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**CREDIT APPLICATION / BILLING INSTRUCTIONS  
AND CONTINUING PERSONAL GUARANTY**

EOS Remediation, LLC (Seller)

Exact Business Name (Purchaser) \_\_\_\_\_

Street Address \_\_\_\_\_ Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_ County \_\_\_\_\_

Business Phone (\_\_\_\_) \_\_\_\_\_ FAX Number (\_\_\_\_) \_\_\_\_\_

Proprietorship  Partnership  Corporation  Joint Venture  Non-Profit Org.  Ltd. Liability Company

Date This Business Commenced \_\_\_\_\_

Type of Business \_\_\_\_\_

Business Property is:  Leased, From Whom \_\_\_\_\_  Owned, By Whom \_\_\_\_\_

**PRINCIPALS, OWNERS, PARTNERS, AND / OR OFFICERS**

Name \_\_\_\_\_ Title \_\_\_\_\_ Social Security # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Home Address \_\_\_\_\_ Home Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Social Security # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Home Address \_\_\_\_\_ Home Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_ Social Security # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Home Address \_\_\_\_\_ Home Phone (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

List other current business names \_\_\_\_\_

If any of the principals were in business before, please provide business name, location, date and list the reason for discontinuing:

**TRADE REFERENCES**

List 4 Suppliers where you have an Active Account:

Name	City, State	Account Number	Telephone
_____	_____	_____	(____) _____
_____	_____	_____	(____) _____
_____	_____	_____	(____) _____
_____	_____	_____	(____) _____

**BANK REFERENCES**

Name of Bank	City, State	Account Number	Telephone
_____	_____	_____	(____) _____
_____	_____	_____	(____) _____

The undersigned certifies the above information to be true and correct, that it is submitted for the purpose of obtaining credit and agrees to the Terms and Conditions of Sale of Seller (see attached) and any changes to those terms which may occur in the future, all of which are herein incorporated by reference. The undersigned further authorizes Seller to request and receive credit reports from credit bureaus and other credit service organizations regarding the undersigned's personal credit for the purpose of investigating the Purchaser's business and its eligibility for commercial credit. The undersigned consents to an investigation into the creditworthiness of the Purchaser.

**PLEASE ATTACH A COPY OF PURCHASER'S MOST RECENT FINANCIAL STATEMENT**

\_\_\_\_\_  
Authorized Signature of Purchaser

By (Print or Type) \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

# EOS Remediation, LLC TERMS AND CONDITIONS

## GENERAL

Acceptance: The products specified on the order acknowledgement and/or invoice (the "Product") are offered by EOS Remediation, LLC, ("Seller" or "EOS Remediation") only to the buyer identified thereon ("Buyer"), only at the prices specified thereon, and only under the terms and conditions of sale stated herein. Seller hereby gives notice of its objection to any different or additional terms and conditions other than those set forth herein.

Confidentiality: In the event that trade secrets, EOS® Product formulations or proprietary information of EOS Remediation are disclosed to the Buyer; the Buyer agrees to keep this knowledge or information confidential and the Buyer shall not disclose such confidential and/or proprietary information to a third party(ies), person(s), corporation(s) or employee(s) of such entities without prior written permission from EOS Remediation. The Buyer further agrees not to use such knowledge or information to develop products or assist a third party(ies), person(s), corporation(s) or employee(s) of such entities others in development of products that could compete with EOS® Products or with EOS Remediation.

"Reverse Engineering": The Buyer agrees not to perform actions that could enable the Buyer, a third party(ies), person(s), corporation(s) or employee(s) of such entities to duplicate, reformulate or imitate the EOS® Product sample(s).

Unavoidable Circumstances: Seller shall not be liable for delays in delivery or failure to manufacture or deliver due to causes beyond its reasonable control, including but not limited to acts of God, fires, strikes, flood, epidemic, war, riot, delays in transportation, or inability to obtain necessary labor, materials, components or services through normal supply channels at normal prices. In any such event, Seller may, at any time and from time to time, postpone the delivery dates under this contract or make partial delivery or cancel all or any portion of this and any other contract without further liability to Buyer. Seller shall give reasonable notice to Buyer, but notice shall not be a prerequisite to Seller's rights or relief as set out herein. Partial cancellation shall not affect Seller's right to payment for any Product delivered.

