall apply for and register the necessary new Local Marks and/or Domain Names in the Territory and shall adapt its use of the Local Marks and/or Domain Name in order to reflect that change, in accordance with the reasonable instructions of GS1 AISBL.
- 6.7. If the MO wishes to use a new Local Mark and/or register a Local Mark as a trademark or otherwise in the Territory after the Effective Date, the MO shall (i) inform GS1 AISBL in writing and in advance of such envisaged use and/or registration and shall (ii) verify in GS1 AISBL's database of disclosed Local Marks whether that (new) Local Mark has already been listed by any other member organisation in any other territory. If the (new) Local Mark that the MO wants to use and/or register is already listed in said database by another member organisation, that other member organisation's authorization shall be required for the MO to use and/or protect said (new) Local Mark in the Territory. Such other member organisation shall not refuse its authorization unless it has a compelling cause to do so. If such other member organisation refuses said authorisation, the matter shall be referred to the ICC, which shall use its reasonable efforts to help the MO and the other member organisation to reach a solution. Should the issue not be solved amicably between the MO and the other member organisation despite ICC's efforts, ICC shall make a decision, which shall be final and binding on the MO and the other member organisation.

7. Use of the Marks and Domain Names

- 7.1. The MO shall only use the Marks and Domain Names to the extent explicitly permitted by this Agreement and with respect to products and/or services which are
 - a. proper to the MO's activities under or in support of the GS1 System in the Territory or are compliant with the rights and obligations of the MO under the Statutes, and
 - b. not constituting an act that may be prejudicial to the interests of GS1 AISBL, and
 - c. within the scope of the MO's corporate purposes.

Without prejudice to the first paragraph of this Article 7.1, the MO has the right to use the Marks and refer to the Domain Names on stationery, packaging, training, educational, advertising or promotional material, publications, internet, including websites, in its premises or on its equipment.

- 7.2. The MO shall use the Marks and Domain Names according to (i) the provisions of this Agreement, (ii) the Branding Guidelines and (iii) the reasonable directions of the General Assembly and observe any reasonable specifications and instructions as may be prescribed from time to time in writing by the General Assembly.

- 7.3. Any use of the Marks by the MO shall inure to the benefit of GS1 AISBL.

Neither Party shall knowingly cause any act or omission or operate any activities that could reflect adversely upon, tarnish, disparage, bring into disrepute or damage the Marks, the goodwill and/or public image associated with the Marks or otherwise harm GS1 AISBL or its reputation.

Without prejudice to the Code of Practice for GS1 Member Organisations, the MO shall maintain at least the same level of quality in goods and services used in association with the Marks as exists on the Effective Date. If GS1 AISBL notifies the MO of concerns about the quality of goods or services offered by the MO under the Marks, the MO shall work with GS1 AISBL to promptly evaluate and address those concerns.

8. Intellectual Property

8.1. Intellectual Property Rights on the Global Marks

8.1.1. The MO agrees and acknowledges that GS1 AISBL is the sole owner of the Global Marks as described in Article 2 of this Agreement. GS1 AISBL shall retain any and all rights, titles and interests in the Global Marks, without prejudice to the rights expressly licensed in accordance with the provisions of this Agreement. Nothing under this Agreement shall be interpreted or construed as a transfer to the MO of any intellectual property rights or ownership of, in or to the Global Marks.

8.1.2. Without prejudice to Article 2.4, GS1 AISBL shall take all appropriate and necessary measures to ensure the proper registration, management, renewal and maintenance of the Registered Global Marks in the Territory and bear the costs associated thereto.

