



**CREDIT APPLICATION**

OTTO Environmental Systems North America, LLC  
12700 General Drive  
Charlotte, NC 28273

Please send to Mark Bath Within 24 Hours to fax 704 583 9333 or email AR@otto-usa.com

**GENERAL INFORMATION** (please type or print):

BUSINESS NAME: \_\_\_\_\_ NAME ON BUSINESS LICENSE: \_\_\_\_\_

IF AFFILIATE/SUBSIDIARY, PARENT CO. (Name & Address) \_\_\_\_\_

EIN/FED I.D. NO.: \_\_\_\_\_ Monthly Line of Credit Required \_\_\_\_\_

Phone No. (\_\_\_\_) \_\_\_\_\_ Fax No. (\_\_\_\_) \_\_\_\_\_ WWW. \_\_\_\_\_

Billing Address	Shipping Address (if different)
Street	Street
City /State/Zip/Country	City /State/Zip/Country

ACCOUNTS PAYABLE CONTACT INFO.

NAME: \_\_\_\_\_

PHONE NO. ( ) \_\_\_\_\_ ext. \_\_\_\_\_

E-MAIL \_\_\_\_\_

Corporation - State Incorp. in: \_\_\_\_\_

Date Business Established \_\_\_\_\_

Sole Proprietor with Business certificate filed  
With City/Town/County/State of \_\_\_\_\_

Number of Employees \_\_\_\_\_

Partnership

Annual Gross Sales Volume \$ \_\_\_\_\_

Ltd.Partnership - State Cert. in: \_\_\_\_\_

Are Purchase Orders Used? Yes  No

LLC or LLP-State Cert. In: \_\_\_\_\_

Do you factor, pledge or assign your accounts receivable:

With Whom \_\_\_\_\_

Yes  No

**PRINCIPAL OWNERS, STOCKHOLDERS AND OFFICERS:**

\_\_\_\_\_  
Name, Title & % of Ownership

\_\_\_\_\_  
Name, Title & % of Ownership

\_\_\_\_\_  
Home Street Address

\_\_\_\_\_  
Home Street Address

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Home Phone

\_\_\_\_\_  
City/State/Zip

\_\_\_\_\_  
Home Phone

\_\_\_\_\_  
Name of Landlord & Lease Expiration Date

**BANKRUPTCY INFORMATION:** Has (i) Applicant; (ii) any predecessor of Applicant; (iii) any shareholder, partner, member or principal of Applicant or (iiii) Applicant, shareholder, partner, member or principal of any predecessor company, ever filed for bankruptcy or reorganization of any sort?  Yes  No When? \_\_\_\_\_

Case No. \_\_\_\_\_  Chapter 11  Chapter 7  Chapter \_\_\_\_\_

Court Name and Location \_\_\_\_\_ Other reorganization \_\_\_\_\_

**BANK REFERENCE** (full address & phone number must be entered):

Bank Name \_\_\_\_\_ Phone No. (\_\_\_\_\_) \_\_\_\_\_

Address \_\_\_\_\_ Fax No. (\_\_\_\_\_) \_\_\_\_\_

Bank Officer Name: \_\_\_\_\_

Account No.: \_\_\_\_\_  Checking  Savings  Line of Credit

Account No.: \_\_\_\_\_  Checking  Savings  Line of Credit

**TRADE REFERENCES** (Full addresses & phone numbers must be entered):

1. Name \_\_\_\_\_ Contact \_\_\_\_\_

Address \_\_\_\_\_

Phone No \_\_\_\_\_ Fax No. \_\_\_\_\_

Account No. \_\_\_\_\_ Payment Terms \_\_\_\_\_

2. Name \_\_\_\_\_ Contact \_\_\_\_\_

Address \_\_\_\_\_

Phone No \_\_\_\_\_ Fax No. \_\_\_\_\_

Account No. \_\_\_\_\_ Payment Terms \_\_\_\_\_

3. Name \_\_\_\_\_ Contact \_\_\_\_\_

Address \_\_\_\_\_

Phone No \_\_\_\_\_ Fax No. \_\_\_\_\_

Account No. \_\_\_\_\_ Payment Terms \_\_\_\_\_

**Dun & Bradstreet** Account No. \_\_\_\_\_

Is Your Company Tax Exempt YES \_\_\_\_\_ NO \_\_\_\_\_

**SALES AND USE TAX EXEMPTION CERTIFICATE – Please provide a copy of your most recent Certificate**

By providing Otto Environmental Systems North America, Inc. with a sales and or use tax exemption certificate the customer is attesting to the fact that the claimed exemption and certificate are valid. If the customer in any way misrepresents itself or the reason for the purchase in order to evade any sales and or use tax associated with the transaction, the customer shall be liable for the proper tax due.

