

# Terms & Conditions

EFFECTIVE DATE: 11/01/2022

## Smart EPD TERMS AND CONDITIONS AGREEMENT (T&Cs)

The Smart EPD™ information website and web platform ("**Site**"). Smart EPD provides information on its Site to anonymous non-members ("**VISITORS**") and offers enhanced, special access to Smart EPD registered customers ("**CUSTOMERS**") in good standing, all subject to the following Terms. Your use of the Software and your access to the Site is subject to these Terms. Please read these Terms carefully before using the Software and accessing the Site.

### ACCEPTANCE OF TERMS

By accessing and using the Site and/or clicking the "I Agree" to the use of cookies (VISITORS) and/or when you register (CUSTOMERS), you acknowledge that you have read and understood these Terms and that you accept and agree to be legally bound by the Terms. We may collect information which may be deemed personal data information in some countries, about you and/or the way you use this Site or Software. If you are using the Site or Software on behalf of an organization as a Smart EPD registered customer, you are agreeing to these Terms for that organization and promising that you have the authority to bind that organization to these Terms. In that case, "you" and "your" will refer to that organization. If you do not agree to these Term, you should not access or use the Site or Software.

Your agreement with Smart EPD to use the Site or Software will always include, at a minimum, the Terms set forth herein. These shall be referred to as the "**Master Terms.**" If you register as a Smart EPD registered customer, in addition to these Master Terms, your agreement with Smart EPD will also include the terms and conditions in the sections entitled Customers Only Terms and these shall be referred to as the **Additional Terms.** If there is any conflict between these Master Terms and any Additional Terms, then the Additional Terms shall take precedence with respect to that service. The Master Terms and Additional Terms shall collectively be referred to as the "**Terms.**"

### CHANGES TO TERMS

Smart EPD reserves the right to modify, amend, update, or delete these Terms at any time and for any reason without notice to you. Any such modifications, amendments, updates or deletions will be effective immediately upon posting to the Site, and we will note near the top of this page the date that such changes were made and/or when they become effective. Your continued use of the Site or Software after such posting shall be deemed to constitute acceptance by you of the changes. Also, Smart EPD may change or discontinue any aspect, service, online program or feature of or on the Site or Software, including the ability to search and access technical

product documents, to utilize project folders and to request direct technical assistance from product suppliers (collectively, the "**Services**") at any time as we refine, add or remove features (e.g., content, availability, functionality, etc.).

#### ELECTRONIC SIGNATURE AND DISCLOSURE CONSENT NOTICE

You agree to the use of electronic documents and records in connection with your registration for the Site or Software and all future documents and records in connection with the Site including without limitation this electronic signature and disclosure notice and that this use satisfies any requirement that we provide you these documents and their content in writing. If you do not agree, do not accept these Terms. To receive or access electronic documents and records, you must have the following equipment and software: (a) a device that is capable of accessing the Internet; (b) an Internet browser that supports 128-bit SSL encryption, such as Microsoft Internet Explorer 8 and higher, Firefox 20 and higher, Chrome 25 and higher; and (c) software that permits you to receive and access Portable Document Format or "PDF" files, such as Adobe Acrobat Reader 8.0 or higher, Microsoft Office, and email. To retain documents and records, your device must have the ability to download and store PDF files. Your access to this page verifies that your system and device meets the above receipt, access, and retention requirements. Your clicking on the "Login" button indicates your signature and your acceptance of this notice and these Terms.

#### COOKIES AND MARKETING MATERIALS

Smart EPD uses "cookies" to provide its services and to improve the interactive experience of visitors and users to the services provided by the Site and Software. "Cookies" are a small text file placed in the web browser of the visitor or user by Smart EPD's web server. These cookies do not collect personally identifiable information and cannot read data off of the hard disk of the visitors or users or read cookie files created by other sites. Smart EPD uses cookies to identify which areas of its Site or Software are visited so those pages may be readily accessible during subsequent visits and to better personalize the content that is seen. Preference and option configurations in the web browser of a visitor or user determine if and how a cookie will be accepted. Visitors and users can change those options at any time as they so desire.

