DECLARATION OF COVENANTS, RESTRICTIONS AND ENVIRONMENTAL EASEMENT

This Declaration of Covenants, Restrictions and Environmental Easement ("DCR & EE") is made this 21st day of December, 2017, by and between de maximis, inc., having an address at 450 Montbrook Lane, Knoxville, Tennessee, 37919 ("Grantor"), and the People of the State of New York, acting through their Commissioner of the New York State Department of Environmental Conservation ("NYSDEC") with its Central Office, located at 625 Broadway, Albany, New York 12233 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of a parcel of land located in the Town of Lincklaen, County of Chenango, State of New York, more particularly described on Exhibit A attached hereto and made a part hereof together with any buildings and improvements thereon and appurtenances thereto ("Property"); and

WHEREAS, the Property is part of the Solvent Savers Superfund Site ("Site"), the location of a former chemical waste recovery facility, which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, as set forth in Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300, by publication in the Federal Register on September 8, 1983; and

WHEREAS, in a Record of Decision dated September 29, 1990 and an Amendment to the Record of Decision dated September 29, 2006 (collectively the "ROD"), EPA Region 2 selected, and NYSDEC concurred with, a response action for the Site, which provided, in part, for the following actions:

- Removal and off-site disposal or treatment of impacted soils, in accordance with the EPA-approved Soil Remedial Design Report and Remedial Action Work Plan dated October 2012;

- Remediation of impacted groundwater using groundwater extraction, treatment, and on-site reinjection or surface water discharge; and

- Implementation of EPA-approved engineering and institutional controls.

WHEREAS, the construction activities associated with the remedial action have been completed at the Site by November 20, 2014 and groundwater remediation and long-term monitoring activities are ongoing; and
WHEREAS, the parties hereto have agreed that Grantor shall grant to the Grantee this permanent Declaration of Covenants, Restrictions and Environmental Easement pursuant to Title 36 of Article 71 of the Environmental Conservation Law (“ECL”), including but not limited to providing a right of access over the Property for purposes of implementing, facilitating and monitoring the response action; and to impose on the Property, restrictions that will run with the land for the purpose of protecting human health and the environment; and

WHEREAS, Grantor wishes to cooperate fully with the Grantee in the implementation of all response actions at the Site.

NOW, THEREFORE:

1. **Grant:** Grantor, on behalf of itself, its successors and assigns, for ten dollars and other good and valuable consideration, receipt whereof is hereby acknowledged, does hereby give, grant, covenant and declare in favor of the Grantee that the Site shall be subject to this DCR & EE and Grantor does further give, grant and convey to the Grantee and EPA the perpetual right to enforce said restrictions, covenants, right of access and Environmental Easement, all of which shall be of the nature and character, and for the purposes hereinafter set forth, with respect to the Property.

2. **Purpose:** It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, facilitate the remediation of past environmental contamination and to impose use restrictions and covenants to protect human health and the environment by reducing the risk of exposure to contaminants.

3. **Restrictions:** The following restrictions apply to the use of the Property, run with the land and are binding on the Grantor and its successors in title and assigns:
   - Restriction of any excavation below the soil cover's demarcation layer at 2 feet below ground surface unless the excavation activities are in compliance with the EPA-approved SMP.
   - Restriction of any new construction at the Site unless an evaluation of the potential for vapor intrusion is conducted and mitigation, if necessary, is performed in compliance with the EPA-approved SMP; and
   - Restriction of the use of groundwater at the Site as a source of potable or process water unless groundwater quality standards are met.
   - Restriction of the use of the former concrete stabilization pad unless conducted in accordance with the EPA-approved SMP.

4. **Modification or termination of restrictions, covenants and easement:** The restrictions and easement specified in the preceding paragraph of this instrument may only be modified or terminated, in whole or in part, in writing, by the Grantee, provided, however, that any modification or termination of said restrictions shall not adversely affect the remedy selected by EPA and NYSDEC for the Site. If requested by the Grantor, such writing will be executed by Grantee in recordable form. Any request by Grantor for a modification or termination of this
instrument shall be made in writing by Grantor to NYSDEC and to EPA in accordance with paragraph 15 of this instrument. Any modification or termination must be recorded within 30 days in the Chenango County Clerk’s Office.

