

**GOPHER RESOURCE
TERMS FOR STANDARD PURCHASE ORDER**

1. **ACCEPTANCE.** Acceptance of any purchase order from Gopher Resources, LLC or its affiliate, EnviroFocus Technologies, LLC (as applicable, "Gopher") is subject to the exact terms set forth herein (the "Terms"). The delivery by Seller to Gopher of the goods described in the purchase order (the "Goods") and/or performance by Seller of the services described in the purchase order (the "Services") shall conclusively be deemed an unconditional acceptance by Seller of Gopher's purchase order and these Terms notwithstanding any provision in any acknowledgement, invoice, quotation or other document of any kind of or from Seller. Gopher may, in its discretion, revoke its purchase order at any time before acceptance by Seller.

2. **DELIVERY.** Seller is retained to provide the Services and/or supply the Goods as specified in the purchase order. Seller understands and agrees that Seller will first obtain express written authorization from Gopher prior to performing any additional services or incurring any additional expenses in connection with Seller's assignments and commitments hereunder.

2.1. The Services shall be provided and completed in accordance with the timing, schedule and/or deadlines set forth in the purchase order.

2.2. The Goods shall be delivered to the destination specified on the purchase order no later than the date set forth therein. Unless the purchase order specifies otherwise, all Goods are to be provided F.O.B. destination. All risk of loss or damage transit shall be borne by Seller. Any documents necessary to enable Gopher to obtain the Goods from the carrier when delivered will be mailed to Gopher at or prior to shipment.

3. **SELLER'S WARRANTIES AND REPRESENTATIONS.** Seller provides the following representations and warranties, which are cumulative and in addition to any other warranty provided by law or equity, with respect to the Goods, the Services and/or performance under the purchase order:

3.1. Seller warrants and represents that Seller will comply with and not violate any applicable laws in performing the Services.

3.2. Seller warrants and represents that each of Seller's employees, agents, or representatives assigned to provide the Services will have the proper skill, training, and background to perform the Services in a competent and professional manner.

3.3. Seller warrants and represents that Seller will use Seller's best and loyal efforts in performing Seller's duties under the purchase order.

3.4. Seller warrants and represents that Seller is fully qualified and available to provide the Services.

3.5. Seller warrants and represents that Seller will comply with all applicable Gopher policies while performing the Services including, without limitation, Gopher's workplace safety rules and nondiscrimination and harassment policies.

3.6. Seller warrants and represents that Seller holds, and at Seller's expense will maintain in good standing, all licenses, certifications, permits and the like, if any, which are required to perform under the purchase order.

3.7. Seller warrants and represents that Seller has disclosed any and all conduct and circumstances which could affect Seller's fitness to perform the Services, supply the Goods or be associated with Gopher.

3.8. Seller warrants and represents to Gopher and its customers that the Goods (a) will conform to all specifications, drawings, descriptions, and samples set forth in or referred to in the purchase order and any applicable governmental or regulatory standards, (b) will be new, (c) will be free from defects in material or workmanship, (d) will conform to any statements made on the containers or labels or

advertisements for such Goods, (e) will be adequately and properly contained, packaged, marked, and labeled, (f) will be merchantable, (g) will be free from design defects (except for any defects related to designs provided by Gopher), (h) will be free from any encumbrance, lien or claim, and (i) will conform in all respects to all samples.

3.9. Sale of the Goods by Seller shall not (and Gopher's use of the Goods shall not) infringe or misappropriate or contribute to the infringement or misappropriation of any patents, copyrights, trademarks, trade names, other intellectual property, or other proprietary rights.

3.10. If Seller knows or has reason to know the particular purpose for which Gopher intends to use the Goods, Seller warrants that such Goods will be fit for such particular purpose.

3.11. Seller's warranties shall run to Gopher, its successors, assigns and customers, and users of products sold by Gopher.

4. **INDEPENDENT CONTRACTOR.** Seller is an independent contractor and the purchase order shall be deemed to create any relationship of employment, agency, partnership, or joint venture between Seller and Gopher. Seller shall not enter into any agreement or incur any obligations on Gopher's behalf, or commit Gopher in any manner. Seller (including any of its employees or other workers) is not, nor shall be, deemed an employee of Gopher for any purpose, including without limitation any employee benefit plans or programs, income tax withholding, FICA or FUTA taxes, unemployment benefits, workers compensation benefits, or otherwise. As such, Seller (including any of its employees or other workers) is not eligible to participate in any Gopher-sponsored employee benefit plan or program maintained by Gopher, including without limitation health or dental insurance, life insurance, 401k or other retirement savings programs, workers compensation insurance, unemployment compensation coverage, or paid time off policies. As an independent contractor, Seller understands and agrees that Seller, and not Gopher, is responsible for and controls the means and manner by which the Services are completed by Seller. Such means and manner and their details are subject to Seller's sole discretion. Seller is responsible for the satisfactory and safe completion of the Services.

5. **PRICE; TERMS OF PAYMENT.** Seller warrants that prices and rates shown on the purchase order are complete, and that no additional charges of any type (including, but not limited to, charges for shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, and carting) shall be added without Gopher's express written consent. Terms of payment shall be as specified on the purchase order.