8.1.3. GS1 AISBL represents and warrants that (i) all details regarding the Registered Global Marks set out in Schedule B (as Schedule B may be amended from time to time) are accurate and complete, and that (ii) GS1 AISBL is the registered and beneficial owner of the Registered Global Marks. GS1 AISBL also represents and warrants that (i) to the best of its knowledge the Registered Global Marks do not infringe the rights of third parties in the Territory and that (ii) it is not aware of any such claim pending or threatened at the Effective Date which would have effect on this Agreement. GS1 AISBL makes no further representation nor grants any warranties (express or implied) (i) as to the admissibility and/or enforceability of the Registered Global Marks; and/or (ii) that the non-registered Global Marks are eligible for registration or enforceable or do not infringe the rights of third parties.

8.2. Intellectual Property Rights on the Local Marks and the Domain Names

8.2.1. The MO is the rightful holder of the Local Marks and Domain Names in the Territory by virtue of the present Agreement and only to the extent that, and for as long as, this Agreement remains in place and the MO is a member of GS1 AISBL.

8.2.2. Without prejudice to Article 6.1 of this Agreement, the MO shall take all appropriate and necessary measures to ensure the proper registration, management, renewal and maintenance of the Local Marks and the Domain Names in the Territory and bear the

costs associated thereto for as long as the MO is the owner of record of the Local Marks and Domain Names in the territory and this Agreement remains in place.

8.3. **Commitments regarding Intellectual Property**

8.3.1. Without prejudice to the exclusive rights granted to the MO under the Agreement, the MO agrees and commits that:

- a. it shall not challenge (i) GS1 AISBL's ownership of, or exclusive/proprietary rights and interest in and to, the Global Marks or (ii) the validity of the Global Marks or (iii) the Licence;
- b. it shall, provide any assistance GS1 AISBL may reasonably require to record the present Agreement or Licence with any appropriate government authority, trademark office or registry;
- c. it shall not apply for nor register any of the Global Marks and/or Local Marks, any sign that includes any of the Marks or any confusingly similar marks or variations thereof, except for what is explicitly authorized under this Agreement or further agreed to by the Parties in writing; for the avoidance of any doubt, the MO is also prohibited from applying for or registering non registered Global Marks or any confusingly similar marks or variations thereof;
- d. it shall comply with the current GS1 AISBL Branding Guidelines, and future Branding Guidelines approved from time to time by the General Assembly and provided in writing to the MO.

8.3.2. GS1 AISBL agrees and commits that:

- a. unless otherwise authorized in the Agreement, it shall not challenge (i) the MO's ownership of, or exclusive/proprietary rights and interest in and to, the Local Marks or (ii) the validity of the Local Marks or (iii) the Licence;
- b. it shall provide any assistance the MO may reasonably require to record the present Agreement or Licence with any appropriate government authority, trademark office or registry.

8.4. **Infringement**

8.4.1. If either Party becomes aware of any activity of any third party that involves or may involve infringement or other violation of either GS1 AISBL's rights or interests on and/or in the Global Marks or of the MO's rights on the Local Marks or Domain Names, such Party shall promptly notify the other Party of such activity, infringement or violation.

8.4.2. GS1 AISBL shall take whatever action it deems appropriate to protect or defend the Registered Global Marks against any invalidity claim, any infringing activities or other violation of its rights on the Registered Global Marks.

The MO shall provide reasonable assistance to GS1 AISBL with respect to bringing any such legal action. In particular, the MO shall submit to GS1 AISBL any evidence of infringement that comes to the MO's knowledge and shall cooperate with GS1 AISBL to defend the Registered Global Marks. Where appropriate, GS1 AISBL may request the MO to join GS1 AISBL and become a party to any proceedings involving the Registered Global Marks. The MO shall not unreasonably withhold its consent.

GS1 AISBL shall bear the costs of any proceedings pertaining to the defence of the Registered Global Marks.

In the event that GS1 AISBL decides not to institute proceedings to protect or defend a Registered Global Mark, and notwithstanding the provisions of section 2.1 of this Agreement, the MO shall be entitled to institute such proceedings by itself subject to the prior, written and explicit consent of GS1 AISBL, which consent shall not be unreasonably withheld. In that case, the MO shall handle such dispute in good faith and cooperation with GS1 AISBL and according to the guidance and recommendations of GS1 AISBL, if any. In particular, the MO shall not enter into any settlement agreement or consent to any restriction of use or registration without GS1 AISBL's prior, written and explicit consent.