Payment Terms and Collection Charges: Sales are made to Open Accounts, only if requirements are met; otherwise, cash in advance. Terms for approved Open Accounts are net 15 days from the date of invoice unless otherwise agreed. Any amounts not paid are subject to a late charge of one and one-half percent per month or the highest amount allowed by law, whichever is less, whether before or after judgment. Buyer shall pay all costs of collection including reasonable attorney fees.

Taxes and Other Levies: Unless proof of exemption is provided by Buyer, sales tax will be added for all sales subject to North Carolina sales tax. Buyer shall be responsible for all use taxes, customs, import duties and all other taxes, and shall indemnify and hold Seller harmless from any claims arising therefrom.

Location, Governing Law, Jurisdiction and Construction: The contract of sale shall be deemed to have been concluded in North Carolina. Except where in conflict with International and United States law, this agreement shall be governed by the laws of the State of North Carolina. All prior understandings of the parties, whether oral or written, are incorporated herein, and no changes may be made except in writing signed by the party against whom enforcement is sought. In the event of conflict between this document and any terms, conditions or other qualifications provided in the Buyer's purchase order or other documents, this document shall control. If any portion of the Limited Warranty or these Terms and Condition are determined to be unenforceable, then the remainder shall be enforced without the unenforceable portion. To the extent permissible by law, the parties agree that any unenforceable provision shall be interpreted and rewritten to achieve the parties' intent. Unless otherwise agreed, all matters shall be heard in the Superior Court of Wake County, North Carolina.

## SALES

The sales of all Products sold by EOS Remediation are subject to the following Limited Warranty and Other Terms and Conditions.

### Limited Warranty

Seller warrants that the Product sold is as specified on the order acknowledgement and/or invoice. Seller makes no other warranty of any kind respecting the Product, and expressly disclaims all other warranties of whatever kind respecting the Product, including all warranties of merchantability and fitness for particular purpose. Buyer's sole remedy for breach of this limited warranty shall be refund of the purchase price of any unused product, provided that

any unused portion of the Product is promptly returned to Seller. Under no circumstances will Seller be liable for any consequential or other damages. Notice of defect or other breach shall be given to Seller by Buyer in accordance with the terms of the Uniform Commercial Code as adopted in North Carolina.

## **OTHER TERMS AND CONDITIONS**

**Resale and Other Use:** Buyer agrees to transmit a copy of these Terms and Conditions set forth herein to any and all persons to whom Buyer sells, or otherwise furnishes the Products and/or services provided Buyer by Seller and Buyer agrees to indemnify Seller for any liability, loss, costs and attorney's fees which Seller may incur by reason, in whole or in part, of failure by Buyer to transmit the Terms and Conditions as provided herein. Seller disclaims to the full extent permitted by law all warranties, expressed or implied, including any implied warranty of merchantability, fitness for any particular purpose or against infringement, to any person other than Buyer. Where warranties to a person other than Buyer may not be disclaimed under law, Seller extends to such a person the same warranty Seller makes to Buyer or lessee as set forth herein, subject to all disclaimers, exclusions and limitations of warranties, all limitations of liability and all other provisions set forth in this Limited Warranty and Other Terms and Conditions.