6. **INSPECTION OF GOODS.** Upon delivery, Gopher shall have a reasonable time within which to inspect the Goods before accepting or paying for them. If upon inspection Gopher determines that the Goods do not conform to the description on the front side hereof or any warranties contained herein, Gopher shall have the right to preserve and keep a sample of the Goods tendered for the purpose of having evidence of the kind and quality of the Goods tendered. In addition to the foregoing, Gopher may inspect the Goods during production at Seller's facilities during Seller's regular business hours. No inspection, test, acceptance or use of the Goods by Gopher shall affect Seller's warranties or Gopher's rights hereunder, and such warranties and rights shall survive any such inspection, test, acceptance or use.

7. **REJECTION OF GOODS.** In the event any Goods to be delivered hereunder fail to conform to the terms herein, or in the event delivery is not made as herein provided, Gopher may, at its option, reject the whole, or accept any unit or units and reject the rest. If Gopher rejects any part of the Goods delivered or tendered under a purchase order, it shall forthwith notify Seller in writing. Said notice of rejection shall specify all claimed defects and nonconformity in the Goods; provided however, that failure by Gopher to state a particular defect shall not preclude Gopher from relying upon the unstated defect to justify rejection or to establish breach.

8. **TERMINATION.** Gopher shall have the right to terminate, cancel or suspend, by written notice, in whole or in part, any purchase order. Except in case of termination by Gopher for a breach by Seller, allowance will be made for normal and reasonable expenses incurred by Seller prior to receipt of notice of cancellation, but Gopher will not be liable for any charges or expenses incurred by Seller in advance of the normal or reasonable lead time necessary to meet scheduled delivery dates nor for any expenses, charges or liability incurred subsequent to the giving of notice of cancellation.

9. **SAFETY** Seller is responsible for the safety of its personnel related to and during the performance of the Services at any site owned or operated by Gopher (each, a "Gopher Site") and Seller will take reasonable measures to ensure that it provides and maintains a safe working environment as required by applicable law. Seller shall ensure that its employees, before they begin the Services and throughout their work on the Services at any Gopher Site, are made aware of the requirements of all applicable safety and health regulations including those set by Gopher. Seller shall remove from the Gopher Site any of its employees, subcontractors or consultants that fail to abide by applicable health and safety regulations.

9.1. Seller shall not knowingly permit a hazardous, unsafe, unhealthy or environmentally unsound condition or activity to be conducted at any Gopher Site. If Seller becomes aware of any hazardous, unsafe, unhealthy or environmentally unsound condition at any Gopher Site, it shall promptly notify Gopher and take reasonable steps to eliminate, terminate, abate or rectify any condition over which Seller has control.

9.2. Gopher may, but is not obligated to, inspect at reasonable times, Seller's service and other records to ascertain Seller's compliance with the requirements of these Terms and the purchase order; provided however, neither the existence nor exercise of such right will relieve Seller of its responsibility for compliance with this the purchase order, to always use due care in the performance of the Services and for fulfilling all of its other obligations hereunder with respect to health and safety.

9.3. Seller shall promptly notify Gopher of any injury, death, loss or damage to persons, animals, or property, which is in any way related to the Services, even if such occurrence was not caused or consented to by Seller, its employees or agents.

10. **FORCE MAJEURE.** Failure of Seller to make or perform, or of Gopher to take or accept, all or any part of any deliverable set forth in the purchase order, if such failure is due to acts of God, war, labor difficulties, breakdowns or damage to Seller's facilities or Gopher's facilities, embargoes, shortages of transportation equipment and any other cause beyond a party's control, shall not subject such party to any liability to the other party; provided however, that in the event Seller is unable to meet the delivery or performance schedule set forth in the purchase order due to conditions beyond Seller's control, Gopher may, if it chooses and without liability to Seller, refuse shipment or any other schedule unless such schedule has been submitted to and approved by Gopher.

11. **PROPRIETARY INFORMATION CONFIDENTIALITY - ADVERTISING.** All information furnished by Gopher to Seller in connection with the purchase order shall be deemed confidential and Seller shall not disclose any such information to any other person, or use such information itself for any purpose other than performing under the purchase order. Seller shall not advertise or publish the fact that Gopher has contracted to purchase goods from Seller or have Seller provide Services to Gopher, nor shall any information relating to the purchase order be disclosed without Gopher's express written permission.

12. **INDEMNIFICATION.** Seller shall defend, indemnify and hold Gopher, and Gopher's customers harmless from and against any and all claims, expenses (including reasonable attorneys' fees), liabilities, damages, expenses, or losses suffered or incurred by Gopher (or its

customer(s)) as a result of, relating to or arising out of: (a) a claim that any Goods infringe on any patent, trademark, copyright or other intellectual property right of any person or entity, or (b) a breach of the warranties set forth in Paragraph 3 of these Terms. Gopher may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Seller.

