

## TERMS AND CONDITIONS

Except as otherwise provided in writing, the parties, American Analytical Laboratories, Inc. hereinafter referred to as AAL, and Client agree to the following provisions:

Acceptance and Modification: Client may order analytical or related services from AAL by Purchase Order, by telephone confirmed in writing, by delivery of samples to AAL, no matter how delivered, or by negotiated contract. Any such order by Client shall constitute acceptance of AAL's offer to do business with the Client under these Terms and Conditions, and at AAL's current Fee Schedule prices, unless altered by specific written agreement between AAL or its representative and Client. AAL may also quote special prices or modified terms and conditions for acceptance by Client. AAL hereby objects to any additional, conflicting or different terms or conditions, whether or not material, contained in any acknowledgment or confirmation, or in any purchase or work order issued by or communication from Client, and no subsequent conduct by AAL or prior course of dealing shall be deemed to be an acceptance thereof. Reference by AAL to any purchase or work order number supplied by Client shall be for accounting identification purposes only.

Samples: Preceding the shipment of samples or accompanying the samples, Client shall supply for each sample a complete written disclosure of the presence, known or suspected by Client of any hazardous substance, as defined by the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA) or any hazardous waste as defined by the federal Resource Conservation and Recovery Act (RCRA), and implementing regulations or applicable state equivalents of either act. Each sample containing any hazardous substance or hazardous waste, shall be packaged, labeled, transported and delivered in accordance with all applicable laws. Information shall be supplied as to the exact time and place where each sample was taken.

American Analytical Laboratories, Inc. reserves the right to refuse to accept or to revoke acceptance of any sample supplied to Client which, in the sole opinion of American Analytical Laboratories, Inc., is of insufficient volume, is not in conformity with the standards set forth in American Analytical Laboratories, Inc. QA/QC Manual, or is likely to pose any unreasonable risk in handling or in analyzing, whether or not such risk has been disclosed by Client.

American Analytical Laboratories, Inc. shall advise Client of any samples which are lost in transit or received in damaged, contaminated, or improperly preserved condition, it being understood that the risk of loss, damage or delay in transit shall be borne by Client.

Retention of Samples: All samples received by AAL may be disposed of 30 days after submission of AAL's report to Client unless otherwise mutually agreed. Any sample determined to be hazardous waste will be returned to Client at Client's expense.

Information from Client: Client shall provide AAL with all such information and samples as shall be required to enable AAL to perform its service. AAL shall not be liable for any incorrect advice, judgment, recommendation, finding, decision or conduct based upon any inaccurate or incomplete information or samples supplied by Client, or the failure or any such samples to be representative.

Equipment Loss and/or Damage: If in the performance of services for Client, whether in the laboratory or in the field, AAL equipment is lost, stolen, damaged or has incurred abnormal wear by causes other than AAL, Client agrees to reimburse AAL for all such loss, damage or abnormal wear. Client is hereby warned that insufficient information regarding content of samples, condition of samples, and/or condition of consulting environment, may lead to abnormal loss, damage or wear of equipment.

Rush Work: Notwithstanding other provisions herein, rush work will be undertaken only with the prior written approval of AAL's Laboratory Director or designee and upon receipt of Client's written authorization specifically requesting rush work and acknowledging Client's obligation to pay full rush fees even though timely completion dates cannot be guaranteed by AAL. AAL does however guarantee that rush work accepted will be timely commenced and reasonably expedited through completion.

Suspension of Work: In the event all or any portion of the work prepared or partially prepared by AAL be suspended, abandoned or terminated, the Client shall pay AAL the reasonable value of all work performed. In determining reasonable value under this paragraph, the full contract price or current Fee Schedule price, whichever is lower, shall be deemed reasonable.

Force Majeure: Delay in performance or failure to perform shall be excused to the extent caused by act of God, labor trouble, fire, inclement weather, act of governmental authority, failure of transportation, accident, or any other cause beyond AAL's control, including without limitation Client's failure to furnish information or sufficient sample material or to approve or disapprove AAL's work or Client's delay in doing any of the foregoing. In the event of any of the foregoing circumstances, AAL's time for completion shall be extended accordingly.

Fees: Fees and all other charges will be billed to Client at completion of each work order and in accordance with the unit prices in AAL's current Fee Schedule, or as mutually agreed in writing. The current Fee Schedule is subject to change without notice. Fees shall be paid net within 10 days of being invoiced by AAL to Client. Client hereby agrees that the balance as stated on the billing from AAL to Client shall be deemed to be correct, conclusive and binding on the Client unless Client within ten (10) business days from the date of receipt of the billing notifies AAL in writing of the particular item that is alleged to be incorrect. All taxes applicable to the proceeds received by AAL hereunder shall be the liability of AAL, and Client shall not be required to withhold or pay any amounts of federal, state or local income tax, social security, unemployment or worker's compensation.

