



GENERAL TERMS & CONDITIONS

These General Terms & Conditions ("General Conditions") are made a part of each Purchase Order, Quote, and Agreement between ACV Enviro Corporation and its customer for the performance of services set forth therein or in a related scope of work as applicable ("Services" and "Scope of Services," respectively) unless superseded by an existing service agreement between the parties. In these General Conditions, ACV Enviro Corporation and its affiliates are hereinafter collectively referred to as "ACV", the party for whom the Services are performed is the "Customer", and the written agreement between the parties, including the Purchase Order, Quote, Scope of Work, Scope Agreement and these General Conditions, is collectively the "Agreement."

1. Services By ACV

1.1 Scope of Services; Standard of Care. ACV will perform the Services described in the Agreement. In performing the Services, ACV will exercise the degree of care and skill ordinarily exercised by reputable companies performing the same or similar services. ACV will not have any obligation to perform services not expressly described in this Agreement or in change orders signed by ACV. If the Services have commenced prior to the execution of the Agreement, then it is the intention of the parties that these terms and conditions shall apply to any services provided prior to the execution of the Agreement. The Customer acknowledges and agrees that the Services hereunder may be performed by any ACV affiliate.

1.2 ACV Warranty. Any equipment or parts manufactured by ACV and purchased by Customer are warranted at the time of delivery to be free of material manufacturing defects, and any equipment assembled by ACV is warranted at the time of delivery to be free of material defects in assembly for 1 year from the date of delivery or installation, as the case may be. NO OTHER WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, ARE MADE WITH RESPECT TO ANY GOODS OR SERVICES PROVIDED UNDER THE AGREEMENT AND ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED. If manufactured products are purchased by ACV and furnished to Customer or incorporated into the work, ACV will endeavor to assign to Customer any warranties provided by the manufacturer, to the extent they are assignable, and Customer's sole recourse will be against the manufacturer. Full risk of loss of materials and equipment furnished by ACV shall pass to Customer who shall be solely liable for their theft, loss and/or damage. However, until ACV is paid in full it shall retain title and/or lien interests, at its discretion, for security purposes only and the right to repossess the materials or equipment.

1.3 No Guarantee. In ACV's performance of assessment (if any) and remediation services, ACV does not guarantee that all sources of possible contamination will be identified or that all contaminants will be detected, properly identified, remediated or removed. ACV shall be entitled to rely on the accuracy of laboratory results and shall have no liability therefor.

1.4 Restoration. ACV will exercise reasonable care to minimize damage to the site. However, Customer acknowledges that some damage may occur in the normal course of the work, even if due care is exercised, and agrees that ACV will not be liable for such damage and will be entitled to additional compensation if it is asked to perform restoration services not expressly included in the scope of services.

1.5 Other Parties. ACV shall not have any duty or authority to direct, supervise or oversee any contractor of Customer or their work or to provide the means, methods or sequence of their work or to stop their work. ACV's services and/or presence at a site shall not relieve others of their responsibility to Customer or to others. ACV shall not be responsible for health or safety precautions of Customer or others at any work site.

1.6 Litigation Support. ACV will not be obligated to provide expert witness or other litigation support related to its services, unless expressly agreed in writing. In the event ACV is required to respond to a subpoena, government inquiry or other legal proceeding to which it is not a party, Customer shall reimburse ACV for its cost and legal expenses and compensate ACV at its then standard rate for the time it incurs in response thereto.

2. Responsibilities of Customer

2.1 Customer Requirements. Customer, without cost to ACV, shall:

- Designate to ACV in writing a person to act as Customer's representative with respect to the Services.
- Provide or arrange for access and make all provisions for ACV to enter any site where Services are to be performed, including

access to any lids, coverings, doorways, manways, or any other encumbrances of the specific area of the site where work is to be done.

- Comply with all laws and provide any notices required to be given to any government authorities in connection with the services, except for such notices ACV has expressly agreed in writing to give.
- Furnish ACV with a complete description (including the accurate location) of all underground objects and structures at the site, including but not limited to wells, tanks and utilities.
- Furnish ACV with all approvals, permits and consents from government authorities and others as may be required for performance of the Services, except for those ACV has expressly agreed in writing to obtain.
- Inform the owner of the site (if different from Customer) of any contamination by or release of Waste Materials at the site.
- Furnish ACV with all available information reasonably requested by ACV.

2.2 Information. Before commencement of any services at a site, Customer, without cost to ACV, shall provide ACV with the following items to the extent they are reasonably available to Customer, except for any items ACV has expressly agreed in writing to obtain:

- Any information pertinent to the Services.
- Topographic property, boundary and right-of-way surveys of the site and any other relevant information about site conditions.
- Safety Data Sheets related to Waste Materials located at the site.
- Contingency plans related to the site.
- All environmental permits related to the site and or the Services.
- Any other information concerning known or suspected Waste Materials at the site, contamination of the site by Waste Materials, or any other conditions requiring special care.

