

Agreement for Nielsen Brandbank Services

User Name:			
User Address:			
User Contact:		Phone/Email:	
Nielsen Brandbank Contact:		Phone/Email:	

This agreement is made on the date set out above and is subject to the terms set out in this cover sheet and the Schedules incorporated below ("**Agreement**"), which both The Nielsen Company (US), LLC ("**Nielsen Brandbank**") and the User undertake to observe.

Number	Title	Cross box to incorporate
Schedule 1	Standard Terms & Conditions	<input checked="" type="checkbox"/>
Schedule 2	Definitions	<input checked="" type="checkbox"/>
Schedule 3	Subscription Service	<input type="checkbox"/>
Schedule 4	Data Feed Service	<input type="checkbox"/>
Schedule 5	Merchandising Exchange Service	<input type="checkbox"/>
Schedule 6	Enrich Service	<input type="checkbox"/>
Schedule 7	Hosting Service	<input type="checkbox"/>
Schedule 8	Global Product Exchange Service	<input type="checkbox"/>
Schedule 9	eCommerce Insights Service	<input type="checkbox"/>
Schedule 10	Consultancy Service	<input type="checkbox"/>
Schedule 11	Connect Service	<input type="checkbox"/>
Schedule 12	User Specific Terms & Conditions	<input type="checkbox"/>

Agreed to on behalf of User	By:	Date:	
Agreed to on behalf of Nielsen Brandbank	By:	Date:	

SCHEDULE 1: STANDARD TERMS & CONDITIONS

1. BASIS OF CONTRACT

- 1.1 This Agreement will be deemed to be accepted by the User and will be effective on the earlier of:
- 1.1.1 the User signing the cover sheet of this Agreement;
 - 1.1.2 the User using any of the Services after receipt of this Agreement; or
 - 1.1.3 (where there is an existing agreement between the parties relating to the subject matter of this Agreement) 30 days after the User's receipt of this Agreement without the User notifying Nielsen Brandbank of any objections thereto,
- on which date this Agreement will come into existence ("**Start Date**") and will continue in force until terminated in accordance with its terms.
- 1.2 Any Service Schedule(s) will be effective on the earlier of:
- 1.2.1 the parties marking a cross in the relevant Service Schedule box on the cover sheet of this Agreement. If this occurs after the Start Date, each party will insert its authorised representatives' initials and the date at the right hand side of the relevant Service Schedule box; or
 - 1.2.2 the User using a Service that corresponds with the relevant Service Schedule,
- on which date such Service Schedule(s) will be incorporated into this Agreement and will continue in force until terminated in accordance with the terms of this Agreement.
- 1.3 In the event of conflict between any part of this Agreement and/or any ancillary documents, the conflicting terms will take precedence in descending order of priority as follows:
- 1.3.1 any System Approval Terms;
 - 1.3.2 any User Specific Terms & Conditions (*Schedule 12*);
 - 1.3.3 any Third Party End User Agreement;
 - 1.3.4 any Statement of Work (the most recent version taking priority over previous versions);
 - 1.3.5 the Standard Terms & Conditions (*Schedule 1*); and
 - 1.3.6 any other Schedule, in descending order of appearance in this Agreement.
- 1.4 This Agreement will apply to the exclusion of any other terms that the User seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.5 Subject to clause **Error! Reference source not found.**, this Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 1.6 Subject to clause 12.1, the User acknowledges that this Agreement will apply to all current and future dealings between the parties relating to its subject matter.
- 1.7 This Agreement will apply to all Services provided by Nielsen Brandbank to the User, irrespective of which person on behalf of the User, or a User Affiliate (where permitted by this Agreement), uses the Services (including any sub-contractors).
- 1.8 In this Agreement, unless the context requires otherwise, the following provisions apply:
- 1.8.1 any capitalised terms in this Agreement will have the meaning set out in Schedule 2 (*Definitions*) or alternatively within the body of this Agreement, unless otherwise stated;
 - 1.8.2 any clauses or paragraphs referred to in a Schedule to this Agreement is to a clause or paragraph within that Schedule unless otherwise stated;
 - 1.8.3 a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; and
 - 1.8.4 the terms 'including', 'include', 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2. CHARGES AND PAYMENT

- 2.1 In consideration of the provision of the Services by Nielsen Brandbank, the User will pay the charges as set out in the applicable Order.
- 2.2 Where any licence restriction or banding allocation applies to the User's use of the Deliverables under an Order, Nielsen Brandbank reserves the right to charge and invoice the User for each additional Deliverable that is used,

accessed, downloaded or uploaded (as applicable) outside of the agreed licence scope, or in excess of the agreed banding allocation, at Nielsen Brandbank's standard rates from time to time.

- 2.3 All amounts payable by the User under this Agreement are exclusive of, and Client shall be responsible for payment of, all value added, goods and services, sales, use and similar taxes chargeable from time to time.
- 2.4 Invoices are due within 30 days of the invoice date. If an invoice not subject to bona fide dispute is not paid within 30 days of the invoice date, Nielsen Brandbank may suspend Services until all undisputed invoices are paid. Nielsen Brandbank may charge interest on undisputed invoices unpaid after 30 days at the lesser of 1.5% per month or the maximum allowed by law.

3. SUPPLY OF SERVICES BY NIELSEN BRANDBANK

- 3.1 The Services or certain components thereof may be performed by or supported by Nielsen Brandbank's Affiliate, Brandbank Limited.
- 3.2 Product Information and Deliverables can only be uploaded to, or downloaded from, the Nielsen Brandbank Applications in accordance with the transfer methods used by Nielsen Brandbank from time to time. Any upload or download that Nielsen Brandbank considers to be large will be subject to special arrangements.
- 3.3 From time to time it may be necessary for Nielsen Brandbank to ask the User to use an alternative IP address or URL to access the Services. This may include circumstances where Nielsen Brandbank replaces a Server, changes a Server service provider, or changes any Server files.
- 3.4 Subject to circumstances outside of Nielsen Brandbank's reasonable control, Nielsen Brandbank aims to keep the Nielsen Brandbank Applications operational:
 - 3.4.1 for a minimum of 99% of the time during Working Hours;
 - 3.4.2 95% of the time overall; and
 - 3.4.3 so that 95% of all Users can log-on within five minutes of their first attempt on any occasion.
- 3.5 Nielsen Brandbank shall use reasonable endeavors to publish the times of planned system outages in the Nielsen Brandbank Applications. So far as is reasonably practical, Nielsen Brandbank shall aim to keep any planned system outages outside of Working Hours and shall aim to keep such outages under four hours' continuous duration on each occasion.
- 3.6 Nielsen Brandbank may without any liability whatsoever publish any Product Information or Deliverables on its own systems and websites to the extent that such Product Information or Deliverables is, or has been, in the public domain.

4. USER OBLIGATIONS

- 4.1 The User will:
 - 4.1.1 only use the Services for lawful purposes;
 - 4.1.2 not use the Services to receive, store or transmit material that is obscene, threatening, menacing, offensive, discriminatory, defamatory, in breach of confidence or infringes a third party's IPR;
 - 4.1.3 not transmit or cause to be transmitted through the Services any Virus to any computer or systems of Nielsen Brandbank or any third party;
 - 4.1.4 in respect of any Security Device:
 - 4.1.4.1 be solely responsible for all use of the Services accessed through the Security Device. The User acknowledges that Nielsen Brandbank shall have no liability whatsoever in relation to unauthorised use of the Services through the User's Security Device(s);
 - 4.1.4.2 keep it confidential and not disclose it to anyone;
 - 4.1.4.3 not write it down or store it anywhere on a computer in plain text; and
 - 4.1.4.4 without prejudice to the obligations undertaken in this clause 4.1.4, notify Nielsen Brandbank immediately upon the User becoming aware or suspecting that any User Security Device(s) has been used, or may be known, by any third party;
 - 4.1.5 ensure that an appropriate and up-to-date Virus protection program and firewall (both of which should be compliant with good industry standards) is installed and used on any computer used by the User to access the Services;
 - 4.1.6 not use automated systems or software to extract any data, content or material from the Nielsen Brandbank Applications or any websites which feature or contain the Deliverables, unless the User has obtained Nielsen Brandbank's prior written consent;
 - 4.1.7 permit Nielsen Brandbank to publish the name and standard logo of the User as a user of the Nielsen Brandbank Services for the duration of this Agreement; and

4.1.8 supply Nielsen Brandbank with an up-to-date e-mail address and telephone number for the User's technical support contact.

