MSDSONLINE INC. MASTER SUBSCRIPTION AGREEMENT

BY CHECKING THE "I ACCEPT" BOX DISPLAYED AS PART OF THE ONLINE ORDERING PROCESS OR INTITAL LOGIN, YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS ("THE AGREEMENT") GOVERNING YOUR USE OF THE SELECTED MSDSONLINE INC. ("MSDSONLINE", WE OR US) ONLINE MSDS MANAGEMENT SERVICE, ONLINE TRAINING CLASSES, ONLINE SAFETY TOOLKIT, ONLINE ENVIRO TOOLKIT INCLUDING ANY OFFLINE COMPONENTS (COLLECTIVELY "THE SERVICE") AND VARIOUS PROFESSIONAL SERVICES (COLLECTIVELY "THE COMPLIANCE SERVICES"). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT CHECK THE "I ACCEPT" BOX AND MAY NOT USE THE SERVICE. IN THIS AGREEMENT, MSDSONLINE AND YOU, THE CUSTOMER, ARE EACH REFERRED TO AS A "PARTY" AND ARE COLLECTIVELY REFERRED TO AS THE "PARTIES."

1. SCOPE

The terms and conditions of this Agreement apply to and govern: (i) the Service and the Compliance Services specified on an MSDSonline "Customer Order" that references the Agreement and that has been executed by MSDSonline and by you, the Customer; and (ii) the Service and the Compliance Services that you purchase or license from MSDSonline by registering, subscribing, or completing another applicable process (collectively, "Registration") on the MSDSonline Web site, www.msdsonline.com (the "Site"). The Agreement, together with the applicable Customer Order or the applicable Registration, is a binding contract between MSDSonline and you, the Customer. By signing the applicable Customer Order or by completing the applicable Registration, you acknowledge that you have read and understand the Agreement and you agree to be bound by its terms. All access to and use of the Site is subject to the Terms of Use and the Privacy Policy posted on the Site, which you should also read carefully.

2. LICENSE GRANT AND RESTRICTIONS

2.1 License Grant. MSDSonline hereby grants Customer a limited, non-exclusive license to use the Service indicated in the applicable Customer Order or Registration, subject to the restrictions and limitations specified in such Customer Order or Registration and the terms of the Agreement, solely for Customer's legitimate internal business purposes during the Term (as defined in Section 7.1).

2.2 Permitted Use. Customer may permit no more than the maximum number of users, viewers, accounts, desktops, seats, logins, or IDs specified in the applicable Customer Order or Registration with respect to a given Service to use or access such Service during any given month. Customer may reallocate logins, IDs, accounts, desktops, or seats, as applicable to the specific Service, to different individual users or viewers, as reasonable and appropriate, from time to time. You may not access the Service if you are a direct competitor of MSDSonline, except with MSDSonline's prior written consent. In addition, you may not access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes. Customer may

use the Service only for their internal business purposes and shall not: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, including material harmful to children or violates third party rights; (iii) send or store material contain software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; (v) attempt to gain unauthorized access to the Service or its related systems or networks; or (vi) allow its customers or unauthorized users access the Service unless expressly acknowledged and agreed to by MSDSonline in the Customer Order Form. Customer acknowledges that the Service is designed to function in the hardware and software operating environments specified in the applicable documentation. MSDSonline shall not be responsible or liable for the use, operation, or functionality of the Service, and the limited warranty set forth in Section 8.2 hereof shall be null and void with respect to such Service, if operated in a hardware or software operating environment other than those specified in the applicable documentation.

2.3 Access. With respect to any Service to be installed at Customer's location, subject to Section 2.2, and in accordance with the applicable documentation and specifications, Customer may install ("Customer Hosted") any such Service on a networked server for purposes of: (i) installing it onto individual workstations on such network; or (ii) using it in a multi-user configuration over such network. Nevertheless, no such Service shall be installed on any computer that is accessible via the Internet, or via other open or unsecured networks, to parties other than Customer and its authorized employees, and subcontractors. Customer may not provide access to the Service to its customers or unauthorized users unless specifically acknowledged and agreed to by MSDSonline in the MSDSonline Customer Order Form. Customer may make a reasonable number of copies of such Service or documentation solely for backup or archival purposes. Customer shall maintain the confidentiality of any logons or IDs assigned to it by MSDSonline (and any associated passwords) for use of the Service and Customer shall be responsible and liable for all transactions, activities, and other consequences resulting from the use or disclosure of such logons, IDs, and passwords.