Smart EPD often uses e-mail and other forms of communications to respond to inquiries that it receives and to provide information and materials to visitors, users and the public. Smart EPD often saves the content of e-mails and other communications to it in order to help Smart EPD better run its business. Smart EPD values feedback about our software and services, and it may, from time to time, send e-mails or direct communications to registered users (CUSTOMERS). In addition, Smart EPD, its third-party partners, and third-party advertisers may provide you with advertisements that you may see on the services or on other affiliated Web sites. To improve the relevancy and help measure the effectiveness of such advertisements, Smart EPD partners may use cookies, Web beacons, clear gifs or similar technologies. These are used to record users' online activity, such as the pages visited, and to learn what types of information are of most

interest to the user's information and materials regarding activities of Smart EPD and its suppliers and affiliates (including promotions related to services) may be sent to visitors, users and the public.

Such marketing communications will be provided to registered users with the appropriate "opt-in" option as required of Smart EPD. Should a person so receiving such a communication later choose to opt-out of receiving promotional communications from Smart EPD, such a person must send Smart EPD written notice of such request as specified below.

### THIRD PARTY COOKIES

We embed third party functionality into our website:

- Google Analytics is used to analyze traffic on our website;
- YouTube is used to play video content on our website; and
- Google Maps is used to provide map functionality on our website.

These third parties may set functionality and analytical cookies on the Site which are necessary or useful to make their services work on the Site. These cookies are set by the third parties; Smart EPD only allows them to do so by including their services in the Site. However, the data controllers of the personal data, to the extent personal data is collected by those cookies, are those third parties. Google/YouTube does not allow users to set cookie preferences. See <https://www.google.com/policies/technologies/cookies/>. You can change your third party cookie preferences by setting your browser settings in a way that you are informed if cookies are downloaded on to your computer or mobile device and that you are able to decide on: the acceptance of certain cookies in certain cases; a general acceptance; or rejection. Please be aware that in case of a rejection of third party cookies, the functionality of the third party services on our Site may be impaired for you.

### PRIVACY NOTICE

Most cookies may constitute personal information. Our Privacy Policy contains more information on how we may use, handle and disclose your personal information, how you can access your personal information and request the correction of your personal information, how you can complain about a breach of the law and how we will deal with that complaint.

### HOW YOU MAY USE THE SITE

You agree to use the Site and Software only for lawful purposes and as permitted by these Terms, and not to engage in any conduct that restricts or inhibits any other user from using or enjoying the Site or Software. You shall not post on or transmit through the Site or Software: any defamatory or abusive statements; statements that threaten the persons of others; advertising or other forms of solicitation; or statements that are bigoted, hateful, racially offensive, or that

endorse or advocate illegal activity. You agree not to engage in any conduct in connection with your use of the Site or Software that is anti-competitive, deceptive or otherwise in violation of any law including those governing competition or trade practices. You further agree not to tamper with the Site or Software or their functionality. You shall not post or transmit any information, file or software that contains a virus, worm or any other potentially contaminating or destructive information, data or feature.

#### SUGGESTIONS SUBMITTED TO SMART EPD THROUGH THE SITE

By submitting ideas, suggestions, documents, and/or proposals ("**Suggestions**") to Smart EPD through its suggestion or feedback pages, by email, or by phone or by otherwise providing Suggestions to Smart EPD, you acknowledge and agree that: (a) your Suggestions do not contain confidential or proprietary information; (b) Smart EPD is not under any obligation of confidentiality, express or implied, with respect to the Suggestions; (c) Smart EPD may use or disclose (or choose not to use or disclose) your Suggestions for any purpose, in any way, in any media worldwide; (d) Smart EPD may have something similar to the Suggestions already under consideration or in development; (e) your Suggestions automatically become the property of Smart EPD without any obligation of Smart EPD to you and you hereby assign to Smart EPD all right, title and interest (including all intellectual property rights) in such Suggestions; and (f) you are not entitled to any compensation or reimbursement of any kind from Smart EPD under any circumstances.

