

ORIGIN HDA PRODUCT DATA SOURCE CONTRIBUTOR AGREEMENT

Contributor Full Company Legal Name:	
Contributor Company Address:	
Contributor Company Contact Name and Email Address:	
Effective Date:	

This ORIGIN HDA PRODUCT DATA SOURCE CONTRIBUTOR AGREEMENT (“Agreement”) is entered into by and between the Healthcare Distribution Alliance, having a place of business at 901 North Glebe Road, Suite 1000, Arlington, Virginia 22203 (“HDA”) and the company named above (referred to herein as the “Contributor”) with the Effective Date set forth above. HDA provides the Origin HDA Product Data Source Service (the “Origin HDA Product Data Source Service”) which contains a database (the “Database”) of GTIN data relating to pharmaceutical products and the Uploading System (as defined below). “GTIN” means Global Trade Item Number. “GTIN Records” means numbers submitted under the GTIN system and associated product data. “GTIN DATA” means the GTIN Records from all Contributors, which are part of the Database.

1. Contributor

Contributor is a company operating in the pharmaceutical industry supply chain and represents, and covenants during the Term, that: (a) it is the owner of and has the right to upload the specific GTIN Records related to products for which it has responsibility to the Database through the ORIGIN HDA Product Data Source Service free of claims from other parties (the “Contributor GTIN Records”); (b) there are no pending claims, and have been no claims asserted, of any type that Contributor is not the owner of or does not have the right to upload its Contributor GTIN Records; (c), the GTIN Records uploaded by the Contributor are the correct GTIN Records for the designated products or will be corrected immediately upon Contributor’s acquisition of knowledge of the need for correction; and (d) it will update the Contributor GTIN Records as necessary to accurately correspond to the applicable products;

and (e) it will not upload or change any GTIN data of any other company.

2. Uploading

Contributor will upload, maintain and correct the Contributor GTIN Records using the uploading system. Contributor will upload its GTIN Records using any one of any of these three (3) methods in accordance with the instructions on the Origin HDA Web Portal: (a) uploading a Contributor GTIN Number for one product at a time; (b) uploading a table of Contributor GTIN Numbers in one of the authorized forms (such as a flat file); (c) uploading one or more Contributor GTIN Numbers using the API available on the Web Portal. Contributor has the right to authorize, as an Authorized User (defined in Section 3), its traceability service provider(s) (which are actively providing services to support Contributor’s use of the Origin HDA Product Data Source Service) to upload Contributor’s GTIN Records using the methods provided in subsections (a), (b) and (c) above.

3. Contributor Access Rights

Provided that Contributor is in compliance with the terms of this Agreement, HDA grants Contributor the right to see and access only its own Contributor GTIN Records, only for its internal business use and only by its employees, independent contractors and agents it authorizes (its “Authorized Users”). Contributor shall be responsible for its Authorized Users’ compliance with this Agreement, and the actions or failures to act of such Authorized User(s) shall be treated as if they were acts or failures to act of Contributor itself hereunder.

4. License from Contributor

Contributor agrees to and hereby grants HDA and its providers an irrevocable, nonexclusive, perpetual (or the longest period permitted by

applicable law), right to incorporate the Contributor GTIN Records into the Database and to transmit, make available, reproduce, distribute, perform, display, prepare and own derivative works (as such term is defined in Section 106 of the U.S. Copyright Act, Title 17, U.S. Code) of the Contributor GTIN Records as HDA determines necessary or advisable for the operation of the Origin HDA Product Data Source Service. As between the Parties, HDA is the owner of such Service and the Database as a whole and all intellectual property rights related thereto.

5. Availability

HDA and providers (including ValueCentric Pharmaceutical Solutions, LLC) will use commercially reasonable efforts to make the Uploading System and the Database available 24 hours a day, 7 days a week, except during maintenance and update periods and when unavailability is caused by circumstances beyond HDA's or its service providers' reasonable control. Such circumstances include, without limitation, an act of God, act of government, extreme weather, flood, fire, civil unrest, acts of terrorism, strike or other labor problem, Internet service provider failure or delay, denial of service attacks and similar interference with Origin HDA Product Data Source Service and Database operations, and acts or failures to act of third parties. HDA will provide access to the Origin HDA Product Data Source Service and Database in accordance with laws and regulations applicable to HDA and with pharmaceutical industry practices.

