

ORIGIN HDA PRODUCT DATA SOURCE USER AGREEMENT

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

This ORIGIN HDA PRODUCT DATA SOURCE USER 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 “User”) with the Effective Date set forth above. HDA operates the Origin HDA Product Data Source Service, which contains a database (the “Database”) of GTIN Records (as defined below) uploaded by companies in the pharmaceutical industry supply chain. “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 companies in the pharmaceutical supply chain, which are part of the Database.

1. User

Provided that User is in compliance with the terms of this Agreement, HDA grants User a limited, personal, revocable, nonexclusive, nonsublicenseable, nontransferable license during the Term to: (a) access and use the Database through the Origin HDA Product Data Source Service only for Users’ internal business use in accordance with the terms hereof and to (b) download Data and create data sets only for its internal business use (the “License”), and (c) in the case of Users which are distributors or group purchasing organizations, provide their datasets and the GTIN Records to their customers for their and their customers’ internal business uses. User has the right to designate one or more Authorized Users to exercise any of the rights granted in this Section 1. “Authorized Users” means current employees, subcontractors, independent contractors and agents of User, including any traceability providers with which the User contracts, that act solely on behalf of User and for User’s business purposes as permitted under this

Agreement. User shall be responsible for its Authorized Users’ compliance with this Agreement, including but not limited to Section 3 (User Obligations) and Section 5 (Restrictions), and the actions or failures to act of such Authorized Users shall be treated as if they were acts or failures to act of User itself hereunder. No rights of ownership are granted to User (or any of its Authorized Users) for any aspects of the Origin HDA Product Data Source Service.

2. Availability

HDA and its providers (including ValueCentric Pharmaceutical Solutions, LLC) will use commercially reasonable efforts to make 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 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 Database operations, and acts or failures to act of third parties. HDA will provide access to the Database in accordance with laws and regulations applicable to HDA and with pharmaceutical industry practices and subject to User’s access to and use of the Database and Data and conduct of all other activities hereunder in compliance with the same.

3. User Obligations

User will: (a) access and use the Origin HDA Product Data Source Services, the Database and the data sets it creates only in accordance with this Agreement; (b) cause all Authorized Users to comply with the terms of this Agreement and be responsible for each Authorized User’s compliance with this Agreement; (c) use

commercially reasonable efforts to prevent unauthorized access to and use of the Origin HDA Product Data Source, the Database and the Data; and (d) promptly notify HDA if it knows or has reason to suspect such unauthorized access or use.

4. Term and Payment

User shall pay all fees and applicable taxes 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) the User fails to pay any fee when due which payment is not cured within 30 days; (b) one of the parties provides notice to the other of its intent to terminate the Agreement, which notice shall not be less than 60 days prior to the termination date; or (c) HDA ceases for any reasons to offer the Origin HDA Product Data Source Service and/or access to the Database. Without limiting any other provision hereof, 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 User's rights hereunder and shall restore such rights upon payment of all amounts past due. All sales, use and other taxes assessed by any governmental authority applicable to User's receipt of products or services or otherwise due hereunder shall be paid by User as set forth in the Payment Schedule or if paid by HDA shall be promptly reimbursed by User. HDA may increase the fees annually upon providing reasonable advance notice and substantiation for such increase to User. In addition and if applicable, HDA shall have the right to increase the fees 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 User. HDA shall have the right to pay the amount of the increase and in such case User shall promptly reimburse HDA. Upon request, HDA will provide User with substantiation of such increase.

5. Restrictions

Except as provided in Section 1, User will not and will not permit others to directly or indirectly: (a)

upload any data to the Database; (b) change any Data; (c) copy GTIN Data other than as permitted pursuant to the Agreement; (d) make the Database or any GTIN Data available to, or use the same, for the benefit of anyone other than (i) the User and, (ii) in the case of Users which are distributors or group purchasing organizations, their customers for their and their customers' internal business uses; (e) license, sublicense, sell, distribute, provide access to, make available, rent or lease the Database or GTIN Data, including in any service bureau or outsourcing offering who is not an Authorized User; (f) change or knowingly interfere with or disrupt the integrity or operation of the Database (including the GTIN Data) or the Origin HDA Product Data Source Service or store or transmit infringing or otherwise unlawful material or store or transmit malicious code; (g) permit direct or indirect access or use of the Database or Data in a way that circumvents the Agreement; (h) build or permit to be built using data copied from the Origin Database or copyright-protected elements of the Origin HDA Product Data Source Service, a product or service competitive to the Origin HDA Product Data Source Service, or create derivative works thereof, for profit and commercial use, outside of the User or the Authorized User on behalf of the User as permitted under this Agreement; and/or (i) otherwise access the Database and use it, the Data and/or the Origin HDA Product Data Source Service otherwise than as permitted pursuant to the Agreement.

6. Reservation of Rights

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

Origin HDA Product Data Source Service or Database.

7. DISCLAIMERS AND LIMITATION OF LIABILITY AND EXCLUSIONS

USER 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 DATA IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT. USER ACKNOWLEDGES THAT ALL GTIN RECORDS ARE PROVIDED BY ENTITIES IN THE PHARMACEUTICAL SUPPLY CHAIN AND THAT THOSE ENTITIES AND NOT HDA ARE RESPONSIBLE FOR THE ACCURACY, COMPLETENESS, AND TIMELY CORRECTION OF THE GTIN RECORDS THEY SUBMIT. 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 DATA AND ALL SERVICES PROVIDED BY OR ON BEHALF OF HDA ARE PROVIDED "AS-IS" AND AS AVAILABLE EXCLUSIVE OF 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 PROVIDERS' OR CONTENT PROVIDER'S (INCLUDING THOSE WHO UPLOAD GTIN RECORDS) INTELLECTUAL PROPERTY RIGHTS.

8. General Terms

User 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

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

User

By: _____

Print Name

Print Title

HEALTHCARE DISTRIBUTION ALLIANCE

By: _____

Print Name

Print Title