**Buyer's Responsibility and Indemnity:** By purchasing the Products from Seller, Buyer represents and warrants that it, its agents, subcontractors and other parties which may utilize the Products recognize the risks inherent to the use of the Products and that all appropriate personnel are trained and knowledgeable in the proper use and application of the Products purchased. Instructions, technical advice, or other information provided by Seller are provided as guidelines for the convenience of Buyer only and should not be construed as substitute for appropriate engineering and geologic design by qualified professionals. Requirements for use and the effectiveness of the Products will vary according to the specific circumstances and Seller shall not be responsible for the effectiveness of the Product, including, but not limited to, the prevention of the spread of environmentally hazardous material. Buyer agrees to defend and indemnify Seller of and from any and all claims or liabilities asserted against Seller in connection with the manufacture, sale, delivery, resale, or repair or use of any goods covered by or furnished hereunder arising in whole or in part out of or by reason of the failure of Buyer, its agents, servants, employees or Buyers to follow instructions, warnings or recommendations furnished by Seller in connection with such goods, by reason of the failure of Buyer, its agents, servants, employees or Buyers to comply with all federal, state and local laws applicable to such goods, or the use thereof, including the Occupational Safety and Health Act of 1970, or by reason of the negligence of Buyer, its agents, servants, employees or Buyers. Buyer is solely responsible for disposal of unused Product and container(s) (e.g. drum, tote, bucket, etc.) in accordance with all applicable federal, state and local regulations.

**Changes:** Seller reserves the right to change Product specifications and formulations without notice and without liability for such changes.

**Returns:** All Sales Are Final. No exchanges unless notated otherwise. Returns including those for warranty consideration must be shipped prepaid. Freight collect returns will not be accepted. Minimum restocking charge is 20%. Goods must be in original container and in saleable condition to be considered for restocking.

## **EOS® PROCESS AUTHORIZED USES**

The EOS® Process license of U.S. Patent No. RE40448 is included with the purchase of EOS® innocuous oil products sold by EOS Remediation, LLC and is provided to Buyer for the use of the products in accordance with the patented process.

When used to remediate aquifers contaminated with organic compounds, the EOS® Process and the EOS® innocuous oil product are authorized for use only under the following conditions:

1. The EOS® emulsified oil product is used for treatment of contaminated aquifers where nitrates either are not present or are present at non-contaminant levels;
2. The EOS® emulsified oil product is not injected through a heated bore; and
3. The EOS® emulsified oil product is not designed to rise through the plume and be extracted.

When used to remediate aquifers contaminated with nitrates, the EOS Process and the EOS® innocuous oil product are authorized for use only under the following conditions that:

1. The EOS® emulsified oil product is used for treatment of contaminated aquifers where organic compounds either are not present or are present at a non-contaminant levels;
2. The EOS® emulsified oil product is not injected through a heated bore; and
3. The EOS® emulsified oil product is not designed to rise through the plume and be extracted.

The above directions and limitations are provided so that the usage is consistent with the patents for the EOS® Process and the EOS® innocuous oil product. The EOS® Process and the EOS® innocuous oil product must therefore be used in accordance with EOS Remediation, LLC's recommended practices and procedures. Any other use is strictly prohibited without the written consent of Seller. If Buyer desires to use the EOS® Process and the EOS® innocuous oil products for other purposes, the Buyer must first contact EOS Remediation, LLC and set out in writing any proposed variation from the licensed use. Authorization for other uses may or may not be granted at the sole discretion of EOS Remediation, LLC

## **TECHNICAL SERVICES**

EOS Remediation agrees to provide personnel qualified to carry out the technical services set out in our proposal and/or order acknowledgement.

Buyer Control of Injection Point: Where EOS Remediation provides technical services, EOS Remediation acts as an independent contractor, but the Buyer shall at all times have complete care, custody and control of the injection point, the premises about the injection point, and the conditions created within the injection point. Although EOS Remediation personnel may be called upon to assist with the performance of certain tasks by the employees of the Buyer or others, Buyer shall constantly retain full control over all such employees and the performance of such tasks.

Liability: Where EOS Remediation provides technical services, Buyer shall defend, indemnify and save EOS Remediation harmless from all claims, loss, damage, demands, expenses and liabilities for injury or damage alleged to have been caused by EOS Remediation operations including, without limitation, (a) personal injury (including death); (b) subsurface damage or injury to the injection point and surface damage arising out of such subsurface damage, irrespective of the cause; (c) economic loss and business interruption; (d) damage attributable to spillage of pollutants or contamination and the cost of control and removal thereof. Buyer's indemnity shall apply whether such claims are made by Buyer, by Buyer's employees, or by third parties.