2.4 Service Maintenance & Upgrades. During the Term, MSDSonline shall make available to Customer at no additional cost such new releases, upgrades, updates, patches, and bug fixes with respect to the Service as may, from time to time, be developed and made generally available by MSDSonline at no cost to other licensees of such Service under similar circumstances. All such new releases, upgrades, updates, patches, and fixes shall be deemed to constitute part of the applicable Service and shall be subject to the terms of this Agreement.

2.5 Prohibited Conduct. Except as expressly permitted by this Agreement, Customer shall not, directly or indirectly, without the express, prior written consent of MSDSonline: (i) use or permit the use of, reproduce or otherwise duplicate, disclose, distribute, modify, encumber, time-share, license, sublicense, rent, lease, or transfer any part of the Service, any portion thereof, or any of Customer's rights thereto (as granted by this Agreement); (ii) merge any Service or any portion thereof with any other program or materials, without prior written consent of MSDSonline; (iii) reverse engineer, decompile, disassemble, extract, or otherwise derive or attempt to derive the source code of any Service or any other compiled software provided or made available by MSDSonline hereunder; (iv) adapt, translate, localize, port, or otherwise modify any Service or any other compiled software provided or made available by MSDSonline hereunder; (v) remove, obliterate, or cancel from view any copyright, trademark, or other proprietary or confidentiality notice or legend appearing on or in the Service or any other materials provided or made available by MSDSonline hereunder; (vi) allow access to the Service to its customers or unauthorized users unless specifically acknowledged and agreed to by MSDSonline in the MSDSonline Customer Order Form;

and (vi) knowingly permit any other person or entity to engage in any of the foregoing conduct.

3. COMPLIANCE SERVICES

3.1 Description. MSDSonline will provide or cause to be provided to Customer the specific Compliance Services indicated in the applicable Customer Order or Registration, in accordance with the specific instructions and descriptions set forth in such Customer Order or Registration, which may include (but may not necessarily be limited to): (i) MSDSonline building an electronic library of Material Safety Data Sheet ("MSDS") documents by processing copies of MSDSs supplied by Customer; (ii) "MSDS Requests" in which MSDSonline requests copies of MSDSs from Customer's suppliers or manufacturers for inclusion in Customer's electronic library; (iii) "Binder Valet," where MSDSonline obtains MSDSs for Customer from a pre-approved Customer inventory list; (iv) "Fax Back Services" where Customer may request MSDS documents and receive them via fax back service 24x7; and (v) MSDSonline on-going updating of Customer's existing electronic library of MSDSs.

3.2 Acceptance. The Compliance Services shall be deemed to have been accepted by Customer upon their completion by MSDSonline unless Customer provides MSDSonline with written notice, in accordance with Section 8.1, within thirty (30) days after such completion. In cases where the Services include, or Customer has separately contracted for, MSDS Requests or Binder Valet (i.e., respectively, MSDSonline contacting suppliers on Customer's behalf, or MSDSonline searching its database, for MSDSs based on Customer's product inventory or other list), Customer is responsible for ensuring, and Customer's acceptance shall be deemed to acknowledge and confirm, that MSDSonline has made the appropriate selection, inclusion, or provision of MSDSs.

3.3 Deliverables. Customer is solely responsible for installing and configuring at its location, or on its workstations or servers, any deliverables or other materials delivered by MSDSonline to Customer in connection with the Compliance Services that require such installation or configuration.

4. FEES AND PAYMENT

4.1 Fees. Customer shall pay MSDSonline the fees specified in the applicable Customer Order or Registration (the "Fees"). MSDSonline shall invoice Customer, or automatically charge the credit card specified by Customer, for such Fees in accordance with the payment schedule indicated in such Customer Order or Registration. Fees are due and payable within thirty (30) days after the date of the applicable invoice or the due date otherwise indicated in the applicable Customer Order or Registration. Customer must report any errors or discrepancies in any MSDSonline invoice within thirty (30) days after the date of such invoice or such invoice will be deemed correct and payable by Customer in accordance herewith. Except as expressly provided herein, all Fees are nonrefundable.

4.2 Taxes. Fees do not include, and Customer shall pay, all applicable sales, use, and other taxes imposed in connection with this Agreement, the Service, or the Compliance Services. Where applicable and upon request, the Customer will supply to MSDSonline the applicable exemption certificate.

4.3 Out of Scope Services. Customer shall pay for any services performed, at Customer's request, beyond the scope of the Compliance Services described in the applicable Customer Order or Registration at MSDSonline's then-prevailing rates.