#### INTELLECTUAL PROPERTY

The materials, information and other content contained on the Site and Software ("**Content**"), including data collection, product and project management and monitoring algorithms, are proprietary to and owned exclusively by Smart EPD, its affiliates and/or third parties. Without limiting the generality of the foregoing, Smart EPD and/or its affiliates own copyright in the selection, coordination, arrangement and enhancement of such Content. This Content is protected under federal and state intellectual property laws and international treaties. You acknowledge that you do not acquire any ownership rights in the Content by use of the Site or Software. Smart EPD grants you a limited, revocable, non-exclusive and non-transferable license to use and display the Content only on your computing device and only for those limited purposes associated with your interaction with the Site or Software. Except as expressly stated herein, you have no right to copy, download, display, perform, decompile, reverse engineer, reproduce, distribute, transmit, modify, create derivative works of, edit, alter or enhance any of the materials in any manner. You agree not to "frame" or "mirror" the Site or Software, or any Content contained on or accessible from the Site or Software, on or from any other server or device without the advanced written authorization of Smart EPD. You also agree not to access (or attempt to access), or systematically retrieve data from, any part of the Site or Software through any automated means (including use of scripts, bots or web crawlers). Gathering data from the Site or Software through harvesting or automated means is strictly prohibited.

This limited license terminates automatically, without notice to you, if you breach any of these Terms. This limited license may also be terminated at any time in Smart EPD's sole discretion. You may also terminate this license at any time by ceasing to use the Site or Software.

#### TRADEMARKS AND OTHER INTELLECTUAL PROPERTY RIGHTS

Smart EPD, the Smart EPD logo, SPOT, and all related product and service names, design marks and slogans are the proprietary trade names, trademarks, service marks and/or registered domain names of Smart EPD or its affiliates. Other trade names, trademarks, service marks and domain names contained on the Site and Software are the intellectual property of their respective owners. Any product, process, or technology described in the materials on the Site may be the subject of other intellectual property rights owned by Smart EPD or other parties and are not licensed hereunder. Unless otherwise expressly provided to you in writing by Smart EPD such as when authorized pursuant to a separate agreement between you and Smart EPD or its affiliates which may authorize you to use a Smart EPD trademark ("Certification Agreement") and in accordance with the **Smart EPD Brand Guidelines**, you are not granted any right or license to use any trade name, trademark, patent or other intellectual property right of Smart EPD, its affiliates or any other party.

You further agree that any and all information obtained by you during reverse engineering and/or decompiling activities, including but not limited to, the organization, logic, algorithms and processes of Smart EPD shall be deemed to be the confidential and proprietary information of Smart EPD or its licensors. Without further remuneration (except for your out-of-pocket expenses) and whether or not these Terms are in effect, you shall, at Smart EPD's request, execute and deliver to Smart EPD or its affiliates or its licensors any documents and give all reasonable assistance which may be essential or desirable to secure to, assign, and vest in Smart EPD or its affiliate or licensors, the sole and exclusive right, title, and interest in and to all such Smart EPD information.

#### COUNTRY SPECIFIC RESTRICTIONS

The Site is hosted by Smart EPD from the United States. Smart EPD makes no representation that the Site is appropriate or available for use at other locations outside of the United States. Access to the Site from territories where the Site's content is illegal is prohibited. If you access the Site from a location outside of the United States, you are responsible for compliance with all applicable laws. You may not use the Site or export information and materials in violation of the export laws of the United States or any other country.

#### CONSENT TO MONITORING AND DISCLOSURE

Smart EPD is under no obligation and does not assume any obligation to monitor the information residing on or transmitted to or from the Site. Smart EPD undertakes no obligation to determine whether your conduct during your use of the Site or Software complies with applicable laws or

regulations. However, you agree that Smart EPD may in its sole discretion monitor the Site and Software in connection with its operation in order to protect users of the Site and Software and comply with applicable laws, regulations or requests from governmental authorities. Unless otherwise prohibited by applicable law, confirmed in writing by Smart EPD or covered as confidential in the Privacy Policy, all information provided by you to Smart EPD in connection with the Site and Software shall be deemed not to be confidential, and Smart EPD will not protect any such information from disclosure.