4.2 The User acknowledges and agrees that access to the Services through the User's Security Device(s) is at the User's risk in relation to any damage to software or data by a Virus. No warranty or representation is given or made by Nielsen Brandbank as to the quality of, or suitability for any purpose of, any electronic material that may be downloaded by using the User's Security Device(s) and/or the Services.

4.3 The User acknowledges and agrees that any email link generated by the User to download or access any Product Information or Deliverables from the Nielsen Brandbank Applications is at the User's sole risk and responsibility.

4.4 In the event that an employee or contractor with access to a Security Device ceases to be employed or engaged by the User, the User must ensure that such individuals do not continue to use any such Security Device. The User will indemnify and keep Nielsen Brandbank and its Affiliates indemnified against all losses, costs and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Nielsen Brandbank and/or its Affiliates arising out of or in connection with any claim relating to the unauthorised use of any Security Device.

4.5 Whilst Nielsen Brandbank will primarily send the User emails relating to the status of the User's account and Service notifications, the User agrees to receive additional marketing emails. The User can opt-out of receiving such marketing emails at any time by providing written notice to Nielsen Brandbank or unsubscribing from the emails.

4.6 In the event that the User wishes to appoint a third party (e.g. an agency) to have access to its account with Nielsen Brandbank, the User must obtain Nielsen Brandbank's prior written consent and such third party must enter into Nielsen Brandbank's Third Party End User Agreement. For the avoidance of doubt, the User will be responsible for any act or omission of such third party which breaches the terms of this Agreement as if such acts or omissions were its own.

5. INTELLECTUAL PROPERTY RIGHTS

5.1 The User acknowledges that it will not acquire any IPR in the Services and that it will have no rights in or to the IPR in the Services other than the right to use the Services in accordance with the licence granted in clause 5.2.

5.2 Nielsen Brandbank licenses the IPR in the Services and the Deliverables provided through such Services to the User on a non-exclusive and non-transferrable basis to the extent necessary to enable the User to make reasonable use of the Services and the Deliverables and not for any other purpose. If this Agreement terminates, then the licence provided in this clause will automatically terminate. If a Service Schedule terminates, then the licence provided in this clause will automatically terminate in respect of that Service and the Deliverables provided through that Service only, but will otherwise continue in force.

5.3 Any IPR created, brought into existence, or acquired, by Nielsen Brandbank during the term of this Agreement in providing the Services will vest and remain vested in Nielsen Brandbank.

6. LIMITATION OF LIABILITY

6.1 Notwithstanding any other provision, this clause 6 sets out the limit on the entire financial liability of either party (including any liability for the acts or omissions of its employees, agents, consultants and sub-contractors) in respect of:

6.1.1 any breach of this Agreement;

6.1.2 any use of the Services by the User; and

6.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

6.2 Subject to clause 6.3, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

6.3 Nothing in this Agreement limits or excludes the liability of either party for death or personal injury resulting from negligence or for any damage or liability incurred by a party as a result of fraud or fraudulent misrepresentation by the other party.

6.4 Subject to clause 6.3 and excluding any provisions in this Agreement where an indemnity is provided by either party:

6.4.1 neither party will be liable for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss or corruption of data or information or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses;

6.4.2 Nielsen Brandbank or any of its officers, employees or agents will not be liable for:

6.4.2.1 the transmission of a Virus to any computer or systems used by the User; or

6.4.2.2 the accuracy or completeness of the Product Information, the Deliverables or any other data, content or material provided through the Services, nor any loss occasioned to the User or any third party acting or refraining from acting in reliance on, or as a result of, the material included in or omitted from the Product Information, the Deliverables or any other data, content or material provided through the Services; and

6.4.3 each party's total liability to the other party in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising under or in connection with this Agreement, will be limited to an amount equal to the amount of the charges paid by the User for those Services under the Order under which such liability arose during the immediate 6 months prior to the event giving rise to such claim for damages.

6.5 Whilst Nielsen Brandbank will use reasonable efforts to ensure that the Nielsen Brandbank Applications capture and distribute the Deliverables in a legally compliant manner, the User is solely responsible for its compliance with all applicable food, beverage and labelling laws and regulations in force from time to time (whether they be State or Federal laws) in the market in which the relevant Consumer Units are to be sold. In the event of any liability arising due to the User's actions and/or omissions in relation to such laws and regulations the User will indemnify and keep Nielsen Brandbank and its Affiliates indemnified against all losses, costs and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Nielsen Brandbank and/or its Affiliates arising out of or in connection with any claim relating to the User's breach of such food, beverage and labelling laws and regulations.

7. TERMINATION

7.1 Each party will have the right to terminate a Service without cause by serving written notice on the other party for a period not less than the period specified in the applicable Service Schedule. This Agreement will automatically terminate with immediate effect upon the termination of all of the Service Schedules incorporated into this Agreement.

7.2 Without limiting any other rights or remedies, either party ("**Terminating Party**") may terminate this Agreement and/or any Service Schedule with immediate effect by providing written notice to the other party ("**Defaulting Party**") on or at any time after the occurrence of any of the events specified below:

7.2.1 a breach by the Defaulting Party of its obligations under this Agreement or any Service Schedule which (if the breach is capable of remedy) the Defaulting Party has failed to remedy within 10 Business Days after receipt of notice in writing from the Terminating Party requiring the Defaulting Party to do so;

7.2.2 an event, including (or similar in nature to) the following:

7.2.2.1 the Defaulting Party is unable to pay its debts as they fall due;

7.2.2.2 the Defaulting Party goes into liquidation either compulsorily (except for the purpose of reconstruction or amalgamation) or voluntarily;

7.2.2.3 a receiver is appointed in respect of the whole or any part of the Defaulting Party; or

7.2.2.4 a provisional liquidator is appointed to the Defaulting Party or the Defaulting Party enters into a voluntary arrangement or any other composition or compromise with the majority by value of its creditors or has a winding-up order or passes a resolution for the voluntary winding-up or has an administrative receiver appointed or takes steps towards any such event; or

7.2.3 the Defaulting Party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

7.3 If this Agreement and/or any Service Schedule terminates for any reason:

7.3.1 any Order or Third Party End User Agreement in force at the time of termination relating to the terminated Services will automatically terminate;

7.3.2 Nielsen Brandbank shall not have any obligation to repay any charges paid by the User;

7.3.3 notwithstanding any other provision, all charges payable by the User to Nielsen Brandbank under this Agreement or the relevant Service Schedule will become due and payable immediately. This clause is without prejudice to any right by Nielsen Brandbank to claim for interest or any other right under this Agreement; and

7.3.4 the User must delete and destroy all copies of the Deliverables provided under this Agreement or the relevant Service Schedule and provide written confirmation of their destruction to Nielsen Brandbank within 14 days of the effective date of termination.

7.4 Termination of this Agreement and/or any Service Schedule will not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of a breach of this Agreement and/or any Service Schedule which existed at, or before, the effective date of termination.

8. FORCE MAJEURE

8.1 Subject to clause 8.2, neither party will have any liability to the other party for any failure or delay caused by any circumstance beyond that party's reasonable control in performing its obligations in this Agreement, including, but not limited to, any failures or delays caused by circumstances or factors which arise or occur outside of Nielsen Brandbank's firewall from time to time (including, but not limited to, the configuration of any User's computer or network).

8.2 Clause 8.1 will not affect the User's payment obligations under this Agreement.

9. CONFIDENTIALITY

- 9.1 A party ("**Receiving Party**") will keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party ("**Disclosing Party**") or its employees, agents or sub-contractors and any other confidential information concerning the Disclosing Party's business, its products and services which the Receiving Party may obtain ("**Confidential Information**").
- 9.2 In relation to any Confidential Information received from the Disclosing Party or from a third party on behalf of the Disclosing Party, the Disclosing Party and the Receiving Party agree:
- 9.2.1 to treat the Confidential Information in confidence and to use it only for the purpose of discharging the Receiving Party's obligations under this Agreement;
- 9.2.2 not to copy or write down any part of the Confidential Information except as is reasonably necessary in connection with the Services;
- 9.2.3 not to disclose the Confidential Information to any third party without the express written permission of the Disclosing Party (except that the Receiving Party may disclose the Confidential Information to its employees, agents and sub-contractors who need access to the Confidential Information strictly in connection with discharging the Receiving Party's obligations under this Agreement and provided that such employees, agents and sub-contractors are made aware of the confidential nature of the Confidential Information and are subject to confidentiality obligations at least as onerous as those set out in this Agreement); and
- 9.2.4 to treat the Confidential Information with the same degree of care and with sufficient protection from unauthorised disclosure as the Receiving Party uses to maintain its own confidential or proprietary information.
- 9.3 Nothing in this Agreement will prevent the Receiving Party from using or disclosing any Confidential Information which:
- 9.3.1 is in or comes into the public domain in any way without breach of this Agreement by the Receiving Party or any person or entity to whom it makes disclosure;
- 9.3.2 the Receiving Party can show:
- 9.3.2.1 was in its possession or known to it by being in its use or being recorded in its files prior to receipt from the Disclosing Party and was not acquired by the Receiving Party from the Disclosing Party under an obligation of confidence; or
- 9.3.2.2 to have been independently developed by the Receiving Party without reference to the Confidential Information;
- 9.3.3 the Receiving Party obtains or has available from a source other than the Disclosing Party without breach by the Receiving Party or such source of any obligation of confidentiality or non-use;
- 9.3.4 is disclosed by the Receiving Party with the prior written approval of the Disclosing Party; or
- 9.3.5 is required by law to be released (e.g. by a court order), provided that, when permitted by the applicable law, the Disclosing Party is given as much prior written notice as possible of such request.
- 9.4 This clause 9 will survive the termination of this Agreement.

