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Receipt#: 2013-00011514  
Fee Amt: \$112.00 Page 1 of 10

To be recorded with Deed  
Records - ORC 317.08

## ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by de maximis, inc. (Owner), the United States Fish and Wildlife Service (FWS), the National Oceanic and Atmospheric Administration (NOAA) and the Ohio Environmental Protection Agency (Ohio EPA) pursuant to Ohio Revised Code (ORC) §§ 5301.80 to 5301.92 for the purpose of subjecting the Property to the activity and use limitations set forth herein.

Background. The Ashtabula River, approximately 40 miles long, flows through the northeast quadrant of Ashtabula County to Lake Erie. The approximately 137 square mile watershed is located south of the city of Ashtabula, Ohio. Beginning in the 1940's, the sediments and associated floodplains became contaminated with a variety of contaminants, including volatile organic compounds (VOCs), semi-volatile organics, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), heavy metals and low-level radionuclides.

Fields Brook, a 3-mile tributary of the Ashtabula River, was designated a Superfund Site and placed on the National Priorities List (NPL) in 1983; the Remedial Investigation (RI) began in 1985 with a Record of Decision (ROD) issued in 1986.

Under an agreement with the United States Environmental Protection Agency pursuant to the Great Lakes Legacy Act, an agreement with the United States Army Corps of Engineers pursuant to the Water Resources Development Act, and separate agreements with the Ohio Environmental Protection Agency, the Ashtabula City Port Authority and the members of the Ashtabula River Cooperating Group II, contaminated sediment was dredged from a segment of the Ashtabula River in 2007 and 2008. A dedicated landfill was constructed for the contaminated sediment.

The Ashtabula River watershed and associated natural resources, including macroinvertebrates, fish and fish-eating birds, were substantially impacted as a result of the contamination.

Negotiations between the responsible parties and the natural resource trustees, i.e., the FWS, NOAA and Ohio EPA (Trustees), in conjunction with the United States Department of Justice and the Ohio Attorney General, resulted in a settlement filed in the United States District Court, Northern District of Ohio, Eastern Division, captioned United States v. Cabot Corporation, et al., Case No. 1:12-CV1097, 1099 dated July 12, 2012. The Administrative Record for this Site, including the Natural Resource Restoration Plan & Environmental Assessment for the Ashtabula River and Harbor Site (Restoration Plan), is maintained at the FWS, Ohio Field Office, Columbus, Ohio.

Now therefore, Owner, and the FWS, NOAA and Ohio EPA agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to ORC §§ 5301.80 to 5301.92.

2. Property. This Environmental Covenant concerns an approximately 101.251 acre tract

BUCKEYE TITLE

# 14630

1

Ashtabula County, Ohio  
Barbara Schaab Recorder  
File# 2013-00013852

BK **556** PG **148-157**

of real property, located on State Line Road in Richmond Township, Ashtabula County, Ohio, identified as permanent parcel number 45-001-00-002-00, and more particularly described in Exhibit A attached hereto and hereby incorporated by reference herein (Property).

3. Owner. de maximis, inc. (Owner), located at 450 Montbrook Lane, Knoxville, TN 37919 currently owns the Property.

4. Holder. Pursuant to ORC § 5301.81, the holder of this Environmental Covenant is the Owner listed above.

5. Activity and Use Limitations. As part of the Restoration Plan approved by the Trustees pursuant to the settlement filed in the United States District Court, Northern District of Ohio, Eastern Division, captioned United States v. Cabot Corporation, et al., Case No. 1:12-CV 1097, 1099 dated July 12, 2012, Owner hereby imposes the following activity and use limitations on the Property and agrees to comply with such limitations, unless this Environmental Covenant is amended pursuant to paragraph 13 herein:

- A. The Property shall be kept in its natural state, i.e., no building, billboards or other structures of any kind, either temporary or permanent, shall be placed or erected on the Property; however, fencing and signage approved by the Trustees is permissible.
- B. There shall be no filling, excavating, or removal of top soil, sand, gravel, or rock, minerals or other materials on or at the Property, nor any building of roads or change in topography of the land in any manner, other than that caused by the forces of nature, except in accordance with this Environmental Covenant or the Restoration Plan approved by the Trustees pursuant to the settlement filed in the United States District Court, Northern District of Ohio, Eastern Division, captioned United States v. Cabot Corporation, et al., Case No. 1:12-CV 1097, 1099, dated July 12, 2012.
- C. The control, management and eradication of animal or plant species on the Property must be pursuant to a Non-Native, Noxious or Nuisance Species Control Plan approved by the FWS, Ohio Field Office. Methods must comply with applicable State and Federal requirements and manufacturer specifications and guidelines.
- D. No power or petroleum transmission lines may be constructed, nor any other interests in the Property shall be granted for this purpose. However, the Owner reserves the right to maintain and repair telephone, electric, water, wells, or other utility lines or mains on existing easements needed to provide for the needs of the Owner, successors or assigns. The area affected by the repair work shall be the minimum necessary to accomplish the task. Upon completion of all construction for such utilities, the area shall be restored to its previous state.
- E. No towers for communication or otherwise shall be constructed on the Property.
- F. No trees, ground cover or other vegetation shall be removed from the Property, except that which is necessary to: maintain foot paths and trails; restore natural

habitat areas; establish ephemeral pools; promote natural vegetation; protect life and property; or comply with the Restoration Plan approved by the Trustees pursuant to the settlement filed in the United States District Court, Northern District of Ohio, Eastern Division, captioned United States v. Cabot Corporation, et al., Case No. 1:12-CV 1097, 1099, dated July 12, 2012.

- G. The Property shall at all times be kept free of garbage, trash, and machinery; and no other unsightly material shall be allowed to accumulate or be stored on the Property.
- H. Use of vehicles for recreation, including snow mobiles, all-terrain vehicles or other motorized vehicles, shall not be permitted on the Property.
- I. Hunting and trapping on the Property are prohibited, except for wildlife management purposes approved by the Trustees, and except as provided in the Recreational License Agreement between de maximis inc., Grantor and Roy Kightlinger, Grantee, dated November 4, 2008, a copy of which is attached hereto as Exhibit B.
- J. Each and every other activity or construction that is inconsistent with the purpose of this Environmental Covenant or which may endanger, affect or impair the natural or scenic state of the Property is prohibited.
- K. The Property shall not be subdivided. The Owner, its successors or assigns shall notify the Trustees of any proposed transfer of the Property, or any portion thereof, at least ninety (90) days prior to any such proposed transfer. The Owner, its successors or assigns shall not transfer the Property, or any portion thereof, without the prior written consent of the Trustees.

6. Breach. If any event or action by or on behalf of a person who owns an interest in or holds an encumbrance on the Property, or any other person constitutes a breach of the activity and use limitations, Owner or Transferee shall notify the FWS, NOAA and Ohio EPA within thirty (30) days of becoming aware of the event or action, and shall remedy the breach of the activity and use limitations within sixty (60) days of becoming aware of the event or action.

7. Running with the Land. This Environmental Covenant, including the activity and use limitations set forth in paragraph 5 herein, shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to ORC § 5301.85, subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

8. Compliance Enforcement. In the event of a violation of this Environmental Covenant, a civil action for injunctive and/or other equitable relief may be maintained by the United States on behalf of the FWS and/or NOAA, or the Ohio Attorney General on behalf of Ohio EPA, or other parties authorized by law pursuant to ORC § 5301.91 or other applicable law. Failure to timely enforce compliance with this Environmental Covenant or the activity and use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not

be deemed a waiver of the party's right to enforce this Environmental Covenant. Nothing in this Environmental Covenant shall restrict the Trustees from exercising their authority under applicable law.