While Smart EPD does not sell, transfer or provide your personal information to third parties unless permitted above, Smart EPD may provide aggregate and other information to third-parties. Such information does not personally identify individuals, but instead provides a helpful understanding of the groups of people, including firms and organizations, who prefer certain types of information and services. Smart EPD may also collect general data pertaining to every visitor to its Site and user of Software, including, but not limited to, the IP location, the domain name, the Web page, the length of time spent on the Software and/or Site, project locations and the data pages accessed while visiting the Site and Software (the "Data"). This information may be collected to, among other things: aggregate statistical information, facilitate system administration, and manage and improve Smart EPD services. The Data will not be considered your information of confidential information and Smart EPD shall be free to use, disclose, and distribute such Data to third parties without limitation.

TO BE CLEAR, by registering and providing personal information to us or through the Software and Site, all users, including, but not limited to, users in the European Union, fully understand and consent to the collection and processing of such information in the United States of America. Furthermore, you are advised that Smart EPD may disclose personally identifiable information as well as non-personal identifiable information to operate its business and to respond to and address legal process, for example, in response to a court order or a subpoena. We also may disclose such information in response to government and law enforcement agency's request, or where we believe it is necessary to investigate, prevent, or take action regarding illegal activities, suspected fraud, situations involving potential threats to the physical safety of any person, violations of our terms of use, or as otherwise required by law. In addition, we may transfer information about you if we are acquired by or merged with another company

#### SITE REFERENCES AND LINKS

References on the Site and/or Software to any such products or services or the inclusion on the Site of links to, or frames of, the web sites or computer systems of any third parties does not constitute or imply an endorsement by Smart EPD of such products, services, web sites or systems. Smart EPD makes no representation or warranty and disclaims all liability with respect to, and is not responsible for the quality of, the products, services, web sites or computer systems provided by third parties that may be referred to on, or accessible through, the Site or Software. The linked sites are not under the control of Smart EPD, and Smart EPD is not responsible for the content available on any other websites linked to through the Site or

Software Smart EPD provides links to other web sites as a convenience to users, and access to any other websites linked is at your own risk.

## DISCLAIMER

YOU ASSUME ALL RESPONSIBILITY AND RISK FOR THE USE OF THE SITE AND SOFTWARE, THE CONTENT AND THE INTERNET GENERALLY. THE CONTENT PROVIDED ON THE SITE AND THROUGH THE SOFTWARE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, NON INFRINGEMENT, OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ALL SUCH WARRANTIES ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT ALLOWED BY LAW. NEITHER Smart EPD NOR ITS AFFILIATES WARRANT THAT THE CONTENT ON THE SITE, THE SOFTWARE, OR ON THE INTERNET GENERALLY WILL BE UNINTERRUPTABLE OR ERROR FREE OR THAT ANY SYSTEMS, SOFTWARE INFORMATION, BIM OBJECT YOU CREATE OR OTHER MATERIAL ACCESSIBLE ON OR THROUGH THE SITE SERVER IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. NO ADVICE OR CONTENT, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM Smart EPD OR THROUGH THE SITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY MADE IN THESE TERMS. Smart EPD AND ITS AFFILIATES DO NOT ASSUME ANY LEGAL LIABILITY OR RESPONSIBILITY FOR THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY INFORMATION DISCLOSED ON THE SITE, SOFTWARE, OR OTHER CONTENT ACCESSIBLE THROUGH IT. Smart EPD EXPRESSLY DISCLAIM ALL REPRESENTATIONS AND WARRANTIES THAT ANY TRADEMARKS, SERVICE MARKS, CERTIFICATION MARKS, LABELS, TEXT, GUIDANCE OR OTHER CONTENT ON THE SITE WILL COMPLY WITH THE GREEN GUIDES, 15 USC SEC 45, OR OTHER APPLICABLE LAWS AND REGULATIONS, AND IN NO EVENT SHALL Smart EPD HAVE ANY LIABILITY IN CONNECTION THEREWITH. Smart EPD DOES NOT PROVIDE LEGAL ADVICE, AND NO Smart EPD PROVIDED SERVICE OR DELIVERABLE SHALL BE CONSTRUED OR INTERPRETED AS LEGAL ADVICE. IT IS YOUR SOLE RESPONSIBILITY TO COMPLY WITH THE US FTC ACT, THE GREEN GUIDES AND ALL OTHER APPLICABLE LAWS AND REGULATIONS REGARDING ENVIRONMENTAL MARKETING CLAIMS AND PRACTICES, AND YOU SHOULD CONSULT LEGAL COUNSEL FOR ADVICE ON THIS TOPIC.