The MO is entitled to seek reimbursement from GS1 AISBL of any reasonable legal costs borne by the MO for its defence of the Registered Global Mark, subject to the policy for refunding legal expenses agreed by the General Assembly and documented in the GS1 Operational Manual.

8.4.3. The MO shall take whatever action it deems appropriate, and, in any event, whenever GS1 AISBL reasonably requests it, shall protect or defend the Local Marks or the Domain Names against any invalidity claim, any infringing activities or other violation of its rights in the Local Marks or the Domain Names.

GS1 AISBL shall provide reasonable assistance to the MO with respect to bringing any such legal action. In particular, GS1 AISBL shall submit to the MO any evidence of infringement that comes to GS1 AISBL's knowledge and shall cooperate with the MO to defend the Local Marks or the Domain Names. GS1 AISBL shall not unreasonably withhold its consent.

When the resolution of the disputes related to Local Marks may have an impact on any of the Global Marks, GS1 AISBL may decide to join the MO and become a party to any proceedings involving the Local Marks. In any event, the MO shall handle such disputes in good faith and cooperation with GS1 AISBL and according to the guidance and recommendations of GS1 AISBL, if any. In particular, the MO shall not enter into any settlement agreement or consent to any restriction of use or registration without GS1 AISBL's prior, written and explicit consent.

Where appropriate, the MO is entitled to seek reimbursement from GS1 AISBL of any reasonable legal costs borne by the MO for the defence of the Local Marks and/or the Domain Names, subject to the policy for refunding legal expenses agreed by the General Assembly and documented in the GS1 Operational Manual.

9. Spot checks

- 9.1. During the term of this Agreement, the ICC, or any designated representative(s) of the ICC, such as, for example, GS1 officer(s), shall have the right to conduct spot checks of the use of the Marks in order to verify whether the MO complies with its obligations under the Agreement. The scope of the spot checks is limited to the verification that the MO complies with the requirements under the Agreement with respect to the Marks. These spot checks do not cover the MO's financial reports, accounting books or any other financial document unrelated to the use of the Marks.
- 9.2. For the purpose of such spot checks, the ICC, or its designated representative(s), shall in particular, without limitation, have the right to request, upon reasonable prior notice of at least 10 days, to receive copies of relevant documents such as the publications of the MO. The General Assembly may further define the scope of these spot checks.
- 9.3. The results and findings of any spot check shall be reported in writing to the MO, who shall have fifteen (15) days starting from the date of receipt of the report to give its observations. In the absence of a reply from the MO after fifteen (15) days without just cause, the steps described under Article 20 of this Agreement shall take effect, without prejudice to GS1 AISBL's other rights.
- 9.4. The information disclosed during the spot checks and the results and findings of the spot checks shall be regarded and treated as confidential information ("**Confidential Information**").

The ICC shall hold such Confidential Information in strict confidence and shall only be entitled to disclose Confidential Information on a need-to-know basis to GS1 AISBL's employees, agents, consultants, who are directly involved in the conduct or monitoring of the spot checks.

The ICC shall further use the Confidential Information only for the purpose of fulfilling its rights and obligations under this Agreement. The ICC shall not disclose to any third party any of the Confidential Information without specific prior, express written authorisation from the MO with respect to such disclosure. This prohibition does not apply to disclosures necessary for the ICC to enforce its rights under this Agreement.

Confidential Information does not include information that:

- a. at the time of disclosure thereof is or thereafter becomes part of the public domain through no breach, fault or omission of the ICC or of GS1 AISBL's employees, agents, consultants;
- b. at the time of disclosure thereof by the MO, is already in the ICC's lawful possession;
- c. the ICC receives from a third party who has the right to disclose the same and who did not obtain such information in violation of the MO's rights;
- d. the ICC is required to disclose by applicable law, by a court or by a governmental authority.