Witness Fees: All time, travel and related expenses resulting from this agreement and AAL's involvement as a witness or any other involvement that pertains to the services performed for Client, whether in matters in litigation and arbitration by any party, or by the request of Client at any time, shall be paid by Client to AAL at AAL's standard fees and expenses for each employee's involvement.

Late Charges: A late payment charge accruing from the date of an invoice will be assessed on the last day of each month against all payments and costs which were billed before the beginning of the month and remain unpaid at the end of the month. Such late payment charge will be computed at the lower of 18 percent per annum or the maximum interest rate allowed by law. Client shall reimburse AAL for all costs and expenses of collection, including reasonable attorneys' fees.

Subcontracting: AAL reserves the right to subcontract services ordered by Client if in AAL's judgment it is advisable to do so.

Independent Contractor: In performing its services, AAL shall be deemed to be acting solely as an independent contractor, and only to the extent and for the specific purpose expressly set forth.

Limited Warranty: AAL makes no expressed or implied representation, warranty or condition as to its services, findings, recommendations or professional advice except that they are prepared, performed and rendered in accordance with reasonable professional care with procedures, protocols and practices generally accepted in AAL's profession for use in similar assignments, i.e. analytical laboratory services and/or occupational and environmental health consulting and industrial hygiene consulting. If AAL fails to comply with such limited warranty, Client shall give AAL prompt notice thereof and AAL will then reperform any deficient analytical work at its expense.

Limitation of Liability: AAL shall not be liable to Client, its employees, agents, subcontractors or any other person, for any damages caused by negligence or willful misconduct of the Client. Notwithstanding any other provision of this Agreement, the liability of AAL to the Client, or to any other person or entity, arising out of, resulting from or in connection with this Agreement or the services provided by AAL hereunder, including but not limited to AAL's negligent professional acts, errors or omissions, whether active or passive and whether or not related to hazardous wastes or substances, shall not constitute a fundamental breach nor include liability for consequential, indirect, special, incidental or exemplary damages, nor exceed the compensation paid to AAL hereunder.

Joint Negligence: All liability claims and demands on account of personal injuries including death, or property loss or damage to others arising out of or in any manner connected with or related to the performance of this agreement, if caused by the negligence of both Client and AAL (including their employees, subcontractors, agents or representatives) shall be shared by AAL and Client in accordance with the proportionate negligence of each.

Environmental Liability: Subject to the duty of AAL to notify Client of any pollution problem known or discovered by AAL during the performance of AAL's work under this Contract, Client shall indemnify, defend and save AAL harmless from and against any loss, damage, injury, cause of action, liability, claim, cost or expense, including reasonable attorney's fees, that AAL may incur or that may be asserted against AAL by Client and/or third parties and that results from or is attributable to an aggravation of any existing pollution problem that occurs as a natural consequence of AAL's performance of this Contract in accordance with the terms thereof.

No action, suit or proceeding shall be instituted in connection with this Agreement more than two years after AAL ceases performance hereunder.

Compliance with Law: AAL shall endeavor to use commercially reasonable best efforts to comply with all statutes, rules and regulations of Federal, State and local governments applying to it in connection with this Agreement, but shall not be liable to Client for failure to comply with this paragraph unless such failure is due to negligence or intentional misconduct of AAL.

Section Headings: Section headings herein are solely for convenience and shall have no legal significance.

Litigation: If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled, and subject to the limitations expressed elsewhere in this Agreement.

AAL reserves the right to cease all work in the event Client does not timely pay its invoices or if, in AAL's opinion, Client's financial condition or other circumstances do not warrant the continuing performance of services on the above terms.

Client's Indemnification: Client shall indemnify and hold harmless AAL from and against any and all claims, causes of action, demands, losses, costs, expenses, liabilities, damages, settlements and judgments of any nature, including without limitation those related to the defense or investigation thereof and all attorneys' fees incurred, which are attributable to the negligence of Client or its employees or agents, which arise from or are related to any matter of circumstances as to which AAL does not expressly assume responsibility or disclaims responsibility and which exceed the maximum amount for which AAL is liable as set forth herein, or which are attributable to the acts, errors or omissions of others and arise or are related to the work to be performed.

Waiver: One or more waivers of any term, condition or covenant by AAL shall not be construed by the Client as a waiver of a subsequent breach of the same or of any other term, condition or covenant.

Severability: In the event any provision of this Agreement shall be held to be invalid and unenforceable, the other provisions of this Agreement shall be valid and binding on the parties hereto.

Governing Law: The parties shall be governed by the laws of the State of Ohio.

Entirety of Agreement: These Terms and Conditions plus AAL's current Fee Schedule, AAL's Work Order Request signed by Client, or Client's Purchase Order, signed and agreed to by AAL. Client's telephone request confirmed in writing by AAL, or Client's acceptance of a special quotation by AAL, together with any interim agreements involving delivery and revisions of the foregoing agreed to in writing between the parties embody the entire Contract between the parties. This document shall be binding upon the successors and assigns of the parties hereto.