SMART EPD SHALL NOT BE RESPONSIBLE FOR ANY LOSS OR DAMAGE CAUSED, OR ALLEGED TO HAVE BEEN CAUSED, DIRECTLY OR INDIRECTLY, BY THE INFORMATION OR IDEAS CONTAINED, SUGGESTED OR REFERENCED ON THE SITE, INCLUDING WITHOUT LIMITATION PRODUCT INFORMATION PROVIDED. YOU EXPRESSLY UNDERSTAND AND AGREE THAT Smart EPD, ITS SUBSIDIARIES AND AFFILIATES, AND EACH OF THEIR RESPECTIVE TRUSTEES, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS, PARTNERS, CONTENT PROVIDERS AND LICENSORS SHALL NOT BE LIABLE TO YOU FOR DAMAGES OF ANY KIND, INCLUDING ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER RESULTING FROM LOSS OF USE, DATA, OR PROFITS, WHETHER IN AN ACTION OF CONTRACT, NEGLIGENCE OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THE

USE OR PERFORMANCE OF THE INFORMATION ON OR ACCESSED THROUGH THE SITE OR THE INTERNET GENERALLY.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF MAY NOT APPLY TO YOU. IN SUCH STATES, SMART EPD'S LIABILITY SHALL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

#### LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, INCLUDING WITHOUT LIMITATION TORT, CONTRACT, OR OTHERWISE, SHALL SMART EPD, ITS LICENSORS OR RESELLERS BE LIABLE TO YOU OR ANY OTHER PERSON FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER ARISING FROM OR RELATED TO YOUR LICENSE, TERMINATION OF THE LICENSE, OR USE OF THE SITE AND/OR SOFTWARE, INCLUDING WITHOUT LIMITATION DAMAGES ARISING FROM LOSS OF GOODWILL, LOSS OF DATA OR PROGRAMMING, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOSS OF REVENUE OR PROFITS OR FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSSES, EVEN IF SMART EPD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Smart EPD'S LIABILITY FOR DAMAGES FOR ANY CAUSE WHATSOEVER SHALL BE LIMITED TO THE LESSER OF THE AMOUNT PAID BY YOU TO Smart EPD FOR THE SOFTWARE OR ACCESS TO THE SITE OR \$1,000. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO THE EXTENT APPLICABLE LAW PROHIBITS SUCH LIMITATION.

#### INDEMNIFICATION

You agree to indemnify and hold Smart EPD, its subsidiaries and affiliates, and each of their respective trustees, officers, employees, agents, contractors, partners, content providers and licensors harmless from any claim or demand made by any third party, and to pay as incurred all liability, losses, damages, and other costs associated with the same (including reasonable attorneys' fees), due to or arising out of: (A) Suggestions, product information or other information you submit, post, transmit, modify or otherwise make available through the Site and/or Software; (B) your use of the Site and/or Software; (C) your violation of these Terms; or (D) your violation of any rights of another.