10. SEVERABILITY

If any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason by a court of competent jurisdiction, such provision will be severed and the remainder of this Agreement will continue in full force and effect as if this Agreement had been executed with the illegal or unenforceable provision eliminated.

11. NOTICES

All notices must be in writing and are deemed given when mailed by registered or certified mail, return receipt requested, to the other party's address specified on the cover sheet of this Agreement or such other address as is notified to the other party in writing. It is agreed that serving notice by email or fax will not be an effective method of providing notice under this Agreement.

12. VARIATION

- 12.1 Nielsen Brandbank reserves the right at any time to modify this Agreement or the Services and to impose new or additional terms or conditions. If the User continues to use the Services after being notified of any such modification or additional terms, the User will be deemed to have accepted these changes and they will be incorporated into this Agreement.
- 12.2 Subject to clause 12.1, no variation of this Agreement will be effective unless it is in writing and signed by the authorised representatives of the User and Nielsen Brandbank.

13. ASSIGNMENT AND SUB-LICENSING

- 13.1 This Agreement is for the benefit of, and binding on, the parties and their respective successors and assigns. It may not be assigned by either party without the prior written consent of the other party, except that Nielsen Brandbank may, upon notice, transfer its rights and obligations under this Agreement to a Nielsen Brandbank Affiliate.
- 13.2 Nielsen Brandbank may sub-contract any of its rights or obligations under this Agreement. The User may sub-contract any of its rights or obligations under this Agreement provided that it has obtained Nielsen Brandbank's prior written consent and ensures that any of its sub-contractors are made aware of, and are legally bound to comply with, the terms of this Agreement. Each party will remain fully responsible for the acts and omissions of any of its sub-contractors.

14. AUDIT

- 14.1 During the term of this Agreement and for a period of two years following its termination, upon reasonable notice to the User, Nielsen Brandbank will have the right to audit all usage of the Deliverables by the User, provided that the User will not be required to submit to such audit more than twice in any calendar year. The User will provide Nielsen Brandbank (and its auditors and other advisers) with all reasonable co-operation, access and assistance in relation to each audit. The parties will bear their own costs and expenses incurred in respect of compliance with their obligations under this clause 14.1, unless the audit identifies a material default by the User, in which case the User will reimburse Nielsen Brandbank for all of its reasonable costs incurred in the course of the audit.
- 14.2 If an audit identifies that the User is in breach of this Agreement, without prejudice to Nielsen Brandbank's other rights and remedies, the User will promptly take the necessary steps to comply with its obligations (including making an additional payment for any use of the Deliverables outside of the agreed licence scope at Nielsen Brandbank's then current rates).

15. MISCELLANEOUS

This Agreement, any Orders and any ancillary agreements may be signed in counterparts. Each signed copy of a document will be deemed to be an original, but all signed copies, when taken together, will constitute one and the same agreement. All obligations in this Agreement which expressly, or by their nature, are intended to continue beyond the termination of this Agreement (including provisions relating to confidentiality, liability, indemnification, data protection and governing law) will survive the termination of this Agreement. Nothing in this Agreement is intended to, or will be deemed to establish any partnership or joint venture between the parties, make a party the agent of the other party or authorise a party to make or enter into any commitments for or on behalf of the other party. No one other than a party to this Agreement, their successors and permitted assigns, will have any right to enforce any of its terms. The rights and remedies provided under this Agreement are in addition to, and are not exclusive of, any rights or remedies provided by law. No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy will prevent or restrict the further exercise of that or any other right or remedy.

16. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by the law of the State of Illinois, United States of America, without regard to its choice of law provisions. The parties agree to the exclusive personal jurisdiction of the State and Federal courts located in Chicago, Illinois for purposes of determining all disputes arising in connection with this Agreement and hereby waive all objections to venue in those courts.

SCHEDULE 2: DEFINITIONS

1. DEFINITIONS

1.1 In this Agreement, the following definitions apply:

Affiliate	any company which is under common management control of, and of which more than 50% of the shares (or equivalent) are owned by: a party; a subsidiary of that party; its parent company; or any direct or indirectly owned subsidiary of such parent company (where.
Business Day	means Monday to Friday, excluding any bank holidays in the United States.
Connect Assets	any images, documents, artwork, marketing collateral and any other Product Information, data, content or materials entered into, or provided through, the Connect Service.
Connect Recipient	a Data Consumer who has the right to use the Connect Service to automatically receive, retrieve or subscribe for Connect Assets through the Connect Service.
Connect Service	a service enabling Connect Suppliers to publish Connect Assets to Connect Recipients by linking Connect Assets to specific fields in the Connect Recipients' webpage templates.
Connect Supplier	is a User who has opted to provide Connect Assets for use in the Connect Service.
Consultancy Service	a service where Nielsen Brandbank provides the User with additional or supplemental professional services.
Consumer Unit	any product provided for the Services with a UPC, GTIN or any other product without such codes that are designated as a 'Consumer Unit' by Nielsen Brandbank in its absolute discretion and/or any product provided for the Services with a GTIN, ITF-14 or any other product without such codes designated as a 'trading unit' by Nielsen Brandbank in its absolute discretion.
Data Consumer	any third party that receives Deliverables under one of the Nielsen Brandbank Services, including Data Feed Users.
Data Feed Service	a service enabling the distribution of Deliverables to Data Feed Users.
Data Feed User	any entity or person which uses the Data Feed Service.
Deliverables	any data, content or materials created by Nielsen Brandbank or provided through the Services, including images, models, animations or text generated by Nielsen Brandbank from, or relating to, Consumer Units and any data transcribed by Nielsen Brandbank from, or relating to, Consumer Units through the provision of the Services.
UPC	a Universal Product Code, which is generally a 12 digit Consumer Unit identification code.
eCommerce Data	any Product Information relating to the User's Consumer Units and any other data, content or materials provided through the eCommerce Insights Service.
eCommerce Insights Service	a service providing an eCommerce Insights User with data and reports relating to their Consumer Units on retailer websites.
eCommerce Insights User	any entity or person which uses the eCommerce Insights Service.
End Date	the date that Nielsen Brandbank notifies a Data Consumer to remove Deliverables relating to a Consumer Unit from its e-commerce platforms and publications.
Enrich Assets	any images, documents, artwork, marketing collateral and any other Product Information, data, content or materials entered into, or provided through, the Enrich Service.
Enrich Service	a service enabling an Enrich User to upload and store Enrich Assets in the Nielsen Brandbank Applications and to distribute them to Data Consumers.
Enrich User	any entity or person which uses the Enrich Service.
GDSN	the global data synchronisation network.
GLN	a 13 digit 'Global Location Number', which is used to identify a location in the supply chain.
GPE / Global Product Exchange	Nielsen Brandbank's GS1 GDSN certified data pool for receiving, synchronising and transferring data to and from GPE Data Suppliers and GPE Data Recipients.
GPE Data	any Product Information and related data, content or materials entered into, or provided through, the GPE Service. Such information may include Consumer Units' GTIN, classification, weight, dimensions and the fee rate.
GPE Data Supplier	is a person or entity with the right to register Product Information in the GPE Service.
GPE Data Recipient	is a person or entity with the right to use the GPE Service to automatically receive, retrieve or subscribe for GPE Data from the GPE Service.
GPE Documentation	any materials or publications describing the action processes, requirements for IT systems and communication standards that are required to be adhered to in order for the User to use the GPE Service.
GPE Fees	the Set-up Fee, Subscription Fee, Transactional Fee and Support Fee (each as defined in paragraph 3.1 of Schedule 8 (<i>Global Product Exchange Service</i>)) for the GPE Service.
GPE Service	the provision of GPE Data by GPE Data Suppliers and the transmission of GPE Data by Nielsen Brandbank to GPE Data Recipients through the GPE systems, data pool and databases.