10. Representations and warranties

- 10.1. Either Party represents and warrants that it shall comply with the Rules of Engagement & Neutrality Principles which are part of the GS1 Operational Manual and incorporated hereby by reference and enclosed as **Schedule F**.
- 10.2. Each Party represents and warrants that

- a. it shall comply with all applicable laws, statutes and regulations, including but not limited to applicable anti-corruption laws;
- b. it is in good standing under the local laws and has the capacity, authority and power to enter into this Agreement ;
- c. the execution and performance of the Agreement do not and will not contravene or conflict with or constitute a violation of any provision of any agreement, law, regulation, judgment, injunction, order or decree;
- d. it shall refrain from any action that would infringe or bring into disrepute the Marks or the Domain Names.

11. Indemnification

- 11.1. Except as otherwise agreed upon in this Agreement and without prejudice to the indemnified Party's other rights under any applicable legal provision, and to the largest extent as authorised by applicable law, each Party (the "**indemnifying Party**") agrees to hold the other Party (the "**indemnified Party**") harmless from or against any and all claims, demands, loss, damages, liabilities, settlements amounts, costs and expenses whatsoever, whether for personal injury, property damage, or otherwise, except indirect and/or consequential loss, arising out of, or relating to, any action made or brought against the indemnified Party by any third party arising from
- a. breach of the Agreement or violation of law by the indemnifying Party or failure to perform any of its obligations hereunder;
 - b. breach of the Agreement or of the (sub-) licence agreement or violation of law by the indemnifying Party's licensee or sub-licensee;
 - c. gross negligence of the indemnifying Party or any of its licensee or sub-licensee;
- hereinafter referred to as the "**Claim(s)**".

- 11.2 Notwithstanding any other provision in this Agreement, the liability of the indemnifying Party under this Agreement shall not exceed EUR 100.000,00 (one hundred thousand euros) per Claim.

The indemnifying Party shall have no obligation to indemnify the indemnified Party in respect of any Claim if and to the extent that the losses in respect of which the Claim is made:

- are covered by an insurance policy in force at the Effective Date or at the date of the occurrence of the loss;
- are recovered from any other third party.

Accordingly, any amount for which the indemnifying Party would otherwise have been liable in respect of any Claim shall be reduced by the amount of any insurance proceeds, indemnification or other recovery from any insurance company or any other third party in respect of the loss which is the subject matter of the Claim.

12. Term and termination

- 12.1. Subject to the conditions precedent provided for in Article 2 of this Agreement, and without prejudice to Article 20 of this Agreement, this Agreement shall enter into force at the Effective Date and shall remain in force and effect as long as the MO remains a member of GS1 AISBL and there is a valid Global Mark and/or a valid Local Mark.

- 12.2. GS1 AISBL shall be entitled to terminate this Agreement forthwith by written notice to the MO if the membership of the MO in GS1 AISBL is terminated or has expired due to resignation or expulsion in accordance with the Statutes (currently article 7).
- 12.3. GS1 AISBL shall also be entitled to terminate this Agreement forthwith by giving written notice of termination to the MO in the event: (i) the MO is declared insolvent or bankrupt by a court of competent jurisdiction, (ii) voluntary or involuntary proceedings are commenced by or against the MO seeking liquidation, winding up, dissolution, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect under the laws of any country, (iii) a receiver, trustee, liquidator, custodian or administrator is appointed for the MO's undertaking and/or a substantial part of the assets of the MO, or the MO's consent to such appointment has been requested, (iv) the MO compounds with its creditors, or (v) the MO takes any action for the purpose of effecting any of the foregoing.

