

Kelleher, Helmrich and Associates, Inc.

GENERAL SERVICES CONTRACT

Kelleher, Helmrich and Associates, Inc. (“KHA”), an Indiana Corporation, and “Customer”, each in consideration of the promises of the other and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree as follows. KHA reserves the right to modify this TOS from time to time without notice or acceptance by “Customer”.

- §1. **Services.** During the “Contract Term” (as defined in §2), “KHA” shall perform Services as defined in Addendum A (“Service” or “Services”) on behalf of the “Customer” under the terms and conditions defined herein.
- §2. **“Contract Term”.** The term for furnishing the “Services” (“Contract Term”) shall commence on “Effective Date” and shall terminate on “Expiration Date (as defined in §122) unless sooner terminated in accordance with §5.
- §3. **Description of “Services”.** Beginning on “Effective Date” “KHA” will provide “Services” for the “Customer”.
- **Payment for “Services”.** In exchange for the “Services”, the “Customer” will pay “KHA” or “Collection Party” (as defined in §4) according to the schedule defined in Schedule B.
- §4. **Assignment of Payments** “KHA” reserves the right to assign the collection of payments for “Services” to a 3rd party (“Collection Party”) according to the payment schedule and terms defined in §3. “KHA” shall notify “Customer” within 30 days of said assignment, specifying the effective date and the name, and remit to address of “Collection Party”.
- §5. **Remedies.** In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform any provision, term or condition of this “Contract” (including without limitation the failure to make a monetary payment when due), the other party may terminate the “Contract” by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 30 days from the effective date of such notice to cure the default(s). Unless waived by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this “Contract”.
- §6. **Warranty.** “KHA” shall provide its “Services” and meet its obligations under this “Contract” in a timely and workmanlike manner, using knowledge and recommendations for performing the “Services” which meet “KHA”’s acceptable standards and will provide a standard of care equal to, or superior to, care used by service providers similar to “KHA” on similar projects.
- §7. **Entire Contract.** This “Contract” contains the entire contract of the parties, and there are no other promises or conditions in any other contract whether oral or written concerning the subject matter of this “Contract”. This “Contract” supersedes any prior written or oral contracts between the parties.
- §8. **Severability.** If any provision of this “Contract” will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this “Contract” is invalid or unenforceable, but that by limiting such provision it

would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

§9. **Amendment.** This “Contract” may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

§10. **Governing Law.** The parties expressly agree that this “Contract” shall be governed by the laws of the State of Indiana; that this “Contract” was entered into in the City of Hammond, County of Lake, State of Indiana; and that the Common Pleas Court of Lake County, Indiana shall have jurisdiction over the parties to the “Contract”.

§11. **Notice.** Any notice or communication required or permitted under this “Contract” shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

§12. **Effective Date and Term.** This “Contract” shall be effective as the date of the signed quote and effective through the expiration two years later

Addendum A: Description of Services

This addendum provides a description of the services provided by Kelleher Helmrich and Associates, Inc., to the Customer in accordance with the General Services Contract to which this is attached.

Online-MSDS Services

§13. KHA will perform “Indexing and Scanning Services” (as described herein) for Customer.

§14. KHA will provide Software Updates, chemical database updates, and technical telephone support for the period Online-MSDS services are provided

§15. Customer will provide a TCP/IP connection to the Online-MSDS service at KHA.

§16. KHA will provide “MSDS Update Services” (as described herein) during the period of this contract.

§17. KHA will provide Customer with access to MSDSWarehouse.com web site.

§18. Other Services:

- KHA will provide “Web Hosting Services” (as described herein)
- KHA will provide “FaxBack Services” (as described herein) on a service shared by other KHA customers, if purchased.

MSDS Indexing and Scanning Services

§19. KHA will Scan and Index the Customer's MSDSs provided to KHA and place them into KHA's Online-MSDS Management software system. Electronic MSDSs shall be stored in PDF format as individual image files representing each Multi-Page MSDS. KHA will index the following fields depending on level of service purchased. Please refer to the Online-MSDS data sheet for details.

Web Hosting Services

§20. KHA will host the Customer's MSDS on KHA's Internet Web Site known as "Online-MSDS". This service will be made available only to individuals and organizations to which the Customer promotes and provides access information. The service provides around-the-clock web access to the Customer's MSDSs only and is restricted to the designated users through the use of access codes and/or firewall protection as prescribed by the "Customer"

Technical Support

§21. KHA will provide Technical telephone support for Online-MSDS products. Support is provided during normal business days between the hours of 9:00 AM and 4:00 PM Central Time.

§22. Support not provided under a Technical Support Agreement will be billed on a per incident basis. One telephone call may be more than one incident.

Fax on Demand Services (Optional Service, requires separate purchase)

§23. KHA will host the Customer's MSDS on KHA's automated fax-on-demand system known as Online-MSDS / FaxBack. This service shall be made available only to individuals and organizations to which the "Customer" promotes and provides the required telephone numbers and access codes (if applicable). The Online-MSDS / FaxBack is designed to provide around-the-clock, access to the Customer's MSDSs for callers accessing the system, without operator intervention. This "Service" is provided according to the terms in §24 through §2426 below.