GPE User	any entity or person which uses the GPE Service.
GPE User Agreement	an additional agreement to be entered into where the User is a GS1 Member Organisation.
GS1	a neutral, not-for-profit, international organisation that develops and maintains standards for supply and demand chains across multiple sectors. Local GS1 offices can be contacted at http://www.gs1.org/contact .
GTIN	a 'Global Trade Identification Number', which is used to identify trade items, Consumer Units, or services.
Hatch Date	the date that Nielsen Brandbank is notified by the User through the Nielsen Brandbank Applications that the Consumer Unit is ready to be displayed on Data Consumers' e-commerce platforms and publications.
Hosting Data	any Product Information relating to the User's Consumer Units and related data, content or materials entered into, or provided through, the Hosting Service.
Hosting Service	the provision of Hosting Data by a Hosting User and the transmission of that Hosting Data by Nielsen Brandbank to Data Consumers.
Hosting User	any entity or person which uses the Hosting Service.
IPR	any patents, trademarks, service marks, copyright, database rights, moral rights, design rights, unregistered design rights, know-how, confidential information and any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United States or any other part of the world together with any goodwill relating or attached thereto.
Label Notice	a notice to the effect that the Product Information is supplied by the Consumer Unit brand owner / manufacturer and those Consumer Units and their ingredients frequently change. Consequently, any information which is actually on the physical Consumer Unit must also be read by the end-consumer and the end-consumer should only rely on the information contained on the physical Consumer Unit.
Market Statement	a statement that the Product Information relates to Consumer Units for sale in the intended destination market.
Merchandising Exchange Service	a service enabling a Merchandising Exchange User to access Deliverables in order to create virtual planograms for merchandising, space planning and category management purposes.
Merchandising Exchange User	any entity or person which uses the Merchandising Exchange Service.
Nielsen Brandbank Applications	the applications that receive and manage the storage and dissemination of the Deliverables, including the Nielsen Brandbank 'Product Library'.
Order	the User's order for Services placed through the Nielsen Brandbank Applications or as set out in a purchase order form, Statement of Work or the User's acceptance of a Nielsen Brandbank quotation (as appropriate).
PII	Any information (for example, first and last name, social security number or another unique identifying number or code) that alone or in combination with other data elements (for example, gender, race, birth date or employment) could enable an individual to be identified, directly or indirectly.
Private Label	a Data Feed User's 'own-brand' Consumer Units.
Product Information	any data, content or materials relating to a Consumer Unit (including any text, images, photographs, videos, documents and animations) provided by the User for the Services.
Security Device	any digital certificate or security token given to the User by Nielsen Brandbank, or agreed with the User by Nielsen Brandbank, for the purpose of gaining access to the Services.
Server	the hardware which runs the Nielsen Brandbank Applications and shall be deemed to also include the operating system and all other software required to run the hardware.
Services	the Subscription Service, the Data Feed Service, the Merchandising Exchange Service, the Enrich Service, the Hosting Service, the GPE Service, the eCommerce Insights Service, the Consultancy Service, the Connect Service and any other services implemented by Nielsen Brandbank from time to time.
Service Schedule	Schedules 3 to 11 of this Agreement and any other Schedules added to this Agreement setting out the terms relating to a specific Nielsen Brandbank Service (excluding any Orders or Third Party End User Agreements).
Statement of Work	a document entered into by the parties which incorporates the terms of this Agreement and provides further specifications for the Services.
Subscription Service	a service for the creation of Deliverables and the transmission of such Deliverables to Data Consumers.
Subscription User	any entity or person which uses the Subscription Service.
System Approval Terms	any terms and conditions appearing on the Nielsen Brandbank Applications, including the web page that Users use to approve the Deliverables and other content for publication.
Third Party End User Agreement	an agreement allowing a third party (e.g. an agency) to have access to the User's account with Nielsen Brandbank.

Third Party IPR	any IPR used in the Services that is owned by a third party.
User	the entity specified on the cover sheet of this Agreement and where the context requires 'User' shall also include any individual person which uses any of the Services on behalf of such entity or a User Affiliate (where permitted by this Agreement), including any sub-contractors.
Virus	any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.
Work Results	any item of work carried out and delivered pursuant to this Agreement as part of, or arising out of, the Consultancy Service, including any hardware, software, data schema or other technology or any design or recommendation of the foregoing and any prepared materials such as reports, spreadsheets and similar documents and any updates, additions or modifications to the same.
Working Hours	9:00am to 5:00pm Central Time on a Business Day.

SCHEDULE 3: SUBSCRIPTION SERVICE

1. SERVICE OVERVIEW

- 1.1 The Subscription Service can involve Nielsen Brandbank providing any combination of the following services:
- 1.1.1 capturing images of Consumer Units supplied to Nielsen Brandbank by the User;
 - 1.1.2 transcribing the packaging information on the Consumer Units from physical samples or images of the Consumer Units;
 - 1.1.3 uploading the images and data to the Nielsen Brandbank Applications for approval by the User;
 - 1.1.4 physical measurement and the capture of Consumer Unit weights and measurements;
 - 1.1.5 'Enhanced Data' i.e. where the User provides contextual content which is recorded as an additional attribute in the Nielsen Brandbank Applications;
 - 1.1.6 'Merchandising 2D/3D' i.e. where Nielsen Brandbank is requested to create additional content for e-commerce purposes such as 360-degree Consumer Unit rotation with deep-zoom capabilities; and/or
 - 1.1.7 'Overlays' i.e. where Nielsen Brandbank is requested to add logos onto images,
- or any other new features made available by Nielsen Brandbank from time to time of a similar nature to the above services.

2. USER OBLIGATIONS

- 2.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), the User:
- 2.1.1 warrants that it:
 - 2.1.1.1 will provide Brandbank with its full Consumer Unit portfolio for processing under the Subscription Service (unless the images and data relating to a Consumer Unit are provided to Brandbank as Hosting Data);
 - 2.1.1.2 has the appropriate authority to instruct Brandbank to create the Deliverables relating to its Consumer Units; and
 - 2.1.1.3 has the appropriate authority to approve the Deliverables relating to its Consumer Units;
 - 2.1.2 subject to paragraph 2.1.3, will approve the Deliverables in the Nielsen Brandbank Applications in accordance with the System Approval Terms to ensure that: they are compliant with all applicable laws; all images provided by Nielsen Brandbank through the Subscription Service are representative of the relevant Consumer Unit; and all text transcribed by Nielsen Brandbank is accurate and consistent with the information on the relevant Consumer Unit;
 - 2.1.3 acknowledges that where it submits Product Information or Deliverables directly for 'live' distribution in the Nielsen Brandbank Applications (i.e. where the User does not approve the Product Information or Deliverables in accordance with the System Approval Terms), the User will be deemed to have verified and assumed sole responsibility and risk for such Product Information's, or Deliverables', accuracy, contents and compliance with all applicable laws;
 - 2.1.4 warrants that it has obtained all necessary licences, consents and approvals (including from any relevant medical body) required for the marketing of each of its Consumer Units; and
 - 2.1.5 hereby grants to Nielsen Brandbank and its Affiliates a non-exclusive, irrevocable, perpetual, royalty-free, transferable, worldwide licence to use all IPR in each of its Consumer Units and the Product Information solely in connection with Nielsen Brandbank providing any of its Services to Nielsen Brandbank clients (including the Merchandising Exchange Service) and its Affiliates' services to the Affiliates' clients from time to time.
- 2.2 The User hereby acknowledges and agrees that Nielsen Brandbank shall have no liability to the User or any Data Consumer for its use of the licence granted in paragraph 2.1.5.

3. NIELSEN BRANDBANK OBLIGATIONS

- 3.1 Nielsen Brandbank shall provide the User with the Subscription Service in accordance with the terms of this Agreement.
- 3.2 Subject to paragraph 3.3, Nielsen Brandbank shall not make any amendment to any Deliverable once it has been approved by the User in accordance with paragraphs 2.1.1 or 2.1.3, unless Nielsen Brandbank has obtained the prior consent of the User (such consent not to be unnecessarily withheld or delayed).
- 3.3 After the Deliverables have been approved by the User in accordance with the terms of this Agreement and the System Approval Terms, Nielsen Brandbank shall not make any changes other than to the format or typographical arrangement of the Deliverables in accordance with Data Consumers' requirements.
- 3.4 The User acknowledges and agrees that Nielsen Brandbank's sole responsibility in relation to the contents of the Deliverables is to obtain the User's approval of the contents of the Deliverables.