13. Consequences of termination and end of membership

- 13.1. Any termination of the Agreement pursuant to Article 12 and/or 20 of this Agreement shall entail the automatic and immediate termination of any and all licence and, where applicable, of any sub-licence, granted under the Agreement. The MO shall hold GS1 AISBL harmless against any and all claims of any and all (sub-) licensees in case of such termination.
- 13.2. Any termination of the Agreement pursuant to Article 12 and/or 20 of this Agreement shall entail the automatic and immediate termination of the right for the MO and, where applicable, its (sub-) licensees, to use the Marks, for any purpose whatsoever. As a consequence, the MO shall without limitation:
- 13.2.1. immediately cease (a) to present itself as a member organization of GS1 AISBL; (b) any use of any of the Marks in connection with any activities, including the provision of any products and/or services; (c) to administer and use the number bank, i.e., country prefix(es) licensed by GS1 AISBL to the MO according to the Statutes (currently article 5 (b));
- 13.2.2. within a reasonable period of time which shall not be longer than six (6) months:
- a. return or destroy, at GS1 AISBL's discretion, any materials whatsoever bearing any of the Marks;
 - b. remove the Marks from its premises and equipment and refrain from using any of the Marks on, without limitation, any stationery, packaging, training, educational, advertising or promotional material publications, websites.
- 13.3. In the event that, the MO loses its membership from GS1 AISBL due to resignation or expulsion pursuant to the Statutes (currently article 7), or the MO is in any of the situations listed in Article 12.3 of this Agreement, the following consequences shall apply:
- (i) The Local Marks and/or any mark or sign used by the MO or by the MO's licensees in combination with any of the Global Marks as well as the corresponding Domain Names shall be automatically and immediately transferred to GS1 AISBL.

To that purpose, the MO shall at the Effective Date execute and sign the assignment agreement attached hereto as **Schedule E**. Said executed assignment agreement can and shall only be used and enforced by GS1 AISBL to obtain the transfer of the Local Marks, of the marks or signs used by the MO or by the MO's licensees in combination

with any of the Global Marks and/or of the corresponding Domain Names in the event that the MO's membership has ended as duly proven, for instance, by the minutes of the General Assembly meeting where the General Assembly decided such expulsion or by a copy of the MO's resignation letter (in accordance with the Statutes).

- (ii) GS1 AISBL shall, subject to the prior approval of the General Assembly, immediately have access to an extract of the MO's membership/subscribership data, comprising company name, address, telephone number, and e-mail address (excluding e-mail addresses that contain the names of living persons), Global Company Prefix(es) and other GS1 numbers licensed to members/subscribers (hereinafter the "**Data**").

To that purpose, the MO shall keep a back-up of the Data in escrow and shall update said Data on a quarterly basis. The costs of the escrow shall be borne by GS1 AISBL.

The Data shall be placed in escrow, at the MO's discretion, either:

- a. with GS1 AISBL acting as escrow agent, provided that the MO participates to the GEPIR system and that the MO's GEPIR data are hosted by GS1 AISBL;
- b. or, alternatively, with an external escrow agent approved by the General Assembly.

There will be one worldwide, global external escrow agent. The escrow agent must however demonstrate a presence in at least the five GS1 regions (i.e., Europe, North America, Latin America, Asia-Pacific and MEMA, i.e., Middle East, Mediterranean & Africa). The selection of the escrow agent and the terms and conditions of the escrow shall be approved by the General Assembly. Upon request of the MO, the ICC may exceptionally agree, on a case-by-case basis, to appoint a national escrow agent, provided that said national agent fulfills all necessary independency and reliability requirements.

The escrow Data cannot be used by GS1 AISBL unless

- a. the MO has been expelled or has resigned from GS1 AISBL, or
- b. the MO is in any of the situations listed in Article 12.3 of this Agreement, or
- c. if the MO requests to use this data, or requests GS1 AISBL to use this data, for as long as is necessary, in case of Force Majeure.

The Parties agree that such use is necessary to ensure the continuity of the services and GS1 System towards the MO's members and/or subscribers.

