

# ACZ TERMS AND CONDITIONS

These Terms and Conditions, together with any additions or revisions which may be agreed to in writing by ACZ, embody the whole agreement of the parties in the absence of a signed and executed contract between ACZ Laboratories, Inc., hereinafter referred to as ACZ, and Client. They shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties. ACZ specifically rejects all additional, inconsistent or conflicting terms, whether printed or otherwise set forth in any purchase order of other communication from the Client to ACZ. The invalidity or unenforceability, in whole or in part of any provision, term or condition hereof shall not affect in any way the validity or enforceability of the remainder of the Terms and Conditions, the intent of the parties being that the provision is severable. No waiver by ACZ of any provision, term or condition hereof or of any breach by or obligation of Client hereunder shall constitute a waiver of such provision, term or condition on any other occasion or a waiver of any other breach by or obligation of Client, unless specifically set forth in writing and executed on behalf of ACZ by a duly authorized officer. This agreement shall be administered and interpreted under the laws of the State of Colorado.

**A1** ACZ will accept orders by submission of written purchase order, by telephone or by contractual agreement. Telephone orders should be subsequently confirmed in writing to avoid potential misunderstandings. Submission of a telephone or written purchase order constitutes Client's acceptance of these general terms and conditions.  
**A2** ACZ will provide Client with all necessary sample containers, coolers, labels and chain of custody documents at no additional charge provided these supplies are used for samples to be analyzed by ACZ. Sample containers provided by ACZ will include appropriate preservatives.  
**A3** ACZ will ship supplies to Client's US destination at ACZ expense using UPS ground services. Expedited services will be invoiced at cost to Client. Client pays for return shipping unless otherwise agreed to in a signed contract between ACZ and Client. Expense of international shipping of sample containers will be by a contract basis only between ACZ and Client.  
**A4** All orders are subject to a minimum charge of \$125.00.

**B1** Payment terms are Net 30 Days from invoice date unless otherwise executed by written contract. A service charge of 1.5% (18% per annum) will be made on all unpaid invoices 31 (or more) days old. Should it be necessary to assign account balance to a collection agency or attorney for legal action, all subsequent charges and legal fees shall be paid by Client. Should litigation become necessary, Client agrees that the venue shall be Routt County, State of Colorado. ACZ reserves the right to require payment prior to release of data. If payment terms are exceeded, ACZ has no obligation, and will not defend, reproduce, return or supplement data results.  
**B2** Services performed by ACZ will be in accordance with quoted prices or as stated in the fee schedule, which is subject to change without notice. It is preferred that the client calls an ACZ representative prior to submitting samples to verify price and turnaround time.  
**B3** In applying for credit, the Client certifies that the information (along with any other information submitted) is true and correct, and will update information that materially changes. All information received shall be treated confidentially by ACZ Laboratories, Inc. ("ACZ"), and will be used only for the purpose of establishing the amount and conditions of extending commercial credit (not for consumer purposes). Client hereby authorizes all bank and trade references listed in this account application and agreement to release all information, verbal or written, to ACZ and to allow ACZ to utilize any other sources of credit information which ACZ deems reliable. Subsequent credit inquiries may be completed by ACZ in connection with any update, renewal or extension of credit. ACZ reserves the right to suspend or terminate credit at any time.  
**B4** A consulting firm who authorizes ACZ to perform work for Client must be responsible to have Client submit a signed credit application to ACZ that ACZ approves in advance of performing the work. If Client credit is approved, said Client shall elect to either a) be billed directly or, b) have work billed to consulting firm. Regardless if the Client or the consultant is billed, Client accepts final responsibility for payment to ACZ.