4. INDEMNITY

4.1 The User will indemnify and keep Nielsen Brandbank and its Affiliates indemnified against all losses, costs and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Nielsen Brandbank and/or its Affiliates arising out of or in connection with any claim:

4.1.1 for actual or alleged infringement of a third party's IPR arising out of or in connection with the User's Consumer Units and/or the Product Information or the Deliverables relating to the User's Consumer Units; or

4.1.2 in respect of the content of the Product Information or the Deliverables (including their accuracy or completeness) relating to the Consumer Units supplied by the User.

5. TERMINATION

Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 3 (*Subscription Service*) and the Subscription Service (including any Order for the Subscription Service) by serving written notice on the other party of not less than one month.

SCHEDULE 4: DATA FEED SERVICE

1. SERVICE OVERVIEW

1.1 The Data Feed Service involves:

- 1.1.1 the User requesting images of Consumer Units and packaging information on Consumer Units from Nielsen Brandbank; and
- 1.1.2 Nielsen Brandbank providing the requested images and data (where available in the Nielsen Brandbank Applications) through Nielsen Brandbank's data feeds to the User's e-commerce platform.

2. USER OBLIGATIONS

2.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), the User will:

- 2.1.1 provide Nielsen Brandbank with a Consumer Unit range list (to the agreed specification) at least once a week;
- 2.1.2 automatically send Nielsen Brandbank an acknowledgement of receipt immediately on receiving the Deliverables and any amendments thereto;
- 2.1.3 apply any amendments or deletions to any Deliverables available on any media accessible to consumers accurately and within 24 hours of receiving an update from Nielsen Brandbank;
- 2.1.4 without limit to the generality of paragraph 2.1.3 above, remove from display, and from any media accessible to consumers, all Deliverables for any Consumer Unit for which Nielsen Brandbank denotes has either been superseded or requested for removal by the brand owner / manufacturer;
- 2.1.5 when publishing any Deliverable, publish with that Deliverable a Label Notice and a Market Statement and publish each Deliverable only in respect of the correct and corresponding Consumer Unit;
- 2.1.6 use the Deliverables from the Data Feed Service only for the purposes of making reasonable use of the Data Feed Service and as otherwise permitted under this Agreement;
- 2.1.7 not be entitled to use any Deliverables or any other data obtained through its use of the Data Feed Service until the relevant Hatch Date, or at any time after the relevant End Date;
- 2.1.8 use reasonable endeavors to promptly respond to and resolve any queries or difficulties any third party supplier may have from time to time in respect of the User's range lists, website coverage or otherwise;
- 2.1.9 where applicable, encourage its relevant suppliers (i.e. brand owners / manufacturers of Consumer Units) to use the Nielsen Brandbank Subscription Service;
- 2.1.10 send Nielsen Brandbank feedback and comments on the transfer of the Deliverables within eight Working Hours of its receipt of the Deliverables;
- 2.1.11 respond to support calls from Nielsen Brandbank made in respect of failures in connection with the transfer feed of the Deliverables within four Working Hours of receiving the call and use reasonable endeavors to rectify any failures within one Business Day of the failure first occurring; and
- 2.1.12 within three months of being requested in writing to do so by Nielsen Brandbank, make changes to the data schemas and/or interfaces to the Data Feed Service and update its interfaces in order to confirm the changes made to the data schemas and/or interfaces.

3. NIELSEN BRANDBANK OBLIGATIONS

- 3.1 Nielsen Brandbank shall provide the User with the Data Feed Service in accordance with the terms of this Agreement.
- 3.2 Nielsen Brandbank shall use reasonable endeavors to issue the User with updates to the Deliverables from the Data Feed Service at least once every seven days.
- 3.3 Nielsen Brandbank shall use reasonable endeavors to monitor the Data Feed Service and shall contact the User within a reasonable time of becoming aware of any material failure in the Data Feed Service.

4. TERMINATION

Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 4 (*Data Feed Service*) and the Data Feed Service (including any Order for the Data Feed Service) by serving written notice on the other party of not less than 12 months.

SCHEDULE 5: MERCHANDISING EXCHANGE SERVICE

1. SERVICE OVERVIEW

1.1 The Merchandising Exchange Service:

- 1.1.1 is a web-based platform for content sharing that allows the User to share its images and dimensions for its Consumer Units in order to create virtual planograms for merchandising, space planning and category management; and
- 1.1.2 prevents the need to 'shop and shoot' competitor Consumer Units or compile content directly from hundreds of other brands, saving Merchandising Exchange Users time and money.

2. USER OBLIGATIONS

2.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), the User will:

- 2.1.1 only have access to third party Deliverables through the Merchandising Exchange Service to the extent that any relevant Subscription User has not elected to make the Deliverables relating to its Consumer Units 'private';
- 2.1.2 (if they are also a Data Feed User) not have access to, and will have no right to use, any Deliverable to the extent that it relates to a Private Label Consumer Unit of any other Data Feed User;
- 2.1.3 (if they are also a Subscription User or a Hosting User) not disclose (nor allow to be disclosed) to any Data Feed User any Deliverable to the extent that it relates to a Private Label Consumer Unit of any other Data Feed User;
- 2.1.4 only use the Deliverables obtained through the Merchandising Exchange Service strictly for the purposes of space planning, merchandising, category management or any equivalent or analogous use; and
- 2.1.5 use reasonable endeavors to ensure that the Nielsen Brandbank Applications contain up-to-date Product Information for all of the User's Consumer Units.

3. NIELSEN BRANDBANK OBLIGATIONS

Nielsen Brandbank shall provide the User with the Merchandising Exchange Service in accordance with the terms of this Agreement.

4. TERMINATION

Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 5 (*Merchandising Exchange Service*) and the Merchandising Exchange Service (including any Order for the Merchandising Exchange Service) by serving written notice on the other party of not less than one month.

SCHEDULE 6: ENRICH SERVICE

1. SERVICE OVERVIEW

- 1.1 The Enrich Service involves Nielsen Brandbank providing a platform for the User to:
 - 1.1.1 upload images, documents, artwork and/or marketing collateral in various file formats; and
 - 1.1.2 use a simple interface to group assets together, associate them with related Consumer Units and distribute them to Data Consumers.

2. USER OBLIGATIONS

- 2.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), the User:
 - 2.1.1 warrants that it has the appropriate authority to provide and approve the Enrich Assets relating to the User's Consumer Units;
 - 2.1.2 will approve the Enrich Assets relating to the User's Consumer Units in the Nielsen Brandbank Applications to ensure that such Enrich Assets are accurate, correct and compliant with all applicable laws;
 - 2.1.3 will appoint an authorised representative of the User as an 'Enrich Publisher' who will be responsible for:
 - 2.1.3.1 creating 'links' between the Enrich Assets and the User's Consumer Units; and
 - 2.1.3.2 publishing the Enrich Assets for distribution to Data Consumers;
 - 2.1.4 will specify the asset type, asset style and Data Consumer priority (i.e. the order that the Enrich Assets will appear on a Data Consumer's web page) for each of the Enrich Assets; and
 - 2.1.5 hereby grants to Nielsen Brandbank and its Affiliates a non-exclusive, irrevocable, royalty-free, transferable, worldwide licence to use all IPR in the Enrich Assets solely in connection with Nielsen Brandbank providing the Enrich Service to the User and distributing the Enrich Assets to Data Consumers through the Nielsen Brandbank Services. If this Schedule 6 (*Enrich Service*) and/or the Agreement terminates, this licence shall automatically terminate following the removal of all of the Enrich Assets from any Data Consumers' e-commerce platforms and following the cessation of such Enrich Assets being used in any Data Consumers' printed material.
- 2.2 The User hereby acknowledges that:
 - 2.2.1 if it links multiple Enrich Assets with the same asset type, asset style and Data Consumer priority to a Consumer Unit, the Enrich Asset with the most recent time stamp of when it was linked to the relevant Consumer Unit will be deemed to be the User's preferred Enrich Asset and this will take priority upon distribution to Data Consumers; and
 - 2.2.2 Nielsen Brandbank shall have no liability to the User or any Data Consumer for its use of the licence granted in paragraph 2.1.5.

3. NIELSEN BRANDBANK OBLIGATIONS

- 3.1 Nielsen Brandbank shall provide the User with the Enrich Service in accordance with the terms of this Agreement.
- 3.2 The User acknowledges and agrees that Nielsen Brandbank's sole responsibility in relation to the contents of the Enrich Assets relating to the User's Consumer Units is to obtain the User's approval of the contents of the Enrich Assets.