5. PROPRIETARY RIGHTS

5.1 Ownership. The Service, and other materials (except for the MSDSs) provided to Customer by MSDSonline hereunder (including, but not limited to, the technology (whether in source code, object code, or other form), databases, indexing, search, and retrieval methods and routines, hypertext markup language ("HTML") code, active server pages ("ASP"), intranet pages, and similar materials) constitute the valuable intellectual property and proprietary material of MSDSonline and its licensors and are protected by applicable intellectual property laws of the United States and other countries. Except for the rights expressly granted to Customer in this Agreement, all MSDSonline Technology, the Service, and other materials that are provided, and all work product that is developed, under this Agreement, all modifications, compilations, and derivative works thereof, and all intellectual property and proprietary rights pertaining thereto, are and shall remain the property of MSDSonline and its respective licensors. MSDSonline hereby grants Customer a limited, non-exclusive, non-transferable license and right to use and reproduce such materials during the Term, solely for the internal business purposes of Customer, consistent with the other terms of this Agreement. Customer shall reproduce and include any copyright and other proprietary notices included in the Technology, the Services, or any such other materials on all copies, in whole or in part, made thereof. Notwithstanding anything to the contrary in this Agreement, all MSDSs are created and owned by their respective authors and all rights pertaining thereto shall remain the property of such authors. MSDSonline neither claims nor grants any ownership rights in any MSDS.

5.2 Customer Materials. Customer may upload to or distribute on MSDSonline.com MSDS content that is not subject to any copyright or other proprietary rights protection, content in which MSDSonline has given express authorization for distribution on the World Wide Web or content that Customer specifically earmarks for "private use" during the MSDSonline upload process or Binder Valet process. Customer may not use the batch upload process to upload "private use" documents. The unauthorized submission or distribution of copyrighted or other proprietary content is illegal and could subject the Customer to criminal prosecution as well as liability for damages in a civil suit. Customer shall at its sole expense, defend, indemnify and hold harmless MSDSonline and it employees with respect to any claim and all costs, expenses (including reasonable attorney's fees), fines, penalties, deficiencies, losses, liabilities (including settlements and judgments) from any infringement of copyrights or proprietary rights, or from any other harm arising from such Customer upload of content. In compliance with the Digital Millennium Copyright Act, Customer and other persons can report infringement claims to CustomerHelp@MSDSonline.com. Customer hereby grants MSDSonline a royalty-free, perpetual, irrevocable, non-exclusive, worldwide right and license to use, reproduce, modify, adapt, publish, translate, and distribute, in any form, media, or technology now known or hereafter developed, all MSDS content that Customer posts to MSDSonline's database for public use (or otherwise acquired by MSDSonline for or on behalf of Customer) hereunder and to incorporate such MSDS content in other works, in any form, media, or technology now known or hereafter developed. When making use of such information and materials, MSDSonline shall use commercially reasonable efforts to prevent disclosure of Customer's identity as the party from or for whom MSDSonline obtained such MSDS content or materials, except that MSDSonline will not disclose or make such MSDS content available to MSDSonline's other customers if Customer specifically earmarks the MSDS content for private use or requests in writing when such materials and information are provided to, or otherwise obtained by, MSDSonline.

6. CONFIDENTIALITY

The Service and the other materials that are provided or disclosed by MSDSonline in connection with this Agreement contain confidential and proprietary information of MSDSonline and its licensors that is not in the public domain, that is of commercial value to MSDSonline and others because of it not being generally known, and which is the subject of efforts reasonable under the circumstances to maintain its secrecy or confidentiality (collectively, "Confidential Information," and including, but not limited to, technical and non-technical data, marketing and promotional information, software programs and code (regardless of form or language), methods, techniques, strategies, processes, customer and supplier lists, trade secrets, distribution methods, and pricing and financial data relating to MSDSonline, the Service, or the Compliance Services). Customer may use Confidential Information only as necessary and appropriate to perform its obligations hereunder and to receive the benefit of the Service or the Compliance Services, in accordance with this Agreement. Customer shall hold all such information in strict confidence and shall at all times use at least a reasonable standard of care to maintain the confidentiality thereof. Customer's obligations with respect to Confidential Information, as set forth in this Section 6, shall continue in force and effect for a period of five (5) years after termination or expiration of this Agreement or, with respect to such portions of such Confidential Information that constitute trade secrets under applicable law, for so long as such trade secret status is maintained.

7. TERM AND TERMINATION

7.1 Term. The term of this Agreement (the "Term") shall commence, as applicable, on the date that the applicable Customer Order is executed by both Customer and MSDSonline or on the date that the applicable Registration is completed by Customer. The Term shall continue for the period specified in the applicable Customer Order or Registration, and shall thereafter be renewed and extended in accordance with Section 7.2, unless terminated earlier by either Party in accordance with Section 7.3 hereof or another provision of this Agreement.