§24. Online-MSDS / FaxBack is a completely automated service that provides callers with the ability to search for MSDSs and have them faxed back to the caller.

§25. KHA will host the Customer's MSDSs on KHA's Standard Shared Online-MSDS / FaxBack Server. Callers will be required to specify an access code that will direct the server to the Customer's dedicated MSDS Database.

§26. Upgrades and changes to the Online-MSDS / FaxBack server may occur at times for the purposes of improving the Online-MSDS / FaxBack service. Customer will not be charged for these changes. KHA will notify the Customer when these changes take place.

MSDS Update Services

§27. During the contract term, KHA will update the Customer's MSDS database with revised MSDS

documents received by KHA according to the processes and procedures described hereunder.

- §28. New and Revised MSDS Documents will be added to the Customer's MSDS database consistent with the data and image format described in "MSDS Indexing and Scanning Services". Images that are replaced will be archived electronically.
- §29. Customer will provide MSDS documents to KHA for implementation into the Customer's MSDS database.
- §30. KHA will solicit and attempt to acquire best available replacement MSDSs for MSDSs which have not been received / revised in a three year time frame.

BloodHound Service (MSDS Search & Retrieval)

- §31. KHA will attempt to acquire the latest available MSDSs, as designated by the Customer, from the best available sources, and deliver electronic versions of the located MSDSs to the Customer according to the terms in §382 through §388 below.
- §32. The Customer shall provide to "KHA" a list of "MSDSs" required, noting for each "MSDS" the complete "Product Name", "Manufacturer" and "Revision Date", from which "KHA" shall attempt to locate and deliver to Customer for the sole purpose of maintaining the Customer's repository of "MSDSs".
- §33. "KHA" will expend its best and reasonable effort in Locating "MSDSs" and providing them to the Customer in a reasonable timeframe.
- §34. The Customer shall provide to "KHA" information about the "MSDSs" necessary to successfully locate the "MSDS".
- §35. Two distinct tasks (1. "Locating an MSDS", and 2. "Delivery of MSDS" to Customer) will be performed by "KHA", each of, which will be billable according to the payment schedule as defined in Addendum B. Both tasks are defined hereunder:
- §36. **"Locating an MSDS"** shall consist of but not limited to the following:
- "KHA" will attempt to locate the most current "MSDS" using one of several sources available, the principal source being the manufacturer or the originator of the "MSDS".
 - If all reasonable attempts fail to locate an "MSDS" from a manufacturer, "KHA" will check other sources and deliver to the Customer the most current "MSDS" available.
 - "KHA" in its standard methods and procedures shall attempt to retrieve the best quality "MSDS" available.
 - In so much that attempts to locate an "MSDS" may not be successful, that the fee for "Locating MSDSs" will be charged according to the payment schedule as defined in Addendum B.
- §37. **"Delivery of "MSDS"** shall consist of but not limited to the following:
- "MSDSs" will be provided to the Customer through the Online-MSDS service or through email if not an Online-MSDS customer.

- Where an older version of an MSDS has better quality than a more recent MSDS, the more recent MSDS shall be delivered.
- If electronic MSDSs are provided, these will be in standard PDF formats.
- “KHA” is not responsible for the quality or content of the Customer’s MSDS repository. The Customer has the responsibility for accepting delivered “MSDS” from “KHA”, and in doing so, relieves “KHA” from liability and will hold “KHA” harmless.

§38. Customer Responsibilities. Both parties agree that:

- The Customer has the responsibility for checking the quality and content of MSDSs before accepting delivery of MSDS. Once accepting the MSDS, Customer and not “KHA” has the sole legal obligation to produce “MSDSs”, on demand, for its employees, contractors, or any person or persons who may come into contact with hazardous materials.
- . **Indemnification** Customer agrees that it shall indemnify and save “KHA” harmless from any claim, cost, loss, expense or damage of any nature whatsoever, including attorney’s fees, resulting directly or indirectly from law suits in which the Customer’s MSDS repository is an issue to said suit.

Definitions:

The following definitions shall apply where appearing herein:

- **“MSDS” or “Material Safety Data Sheet”**: A legal document generated by or under the direction of a producer of hazardous and non-hazardous materials. A single document usually (but not necessarily) represents a single material manufactured or produced by a single manufacturer. An “MSDS” is identified by its “Product Name” and “Manufacturer”.
- **“Product Name”, “Manufacturer”, “Revision”, “Ingredients”,** etc. defines data that usually (but not necessarily) appears within an “MSDS”.
- **“Ingredients”**: Includes a list of compounds listed on the MSDS, each which may contain a **“CAS Number”, “Percentage”** and **“Compound Description”**, all of which are data that may appear within an “MSDS”.
- **Indexing and Scanning** (of MSDSs) is a process of placing electronic versions of MSDSs onto a computer network for the purpose of retrieval and archive. Scanning involves digitizing hardcopy MSDSs or implementing already digitized MSDSs into industry standard multi-page format acceptable to the Customer. Indexing involves data entry of Product Name, Manufacturer, Revision and other data as explicitly defined in the contract.