#### TERMINATION

Smart EPD may terminate, limit, or suspend your access to the Site and/or Software at any time without notice to you. Grounds for such termination, limitation of access or suspension include without limitation: (A) breaches or violations of these Terms (including any Additional Terms); (B) requests by law enforcement or other government agencies; (C) discontinuance or material



modification to the Site and/or Software (or any part thereof); (D) unexpected technical or security issues or problems; and/or (E) engagement by you in fraudulent or illegal activities. Further, you agree that all terminations, limitations of access and suspensions for cause shall be made in Smart EPD's sole discretion and that Smart EPD shall not be liable to you or any third party for any termination of your account, any associated email address, or access to the Site and/or Software. All provisions of these Terms relating to intellectual property rights, Smart EPD's privacy policy, representations and warranties, limitations of liability, and indemnification shall survive termination.

## GOVERNING LAW

These Terms will be governed by the laws of the Commonwealth of Virginia, United States of America, without reference to its choice of law principles. Subject to the below dispute resolution provision, and without limiting its scope, you consent to the exclusive jurisdiction in the state courts and federal courts of competent jurisdiction in Fairfax County, VA or the U.S. District Court for the Northern District of Virginia, for any claims or disputes that are determined not to be subject to resolution by arbitration, as provided in the dispute resolution provision below.

## DISPUTE RESOLUTION

Any dispute or disagreement relating to these Terms will be settled by confidential, binding arbitration administered by the International Centre for Dispute Resolution of the American Arbitration Association ("AAA") pursuant to the AAA Commercial Arbitration Rules and the Procedures for Large, Complex Commercial Disputes. The arbitration venue will be Fairfax County, VA. The arbitration will be conducted before a panel of three (3) arbitrators. Each arbitrator will be an individual with substantial commercial transactional experience of at least fifteen (15) years in a corporate or judicial legal setting. The arbitration panel will be selected as follows: you and Smart EPD will request a list of ten (10) arbitrators drawn from the AAA's panel of commercial arbitrators (to be experienced in and familiar with the AAA's Procedures for Large, Complex Commercial Disputes). From this list, both parties will each choose one arbitrator. After they have been notified of their panel selection, the two (2) arbitrators will agree on a third arbitrator from the list of ten (10), who will be the chair of the panel, and the panel will be final. The decision of the majority of the arbitrators will be the panel's decision. The arbitrators will not have the authority to add change, or disregard any provision in these Terms, award incidental, consequential, or punitive damages (including, but not limited to, loss of use, unjust enrichment, and/or lost profits), or exceed the limitation of liability provided for above. The panel's decision will be binding and judgment on the arbitration award may be entered by a court of competent jurisdiction. Arbitration will be the final remedy for any dispute between us arising out of these Terms, provided, however, that nothing herein shall prevent Smart EPD from seeking a court order such as for injunctive relief (in addition to other remedies) to stop or prevent misuse or misappropriation of its trademarks, confidential or proprietary information, or infringement of its intellectual property, in a court of law. All arbitrations shall be conducted in English.

## ENTIRE AGREEMENT

These Terms constitute the entire agreement between you and Smart EPD and governs your use of the Site and Software, superseding any prior version of these Terms between you and Smart EPD with respect to the Services, Software, and Site. You agree that, except as otherwise expressly provided in these Terms, there shall be no third-party beneficiaries to these Terms. The section titles in these Terms are for convenience only and have no legal or contractual effect.

## SITE SEPARATE AGREEMENTS

You may have other agreements with Smart EPD or its affiliates or subsidiaries not relating to your use of the Site and Software. Those agreements are separate and in addition to these Terms. These Terms do not modify, revise or amend the terms of any other agreements you may have with Smart EPD that do not relate to your use of the Site and Software. Please review the terms of those other agreements as they govern your relationship with Smart EPD and additional services that may be provided by Smart EPD through this Site or Software.

## STATUTE OF LIMITATIONS

You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the Site or these Terms must be filed within one (1) year after such claim or cause of action arose or be forever barred.

## WAIVER AND SEVERABILITY OF TERMS

The failure of Smart EPD to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision. If any provision of these Terms is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the Terms remain in full force and effect.