9. Rights of Access. Owner hereby grants to the FWS, NOAA, Ohio EPA, the Ohio Department of Natural Resources, their agents, contractors, and employees, and the County of Ashtabula the right of access to the Property for implementation or enforcement of this Environmental Covenant.

10. Compliance Reporting. Owner or any Transferee shall submit to the FWS, NOAA, Ohio EPA, and the County of Ashtabula on an annual basis, written documentation verifying compliance with this Environmental Covenant.

11. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property, or any portion thereof, shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be substantially in the following form:

THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT, RECORDED IN THE DEED OR OFFICIAL RECORDS OF THE ASHTABULA COUNTY RECORDER ON \_\_\_\_\_, 20\_\_\_\_, IN [DOCUMENT \_\_\_\_\_, or BOOK \_\_\_\_\_, PAGE \_\_\_\_\_].

Owner shall notify the FWS, NOAA and Ohio EPA within ten (10) days after each conveyance of an interest in the Property. The notice shall include the name, address, and telephone number of the Transferee, a copy of the deed or other documentation evidencing the conveyance, and a survey map that shows the boundaries of the property being transferred.

12. Representations and Warranties. Owner hereby represents and warrants to the other signatories hereto:

- A. that the Owner is the sole owner of the Property;
- B. that the Owner holds fee simple title to the Property which is subject to the following interests or encumbrances:
  - 1. Restrictions and any other terms, covenants and conditions disclosed by instrument recorded in Deed Volume 47, Page 6411 on July 28, 1989 and any subsequent instruments pertinent thereto, but deleting therefrom, any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin to the extent such covenants, conditions or restrictions violate 42 U.S.C. 3604(c);
  - 2. The Recreational License Agreement between de maximis inc., Grantor and Roy Kightlinger, Grantee, dated November 4, 2008, a copy of which is attached hereto as Exhibit B;

- C. that the Owner has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- D. that the Owner has identified all other persons that own an interest in or hold an encumbrance on the Property and notified such persons of the Owner's intention to enter into this Environmental Covenant; and,
- E. that this Environmental Covenant will not materially violate or contravene or constitute a material default under any other agreement, document or instrument to which Owner is a party or by which Owner may be bound or affected.

13. Amendment. This Environmental Covenant may be amended by consent of all of the following: the Owner or a Transferee; the FWS; NOAA; and the Ohio EPA, pursuant to ORC § 5301.90 and other applicable law. The term, "Amendment" as used in this Environmental Covenant, shall mean any changes to the Environmental Covenant, including the activity and use limitations set forth herein, or the elimination of one or more activity and use limitations so long as there is at least one activity and use limitation remaining.

This Environmental Covenant may be amended only by a written instrument duly executed by the Regional Director of the FWS, the Director of NOAA's Office of Response and Restoration, the Director of Ohio EPA, and the Owner or Transferee of the Property, as applicable. Effective upon the date of transfer of ownership of the Property from the Owner to a Transferee, the Owner hereby waives its right to consent to any amendment or termination of this Environmental Covenant, pursuant to ORC § 5301.90(A). Within thirty (30) days of signature by all requisite parties on any amendment of this Environmental Covenant, the Owner or Transferee shall file such instrument for recording with the Ashtabula County Recorder's Office, and shall provide a file and date-stamped copy of the recorded instrument to the FWS, NOAA and Ohio EPA.

14. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

15. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Ohio.

16. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the Ashtabula County Recorder's Office.

17. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Ashtabula County Recorder.

18. Distribution of Environmental Covenant. The Owner shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to: FWS; NOAA; Ohio EPA; and Ashtabula County.