7.2 Automatic Renewal. UNLESS AND UNTIL TERMINATED BY EITHER PARTY PURSUANT TO SECTION 7.3, OR EITHER PARTY PROVIDES WRITTEN NOTICE OF NON-RENEWAL TO THE OTHER PARTY AT LEAST SIXTY (60) DAYS PRIOR TO THE SCHEDULED EXPIRATION OF THE THEN-CURRENT TERM, THE TERM SHALL AUTOMATICALLY RENEW AND BE EXTENDED UPON ITS EXPIRATION (REGARDLESS OF WHETHER PREVIOUSLY RENEWED OR EXTENDED) FOR ANOTHER TERM OF THE SAME DURATION AS SPECIFIED IN THE APPLICABLE CUSTOMER ORDER OR ONLINE ORDERING PROCESS. THE TERMS APPLICABLE TO ANY SUCH RENEWAL OR EXTENSION SHALL BE THE SAME AS THOSE SET FORTH HEREIN, EXCEPT THAT, UNLESS EXPRESSLY PROVIDED OTHERWISE IN THE APPLICABLE CUSTOMER ORDER OR ONLINE ORDERING PROCESS, THE FEES APPLICABLE TO SUCH RENEWAL OR EXTENSION SHALL BE AT THE RATES THEN MADE GENERALLY AVAILABLE BY MSDSONLINE.

7.3 Termination. Either Party may terminate this Agreement immediately and without penalty by sending written notice to the other Party, describing in reasonable detail the reason for such termination, in the event that the other Party: (i) breaches any material term or condition hereof and, if such breach is curable, fails to cure such breach within thirty (30) days after being provided written notice thereof by the other Party (except with regard to a breach by Customer with regard to its payment obligations hereunder, in which case the applicable cure period shall be only five (5) days). All rights and

licenses granted herein to Customer to access and use the Service shall automatically terminate and be revoked, and Customer shall promptly return or destroy all proprietary information, results of the Compliance Services, and related materials in Customer's possession or control, upon any expiration or termination of this Agreement.

8. WARRANTIES

8.1 Service. MSDSonline warrants that the Service will perform substantially in accordance with the applicable specifications and documentation generally made available by MSDSonline, provided that Customer shall have properly accessed, installed, operated, and used the Service in accordance with this Agreement and such specifications and documentation. MSDSonline does not represent, warrant, or covenant that the Service, or that the operation and use of the Service, will meet Customer's requirements, that use of the Service shall be entirely without interruption or totally error-free, or that all defects (including, but not limited to, minor or cosmetic defects that do not significantly and adversely affect functionality or features) will be corrected. Customer must provide MSDSonline with written notice reasonably describing any failure of the Service to satisfy the limited warranty set forth above in this Section 8.1, and repair or replacement of the applicable Product shall be Customer's sole and exclusive remedy for any such failure. Nevertheless, if, after receiving such a written notice from Customer, MSDSonline determines that it is unable through the exercise of commercially reasonable efforts to repair or replace the Service in a manner that satisfies such warranty, then upon Customer's return of any material (if applicable) and access to the Service, MSDSonline will refund any fees that Customer has paid for the Service hereunder during the immediately preceding twelve (12) months.

8.2 Compliance Services. MSDSonline warrants the Compliance Services will be performed in a competent and workmanlike manner, in accordance with standards common and prevalent in the industry. As Customer's sole and exclusive remedy for a claimed breach of this limited warranty: (i) if Customer notifies MSDSonline, in writing and in reasonable detail, of the nature and extent of such failure within thirty (30) days after the completion of the applicable Compliance Services, MSDSonline shall re-perform or cure any portion of such Compliance Services that fail to satisfy the foregoing limited warranty; or (ii) if, after being provided with notice as described in the foregoing clause (i), MSDSonline determines, in its sole discretion, that it is unable to re-perform or cure the Compliance Services in a manner that complies with such warranty through the exercise of commercially reasonable efforts, MSDSonline will refund to Customer the fees paid for such portion of the Compliance Services during the immediately preceding twelve (12) months.

8.3 Power and Authority. Customer represents that it is financially solvent and that it has the requisite legal and corporate power, right, and authority to enter into this Agreement, to grant the rights it purports to grant hereunder, and to perform its duties and fulfill its obligations hereunder.

8.4 Accuracy of Information. Customer represents that all information provided to MSDSonline in connection with this Agreement is, and warrants that all information provided to MSDSonline hereunder shall be, true, complete, and correct in all material respects, to the best of Customer's ability, knowledge, and belief.