## GENERAL

You acknowledge that any breach, threatened or actual, of these Terms will cause irreparable injury to Smart EPD and/or associated partners, such injury would not be quantifiable in monetary damages, and Smart EPD would not have an adequate remedy at law. You therefore agree that Smart EPD shall be entitled, in addition to other available remedies, to seek and be awarded an injunction or other appropriate equitable relief from a court of competent jurisdiction restraining any breach, threatened or actual, of your obligations under any provision of these Terms. Accordingly, you hereby waive any requirement that Smart EPD post any bond or other security in the event any injunctive or equitable relief is sought by or awarded to Smart EPD to enforce any provision of these Terms.

You may not assign or delegate any or all of your rights or duties or obligations hereunder without the written consent of Smart EPD. Either party may waive in writing any term or any breach hereunder, but no such waiver shall constitute a further or continuing waiver of any preceding or succeeding breach of the same or any other provision. Each provision is intended to be severable. If any covenant, condition or other provision contained herein is held to be invalid or illegal by any court of competent jurisdiction, such provision shall be deemed severable and shall in no way affect, impair or invalidate any other covenant, condition or other provision contained herein. All notices or other communications to you which are required or are permitted to be given hereunder shall be in writing and shall be deemed given upon e-mail or facsimile transmission, as per information provided by you upon entering into these Terms via registration.

## NOTICE

To contact Smart EPD, whether with regard to a question about its privacy practices, to notify Smart EPD of an update or change to information, or otherwise, either:

Email: Smart EPD at: [admin@smartepd.com](mailto:admin@smartepd.com)

Write Smart EPD by mail at: Smart EPD LLC  
Attn: General Counsel  
585 Grove St., Ste. 145 PMB 966, Herndon, VA 20170, USA

## ADDITIONAL TERMS FOR CUSTOMERS

### CUSTOMERS ONLY TERMS

This section states the additional terms and conditions under which Smart EPD provides access to members, those individuals that choose to register with Smart EPD to use the enhanced features on the Site ("**Customers**") and shall be referred to as the ("**Customers Only Features**"). These terms and conditions shall be referred to as the "**Customers Only Terms**" and constitute an agreement between Customer and Smart EPD.

### RELATIONSHIP TO MASTER TERMS

The Customers Only Terms are in addition to the Master Terms and together such terms and conditions govern Customers's use of the Site and any Services. Any reference to "you" or "your" in the Master Terms shall be deemed a reference to Customer. In the event of a conflict between these Customers Only Terms and the Master Terms, the Customers Only Terms shall govern. To the extent reasonably possible, the Master Terms and Customers Only Terms shall be construed in such a manner so as to give practical and legal effect to both sections.

### CUSTOMER'S PROFESSIONAL INFORMATION

All Customers will be required to submit information to Smart EPD that identifies the Customer's professional role, such as Customer's name, company or industry affiliations, physical location, phone numbers, mailing addresses, and email addresses ("**Customer's Professional Information**") via the Site registration pages in order to gain access to the Customer's Only Features or to use certain Services ("**Customer Registration Pages**").

Customer represents and warrants to Smart EPD that all of Customer's Professional Information disclosed on the Customer Registration Pages is true, complete and accurate as of the date provided to Smart EPD. Without limiting the generality of the foregoing representation and warranty, Customer represents and warrants that he/she has provided true, complete and accurate information regarding Customer's profession and has disclosed all of Customer's employment affiliations and relationships including (a) Customer's relationship as an employee, agent and/or contractor for each employer, and (b) Customer's affiliation with other employers through an ownership interest in or joint venture relationship or similar relationship with those employers. Customer agrees to promptly update Customer's Professional Information during the term of this Agreement in the event Customer's affiliations or relationships with employers change or as otherwise necessary to keep Customer's Professional Information accurate and complete.

#### SHARING OF CUSTOMER'S PROFESSIONAL INFORMATION

Smart EPD reserves the right, without notice to Customer, to share all of Customer's Professional Information with any product supplier whose information, documents or materials are accessed by Customer on or through the Site. Customer hereby consents to the disclosure of Customer's Professional Information to such product suppliers and acknowledges that, once this information is disclosed to those suppliers, Smart EPD will have no control over, nor will Smart EPD be responsible for, the use or further disclosure of Customer's Professional Information by any product suppliers.