4. INDEMNITY

- 4.1 The User will indemnify and keep Nielsen Brandbank and its Affiliates indemnified against all losses, costs and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Nielsen Brandbank and/or its Affiliates arising out of or in connection with any claim:
 - 4.1.1 for actual or alleged infringement of a third party's IPR arising out of or in connection with the Enrich Assets; or
 - 4.1.2 in respect of the content of the Enrich Assets (including their accuracy or completeness).

5. TERMINATION

Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 6 (*Enrich Service*) and the Enrich Service (including any Order for the Enrich Service) by serving written notice on the other party of not less than one month.

SCHEDULE 7: HOSTING SERVICE

1. SERVICE OVERVIEW

- 1.1 The Hosting Service can involve:
 - 1.1.1 the User capturing images of its Consumer Units and/or transcribing the packaging information on the Consumer Units;
 - 1.1.2 the User uploading (or providing to Nielsen Brandbank to upload) the images and/or packaging information to the Nielsen Brandbank Applications for approval by the User; and
 - 1.1.3 Nielsen Brandbank distributing the images and/or data to Data Consumers.

2. USER OBLIGATIONS

- 2.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), the User:
 - 2.1.1 warrants that it has the appropriate authority to provide and approve the Hosting Data relating to the User's Consumer Units;
 - 2.1.2 subject to paragraph 2.1.3, will approve the Hosting Data in the Nielsen Brandbank Applications in accordance with the System Approval Terms to ensure that: they are compliant with all applicable laws; all images provided by the User are representative of the Consumer Unit; and/or all text transcribed from the Consumer Unit is accurate and consistent with the packaging information of the relevant Consumer Unit;
 - 2.1.3 acknowledges that where it submits the Hosting Data directly for 'live' distribution in the Nielsen Brandbank Applications (i.e. where the User does not approve the Hosting Data in accordance with the System Approval Terms), the User will be deemed to have verified and assumed sole responsibility and risk for such Hosting Data's accuracy, contents and compliance with all applicable laws;
 - 2.1.4 warrants that it has obtained all necessary licences, consents and approvals (including from any relevant medical body) required for the marketing of each of its Consumer Units; and
 - 2.1.5 hereby grants to Nielsen Brandbank and its Affiliates a non-exclusive, irrevocable, perpetual, royalty-free, transferable, worldwide licence to use all IPR in the Hosting Data solely in connection with Nielsen Brandbank providing any of its Services to Nielsen Brandbank clients (including the Merchandising Exchange Service) and its Affiliates' services to the Affiliates' clients from time to time.
- 2.2 The User hereby acknowledges that Nielsen Brandbank shall have no liability to the User or any Data Consumer for its use of the licence granted in paragraph 2.1.5.

3. NIELSEN BRANDBANK OBLIGATIONS

- 3.1 Nielsen Brandbank shall provide the User with the Hosting Service in accordance with the terms of this Agreement.
- 3.2 Subject to paragraph 3.3, Nielsen Brandbank shall not make any amendment to the Hosting Data once it has been approved by the User in accordance with paragraphs 2.1.1 or 2.1.3, unless Nielsen Brandbank has obtained the prior consent of the User (such consent not to be unnecessarily withheld or delayed).
- 3.3 After the Hosting Data has been approved by the User in accordance with the terms of this Agreement and the System Approval Terms, Nielsen Brandbank shall not make any changes other than to the format or typographical arrangement of the Hosting Data in accordance with Data Consumers' requirements.
- 3.4 The User acknowledges and agrees that Nielsen Brandbank's sole responsibility in relation to the contents of the Hosting Data relating to the User's Consumer Units is to obtain the User's approval of the contents of the Hosting Data.

4. INDEMNITY

- 4.1 The User will indemnify and keep Nielsen Brandbank and/or its Affiliates indemnified against all losses, costs, and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Nielsen Brandbank and/or its Affiliates arising out of or in connection with any claim:
 - 4.1.1 for actual or alleged infringement of a third party's IPR arising out of or in connection with the User's Consumer Units and/or the Hosting Data or the Deliverables relating to the User's Consumer Units; or
 - 4.1.2 in respect of the content of the Hosting Data or the Deliverables (including their accuracy or completeness) relating to the User's Consumer Units.

5. TERMINATION

Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 7 (*Hosting Service*) and the Hosting Service (including any Order for the Hosting Service) by serving written notice on the other party of not less than one month.

SCHEDULE 8: GLOBAL PRODUCT EXCHANGE SERVICE

1. SERVICE OVERVIEW

- 1.1 The GPE Service is a worldwide data synchronisation service that provides the User with access to Nielsen Brandbank's GS1 GDSN certified data pool for receiving, synchronising and transferring data to and from GPE Data Suppliers and GPE Data Recipients.
- 1.2 Unless a GPE Data Supplier has chosen to register its Product Information as 'non-public', all GPE Users will have access to the Product Information contained in the GPE Service.
- 1.3 The User must read and comply with the GPE Documentation in order for the exchange of GPE Data via the GPE Service to take place.

2. REGISTRATION CONDITIONS

- 2.1 Registration for the GPE Service is open worldwide to brand owners / manufacturers, retailers and GS1 member organisations, provided that they:
 - 2.1.1 are issued with a valid GLN by the local GS1 organisation which enables the GPE User to be identified by this GLN in the GPE Service; and
 - 2.1.2 enter into a GPE Statement of Work with Nielsen Brandbank and make payment of the GPE Fees in accordance with Nielsen Brandbank's price scale in effect from time to time.
- 2.2 The transfer of GPE Data to the GPE Service is contingent upon each Consumer Unit (to which the GPE Data relates) being identifiable by means of:
 - 2.2.1 a GTIN;
 - 2.2.2 a GLN for the GPE Data Supplier; and
 - 2.2.3 a marketing area (target area) (for example, "US" or "UK").

3. FEES

- 3.1 In order to register as a GPE User, the User must pay to Nielsen Brandbank:
 - 3.1.1 a "**Set-up Fee**": this is a non-refundable fee payable after Nielsen Brandbank's approval of the User's membership of the GPE Service and is to enable the User to receive the GPE Service;
 - 3.1.2 a "**Subscription Fee**": the subscription by the User to the GPE Service, which is payable on a monthly basis;
 - 3.1.3 a "**Transactional Fee**": this is a 'per Consumer Unit upload' fee paid upfront by the User for declared Consumer Units and retrospectively for newly added Consumer Units. If the Consumer Unit allocation exceeds the agreed Subscription Fee banding to a higher price, then this additional fee will be retrospectively charged; and
 - 3.1.4 a "**Support Fee**": this is the fees for technical support provided by Nielsen Brandbank in relation to the GPE Service,as set out in each applicable Order.

4. USER RIGHTS AND OBLIGATIONS

- 4.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), the User:
 - 4.1.1 is entitled to use the GPE Service in accordance with the terms of, and for the period specified in, an Order;
 - 4.1.2 is responsible for its own costs for establishing and operating communication with the GPE Service;
 - 4.1.3 undertakes to use the GPE Service in accordance with the guidelines specified in the GPE Documentation, including to implement new releases and/or versions of the GPE system within a maximum period of four weeks after release;
 - 4.1.4 undertakes to act in accordance with all applicable laws, including without limitation, those governing privacy and data protection;
 - 4.1.5 may not resell any GPE Data and the User warrants that it will not establish a competing data pool system based on the GPE Data acquired from the GPE Service;
 - 4.1.6 (where the User is a GPE Data Supplier) warrants that it has the appropriate authority to provide and approve the GPE Data uploaded to the GPE Service and warrants that it has obtained all necessary licences, consents and approvals (including from any relevant medical body) required for the marketing of each Consumer Unit; and
 - 4.1.7 (where the User is a GPE Data Supplier) will approve the GPE Data relating to its Consumer Units in the Nielsen Brandbank Applications to ensure that such GPE Data is accurate, correct and compliant with all applicable laws.

5. NIELSEN BRANDBANK OBLIGATIONS

Nielsen Brandbank shall provide the User with the GPE Service in accordance with the terms of this Agreement.