Loss and Damage of Equipment: Buyer agrees to pay for all damage to equipment occurring in the injection point, except where such damage results from gross or willful negligence on the part of EOS Remediation personnel. Buyer also agrees to make every reasonable effort to recover equipment lost in the injection point and to assume entire responsibility for fishing operations. EOS Remediation personnel are not authorized to do anything, other than consult in an advisory capacity, in connection with such fishing operations. Buyer shall reimburse EOS Remediation for the reasonable value of any lost equipment.

Liability for Delays: EOS Remediation shall not be liable for any loss, costs, expenses or damages resulting from any delay in arrival of its personnel at the site, or in commencement of work where such delay is due to causes not within EOS Remediation's reasonable control. Buyer acknowledges that the availability of certain personnel is subject to scheduling amongst Buyers. Accordingly, EOS Remediation shall not be liable for any delay resulting from a rescheduling or an extension of time on a prior scheduled order.

Travel and Accommodation: Buyer shall be responsible for all costs of travel, meals, and accommodation from the time EOS Remediation personnel leave EOS Remediation's premises until the time they return. All such costs, unless prepaid, will be billed at actual cost plus 15%.

Rescheduling: EOS Remediation will reschedule a Buyer order, without penalty, if a written request to reschedule is received 30 days prior to the scheduled arrival of personnel. On less than 30 days' notice to reschedule, EOS Remediation may invoice Buyer for rescheduling charges of up to 15% of the total contract price.

## **LEASE/RENTAL EQUIPMENT**

The following conditions apply to the rental equipment:

General: Buyer shall be responsible for the proper operation, care, maintenance and safety of the equipment during the rental period. Any personnel operating the equipment must be trained. Buyer shall be solely liable and shall indemnify EOS Remediation and its subcontractors for any loss, delay or damage of any kind occasioned by the operation, handling or transportation of the equipment during the rental period or while the equipment is in the possession or control of Buyer.

Damage, Loss, or Theft: Buyer will immediately cease using the equipment if it is damaged or in need of repair and will make any necessary repairs subject to the satisfaction of EOS Remediation. Buyer is responsible for payment of reasonable costs to repair or replace the equipment due to loss, theft or damage during the rental period. Identification of any possible damage is subject to inspection by EOS Remediation upon its return to EOS Remediation.

Service and Repairs: Buyer will not authorize or permit any repairs to be made to the equipment, without the prior consent of EOS Remediation.

Excessive Wear and Tear or Equipment Abuse: When operated properly, the equipment should experience minimal wear and tear during the rental period. If it is determined that upon receipt and inspection of the returned equipment there has been excessive wear and tear or abuse, Buyer will be charged for repair/replacement.

Liability: Buyer shall indemnify and save EOS Remediation harmless from all loss, damage, claims, demands, and liabilities that may arise directly or indirectly from or in connection with Buyer's possession, use or operation of EOS Remediation equipment. Buyer's indemnity shall apply whether such claims are made by Buyer, by Buyer's employees, or by third parties.

Title and Passage of Risk: Title and ownership of all equipment on rental or lease shall remain with EOS Remediation and Buyer agrees not to alter, change or duplicate equipment or parts thereof. When Buyer leasing equipment exercises an option to purchase, title shall pass from EOS Remediation to Buyer upon receipt by EOS Remediation of all monies required to purchase the equipment. Lease or rental equipment shall be used by Buyer only at the site and in the operations designated by Buyer in its order to EOS Remediation.

Warranties: EOS Remediation represents that its equipment and accessories are free from defects in materials and workmanship when shipped.

Agreement and Sub-Letting: Any agreement resulting from a Customer order, and the rights and duties in any such agreement shall not be assigned or sublet by Buyer without EOS Remediation's consent.