In the exceptional event that the MO gathers Data that includes personally identifiable information (PII), such as name, private mailing address, social security number, private email address, or any other information that could be used to identify a MO's member or subscriber— for instance where the MO's member or subscriber is a self-employed -, the MO shall, if and to the extent required by applicable local law, obtain the valid consent of the data subject that such PII can be shared with GS1 AISBL and that GS1 AISBL may use such PII to further the objectives of this Agreement and the services that the member/subscriber has requested. Alternatively, in said exceptional event and when the required consent of the data subject could not be obtained earlier on, the MO agrees that GS1 AISBL shall request such consent of the data subject before it accesses to the PII in accordance with the provisions of this Agreement. If any of the MO's members or subscribers opt-out of sharing their PII with GS1 AISBL, the PII shall be removed from the Data placed in escrow.

14. Assignment

Unless otherwise provided for in this Agreement, the Parties may not assign this Agreement or their rights or obligations under this Agreement to third parties without the other Party's prior written consent.

15. Survival

Notwithstanding expiry or termination of this Agreement for any reasons, the rights and obligations of the Parties under Articles 8, 10, 11, 13, 19 and 20 shall remain in full force and effect to the fullest extent permitted by the applicable law.

16. Modification and waiver

No modification of this Agreement shall be deemed effective unless in writing and signed by each of the Parties hereto, and no waiver of any right set forth herein shall be deemed effective unless in writing and signed by the Party against whom enforcement of the waiver is sought.

17. Severability

In the event that any provision, or a portion of any provision, of this Agreement is held to be illegal, invalid or unenforceable in any respect by a court or arbitration body of competent jurisdiction, the legality, validity or enforceability, of the remaining (portion of any such) provision(s) shall not be in any way affected or impaired thereby and shall remain in full force and effect.

18. Entire agreement

18.1. This Agreement together with its Schedules, which form an integral part of the Agreement, constitutes the full agreement of the Parties hereto with regard to the object to which it refers and contains everything the Parties have negotiated and agreed upon within the framework of this Agreement. This Agreement replaces and annuls any agreement, communication, offer, proposal, or correspondence, oral or written, previously exchanged or concluded between the Parties and referring to the same object.

The Parties acknowledge that they are aware of and agree with the documents referred to in this Agreement, which are available and can be perused online, including:

- the Code of Practice for GS1 Member Organisations, the Statutes, GS1 Operational Manual (available on: <http://mozone.gs1.org/operational-manual>);
- the Branding Guidelines (available on http://mozone.gs1.org/1/brand/downloads/GS1_GlobalBrandManual_V1-2_2015-04-16.pdf).

GS1 AISBL reserves the right to modify the internet addresses on which these documents are available. GS1 AISBL shall inform the MO of any such change of address. In addition, the Parties acknowledge that these documents may be updated, modified or replaced in accordance with the rules governing them.

- 18.2 In case of any discrepancy or conflicting terms between the terms of this Agreement (or any of its Schedules) and the Statutes, the terms of the Statutes shall prevail.

In case of any discrepancy or conflicting terms between the terms of this Agreement (or any of its Schedules) and the Branding Guidelines, the terms of this Agreement shall prevail.

19. Applicable law

This Agreement, its validity, performance and enforcement, shall be governed, construed and interpreted in accordance with the laws of the State of Belgium, excluding its rules of conflict of laws.

20. Remedies and jurisdiction

20.1. Dispute regarding the membership rights

Any disputes or claims regarding the membership rights of the MO, i.e., relating to the resignation or expulsion of the MO from GS1 membership, shall follow the procedure described in the Statutes (currently articles 7 and 19) and shall therefore be submitted in the first place to the Management Board which may then decide to submit a request for expulsion to the General Assembly.

