

## ACZ TERMS AND CONDITIONS

**A1** ACZ Laboratories, Inc. (ACZ) will accept orders by submission of written purchase order, by telephone or by contractual agreement. Phone orders should be subsequently confirmed in writing to avoid potential misunderstandings. Submission of a telephone or written purchase order constitutes the client's acceptance of these general terms and conditions.

**A2** ACZ will provide customers 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 sample containers to the client's requested destination at the expense of ACZ, using standard UPS services. Shipments made using expedited services will be invoiced at cost to the customer.

**A4** All orders are subject to a minimum charge of \$100.00.

**B1** Payment terms are net 30 days from the date of invoice. A service charge of one and one-half percent (1.5%) per month will be added to all unpaid invoices 31 (or more) days old.

**B2** Services performed by ACZ will be in accordance with quoted prices or as stated on the price schedule, which is subject to change without notice. It is preferred that the customer calls an ACZ representative prior to submitting samples to verify price and turnaround time.

**C1** Prior to receipt of samples at ACZ, the customer 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** ACZ utilizes analytical methodologies appropriate for sample matrices and accepted by EPA, USGS, ASTM, ASA and other professional associations. Unless specifically mandated by the client, ACZ reserves the right to use alternative, equivalent methods. It is the responsibility of the client to verify with the regulatory agency that ACZ is certified for the parameter(s) of interest.

**C4** 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 or State guidelines or as requested by the client or as stated in the price schedule. However, unless specifically made part of a written agreement between ACZ and the client, such time limits and analytical turnaround times are not guaranteed.

**C5** For parameters that have a holding time less than or equal to seven (7) days, and the samples are received with less than half of the holding time remaining, ACZ can not guarantee meeting the hold time. ACZ will strive to do its best in meeting the holding time while performing the analysis. In those cases ACZ does not meet the holding time, and is not notified by the client to discontinue the analysis, then ACZ will still charge for the analysis. If ACZ is given sufficient warning that samples will arrive close to holding times, then ACZ will be able to properly schedule to meet the holding time demands.

**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 C5 of ACZ's Terms & Conditions statement.

**C7** Results may be given to the customer verbally in advance of the written report of results. Verbal results should be regarded as tentative subject to confirmation or change based on ACZ's standard quality assurance review procedures.

**C8** ACZ will at times subcontract analytical services ordered by the client. In all cases, the 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.

**C9** 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 the client. The client will be responsible for shipping and handling charges associated with the return shipping of samples. The client will be billed a surcharge for sample disposal as agreed upon in any written agreement or at the rate quoted in the special services section of the current ACZ fee schedule. Any special storage, disposal or return requirements of the client must be outlined on the Chain of Custody record prior to delivery of samples. Extended storage at the client's request will be invoiced as per the special section of ACZ's price schedule.

**C10** The client will be charged \$10.00 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 C3 and C4 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, and ACZ gives and makes no other representation or warranty of any kind, express 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 the customer 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 the customer 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 the customer'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 the customer 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 the customer, 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 its customers, and ACZ is in no way responsible for use of such results by customers 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** The customer 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 the customer. The customer 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 the customer regardless of the customer's compliance with paragraph D5 hereof, b) accidents occurring during the transport of any sample of the customer, c) events or delays caused by the customer of otherwise beyond ACZ's control, or d) negligence by the customer in the use, evaluation, or application of results provided by ACZ.

**E1** These Terms and Conditions, a signed quote, together with any additions or revisions which may be agreed to in writing by ACZ as provided in section F1 embody the whole agreement of the parties. Unless a specific contract or (Statement of Work) SOW is accepted by ACZ, there are no promises, terms, conditions, understandings, obligations or agreements other than those contained herein, unless made in accordance with Section F1; and these Terms and Conditions shall supersede all previous communications, representations, or agreements, either verbal or written, between the customer and ACZ. ACZ specifically rejects all additional, inconsistent or conflicting terms, whether printed or otherwise set forth in any purchase order or other communication from the customer to ACZ.

**E2** 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 these Terms and Conditions, the intent of the parties being that the provision be severable.

**F1** ACZ shall not be subject to or bound by any provision, term or conditions which is in addition to or inconsistent or conflicting with these Terms and Conditions. ACZ shall not be deemed to have amended or waived any provision, term or condition, or to have given any required consent or approval, or to have waived any breach by the customer of any of these Terms and Conditions, unless specifically set forth in writing and executed on behalf of ACZ by the president or owner.

**F2** No waiver by ACZ of any provision, term or condition hereof or of any breach by or obligation of the customer 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 the customer.

**G1** These Terms and Conditions, and any transactions or agreements to which they apply, shall be governed both as to interpretation and performance by the laws of the state of Colorado.