6. INDEMNITY

- 6.1 The User will indemnify and keep Nielsen Brandbank and its Affiliates indemnified against all losses, costs and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Nielsen Brandbank and/or its Affiliates arising out of or in connection with any claim:
- 6.1.1 in respect of the User's use of the GPE Service or the GPE Data in breach of this Agreement or the GPE Documentation;
 - 6.1.2 (where the User is a GPE Data Supplier) for actual or alleged infringement of a third party's IPR arising out of or in connection with the User's Consumer Units and/or the GPE Data or the Deliverables relating to the User's Consumer Units; or
 - 6.1.3 (where the User is a GPE Data Supplier) in respect of the content of the GPE Data or Deliverables (including their accuracy or completeness) relating to the User's Consumer Units.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 Where the User is a GPE Data Supplier, the User hereby grants to Nielsen Brandbank and its Affiliates a non-exclusive, irrevocable, perpetual, royalty-free, transferable, worldwide licence to use all IPR in the GPE Data uploaded to, or provided for, the GPE Service solely in connection with Nielsen Brandbank providing any of its Services to Nielsen Brandbank clients (including the Merchandising Exchange Service) and its Affiliates' services to the Affiliates' clients from time to time.
- 7.2 The User hereby acknowledges that Nielsen Brandbank shall have no liability to the User or any Data Consumer for its use of the licence granted in paragraph 7.1.
- 7.3 Where the User is a GPE Data Recipient, Nielsen Brandbank licenses the IPR in the GPE Data to the User on a non-exclusive and non-transferrable basis to the extent necessary to enable the User to make reasonable internal use of the GPE Service and the GPE Data and not for any other purpose. If this Schedule 8 (*Global Product Exchange Service*) terminates, then the licence provided in this paragraph will automatically terminate.

8. LIABILITY

- 8.1 The User acknowledges and agrees that Nielsen Brandbank is:
- 8.1.1 responsible for the receipt, processing and transmission of the GPE Data, but is not responsible for the accuracy of the content of the GPE Data exchanged through the GPE Service; and
 - 8.1.2 not responsible or liable for the existence, suitability or performance of the transmission lines employed by the User to communicate with the GPE Service and is not responsible or liable for the User's hardware and software used for communicating with the GPE Service.

9. TERMINATION

- 9.1 Without limiting its other rights or remedies, Nielsen Brandbank is entitled to terminate this Schedule 8 (*Global Product Exchange Service*) and the GPE Service (and any Order for the GPE Service) immediately by providing the User with written notice if:
- 9.1.1 the User repeatedly attempts to transfer GPE Data in breach of this Agreement or causes (or Nielsen Brandbank considers is likely to cause) serious interruptions in the work flow of the GPE Service or to a GPE User;
 - 9.1.2 the User has not established an IT system that guarantees an adequately secure platform for receipt of the GPE Data; or
 - 9.1.3 the contract relating to the provision of the GPE Service between GS1 and Nielsen Brandbank is terminated for any reason.
- 9.2 Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 8 (*Global Product Exchange Service*) and the GPE Service (and any Order for the GPE Service) by serving written notice on the other party of not less than:
- 9.2.1 one month where the User is a GPE Data Supplier; or
 - 9.2.2 12 months' where the User is a GPE Data Recipient.

SCHEDULE 9: eCOMMERCE INSIGHTS SERVICE

1. SERVICE OVERVIEW

1.1 The eCommerce Insights Service can involve Nielsen Brandbank providing the User with any of the following:

1.1.1 *Level 1: Web Platform Access:*

1.1.1.1 an analysis of its Consumer Units on retailer websites. The information provided can include: Consumer Unit availability with specific retailers; pricing and promotions data; where the Consumer Unit appears in search results within the retailer website; an analysis of whether the retailer data relating to a Consumer Unit matches the data in the Nielsen Brandbank Applications; the share of the shelf that the Consumer Unit occupies in relation to competitor products; and consumer review ratings; and

1.1.1.2 the ability to track and audit the above data historically, identify trends and conduct a competition comparison in relation to pricing, promotions and positioning within the retailer website;

1.1.2 *Level 2: Web Platform Access and Agreed Frequency Reporting:*

1.1.2.1 the Services detailed in Level 1 above; and

1.1.2.2 an analysis by a Nielsen Brandbank representative (in the form of a PowerPoint slide report, or other form of document) providing the User with 'insights' based on the information obtained through the eCommerce Insights Service; or

1.1.3 *Level 3: eCommerce Key Account Manager:*

1.1.3.1 a dedicated eCommerce Key Account Manager who will monitor key performance indicators (as agreed by the parties in writing) ("**KPIs**") and work with retailers on the User's behalf with the aim of achieving the KPIs (for example, ensuring data quality is maintained and ensuring that there are no gaps in the User's Consumer Unit assortment on a retailer's website),

as agreed by the parties in writing.

2. USER OBLIGATIONS

2.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), the User will:

2.1.1 ensure that it provides Nielsen Brandbank with relevant and accurate data required for the performance of the eCommerce Insights Service. For example, in relation to the search results analysis on the retailer website, the User must provide Nielsen Brandbank with the relevant search terms to conduct the analysis;

2.1.2 only use the eCommerce Data strictly for internal purposes; and

2.1.3 (where the Services in Level 3 above apply) be responsible for defining the applicable KPIs and will provide Nielsen Brandbank with all necessary information and materials (such as marketing collateral) to enable Nielsen Brandbank to provide the Services in Level 3 above on behalf of the User.

2.2 The User hereby acknowledges and agrees that Nielsen Brandbank may use the eCommerce Data for any of its Services and its Affiliates' services from time to time.

3. NIELSEN BRANDBANK OBLIGATIONS

3.1 Nielsen Brandbank shall provide the User with the eCommerce Insights Service in accordance with the terms of this Agreement.

3.2 The User acknowledges that:

3.2.1 retailer websites are dynamic and consequently the eCommerce Data may not reflect the status or content of any applicable data on a retailer website at any time before or after the eCommerce Data is captured from the retailer website by Nielsen Brandbank for use in the eCommerce Insights Service;

3.2.2 whilst Nielsen Brandbank shall use reasonable endeavors to provide accurate and relevant eCommerce Data to the User through the eCommerce Insights Service, any eCommerce Data is provided on an 'as is' basis and Nielsen Brandbank shall not be liable for any errors or inaccuracies in respect of the contents of any eCommerce Data;

3.2.3 Nielsen Brandbank will not be able to provide the eCommerce Insights Service in respect of any retailer where:

3.2.3.1 the retailer's website containing the User's Consumer Units' web page is unavailable for any reason;

3.2.3.2 the retailer's web page relating to the User's Consumer Units is updated in a manner which requires Nielsen Brandbank to make adjustments to the methods of obtaining data for the eCommerce Insights Service; or

3.2.3.3 Nielsen Brandbank is unable to access the retailer's website or any retailer's web page relating to the User's Consumer Units for any other reason,

and Nielsen Brandbank shall use reasonable endeavors to re-commence the provision of the eCommerce Insights Service as soon as is reasonably practicable; and

3.2.4 in the event that performance of the eCommerce Insights Service cannot be resumed under paragraph 3.2.3 within a period of 30 days, Nielsen Brandbank will cease to provide the eCommerce Insights Service in respect of that retailer and shall use reasonable endeavors to provide the User with eCommerce Data in respect of a comparable retailer (as agreed with the User in writing).

4. TERMINATION

Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 9 (*eCommerce Insights Service*) and the eCommerce Insights Service (including any Order for eCommerce Insights Service) by serving written notice on the other party of not less than one month.

SCHEDULE 10: CONSULTANCY SERVICE

1. SERVICE OVERVIEW

The Consultancy Service is a service provided by Nielsen Brandbank which enables the User to be provided with bespoke work or supplemental services to its other Services.

2. OBLIGATIONS

2.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), the User will provide Nielsen Brandbank with all information and assistance required in the performance of the Consultancy Service.

2.2 Nielsen Brandbank shall:

2.2.1 use reasonable care and skill in supplying the Consultancy Service; and

2.2.2 where necessary, provide all equipment as is reasonable for the performance of the Services.

2.3 Nielsen Brandbank shall use reasonable endeavors to meet any timescale agreed with the User for completing the Consultancy Service or any part of the Consultancy Service, but will have no liability for failing to do so.

3. NIELSEN BRANDBANK'S STATUS

3.1 The parties acknowledge that the User is not obliged to provide Nielsen Brandbank with work, and Nielsen Brandbank is not obliged to perform services for the User, beyond the termination of this Agreement or any Order for the Consultancy Service.

3.2 Nielsen Brandbank may allocate particular Nielsen Brandbank employees to provide the Consultancy Service (the "**Consultants**") as specified in an Order for the Consultancy Service. Should such Consultants be unable to perform the Consultancy Service, Nielsen Brandbank may appoint a substitute upon providing the User with notice.

4. WORK RESULTS

4.1 Nothing in this Agreement will grant either party any rights in the other party's IPR that exist before the Consultancy Service begins or that arise from work conducted outside of the scope of the Consultancy Service unless agreed by the parties in writing.