#### CUSTOMER LOGIN PROCEDURE

In order to access the Customers Only Features and to use certain Services, Customers will be required to enter a user name and password on the logon page to access the Customers Only Features. Customer shall access the Customers Only Features only through the logon page provided by Smart EPD and shall not permit any other person or entity to log onto the Customers Only Features using Customer's user name or password. Customer shall ensure that he/she/they logs off from his/her/their account at the end of each session in the Customers Only Features. Customer agrees not to disclose Customer's user name or password to any other person or entity and shall hold Customer's user name and password in confidence during the term of this Agreement. In the event Customer determines that another party has gained access to Customer's password or user name, or that another party has accessed the Customers Only Features using Customer's user name or password, Customer shall immediately notify Smart

EPD of such access. In such event, Smart EPD shall delete Customer's old user name and password and, in its sole discretion, issue a new user name and password to Customer.

Access to and use of password protected and/or secure areas that relate to other Companies is prohibited. Unauthorized access to such areas may lead to civil liability and criminal prosecution. User IDs and passwords are confidential and proprietary. It is a violation of these Terms for a User to share or otherwise disclose a password or ID, or to use an ID and password for any unauthorized purposes. You and your Company are solely responsible for any unauthorized use of your ID and password. In addition, the Company is responsible for any individual or entity that it invites and authorizes to access the CUSTOMER ONLY sections on its behalf, including without limitation, any materials submitted by such individual to Smart EPD or changes made to the Company's profile or product information. If any User ceases to work for or represent a Company, Company must deactivate that User's account (via the Project Owner described in the Customer section or via the My Projects members section) or promptly notify Smart EPD and request deactivation of that individual's account. Both your Company and Smart EPD have the right to deactivate any User account at any time, without notice, in their sole discretion

#### ACCURACY OF CONTENT NOT WARRANTED

Smart EPD uses reasonable efforts to accurately publish and categorize product information and other Content on the Site. However, Smart EPD does not guarantee the accuracy or completeness of such Content, nor does Smart EPD warrant that the categorization of such Content is correct. Customer acknowledges and agrees that he/she is responsible for determining the accuracy and completeness of all Content published on the Site, including without limitation whether the categorization of such Content is correct. In the event Customer becomes aware of any material inaccuracy of any Content published or categorized on the Site, Customer shall promptly notify Smart EPD of such inaccuracy, and Smart EPD will take reasonable steps to correct any Content it determines in its sole discretion to be inaccurate or incomplete. Smart EPD shall not be responsible for any Content provided by product suppliers or other parties that is accessed through the Site and shall have no obligation to correct any such Content.

#### LIMITED USE OF INFORMATION

Smart EPD grants Customer a limited, nontransferable, nonexclusive, revocable right to access the Customers Only Features solely for the purpose of using the Services. Customer agrees not to (and not allow any third party to) copy, modify, decompile, reverse engineer, create a derivative work of, sell, assign, sublicense, or grant a security interest in, or otherwise transfer any right in or to, the Customers Only Features. Customer is not permitted to distribute or transfer any portion of the Customers Only Features to other parties. You also agree not to access (or attempt to access), or systematically retrieve data from, any part of the Customers Only Features through any automated means (including use of scripts, bots or web crawlers).

Gathering data from the Customers Only Features through harvesting or automated means is strictly prohibited.

#### UPLOADING OF MATERIALS

Registered users have the ability to upload materials in the Customers Only Features (such as My Projects) and the Smart EPD Web Portal which allows Customers to upload information and documentation ("Customer Materials").

It is a violation of these Terms for you to upload or post any Customer Materials:

- (a) that you do not have the right to transmit under any law or under contractual or fiduciary relationships;
- (b) in violation of an applicable law or regulation (including those relating to export controls);
- (c) that contain any virus or malware; or
- (d) that are not accurate, truthful, up to date and complete.