19. Notice. Unless otherwise notified in writing by or on behalf of the current owner, the FWS

or Ohio EPA, any document or communication required by this Environmental Covenant shall be submitted to:

Regional Director  
U.S. Fish and Wildlife Service  
Region 3  
1 Federal Drive  
Fort Snelling, Minnesota 55111

Ashtabula River Site Coordinator  
DERR  
Ohio EPA  
2110 East Aurora Road  
Twinsburg, Ohio 44087

NOAA Office of General Counsel  
Natural Resources Section  
501 West Ocean Blvd., Suite 4470  
Long Beach, CA 90802

Director of Operations  
Cleveland Museum of Natural History  
1 Wade Oval Drive  
Cleveland, Ohio 44106

The undersigned representative of Owner represents and certifies that the undersigned is authorized to execute this Environmental Covenant.

**IT IS SO AGREED:**

DE MAXIMIS, INC. [Owner]

Bennie L. Underwood, President  
Bennie L. Underwood, President  
Printed Name and Title

[signature] [title]

24 SEP 13  
Date

State of TN )  
County of Knox )

ss:

Before me, a notary public, in and for said county and state, personally appeared Bennie L. Underwood, a duly authorized representative of de maximis, inc., who acknowledged to me that [he/she] did execute the foregoing instrument on behalf of de maximis, inc.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 24<sup>th</sup> day of September, 20 13.



Diana L. Beck  
Notary Public

October 28, 2015  
Date of My Commission Expiration

OHIO ENVIRONMENTAL PROTECTION AGENCY

Scott J. Nally  
Scott J. Nally, Director

9/27/13  
Date

State of Ohio                    )  
  )  
County of Franklin            )     ss:

Before me, a notary public, in and for said county and state, personally appeared Scott J. Nally, the Director of Ohio EPA, who acknowledged to me that he did execute the foregoing instrument on behalf of Ohio EPA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal  
this 27<sup>th</sup> day of September, 2013.



Charma Diane Casteel  
Notary Public

CHARMA DIANE CASTEEL  
NOTARY PUBLIC  
STATE OF OHIO

Date of My Commission Expiration

MY COMMISSION EXPIRES

→ May 10, 2014

U.S. FISH & WILDLIFE SERVICE



Tom Melius, Regional Director, Region 3

11/6/13  
Date

for

State of Minnesota           )  
  )  
County of Hennepin        )       ss:

Wondra

Before me, a notary public, in and for said county and state, personally appeared Tom Charles Melius, a duly authorized representative of the FWS, who acknowledged to me that she did execute the foregoing instrument on behalf of the FWS.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 6<sup>th</sup> day of November, 2013.



  
Notary Public

1/31/2016  
Date of My Commission Expiration

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

  
David G. Westerholm  
Director, Office of Response and Restoration

10/18/2013  
Date

State of District of Columbia )  
 ) ss:  
County of \_\_\_\_\_ )

Before me, a notary public, in and for said county and state, personally appeared David G. Westerholm, Director, Office of Response and Restoration, a duly authorized representative of NOAA, who acknowledged to me that he did execute the foregoing instrument on behalf of NOAA.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 18<sup>th</sup> day of October, 20 13.

ALICIA S. PRICE  
Notary Public, District of Columbia  
My Commission Expires November 30, 2015

  
Notary Public

11-30-2015  
Date of My Commission Expiration



This instrument prepared by:  
Christopher L. Gibbon  
Walter | Haverfield LLP  
The Tower at Erieview  
1301 E. Ninth St., 3500  
Cleveland, OH 44114

LANDS OF KATHERINE I. KIGHTLINGER, TRUSTEE, AS RECORDED IN MICROFICHE 284-2020:

SITUATED IN LOT 20, RICHMOND TOWNSHIP, R1, T10, CONNECTICUT WESTERN RESERVE,  
ASHTABULA COUNTY, OH10:

BEGINNING AT A 1/2" CAPPED IRON PIN SET IN THE EAST RIGHT OF WAY LINE OF STATE LINE  
ROAD, TR 309 A, 50 FEET WIDE AT THE SOUTHEAST CORNER OF LOT 1, SAID PIN ALSO BEING  
IN THE STATE LINE BETWEEN OHIO AND PENNSYLVANIA, SAID PIN ALSO BEING SOUTH 01  
DEGREES 19 MINUTES 27 SECONDS EAST, 3322.70 FEET AND NORTH 88 DEGREES 30

MINUTES 25 SECONDS EAST, 25.00 FEET FROM THE INTERSECTION OF THE CENTERLINES OF  
STATE ROUTE 6 AND STATE LINE ROAD:

COURSE 1: THENCE SOUTH 01 DEGREES 19 MINUTES 27 SECONDS EAST ALONG THE STATE  
LINE AND ALONG THE EAST RIGHT OF WAY LINE OF STATE LINE ROAD, 698.69 FEET TO A 5/8"  
CAPPED "ACE" IRON PIN FOUND AND THENCE ON THE SAME COURSE ALONG THE STATE LINE  
AND ALONG THE EAST LINE OF STATE LINE ROAD, 640.69 FEET TO A 5/8" CAPPED "ACE" IRON  
PIN FOUND AND THENCE ON THE SAME COURSE ALONG THE STATE LINE AND ALONG THE  
EAST LINE OF STATE LINE ROAD, 448.50 FEET TO A 1/2" CAPPED IRON PIN SET AT THE

NORTHEAST CORNER OF JOHN MARINCEK & JOHN A. & DEBRA J. SHINER (74-0415) (TOTAL  
DISTANCE ALONG THE STATE LINE: 1787.88 FEET);

COURSE 2: THENCE SOUTH 88 DEGREES 51 MINUTES 54 SECONDS WEST ALONG THE NORTH  
LINE OF MARINCEK AND SHINER (Passing through a point in the centerline of State Line Road at  
25.00 feet and passing through a 1/2" capped iron pin set at 1204.85 feet from the State Line) A TOTAL  
DISTANCE OF 2498.70 FEET TO AN INACCESSIBLE POINT IN A SWAMP IN THE EAST LINE OF LOT  
19;

COURSE 3: THENCE NORTH 00 DEGREES 02 MINUTES 17 SECONDS EAST ALONG THE EAST  
LINE OF LOT 19 (Passing through a 1 1/2" capped iron pin set at 1549.33 feet) A TOTAL DISTANCE OF  
1772.89 FEET TO A 1/2" CAPPED IRON PIN SET AT THE SOUTHWEST CORNER OF LOT 1;

COURSE 4: THENCE NORTH 88 DEGREES 30 MINUTES 25 SECONDS EAST ALONG THE SOUTH  
LINE OF LOT 1 (Passing through a point in the centerline of State Line Road at 2431.55 feet) A TOTAL  
DISTANCE OF 2456.55 FEET TO THE PLACE OF BEGINNING AND CONTAINING 101.251 ACRES.

BEARINGS ARE TO AN ASSUMED MERIDIAN AND INDICATE ANGLES ONLY

AS PER SURVEY BY JERRY SLAY, OHIO SURVEYOR NUMBER 5298 DATED

OCTOBER 24, 2008

INTENT IS TO UPDATE PPN 45-001-00-002-00

THE CAPPED IRON PINS SET MARKED "SLAY 5298" ARE 1/2" X 30" (CROSS SECTIONAL AREA IS  
0.22 SQUARE INCHES)

Parcel number 45-001-00-002-00

BUCKEYE TITLE  
PICK UP

LT

In compliance with Sec. 319.202  
R.C. and Sec. (F) 319.54 R.C.,  
effective January 1<sup>st</sup>, 1968

ASHTABULA COUNTY  
DESCRIPTION  
APPROVED FOR  
CONVEYANCE

DATE: 12-2-13  
BY: Jm  
AUDITOR

TRANSFERRED  
Auditor, Ashtabula County, Ohio

DEC 2 2013

Roger A. Carlet, CPA

EXHIBIT A