5. **Right of access:** Grantors hereby conveys to Grantee and EPA, including their contractors and representatives, a right of access to the Property at all reasonable times for the following purposes, which shall run with the land and be binding on Grantor, their successors and/or assigns, and on any tenants or any other parties having an interest in and/or rights to the Property:

   a) Implementing the response actions in the ROD;
   
   b) Verifying any data or information relating to the Site;
   
   c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
   
   d) Conducting investigations under CERCLA or the ECL relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils; and
   
   e) Implementing additional or new response actions under CERCLA or ECL.

6. **Reserved rights of Grantor:** Grantor hereby reserves unto itself, its successors, and assignees, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights, covenants and easements granted herein.

7. **Federal authority:** Nothing in this document shall limit or otherwise affect EPA’s rights of entry and access, or EPA’s authority to take response actions under CERCLA, the NCP, or other federal law.

8. **State authority:** Nothing herein shall constitute a waiver of any rights the State may have pursuant to the Environmental Conservation Law, regulations and/or relevant provisions of statutory or common law.

9. **No public access and use:** No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

10. **Public notice:** Grantor, on behalf of itself, its successors and assigns, agrees to include in each instrument conveying any interest in any portion of the Property, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:
NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF COVENANTS, RESTRICTIONS AND ENVIRONMENTAL EASEMENT, DATED ______, 20__, PURSUANT TO TITLE 36 OF ARTICLE 71 OF THE NEW YORK ENVIRONMENTAL CONSERVATION LAW, AND RECORDED IN THE CHENANGO COUNTY CLERK'S OFFICE ON ________, 20__, IN BOOK ______, PAGE ____, IN FAVOR OF, AND ENFORCEABLE BY, THE PEOPLE OF THE STATE OF NEW YORK AND BY THE UNITED STATES OF AMERICA AS THIRD-PARTY BENEFICIARY.

Within 30 days of the date any such instrument of conveyance is executed, Grantor agrees to provide Grantee and EPA with a certified true copy of said instrument and, if it has been recorded in the public land records, its recording reference.

11. Enforcement: The Grantee and EPA shall be entitled to enforce the terms of this instrument by resort to specific performance. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Any forbearance, delay or omission to exercise Grantee's and EPA's rights under this instrument in the event of a breach of any term of this instrument shall not be deemed to be a waiver by the Grantee and EPA of such term or of any of the rights of the Grantee and EPA under this instrument.

12. Breach: Grantee shall notify Grantor of a breach or suspected breach of any of the terms of this Environmental Easement. Such notice shall set forth how Grantor can cure such breach or suspected breach and give Grantor a reasonable amount of time from the date of receipt of notice in which to cure. At the expiration of such period of time to cure, or any extensions granted by Grantee, the Grantee shall notify Grantor of any failure to adequately cure the breach or suspected breach, and Grantee may take any other appropriate action reasonably necessary to remedy any breach of this Environmental Easement, including the commencement of any proceedings in accordance with applicable law.

13. Damages: Grantee shall also be entitled to recover damages for breach of any covenant or violation of the terms of this instrument including any impairment to the remedial action that increases the cost of the selected response action for the Site as a result of such breach or violation.

14. Waiver of certain defenses: Grantor hereby waives any defense of laches, estoppel, or prescription.

15. Covenants: Grantor hereby covenants that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it, or any interest therein, and that the Property is free and clear of encumbrances.

16. Notices: Any notice, demand, request, consent, approval, or communication under this instrument that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:
To Grantor:  
de maximis, inc.  
450 Montbrook Lane  
Knoxville, TN 37919

To Grantee:  
Office of General Counsel  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, New York 12233-5500

NYS Department of Environmental Conservation  
Division of Environmental Remediation  
Site Control  
625 Broadway  
Albany, New York 12233

A copy of each such communication shall also be sent to EPA in the same manner as to Grantor or Grantee, and addressed to the following addresses:

Chief, Eastern New York Remediation Section  
New York Remediation Branch  
Emergency and Remedial Response Division  
U.S. Environmental Protection Agency, Region 2  
Attn: Solvent Saver Superfund Site Remedial Project Manager  
290 Broadway, 20th Floor  
New York, New York 10007-1866

Chief, New York Caribbean Superfund Branch  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 2  
Attn: Solvent Saver Superfund Site Attorney  
290 Broadway, 17th Floor  
New York, New York 10007-1866

17. General provisions:

a) Controlling law: The interpretation and performance of this instrument shall, with respect to the Declaration of Covenants, Restrictions and Environmental Easement, be governed by the laws of the State of New York, and with respect to other matters, shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the State of New York.