6. Contributor Obligations

Contributor will (a) exercise its rights, access the Database and use the Origin HDA Product Data Source Service only as set forth in this Agreement; (b) be responsible for all Authorized Users' compliance with this Agreement; (c) use commercially reasonable efforts to prevent unauthorized access to and use of the Origin HDA Product Data Source and the Database and (d) promptly notify HDA if it knows or has reason to suspect any such unauthorized access or use. Contributor and not HDA is responsible for the completeness and accuracy of the GTIN Records and Contributor shall make all corrections required

to make such GTIN Records complete and accurate.

7. Term and Payment

Contributor shall pay all fees in accordance with the Terms and Payment Schedule set out in Schedule 1. The "Term" of this Agreement begins on the Effective Date and terminates upon the first to occur of the following: (a) Contributor fails to pay any fee when due and such failure is not cured within 30 days; (b) one of the parties provides notice to the other of its intent to terminate the Agreement not less than 60 days prior to the intended date of termination; or (c) when HDA ceases for any reason to offer the Origin HDA Product Data Source Service. All sales, use and other taxes assessed by any governmental authority applicable to Contributor's receipt of products or services or otherwise due hereunder shall be paid by Contributor as set forth in the Terms and Payment Schedule, or if paid by HDA shall be promptly reimbursed by Contributor. If any payment is more than 30 days overdue, HDA may in its discretion and without limiting its rights or remedies hereunder or at law suspend Contributor's rights to access and use the Origin HDA Product Data Source Service, the Database and the Data and in such case shall restore such rights upon payment of all amounts past due. HDA may increase the fees annually upon providing reasonable advance notice to Contributor. In addition and if applicable, when new fees or expenses are imposed on or due from HDA because of a change in the law, including to account for new fees or taxes imposed with respect to the Origin HDA Product Data Source Service, such fees or expenses shall be assessed on a pass through basis with no mark-up. Any such increase shall be effective as of the date of notice to Contributor. HDA shall have the right to pay the amount of the increase and in such case Contributor shall promptly reimburse HDA. Upon request, HDA will provide Contributor with substantiation of such increase.

8. Restrictions

Contributor will not and will not permit others to directly or indirectly: (a) change the Database (except that Contributor must upload, maintain and correct its Contributor GTIN Records); (b) copy

Data from the Database other than its own Contributor GTIN Records; (c) make the Database or any part thereof available to, or use the same for the benefit of, anyone other than the Contributor; (d) license, sublicense, sell, distribute, provide access to, make available, rent or lease the Database or GTIN Records, including in any service bureau or outsourcing offering; (e) change or knowingly interfere with or disrupt the integrity or operation of the Origin HDA Product Data Source Service (including the Uploading System) or the Database or store or transmit through the Uploading System any infringing or otherwise unlawful material or malicious programming code; (f) permit direct or indirect access or use of the Database or Data in a way that circumvents the Agreement; (g) build or permit to be built or created, using data not provided by the Contributor and copied from the Origin Database or copyright-protected elements of the Origin HDA Product Data Source Service, a product or service competitive with the Origin HDA Product Data Source Service (including without limitation by creating a derivative work of the Database or any part of the HDA Product Data Source Service) for use other than by Contributor or its Authorized Users on behalf of Contributor as permitted under this Agreement; and/or (h) use the Origin HDA Product Data Source Service (including the Uploading System) to access the Database and/or use any of the foregoing other than as permitted pursuant to the Agreement.

9. Reservation of Rights

Subject to the limited rights expressly granted hereunder, HDA and its service providers, and data providers reserve all of their right, title and interest in the Origin HDA Product Data Source Service, the Database and all of their intellectual property rights in and related thereto. No rights are granted to Contributor other than those expressly set forth herein. Contributor grants HDA a worldwide, perpetual (or the longest period permitted by law), irrevocable, royalty-free right and license to use and incorporate into or use in connection with the Origin HDA Product Data Source Service and the Database any suggestion, enhancement request, recommendation, correction or other feedback provided by Contributor or its Authorized Users and other users

related to the operation of the Origin HDA Product Data Source Service or the Database.