9. DISCLAIMERS

9.1 **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY PROVIDED IN SECTIONS 8.1 AND 8.2: (I) MSDSONLINE MAKES NO WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THIS AGREEMENT; (II) THE SERVICE AND THE COMPLIANCE SERVICES ARE PROVIDED BY MSDSONLINE ON AN "AS-IS" BASIS, WITHOUT ANY FURTHER WARRANTIES OF ANY KIND; AND (III) MSDSONLINE DOES NOT REPRESENT, WARRANT, OR COVENANT THAT THE SERVICE, THE COMPLIANCE SERVICES, AND THE OTHER MATERIALS (INCLUDING, BUT NOT LIMITED TO, MSDS DOCUMENTS, REPORTS, ADVICE, AND RECOMMENDATIONS, IN ANY FORM) PROVIDED BY MSDSONLINE OR ITS CONTRACTORS OR AGENTS IN CONNECTION WITH THIS AGREEMENT, ARE OR WILL NECESSARILY ALWAYS BE COMPLETELY ACCURATE, CURRENT, OR COMPLETE, CONTINUOUSLY AVAILABLE, OR APPROPRIATE FOR ANY PARTICULAR USE TO WHICH CUSTOMER OR ANY THIRD PARTY MAY CHOOSE TO PUT THEM. MSDSONLINE EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, OTHER THAN THOSE SET FORTH IN SECTIONS 8.1 AND 8.2, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES THAT MIGHT ARISE THROUGH USAGE OF TRADE OR CUSTOM, COURSE OF DEALING, AND COURSE OF PERFORMANCE.

9.2 **MSDS DISCLAIMER.** IN NO EVENT SHALL MSDSONLINE BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS, DAMAGE, OR EXPENSE RELATING TO THE APPROPRIATENESS, SELECTION, CONTENT, MAINTENANCE, RETENTION, AVAILABILITY, USE, OR NON-USE OF MSDS DOCUMENTS OR REPORTS, ADVICE, AND RECOMMENDATIONS PROVIDED IN CONNECTION THEREWITH IN ANY FORM. CUSTOMER IS SOLELY RESPONSIBLE FOR CONFIRMING THAT ANY MSDS THAT IT PROVIDES TO MSDSONLINE, OR THAT IT APPROVES, ACCEPTS, SELECTS, USES, OR OTHERWISE OBTAINS FROM OR THROUGH MSDSONLINE, THE SERVICE, OR THE COMPLIANCE SERVICES, IN CONNECTION WITH THIS AGREEMENT, IS APPLICABLE TO AND APPROPRIATE FOR THE SERVICE OR PURPOSE FOR WHICH CUSTOMER MAY NEED AN MSDS. CUSTOMER ACKNOWLEDGES THAT MSDSONLINE DOES NOT AUTHOR, EDIT, OR CHANGE ANY INFORMATION CONTAINED IN ANY MSDS AND THAT MSDSONLINE ASSUMES NO RESPONSIBILITY OR LIABILITY WITH RESPECT TO THE ACCURACY, USEFULNESS, COMPLETENESS, OR CURRENCY OF ANY SUCH INFORMATION. MSDSONLINE SHALL BE ENTITLED, AT ALL TIMES AND WITHOUT INCURRING LIABILITY: (I) TO RELY ON INFORMATION PROVIDED BY CUSTOMER, ON WRITTEN AND ORAL COMMUNICATIONS WITH CUSTOMER'S PERSONNEL, AND ON INFORMATION AND MATERIALS APPROVED OR ACCEPTED BY CUSTOMER, WITH RESPECT TO SPECIFIC SERVICE FOR WHICH AN MSDS IS SOUGHT OR REQUESTED; AND (II) TO MAKE REASONABLE ASSUMPTIONS AND SUBSTITUTIONS IF INFORMATION PROVIDED BY CUSTOMER IS INCOMPLETE, INACCURATE, OR NON-SPECIFIC OR IF AN MSDS FOR A PARTICULAR SUPPLIER'S PRODUCT, PRODUCT ID, OR SKU NUMBER IS NOT AVAILABLE THROUGH THE EXERCISE OF COMMERICALLY REASONABLE EFFORTS.

9.3 **FAXBACK DISCLAIMER.** THE FAX BACK SERVICE CONSISTS OF CUSTOMER RECEIVING REQUESTED COPIES OF MSDS DOCUMENTS VIA FAX. CUSTOMER ACKNOWLEDGES THAT THE FAXBACK SERVICE IS PROVIDED THROUGH THIRD PARTY CONTRACTORS RETAINED BY MSDSONLINE AND THAT SUCH CONTRACTORS MAY PROVIDE OR OFFER TO PROVIDE ADDITIONAL SERVICES, ADVICE, REPORTS OR RECOMMENDATIONS TO CUSTOMER, INCLUDING BUT NOT LIMITED TO MEDICAL, HEALTH CARE OR EMERGENCY INFORMATION ABOUT OR PERTAINING TO EXPOSURE TO OR TREATMENT FOR EXPOSURE TO CHEMICALS, THAT ARE NOT PART OF THE FAX BACK SERVICE ("OTHER SERVICES OR ADVICE"). IN NO EVENT SHALL MSDSONLINE BE LIABLE TO CUSTOMER OR

TO ANY THIRD PARTY FOR ANY LOSS, DAMAGE, OR EXPENSE RELATING TO SUCH OTHER SERVICES OR ADVICE OR CUSTOMER'S RELIANCE THEREON, AND CUSTOMER AGREES TO HOLD MSDSONLINE HARMLESS FROM SAME.