b) Liberal construction: Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the grant to effect the purpose of this instrument and the policy and purpose of CERCLA. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.
c) **Severability:** If any provision of this instrument, or the application of it to any person or circumstance, is found to be invalid, the remainder of the provisions of this instrument, or the application of such provisions to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

d) **No forfeiture:** Nothing contained herein will result in a forfeiture or reversion of Grantors' title in any respect.

e) **Joint obligation:** If there are two or more parties identified as Grantor herein, the obligations imposed by this instrument upon them shall be joint and several.

f) **Successors:** The covenants, easements, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property. The term “Grantor”, wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as “Grantor” and their personal representatives, heirs, successors, and assigns. The term “Grantee”, wherever used herein, and any pronouns used in place thereof, shall mean the People of the State of New York acting through their Commissioner of NYSDEC or through any successor department or agency of the State of New York.

g) **Captions:** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

h) **Counterparts:** The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

i) **Third-Party Beneficiary:** Grantor and Grantee hereby agree that the United States, through EPA shall be third-party beneficiaries of the benefits, rights and obligations conveyed to Grantee in this instrument; provided that nothing in this instrument shall be construed to create any obligations on the part of the United States.

18. **Recordation:** Grantor shall record this instrument, within thirty (30) days of execution of this instrument by the Commissioner or her/his authorized representative in the office of the recording officer for the county or counties where the Property is situated in the manner prescribed by Article 9 of the New York State Real Property Law.

TO HAVE AND TO HOLD unto the Grantee and its assigns forever.
IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name.

Executed this 7th day of November, 2017

GRANTOR:

By: Michael A. Miller

Title: Chief Operating Officer

Grantor’s Acknowledgment

STATE OF TENNESSEE
COUNTY OF

On the 7th day of November, in the year 2017, before me, the undersigned, personally appeared Michael A. Miller, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as Chief Operating Officer of de maximis, inc., and that by his signature on the instrument, the Grantor, de maximis, inc., upon behalf of which the individual acted, executed the instrument.

[Signature]
Notary Public - State of Tennessee
THIS ENVIRONMENTAL EASEMENT AND DECLARATION OF RESTRICTIVE COVENANTS IS HEREBY ACCEPTED BY THE PEOPLE OF THE STATE OF NEW YORK, Acting By and Through the Department of Environmental Conservation as Designee of the Commissioner.

By: Robert W. Schick, Director
Division of Environmental Remediation

Date: 12/21/17

Grantee’s Acknowledgment

STATE OF NEW YORK )
COUNTY OF ) ss:

On the 21st day of December, in the year 2017 before me, the undersigned, personally appeared Robert W. Schick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity as designee of the Commissioner of the State of New York Department of Environmental Conservation, and that by his signature on the instrument, the People of the State of New York, upon behalf of which the individual acted, executed the instrument.

David J. Chiusano
Notary Public, State of New York
No. 01CH5032146
Qualified in Schenectady County
Commission Expires August 22, 2018
EXHIBIT A
To
Environmental Easement and Declaration of Restrictive Covenants

Description of Property
The Property is located in the Town of Lincklaen, Chenango County, New York known and designated on the tax map of the Town of Lincklaen as tax map parcel number section 50 block 1 lot 8.3, being the same as that property conveyed to Grantor by deed on October 4, 1978, and recorded in the Land Records of the County Clerk at Page 348, Liber 585 Book of Deeds on October 16, 1978, comprised of approximately 12.8 acres, and more fully described below.

ALL THAT TRACT AND PARCEL OF LAND, situate on the East side of Union Valley Road in Lot No. 19 of the Town of Lincklaen, County of Chenango and State of New York, being bound and described as follows:

BEGINNING at a point where the North line of Lot No. 19 intersects the centerline of Union Valley Road, said point being located South 03° 33' West a distance of 110.45 feet from a culvert crossing said road;

Thence running South 82° 14' East a distance of 722.46 feet ± to a point in the Northeast corner of Farm Lot 19, Town of Lincklaen;

Thence running South 08° 16' West along the east line of Farm Lot 19 in said Town a distance of 806.35 feet more or less to a point;

Thence running North 82° 14' West a distance of 675.89 feet more or less to a point in the centerline of Union Valley Road;

Thence running North 08° 22' East along said centerline a distance of 236.48 feet to a point;

Thence running North 03° 33' East along said centerline a distance of 571.40 feet to the place of beginning and containing 12.81 acres of land, more or less.
EXHIBIT B
To
Environmental Easement and Declaration of Restrictive Covenants

Description of Portions of Property When Development or Use has been Restricted

(See attached as-built survey of Property depicting restricted-use areas)