State Tax ID Number: \_\_\_\_\_

State of Issue: \_\_\_\_\_

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

Reason for Exemption: \_\_\_\_\_

**CREDIT INFORMATION AUTHORIZATION RELEASE:** Applicant hereby authorizes the release of credit and other financial information, including, but not limited to, banking information, whether verbal or written, from the entities Applicant has specified in this Application to Otto Environmental Systems North America, Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

**MUST BE SIGNED BY AN OWNER OR OFFICER (AUTHORIZED AGENT) OF THE COMPANY**

## TERMS AND CONDITIONS OF SALE

NOTICE: THE OFFER, ORDER ACKNOWLEDGEMENT, ORDER ACCEPTANCE, OR SALE OF ANY PRODUCTS DESCRIBED ON THE FRONT SIDE OF THIS DOCUMENT IS SUBJECT TO AND CONDITIONED UPON ACCEPTANCE OF THE TERMS CONTAINED IN THIS INSTRUMENT. ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY PURCHASER ARE OBJECTED TO BY AND WILL NOT BE BINDING UPON OTTO ENVIRONMENTAL SYSTEMS NORTH AMERICA, LLC OR OCM SOLUTIONS, LLC (AS THE CASE MAY BE) ("OTTO") UNLESS SPECIFICALLY ASSENTED TO IN WRITING BY OTTO. UNLESS EXPLICITLY OBJECTED TO BY PURCHASER IN WRITING RECEIVED BY OTTO WITHIN FIVE (5) BUSINESS DAYS, THESE TERMS AND CONDITIONS OF SALE SHALL APPLY TO THIS OFFER, ORDER OF ACKNOWLEDGEMENT, ORDER ACCEPTANCE, OR SALE, WHETHER OR NOT THEY APPLIED TO A PRIOR PURCHASE BY PURCHASER. AS USED IN THESE TERMS AND CONDITIONS OF SALE, "PRODUCTS" MEANS THOSE PRODUCTS SET FORTH ON THE FRONT SIDE OF THIS DOCUMENT.

1. ACCEPTANCE. All orders received by Otto are subject to final acceptance or confirmation by Otto and no terms or orders are binding upon Otto until so accepted.

2. DELIVERIES. Unless otherwise specified by Otto in writing, all deliveries are F.O.B. Otto's place of business (UCC Terms). All deliveries shall be made via common carrier or some other reasonable means chosen by Otto. All risk of loss to Products sold shall pass to Purchaser upon delivery by Otto of such Products to a common carrier. Title to the Products shall remain with Otto until Purchaser pays the purchase price in full to Otto. Delivery is conditional on the timely receipt by Otto of documents necessary for the completion of the order, any down payment, and Purchaser's compliance with these terms and conditions. Delivery schedules represent Otto estimates only, and partial deliveries are permissible. Otto will use reasonable efforts to meet delivery schedules. Otto will not be liable for any delay in the performance of orders of contracts, or in the delivery or shipment of Products or for any damages suffered by Purchaser by reason of such delay. Delivery is subject to Purchaser maintaining credit satisfactory to Otto. Otto may suspend or delay performance or delivery at any time pending receipt of assurances, including full or partial prepayment or payment of any outstanding amounts owed, adequate to Otto in its discretion of Purchaser's ability to pay. Failure to provide such assurances shall entitle Otto to cancel this contract without further liability or obligation to Purchaser.

3. RECEIVING DELAYS. If for any reason Purchaser fails to accept delivery of any of the Products on the date set forth in the delivery schedules, or if Otto is unable to deliver the Products on such date because Purchaser has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Products shall pass to Purchaser and (ii) Otto, at its option, may store or arrange for a third party to store the Products until Purchaser picks them up, whereupon Purchaser shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

4. PRICES. Unless otherwise specified by Otto on the front side of this document, prices are quoted F.O.B. Otto's place of business (UCC Terms). Prices are subject to change by Otto without notice to Purchaser, and those prices set forth on the front side of this document will apply to the order. Prices do not include sales, use, excise, privilege, or any similar tax levied by any government, and Purchaser shall pay any such applicable tax. Upon the request of Otto, Purchaser shall provide Otto a tax exemption certificate acceptable to the appropriate taxing authorities.

5. TERMS OF PAYMENT. Unless otherwise specified by Otto on the front side of this document, the purchase price shall be due in full by Purchaser thirty (30) days of tender of delivery of the Products. Extension of credit, if any, may be changed or withdrawn by Otto at any time. Invoices not paid by their due date will be subject to carrying charges. Carrying charges shall accrue and be added to the unpaid balance in the amount of one and one-half percent (1-1/2%) per month of any overdue unpaid balance, or the maximum rate permitted by law, whichever is less. Purchaser shall reimburse Otto for the costs of collection, including, without limitation, reasonable attorneys' fees, of any overdue amount owed by Purchaser to Otto, and such collection costs shall also be subject to the carrying charges. Purchaser may not hold back or set off any amounts owed to Otto in satisfaction of any claims asserted by Purchaser against Otto.

6. RETURNED GOODS AND CLAIMS. Within ten (10) business days of delivery to Purchaser, Purchaser must give written notice to Otto of any claim by Purchaser based upon the condition, quantity, or grade of the Products sold or of any claimed nonconformity with the Purchaser's specifications, and the notice must indicate the basis of the claim in detail. Purchaser's failure to comply with this Paragraph shall constitute irrevocable acceptance by Purchaser of the Products delivered and shall bind Purchaser to pay to Otto the full price of such Products.