10. LIMITATIONS OF LIABILITY

10.1 **EXCLUSIONS.** NEITHER MSDSONLINE, ITS SUBSIDIARIES, CONTRACTORS, SUPPLIERS, CO-BRANDERS, AND OTHER SIMILAR ENTITIES, NOR THE OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AND AGENTS OF ANY OF THE FOREGOING (ALL SUCH PERSONS AND ENTITIES AS LISTED HERETOFORE IN THIS SENTENCE, COLLECTIVELY, THE "MSDSONLINE ASSOCIATES"), SHALL BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS, COST, DAMAGE, OR OTHER INJURY, WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH: (I) CUSTOMER'S USE OR NON-USE, OR CUSTOMER'S RELIANCE ON OR FAILURE TO RELY ON, THE SERVICE, THE COMPLIANCE SERVICES, OR ANY OTHER MATERIALS (INCLUDING, BUT NOT LIMITED TO, ANY MSDS DOCUMENTS AND ANY REPORTS, ADVICE, AND RECOMMENDATIONS, IN ANY FORM) PROVIDED OR MADE AVAILABLE BY MSDSONLINE OR ITS CONTRACTORS IN CONNECTION WITH THIS AGREEMENT (COLLECTIVELY, THE "MSDSONLINE MATERIALS"); OR (II) ANY DECISIONS MADE OR NOT MADE, OR ACTIONS TAKEN OR NOT TAKEN, BY CUSTOMER OR ANY THIRD PARTY WITH REGARD TO, IN RELIANCE ON, OR AS A RESULT OF, USE OF ANY MSDSONLINE MATERIALS. IN ADDITION, UNDER NO CIRCUMSTANCES SHALL THE MSDSONLINE ASSOCIATES BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, OR SIMILAR DAMAGES OR COSTS (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR DATA, LOSS OF GOODWILL, LOSS OF OR DAMAGE TO PROPERTY, LOSS OF USE OR DOWNTIME OF FACILITIES, EQUIPMENT, OR SERVICES, COSTS OF COVER, BUSINESS INTERRUPTION, AND CLAIMS OF THIRD PARTIES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY MSDSONLINE MATERIALS, EVEN IF MSDSONLINE WAS ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES OR COSTS.

10.2 **MAXIMUM LIABILITY.** IN A JURISDICTION THAT DOES NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CERTAIN DAMAGES, THE LIABILITY OF THE MSDSONLINE ASSOCIATES SHALL BE LIMITED IN ACCORDANCE WITH THIS AGREEMENT TO THE FULLEST EXTENT PERMITTED BY LAW. WITHOUT LIMITING ANY OF THE FOREGOING PROVISIONS OF THIS SECTION 10, AND NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY REMEDY OR OTHER PROVISION OF THIS AGREEMENT, IF ANY OF THE MSDSONLINE ASSOCIATES ARE FOUND LIABLE TO CUSTOMER OR TO ANY THIRD PARTY AS A RESULT OF ANY CLAIMS OR OTHER MATTERS ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE CUMULATIVE, AGGREGATE, AND MAXIMUM LIABILITY OF THE MSDSONLINE ASSOCIATES, COLLECTIVELY, FOR ALL SUCH CLAIMS AND OTHER MATTERS SHALL BE LIMITED TO THE FEES ACTUALLY PAID BY CUSTOMER TO MSDSONLINE HEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT MOST PREDOMINANTLY GIVING RISE TO SUCH LIABILITY.

10.3 **INTERNET DELAYS.** MSDSONLINE'S SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. MSDSONLINE IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS.

10.4 **BASIS OF THE BARGAIN.** THE PROVISIONS OF SECTIONS 9, 10, AND 11 OF THIS AGREEMENT ARE ALL FUNDAMENTAL AND SPECIFIC REQUIREMENTS OF THE BASIS OF THE BARGAIN BETWEEN CUSTOMER AND MSDSONLINE, AND MSDSONLINE WOULD NOT BE ABLE TO PROVIDE THE SERVICE AND THE COMPLIANCE SERVICES ON THE OTHER TERMS SET FORTH HEREIN WITHOUT EACH SUCH PROVISION.