10. DISCLAIMERS AND LIMITATION OF LIABILITY AND EXCLUSIONS

CONTRIBUTOR REPRESENTS AND WARRANTS AND COVENANTS DURING THE TERM TO HDA THAT IT HAS THE RIGHT TO RECEIVE, ACCESS AND USE THE ORIGIN HDA PRODUCT DATA SOURCE SERVICE, DATABASE AND GTIN RECORDS IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED STATUTORY OR OTHERWISE AND EACH PARTY SPECIFICALLY AND EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW. THE ORIGIN HDA PRODUCT DATA SOURCE SERVICE, THE DATABASE AND THE GTIN RECORDS AND ALL SERVICES PROVIDED BY OR ON BEHALF OF HDA ARE PROVIDED "AS-IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTY WHATSOEVER. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM, LOSSES OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

The aggregate liability for each Party for all claims under this Agreement is limited to direct damages up to the amount paid under this Agreement during the twelve (12) months before the cause of action arose.

NEITHER PARTY WILL BE LIABLE FOR LOSS OF REVENUE OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, LOSS OF DATA OR LOSS OF BUSINESS INFORMATION, EVEN IF THE PARTY KNEW THEY WERE POSSIBLE OR REASONABLY FORESEEABLE OR A PARTY'S REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY LAW. THE LIMITS OF LIABILITY UNDER THIS SECTION DO NOT APPLY TO ANY INFRINGEMENT OR VIOLATION OF HDA'S OR ITS IT PROVIDERS' OR OTHER PROVIDERS OF GTIN RECORDS INTELLECTUAL PROPERTY RIGHTS.

11. General Terms

Contributor must send notices by Express Courier or U.S. certified or registered mail, return receipt requested, to HDA at the following address:

The Healthcare Distribution Alliance
Attn.: Elizabeth Gallenagh
901 North Glebe Road
Suite 1000
Arlington, VA 22203
Phone: (703) 787-0000
Fax: (703) 812-5282
Email: egallenagh@hda.org

Contributor agrees to receive electronic notices from HDA, which will be sent by email to the email address of the Contributor Company Contact set forth above or such other address as to which the Contributor shall provide notice.

Notices are effective as of the date of delivery by the Express Courier, the date on the return receipt document, and, for email, the date sent. Contributor may not assign this Agreement in whole or in part without HDA’s prior express written consent. There are no third party beneficiaries to this Agreement. The term “including” means “including, without limitation.” To the extent that any provision, portion or extent of this Agreement is found invalid, illegal or unenforceable, then that provision, portion or extent shall be severed or deleted herefrom or limited so as to give effect to the intent of the Parties insofar as possible and the remainder of the Agreement shall remain binding upon the Parties. The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other remaining provisions. Any waiver of any provision of this Agreement, or a delay by either Party in the enforcement of any right hereunder, shall neither be construed as a continuing waiver nor create an expectation of non-enforcement of that or any other provision or right. No Party will be liable for any force majeure events or events which are beyond that party’s reasonable control, including, without limitation, cyber-attacks or cyber terrorism, acts or omissions of Internet data carriers or government entities, provided that the same may delay but not relieve Contributor of its obligation to make payments

hereunder. This is an Agreement between separate legal entities and neither Party is the agent or employee of the other or a joint venture partner of the other for any purpose whatsoever. This Agreement shall be construed under and governed by the substantive laws of the Commonwealth of Virginia without giving effect to its rules pertaining to conflicts of laws other than those giving effect to this choice of law. Any suit or action of any kind brought to enforce any provision of this Agreement shall be brought in any court of competent jurisdiction in Arlington County, Virginia. The Parties consent to personal jurisdiction of and venue in the state and federal courts within that county. In the event an ambiguity or question of intent or interpretation arises, this Agreement (and any applicable or relevant provision) shall be construed as if jointly drafted by the Parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any one such Party by virtue of the authorship of any of the provisions of this Agreement. This Agreement may be executed electronically, by a scanned version of the original signature pages, by facsimile, and in one or more counterparts, each of which shall be deemed an original copy, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date set forth above.

Contributor

By: _____
Print Name
Print Title

HEALTHCARE DISTRIBUTION ALLIANCE

By: _____
Print Name
Print Title