**C1** Prior to receipt of samples at ACZ, Client is responsible for the entire risk of loss or any damage to samples. In no event will ACZ assume any responsibility or liability for the action or inaction of any carrier shipping or delivering samples to or from ACZ's premises.  
**C2** ACZ reserves the right at any time to refuse delivery of, or to revoke acceptance of, any samples which, in the judgment of ACZ, represents a health, safety or environmental risk due to handling, transporting or processing of such samples.  
**C3** All NRC licensed material and/or samples not meeting ACZ's 250 uRad/Hr screening levels, will be returned to the facility of origin at Client's expense. Any licensed material sent to ACZ for analytical testing must be identified on the COC or Client may incur additional costs including any labor and return fees.  
**C4** ACZ utilizes analytical methodologies appropriate for sample matrices and accepted by EPA, USGS, ASTM, ASA, Standard Methods and other professional associations. Unless specifically mandated by Client, ACZ reserves the right to use alternative, equivalent methods. It is the responsibility of Client to verify with the regulatory agency that ACZ's quoted methods are acceptable for their statement of work.  
**C5** Upon receipt of samples, ACZ will use its best efforts to comply with storage, processing and analytical holding time limits as stated in applicable EPA, state guidelines, as requested by Client or as stated in the fee schedule. However, unless specifically made part of a written agreement between ACZ and Client, such time limits and analytical turnaround times are not guaranteed.  
**C6** In accordance with ACZ sample acceptance policy, a client must use ACZ's Chain of Custody. ACZ's Chain of Custody contains specific information regarding the criteria that determines whether or not samples will be accepted for analysis. If an alternative Chain of Custody is used, ACZ will make the best effort possible to accept and analyze samples; however, ACZ will not be held liable for any issues that may arise from the use and submission of an improper Chain of Custody form. Likewise, ACZ will not be held liable when an ACZ Chain of Custody is not filled out completely or properly. It is the responsibility of the client to ensure that all personnel conducting sampling activities are made aware of the requirements stated within Section C6 of ACZ's Terms & Conditions.  
**C7** ACZ reserves the right to be compensated for instrument down time or damage caused by highly contaminated samples sent to ACZ for trace level analysis (PPM, PPB or PPT) due to percent level or pure product being shipped to ACZ without warning the lab on the COC or in writing to a Project Manager.  
**C8** Preliminary results, verbal or written, may be given to Client in advance of the final written report. Preliminary data has not been fully reviewed in accordance with ACZ's Quality System and is subject to change without notice.  
**C9** ACZ will at times subcontract analytical services ordered by Client. In all cases, Client will be informed prior to subcontracting out the work to another laboratory. ACZ assumes no liability for any subcontracted services except as specifically provided for in Part D.  
**C10** ACZ will store all samples 30 days from date of invoice. At the end of this period, samples will be disposed of properly in compliance with applicable laws or returned to Client. Client will be responsible for shipping and handling charges associated with the return shipping of samples. Client will be billed a surcharge for sample disposal as agreed upon in any written agreement or at the rate quoted in the Administrative Services section of the current ACZ fee schedule. Any special storage, disposal or return requirements of Client must be outlined on the Chain of Custody prior to delivery of samples. Extended storage at Client's request will be invoiced as per the Administrative Services section of ACZ's fee schedule.  
**C11** Client will be charged \$11.00 per sample disposal fee for all samples deemed to be hazardous.

**D1** ACZ warrants only that its services will fulfill obligations set forth in Sections C4 and C5 above. This warranty is the sole and exclusive warranty given by ACZ in connection with any services performed by ACZ or any results generated from such services. ACZ gives and makes no other representation or warranty of any kind, expressed or implied. Unless a specific contract or Statement of Work (SOW) is accepted by ACZ, no representative of ACZ is authorized to give or make any other representation or warranty or modify this warranty in any way.  
**D2** The liabilities and obligations of ACZ and the remedies of Client in connection with any services performed by ACZ, will be limited to repeating the service performed or, at the sole option of ACZ, refunding in full or in part, fees paid by Client for such services. ACZ's obligation to repeat services will be contingent on the client providing, at the request of ACZ and at the client's expense, any additional samples necessary. Any reanalysis generating results consistent with the original results will be at Client's expense. Except as otherwise specifically provided herein, ACZ shall have no liability, obligation or responsibility of any kind for any losses, costs, expenses or other damages for any representation or warranty of any kind with respect to ACZ's service or results.  
**D3** In no event shall ACZ have any responsibility or liability to Client for any failure or delay in performance by ACZ which results, directly or indirectly, from any cause or circumstances beyond the reasonable control of ACZ. Such causes or circumstances shall include, but are not limited to, acts of God, acts of Client, acts or order of any governmental authority, labor disputes, natural disasters, accidents, wars, difficulties or delays in transportation, mail or delivery services, inability to obtain from ACZ's usual sources sufficient services or supplies, or any other cause beyond ACZ's reasonable control.  
**D4** All results provided by ACZ are strictly for the use of Client. ACZ is in no way responsible for use of such results by Client or third parties. All results should be considered in their entirety and ACZ is in no way responsible for the separation, detachment, or other use of any portion of the results.  
**D5** Client represents and warrants that any sample delivered to ACZ will be preceded or accompanied by complete written disclosure of the presence of any hazardous substance known or suspected by Client. Client further warrants that any sample containing any hazardous substance that is delivered to ACZ will be packaged, labeled, transported and delivered properly and in accordance to applicable regulations.  
**D6** The customer shall indemnify and hold harmless ACZ from and against any and all claims, suits, judgments, damages, losses, liabilities, expenses, payments, taxes, duties, fines and/or other costs (including but not limited to reasonable attorney's fees and liability to a third party) arising out of: a) the presence of hazardous substances in any sample of Client regardless of Client's compliance with paragraph D5 hereof, b) accidents occurring during the transport of any sample of Client, c) events or delays caused by Client or otherwise beyond ACZ's control, or d) negligence by Client in the use, evaluation, or application of results provided by ACZ.

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