11. INDEMNIFICATION

11.1 Infringement. MSDSonline shall defend, indemnify, and hold Customer harmless from and against any claims, actions, and other proceedings ("Claims"), and shall pay all losses, damages, liabilities, settlements, judgments, awards, interest, civil penalties, and expenses (collectively, "Losses," and including reasonable attorneys' fees and court costs), to the extent arising out of any claims by any third party that the Service or the Compliance Services (excluding any material provided or furnished by, or included at the direction of, Customer) infringe upon United States' copyright or any United States' patent issued as of the date of the applicable Customer Order or Registration. In the event of such a claim, MSDSonline may, in its discretion, either procure a license to enable Customer to continue to use the allegedly infringing item or develop or obtain a non-infringing substitute of substantially equivalent functionality and performance. If MSDSonline determines that neither of the foregoing options is commercially reasonable or practicable, then, notwithstanding anything to the contrary elsewhere in this Agreement, MSDSonline may immediately terminate Agreement and refund to Customer, upon Customer's return of the Service, the results of the Compliance Services, and all related materials, any prepaid fees for the then-remaining or unexpired portion of the Term. Notwithstanding the foregoing, MSDSonline shall have no obligation to indemnify, defend, or hold Customer harmless from any Claim to the extent that it is based upon: (i) a modification by Customer (or by anyone under Customer's direction or control) to the Service or the Compliance Services; (ii) a modification made by MSDSonline pursuant to Customer's order or specification or in reliance on materials or information provided by Customer; or (iii) the use by Customer (or by anyone under Customer's direction or control) of the Service other than in accordance with this Agreement. This Section 11.1 sets forth Customer's sole and exclusive remedy, and MSDSonline's entire liability, for any claim that any MSDSonline Materials violate or infringe upon the rights of any third party.

11.2 Third Party Claims. Except as provided in Section 11.1, Customer shall defend, indemnify, and hold MSDSonline harmless from and against all Claims, and shall pay all Losses, arising out of or related to third-party claims based upon: (i) Customer's (or that of anyone authorized by Customer) use, non-use, or modification of any MSDSonline Materials; (ii) an MSDS or other content posted by Customer or by MSDSonline at Customer's direction which infringes upon a United States' copyright or any United States' patent or (iii) the violation of any rights of any third party in connection with Customer's (or that of anyone authorized by Customer) use, non-use, or modification of any MSDSonline Materials.

11.3 Defense. With regard to any Claim subject to indemnification pursuant to this Section 11, the indemnified Party shall grant the indemnifying Party the right to assume full defense and control of such Claim and shall reasonably cooperate with the indemnifying Party regarding such Claim. Nevertheless, the indemnified Party may reasonably participate in such defense, at its sole expense.

12. GENERAL

12.1 Changes to the Service. MSDSonline expressly reserves the exclusive right to, without prior notice, at any time and from time to time,: (i) offer new, additional, or substitute products and services; (ii) modify, amend, or discontinue offering all or any particular products or services; and (iii) post a revised version of this Agreement on the Site. Nevertheless, during the Term MSDSonline shall not, except as expressly provided elsewhere in this Agreement: (a) materially and significantly reduce or decrease the functionality and features of the Service; or (b) cease offering any of the Service without offering a substitute of comparable functionality and features. Further, despite the posting at any time of a new version of this Agreement on the Site, any previously executed Customer Orders and previously completed Registrations shall continue to be governed by the version of this Agreement in effect as of the date of such Customer Order or Registration. You agree to accept as the true and accurate copy of this Agreement the version hereof maintained with respect to the date of the applicable Customer Order or Registration by MSDSonline in the course of its normal backup and archival process.

12.2 Entire Agreement. This Agreement, together with the applicable Customer Order or Registration, constitutes the entire agreement and understanding between the Parties regarding the subject matter hereof and supersedes any prior representations, advertisements, statements, proposals, negotiations, discussions, understandings, or agreements regarding the same subject matter. This Agreement may not be modified or amended except by a writing signed by an authorized representative of each of the Parties. In the event and to the extent of any conflict between this Agreement and the applicable Customer Order or Registration, the terms of this Agreement shall prevail and control.

12.3 Governing Law. This Agreement shall be governed by and construed under the substantive laws of the State of Illinois, without regard to choice of law provisions thereof. The application of the United Nations Convention of Contracts for the International Sale of Goods and the provisions of any state law adopting, in whole or in part, or in any modified form, the provisions of the Uniform Computer Information Transactions Act are expressly excluded here from.