4.2 Nielsen Brandbank will own all present and future IPR in or relating to the Work Results.

4.3 Nielsen Brandbank hereby grants to the User a non-exclusive, irrevocable, perpetual, non-transferable, royalty-free, worldwide licence to use all IPR in the Work Results that are supplied to the User in accordance with this Agreement for the User's internal business use.

4.4 The User will do all such acts and sign all such documents (without cost to Nielsen Brandbank) at the request of Nielsen Brandbank as may be necessary to give effect to paragraph 4.2.

4.5 The User warrants, represents and undertakes to Nielsen Brandbank that the User has, and will maintain, all licences and consents necessary for Nielsen Brandbank to provide the Consultancy Service.

5. INDEMNITY

The User will indemnify and keep Nielsen Brandbank and its Affiliates indemnified against all losses, costs, and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Nielsen Brandbank and/or its Affiliates arising out of or in connection with any claim relating to the instructions, materials and/or specifications provided by the User to Nielsen Brandbank relating to the provision of the Consultancy Service.

6. TERMINATION

Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 10 (*Consultancy Service*) and the Consultancy Service (including any Order for the Consultancy Service) by serving written notice on the other party of not less than one month.

SCHEDULE 11: CONNECT SERVICE

1. SERVICE OVERVIEW

- 1.1 The Connect Service involves Nielsen Brandbank providing the ability for Connect Suppliers to:
 - 1.1.1 upload images, documents, artwork and/or marketing collateral in various file formats to the Nielsen Brandbank Applications; and
 - 1.1.2 use a simple interface to link assets to a Connect Recipient's webpage template ("**Template**") for certain Consumer Units or categories and to distribute those assets to the relevant Connect Recipient for display on their website.

2. CONNECT RECIPIENT OBLIGATIONS

- 2.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*), where the User is a Connect Recipient, it will:
 - 2.1.1 provide Nielsen Brandbank with Templates from time to time for its e-commerce webpages which will specify the applicable category or specific Consumer Unit for the Template and the asset type and style that may be inserted into the Template;
 - 2.1.2 apply any amendments or deletions to any Connect Assets accurately and within 24 hours of receiving an update from Nielsen Brandbank;
 - 2.1.3 without limit to the generality of paragraph 2.1.2 above, remove from display, all Connect Assets for any Consumer Unit for which Nielsen Brandbank denotes has either been superseded or requested for removal by the brand owner / manufacturer;
 - 2.1.4 when publishing any Connect Assets, publish each Connect Asset only in respect of the correct and corresponding Consumer Unit;
 - 2.1.5 use the Connect Assets only for the purposes of making reasonable use of the Connect Service and as otherwise permitted under this Agreement;
 - 2.1.6 use reasonable endeavours to promptly respond to and resolve any queries or difficulties any third party supplier may have from time to time in respect of the User's range lists or website coverage or otherwise;
 - 2.1.7 send Nielsen Brandbank feedback and comments on the transfer of the Connect Assets within eight hours of receipt by it;
 - 2.1.8 respond to support calls from Nielsen Brandbank made in respect of failures in connection with the transfer feed of the Connect Assets within four Working Hours of receiving the call and use reasonable endeavours to rectify any failures within one Business Day of the failure first occurring; and
 - 2.1.9 within three months of being requested in writing to do so by Nielsen Brandbank, make changes to the data schemas and/or interfaces to the Connect Service and update its interfaces in order to confirm the changes made to the data schemas and/or interfaces.
- 2.2 In respect of any Connect Assets, the Connect Recipient acknowledges that the asset type, asset style and location within the Template for the Connect Assets to be displayed are set by the relevant Connect Supplier and consequently Nielsen Brandbank will not be responsible or liable for any insufficient or incorrect tagging of such Connect Assets.

3. CONNECT SUPPLIER OBLIGATIONS

- 3.1 Without prejudice to clause 4 of Schedule 1 (*Standard Terms & Conditions*) where the User is a Connect Supplier:
 - 3.1.1 it warrants that it has the appropriate authority to provide and approve the Connect Assets relating to the User's Consumer Units;
 - 3.1.2 it will approve the Connect Assets for distribution by linking a Connect Asset (which must be public within the Nielsen Brandbank Applications) to a Connect Recipient Template. By linking a Connect Asset in this manner, the Connect Supplier warrants that such Connect Assets are accurate, correct and compliant with all applicable laws. It is acknowledged that Nielsen Brandbank will not review the Connect Assets before publication and consequently the Connect Supplier is solely responsible for the Connect Assets' content;
 - 3.1.3 it will appoint an authorised representative of the User as a 'Connect Publisher' who will be responsible for creating 'links' between the Connect Assets and the relevant Template field;
 - 3.1.4 it will specify the asset type, asset style and the location within the Template for the Connect Assets to be displayed. It will not be possible for the User to select a Connect Asset that does not match both the type and style of the respective Template field. It is the User's responsibility to select the asset type and asset style that best represents the Consumer Unit;
 - 3.1.5 it will pay the Connect Service fees in force from time to time (as notified by Nielsen Brandbank to the Connect Supplier) for each Connect Asset per month, per Connect Recipient Template (for example, if the User has one Connect Asset linked to four Consumer Units, each with two Templates, the charge would be 8x the applicable

fees). The Connect Supplier acknowledges that it will only be charged when it links a Connect Asset to a Template and thereafter on a monthly basis. The Connect Supplier can unlink a Connect Asset at any time, but where this is done part-way through a month, it will be liable to pay the fees for the remainder of that month. For the avoidance of doubt, the Connect Supplier may set an expiry date for a Connect Asset to un-publish automatically; and

3.1.6 it hereby grants to Nielsen Brandbank and its Affiliates a non-exclusive, irrevocable, royalty-free, transferable, worldwide licence to use all IPR in the Connect Assets solely in connection with Nielsen Brandbank providing the Connect Service to the Connect Supplier and distributing the Connect Assets to Connect Recipients through the Nielsen Brandbank Services. If this Schedule 11 (*Connect Service*) and/or the Agreement terminates, this licence shall automatically terminate following the removal of all of the Connect Assets from any Connect Recipients' e-commerce platforms.

3.2 The Connect Supplier acknowledges that it can only publish Connect Assets to Data Consumers who have subscribed to the Connect Service and who have provided Templates which correspond with the Connect Supplier's Consumer Units.

3.3 Nielsen Brandbank shall have no liability to the User or any Data Consumer for its use of the licence granted in paragraph 3.1.6.

4. NIELSEN BRANDBANK OBLIGATIONS

4.1 Nielsen Brandbank shall use reasonable endeavours to notify Connect Suppliers of any Connect Recipient's Templates that match their Consumer Unit criteria from time to time through Product Library alerts and/or email.

4.2 The User acknowledges and agrees that Nielsen Brandbank's sole responsibility in relation to the contents of the Connect Assets is to obtain the relevant Connect Supplier's approval of the contents of those Connect Assets.

4.3 Once a Connect Asset has been linked to a Connect Recipient's Template, Nielsen Brandbank shall, within reasonable period of time, distribute the 'tagged' Connect Assets to the relevant Connect Recipient.

4.4 Where the User is a Connect Recipient, Nielsen Brandbank licenses the IPR in the Connect Assets linked to a relevant Template to the Connect Recipient on a non-exclusive and non-transferrable basis to the extent necessary to enable the User to make reasonable internal use of the Connect Service and the Connect Assets and not for any other purpose. If this Schedule 11 (*Connect Service*) terminates, (or upon Nielsen Brandbank receiving a deletion request by the relevant Connect Supplier in respect of specific Connect Assets only) then the licence provided in this paragraph will automatically terminate.

5. INDEMNITY

5.1 The Connect Supplier will indemnify and keep Nielsen Brandbank and its Affiliates indemnified against all losses, costs and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Nielsen Brandbank and/or its Affiliates arising out of or in connection with any claim:

5.1.1 for actual or alleged infringement of a third party's IPR arising out of or in connection with the Connect Assets;

5.1.2 in respect of the accuracy or completeness of the Connect Assets; or

5.1.3 that the Connect Assets contain any material that is unlawful, obscene, threatening, menacing, offensive, discriminatory, defamatory or in breach of any obligation of confidentiality.

6. TERMINATION

6.1 Without limiting its other rights or remedies, either party shall have the right to terminate this Schedule 11 (*Connect Service*) and the Connect Service (and any Order for the Connect Service) by serving written notice on the other party of not less than:

6.1.1 one month where the User is a Connect Supplier; or

6.1.2 12 months' where the User is a Connect Recipient.

SCHEDULE 12: USER SPECIFIC TERMS & CONDITIONS

No User specific terms apply to this Agreement.