20.2. Disputes between MOs arising from or relating to the performance or interpretation of the Agreement

In accordance with the Statutes (currently article 19), any disputes or claims between the MO and another member organisation arising from or relating to the performance or interpretation of this Agreement, including the registration or use of the Marks in compliance with this Agreement and the Rules of Neutrality and Engagement incorporated in Schedule F, which cannot be settled by the parties concerned shall be submitted to the Management Board for settlement. The decision of the Management Board shall be final unless otherwise decided by the General Assembly.

Any member organisation wishing to appeal against a decision of the Management Board shall refer the appeal to the President – Chief Executive Officer who shall refer the matter to the next meeting of the General Assembly for decision. Any decision of the General Assembly shall be final and binding.

20.3. Disputes between GS1 AISBL and the MO arising from or relating to the performance or interpretation of the Agreement

20.3.1. Without prejudice to Article 20.2 of this Agreement, any disputes or claims between GS1 AISBL and the MO arising from or relating to the performance or interpretation of this Agreement shall be primarily referred to the ICC in order to try to settle the issue amicably.

In the event the MO does not comply with any of its obligations under this Agreement, the ICC shall inform the MO in writing that the MO is given the opportunity to remedy the breach within a reasonable term granted and determined by the ICC. For

that purpose, the ICC shall provide a remedy plan defining the milestones and actions to be undertaken by the MO to remedy any breach and become compliant.

20.3.2. In the event that the MO does not comply with the remedy plan within the term determined by the ICC, the ICC shall then escalate the issue to the Management Board which shall provide its decision on the issue.

20.3.3. In the event the MO does not comply with the decision of the Management Board within the deadline defined by the Management Board, the Management Board shall take one of the following actions:

(a) If the nature of the breach meets the conditions for expulsion defined in the Statutes of GS1 AISBL (currently article 7), Article 20.1 of this Agreement shall apply and the Management Board may decide to submit a proposal to expel the MO from membership of GS1 AISBL to a vote of the General Assembly;

(b) If the dispute or claim only relates to a breach of the Agreement that is not considered by the Management Board as a breach of the Statutes meeting the conditions for expulsion defined in the Statutes (currently article 7), the Management Board shall submit the matter to the final and binding decision of an international arbitration body approved by the General Assembly, which international arbitration body shall have exclusive jurisdiction. If the MO does not comply with the decision of the arbitration body, Article 20.1 of this Agreement shall apply: the Management Board shall assess whether the breach meets the conditions of the Statutes (currently article 7) and may decide to submit a request for expulsion to the General Assembly.

20.4. **Right to comment**

At each level of escalation, including for Article 20.2 of this Agreement, the MO shall be offered the opportunity to submit its comments and viewpoint in writing or orally.

20.5. **Urgent or preliminary measures**

20.5.1. In any event, and notwithstanding the escalation process described above in Articles 20.2 to 20.4 of this Agreement, GS1 AISBL shall, subject to the ICC's prior approval, have the right to seek urgent and/or preliminary measures of protection of the Marks (e.g., urgent injunction from using the Marks) either from the above international arbitration body or from ordinary courts having jurisdiction on the MO and/or on the MO's activities. In addition, GS1 AISBL shall be entitled to enforce its rights under the Agreement through the same arbitration body or through court actions after expulsion of the MO.

20.6. **The arbitration body**

20.6.1. In accordance with Article 20.1 of this Agreement, the arbitration body shall have no jurisdiction to decide on the expulsion of the MO from the membership of GS1 AISBL or on claims from the MO following its expulsion by decision of the General Assembly.

20.6.2. The place of arbitration shall be Brussels, Belgium, and the arbitration proceedings shall be conducted in English, unless otherwise agreed upon by the Parties. The decisions of the arbitration body shall be final and binding upon the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in two copies as of the Effective Date.

FOR GS1 AISBL:

By Monica Walsh

NAME IN BLOCK CAPITALS: MONICA WALSH

TITLE: DIRECTOR CORPORATE SERVICES

FOR THE MO:

By **GS1AZERBAIJAN**

NAME IN BLOCK CAPITALS: **VAFA ALIYEV**

TITLE: **General director**

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