13. **INSURANCE.** Seller shall carry and maintain all requisite insurance in adequate amounts of coverage, including without limitation workers compensation insurance as required by law. Neither the existence of insurance coverage or the assent of Gopher to the types or limits of insurance carried by Seller shall be deemed a waiver or release of its responsibilities or liabilities under the purchase order. With respect to workers' compensation claims, only, against Seller, Gopher or any of its members, officers, agents or employees, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations in these Terms shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Seller under any applicable workers' compensation laws or regulations.

14. **WORK FOR HIRE.** All right, title and interest, including copyright rights and other intellectual property rights, in and to any work product, including, but not limited to, any reports, drawings, photographs, data, documents and specifications, whether in paper, electronic or other form (together, the "Work Product") which may be conceived, created or developed as a result of or in connection with the purchase order and/or the Services, and all intellectual property rights therein, are and shall be the sole and exclusive property of Gopher. Seller expressly and irrevocably assigns to Gopher all of Seller's right, title and interest in and to the Work Product. Without limiting the foregoing, Seller retains its intellectual property rights in and to the specifications, calculations, tools, ideas, know-how, documents, data, software, and other intellectual property which are in Seller's ownership prior to commencement of the Services and which are used, included in or relied upon in Seller's preparation of the Work Product. Seller grants to Gopher a non-exclusive, worldwide, royalty-free, perpetual, irrevocable license, with a right to grant sublicenses, to use, in connection with Gopher's use of the Work Product, any such pre-existing items or intellectual property of Seller which are embedded in such items or necessary for any such use.

15. **NON-WAIVER.** Waiver by either seller or Gopher of a breach by the other of any provision of the purchase order shall not be deemed a waiver of future compliance therewith, and such provision shall remain in full force and effect.

16. **MODIFICATION.** With the exception of express warranties made by Seller to Gopher which are not set forth herein, this writing is intended by Seller and Gopher as a final and complete expression of their agreement as to the subject matter hereof, and shall supersede all prior oral or written negotiations, understandings or agreements with respect thereto. The purchase order may be modified or rescinded only by a writing signed by the duly authorized agents of the parties. The express terms hereof shall not be varied by any course of dealing, performance or usage of trade. ACCEPTANCE OF THE PURCHASE ORDER IS EXPRESSLY LIMITED TO THE TERMS HEREOF. ANY DIFFERENT, CONFLICTING OR ADDITIONAL TERMS IN ANY INVOICE, SALES ACKNOWLEDGMENT OR OTHER DOCUMENT PROVIDED OR OFFERED BY SELLER ARE HEREBY EXPRESSLY REJECTED.

17. **ASSIGNMENT.** The purchase order may not be assigned by Seller, nor may Seller delegate its duties and obligations under it, without the prior written consent of Gopher.

18. **GOVERNING LAW/FORUM SELECTION.** The purchase order shall be construed and interpreted in accordance with the laws of the State of Minnesota without reference to the principles of conflict of laws. Any proceedings arising from or related to breach of the purchase order shall be brought only in the state or federal courts

located in the State of Minnesota. Seller hereby consents to the jurisdiction of such courts over any such actions.

19. **GRATUITIES.** Seller warrants that neither it nor any of its employees, agents or representatives has offered or given any gratuities to Gopher's employees, agents or representatives with a view toward securing the purchase order or securing favorable treatment with respect thereto.

20. **CLASS ACTION WAIVER.** Seller understands and agrees that, in the event there is any dispute or claim arising out of or relating to Seller's engagement with or termination by Gopher, all such disputes or claims will be resolved on an individual basis without any form of class, collective, or representative proceeding

21. **COMPLIANCE WITH LAW.** Seller shall, in the performance of the purchase order, comply with all applicable laws, executive orders, regulations, ordinances, proclamations, demands and requisitions of any federal, state or local governmental authority which may now or hereafter govern performance hereunder. Seller, in accepting the purchase order, represents that the Goods to be furnished and/or the Services to be performed hereunder were or will be produced or performed in full compliance with all applicable laws. To the extent applicable, Seller agrees to be bound by, comply with, and fully implement the following orders, regulations and clauses, each of which are incorporated by reference: Executive Order 11246 and its OFCCP implementing regulations (see 41 CFR §§60-1 and 60-2, including without limitation, 41 CFR §60-1.4(a)); Section 503 of the Rehabilitation Act of 1973, as amended, and its OFCCP implementing regulations (see 41 CFR §60-741, including without limitation, 41 CFR §60-741.5(a)); the Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, and its OFCCP implementing regulations (see 41 CFR §§60-250 and 60-300, including without limitation 41 CFR §§60-250.5(a) and 60-300.5(a)); Employment Eligibility Verification under the Federal Acquisition Regulations (48 CFR §52.222-54); and the Employee Notice Clause under Executive Order 13496 (29 CFR §471, Appendix A to Subpart A).

22. **INVOICE PROCESSING.** Seller shall provide an invoice for any Goods supplied or Services performed within 14 days of delivery of the Goods or Services. Invoices received later than 14 days from delivery of the Goods or Services will be subject to payment delay, reduction, or cancellation.