12.4 Forum. The exclusive forum and venue for any legal or equitable claim or action brought in connection with this Agreement shall be the state and federal courts situated in Cook County in the State of Illinois. The Parties hereby irrevocably submit and consent to the personal and subject matter jurisdiction of such courts and irrevocably waive any objection or claim that venue is improper for any reason in such courts.

12.5 Arbitration. Except for any claims or actions seeking injunctive relief for a breach or alleged breach of Section 5 or Section 6, any dispute, claim, or controversy arising out of, or relating to, this Agreement (a “Dispute”) shall be addressed in accordance with this Section 12.5. Each Party agrees to notify the other in writing as soon as reasonably practicable after becoming aware of the basis of a Dispute and to use commercially reasonable efforts to informally resolve or settle the Dispute after providing or receiving such a notice. Nevertheless, if the Parties fail to resolve such a Dispute within thirty (30) days after the date that such notice was received; either Party may submit the Dispute to binding arbitration in accordance with the Commercial Arbitration Rules of the

American Arbitration Association then in effect. Any such arbitration shall be conducted in Chicago, Illinois before an arbitrator having at least five (5) years experience in the information technology industry. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, where the dispute is monetary in nature and the amount involved does not exceed $30,000.00, either party may waive arbitration and prosecute the claim in a court having jurisdiction consistent with Section 12.4 above.

12.6 Attorneys' Fees. In any arbitration, suit, action, or proceeding relating to this Agreement, the prevailing Party will have the right to recover from the other its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection therewith. MSDSonline shall also be entitled to reimbursement for any and all of its collection costs in the event of late payment or nonpayment by Customer.

12.7 Severability. Every provision of this Agreement shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Agreement so construed is held by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such provision shall be deemed severed from this Agreement and all other provisions shall remain in full force and effect.

12.8 Survival. The provisions of this Agreement, and the rights, duties, and obligations of the Parties hereunder, which by their nature may be reasonably inferred to have been intended to survive termination, cancellation, completion, or expiration of this Agreement (including, but not limited to, the rights, duties, and obligations set forth in Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, and 12 hereof) shall survive and continue as valid and enforceable rights, duties, and obligations.

12.9 Waiver. The failure by either Party at any time to enforce any of the provisions of this Agreement or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, right, remedy, or option or in any way affect the validity of this Agreement. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

12.10 Assignment; Change in Control. All rights granted to Customer herein are personal to Customer and Customer may not assign, delegate, or otherwise transfer this Agreement or any of Customer's rights or obligations hereunder, either voluntarily or by operation of law, without the prior written consent of MSDSonline, which consent shall be in MSDSonline's sole discretion. MSDSonline may assign this agreement without consent to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any actual or proposed change in control of Customer that results in a direct competitor of MSDSonline directly or indirectly owning or controlling 50% or more of Customer shall entitle MSDSonline to terminate this Agreement for cause immediately upon written notice. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

12.11 Force Majeure. Except for payment obligations hereunder, neither Party shall be liable or deemed to be in default for any delay or failure in performance hereunder to the extent resulting, directly or indirectly, from acts of God, terrorism, or civil

insurrection, strikes or other organized labor interruption, telecommunications or utility interruptions or failures, fire, explosions, floods, or other natural disasters, any similar cause or any third party beyond the reasonable control of such Party, and any delay or failure of the other Party to fulfill its obligations hereunder.

12.12 Compliance with Law. Customer is solely responsible for compliance with all federal, state, and local laws, regulations, rules, ordinances, and policies regarding possession and maintenance of MSDSs (including, but not limited to, federal environmental and OSHA requirements, and, to the extent applicable, the specific requirement that access to certain MSDSs be maintained on Customer's premises). Further, Customer is solely responsible for compliance with export and import laws and regulations as they relate to the Service provided hereunder.

12.13 Cooperation. At all times during the Term, Customer shall promptly and fully cooperate with MSDSonline, and shall promptly make competent, appropriately trained, and qualified personnel available to assist and answer questions of MSDSonline, as necessary and appropriate and as reasonably requested by MSDSonline.

12.14 No Third Party Benefit. The provisions of this Agreement are for the sole benefit of the Parties hereto. Except as expressly provided herein, this Agreement neither confers any rights, benefits, or claims upon any person or entity not a Party hereto nor precludes any actions against, or rights of recovery from, any persons or entities not Parties hereto.

12.15 Notice. All notices required hereunder shall be in writing or in electronic format and shall be deemed to have been given when mailed by first class mail to the respective address, when sent via email to the respective email address, or when sent via receipted facsimile to the respective facsimile number, specified in the applicable Customer Order or in the applicable Registration and as updated in accordance herewith.

Last Updated 12/2/2015