7. CANCELLATION/CHANGES. Purchaser may not cancel or change an order once placed with and accepted by Otto except with the prior written consent of Otto and upon terms that will indemnify Otto against any loss. Otto may correct mathematical or clerical errors.

8. WARRANTY. **OTTO IS SELLING TO PURCHASER THE PRODUCTS AND PURCHASER ACCEPTS THE PRODUCTS "AS IS," AND OTTO EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED CONDITIONS AND WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, CORRESPONDENCE WITH DESCRIPTION OR QUALITY, TITLE, QUIET POSSESSION AND NON-**

## INFRINGEMENT.

Descriptions, representations and other information concerning Products contained in Otto's catalogs, advertisements or other promotion materials or statements or representations made by Otto sales representatives or distributors shall not be binding upon Otto.

**In no case shall Otto be liable for any special, incidental or consequential damages based upon breach of contract, negligence, strict liability, tort or any other legal theory, even if Otto is notified of the possibility of such damages. In all cases, Otto's maximum liability arising out of or relating to these Terms and Conditions and any Purchase Order, regardless of the legal theory, shall not exceed the contract price actually paid by Purchaser in respect of the Products supplied by Otto to which such liability relates. Otto shall not be liable for any loss, damage, detention or delay due directly or indirectly to causes beyond its reasonable control, such as acts of God, acts of Purchaser, acts of civil or military authority, fires, strikes, floods, epidemics, war, riot, delays in transportation, government restrictions or embargoes, or difficulties in obtaining necessary labor, materials, manufacturing facilities or transportation due to such causes.**

9. INDEMNIFICATION. Purchaser will defend, indemnify and hold harmless Otto against all claims, losses, liabilities, damages and expenses on account of any damage to property or injury or death of persons caused by or arising out of or relating to Purchaser's (and/or any of Purchaser's employee's, agent's, affiliate's and customer's) distribution, storage, handling, use, or disposal of Products or caused by or arising out of: (i) any breach of contract by Purchaser; (ii) any tortious acts or omissions of Purchaser (and/or any of Purchaser's employees, agents, affiliates and customers); or (iii) any willful misconduct or any violation by Purchaser (and/or by any of Purchaser's employees, agents, affiliates and customers) of any applicable law, rule or regulation.

10. SECURITY AGREEMENT. Purchaser hereby grants to Otto a continuing purchase money security interest in all Products sold and/or delivered to it and to the proceeds thereof. Purchaser shall execute and deliver any financing statements and other documents that Otto may reasonably require for the perfection of Otto's security interest, and Purchaser hereby authorizes Otto to do all other acts reasonably necessary for the establishment, perfection, preservation, and enforcement of its security interest. Purchaser shall maintain adequate insurance against casualty, loss, fire, or theft of the Products for so long as the security interest is in effect.

11. LIMITATIONS. Any action by Purchaser under or relating to this Agreement or the Products sold must be commenced within one (1) year after such cause of action has accrued.

12. GOVERNING LAW; JURISDICTION. This Agreement, and any and all claims arising out of or related to this Agreement or any of the proposals, negotiations, communications or understandings regarding this Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina ("North Carolina") applicable to contracts made entirely within and wholly performed in North Carolina, without regard to its choice of law provisions. Any claim, action, suit or other proceeding initiated under or in connection with these Terms and Conditions or any Purchase Order may be asserted, brought, prosecuted and maintained only in any federal or state court in the State of North Carolina having jurisdiction over the subject matter thereof, and the parties hereby waive any and all right to object to the laying of venue in any such court and to any right to claim that any such court may be an inconvenient forum. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

13. CUMULATIVE REMEDIES; WAIVER. Except where specifically stated to the contrary, all remedies available to the parties for breach of this Agreement under this Agreement, at law or in equity, are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. No waiver by either party to this Agreement of any breach of any provision of this Agreement shall be deemed a course of conduct or a waiver of a subsequent breach of that or any other provision.

14. ENTIRE AGREEMENT. Otto and Purchaser acknowledge that these Terms and Conditions of Sale together with Otto's invoice, constitute the entire agreement between Otto and Purchaser with regard to the sale or transfer of the Products sold and supersede all prior oral or written statements of any kind made by the parties or their representative. These Terms and Conditions of Sale may not be amended, modified, or supplemented except by written agreement executed by Otto and Purchaser.

15. SEVERABILITY. If any portion of this Purchase Order is found by a court of competent jurisdiction to be invalid or unenforceable, this Purchase Order shall be construed in all respects as if the invalid or unenforceable portion had been omitted and all other portions are fully enforceable.

16. ACCOUNT CREDITS. In the event that the Purchaser is entitled to a credit because of a warranty claim or a price adjustment, Otto will honor the credit for a period of six (6) months from the date of the credit invoice. Any credits claimed after six (6) months will be deemed expired. Additionally, Otto will not provide cash for any claim for credit, but will only allow credits to be redeemed for product

Signature \_\_\_\_\_