2.3 Manifests. Before ACV removes from a site any Waste Materials, Customer shall sign any required hazardous waste manifests in conformance with all DOT and other government regulations, listing Customer as the generator of the waste. Customer shall arrange for such other person to sign such manifest. ACV shall not directly or indirectly assume title to own or be deemed to possess any materials handled or removed from any site, including Waste Materials. Nothing in this Agreement shall be construed to make ACV a "generator" as defined in RCRA or any similar laws governing the treatment, storage or disposal of waste. Except to the extent ACV's responsibilities expressly include identification of the waste, Customer shall provide waste material profiles which accurately characterize the waste.

2.4 Confidentiality. Customer acknowledges that the technical and pricing information contained in this Agreement and all reports, notes, documents and computerized materials prepared by ACV are confidential and proprietary to ACV and agrees not to disclose it or otherwise make it available to others without ACV's express written consent.

2.5 Hazards. Customer represents and warrants that it does not have any knowledge of Waste Materials or unusually hazardous conditions at the site or of any contamination of the site by Waste Materials, except as expressly disclosed to ACV in writing as of the date of the Agreement and such disclosure shall be an ongoing obligation of Customer during the term of the Agreement.

3: Changes; Delays; Excused Performance; Off-Specs

3.1 Changes. Unless this Agreement expressly provides otherwise, ACV's proposed compensation represents its best estimate, taking into account the costs, effort and time it expects to expend in performing the Services and it currently understands them to be, based on its reasonable assumption of the conditions and circumstances under which the Services will be performed. As the Services are performed, conditions may change or circumstances outside ACV's reasonable control (including change of law) may develop which would require ACV to expend additional costs, effort or time to complete the Services, in which case ACV will notify Customer and an equitable adjustment will be made to ACV's compensation and the time for performance. Unless otherwise specified in writing, ACV's proposed fees are based on the assumption that ACV will not encounter any underground structures, utilities, boulders, rock, water, running sand or other unanticipated conditions in the course of drilling or excavation, and ACV shall be compensated for any additional efforts expended or costs incurred in addressing such conditions. If Waste Material or hazardous conditions of any type or quantity not originally anticipated are discovered at the site, and in the event such conditions or any other conditions or circumstances justify, ACV in its sole direction may suspend or terminate

the Services and, ACV shall be compensated for Services previously performed and for costs reasonably incurred in connection with the suspension or termination.

3.2 ACV shall not be responsible for any delay or failure of performance caused by fire or other casualty, labor dispute, government or military action, transportation delay, inclement weather, Act of God, act or omission of Customer or its contractors, failure of Customer or any government authority to timely review or to approve the Services or to grant permits or approvals, or any other cause beyond ACV's reasonable control, and ACV's, compensation shall be equitably adjusted to compensate it for any additional costs it incurs due to any such delay.

3.3 If during the performance of Services, ACV is confronted with a Waste Material not contemplated by the applicable quote, ACV may, in its sole discretion, return such Waste Material to Customer, or the parties may mutually modify the quote to address handling of the newly discovered Waste Materials stream.

4: Compensation

4.1 Rates. Unless otherwise agreed in writing in the Scope of Services or elsewhere signed by ACV, ACV shall be compensated for its Services at its standard rates for labor, equipment, and materials, and shall be reimbursed for its out-of-pocket expenses (plus reasonable profit and overhead) ("Fee(s)"). Prior to performance under this Agreement, the Customer will provide credit information to ACV as required in ACV's credit application. ACV will establish a level of credit based upon the Customer's provided credit information and ACV's credit policies. Upon request by ACV, Customer shall provide security for payment as follows: (i) by depositing funds in an escrow account with an escrow agent on terms acceptable to ACV; (ii) by providing a standby letter of credit in favor of ACV issued on terms and by a commercial bank acceptable to ACV; or (iii) by arranging such other form of security or credit arrangement on terms acceptable to ACV. The amount of security shall be determined in ACV's sole discretion as appropriate under the circumstances and shall be increased as required by ACV. ACV is not obligated to continue to provide Services when it has not been timely paid or provided with acceptable security.

4.2 Invoices. ACV may invoice Customer on a weekly or other progress billing basis. Invoices are due and payable upon receipt by Customer. On amounts not paid within 15 days of invoice date, Customer shall pay interest from invoice date until payment is received at the rate of 1.5% per month or, if less, the maximum rate allowed by law. If Customer disagrees with any portion of an invoice, it shall notify ACV in writing of the amount in dispute and the reason for its disagreement within 10 days of receipt of the invoice and shall pay any portion not in dispute in the normal timeframe. Modifications to the invoice made at the request of the Customer shall not change payment due date.

4.3 Suspension. If payment is not received within forty-five (45) days of the invoice date, ACV may upon seven (7) days' notice, suspend or terminate the Services and receive compensation for services previously performed and for costs reasonable incurred in connection with the suspension or termination.

4.4 Collection. Customer agrees and hereby assigns to ACV all rights to insurance payments and/or other third-party payments that Customer may or will be entitled to receive for labor, services, equipment and/or materials provided by ACV and hereby authorizes its insurance company, agent, representative and/or other third party to pay ACV directly. Customer agrees that in the event ACV is required to hire an attorney to enforce this Agreement or to collect any payments due and owing, the Customer shall be liable for and, shall pay upon demand, ACV's reasonable attorney's fees (including time expended by in-house counsel), time spent by ACV personnel and litigation expenses, including witness and expert fees and court costs.

4.5 Taxes. Unless expressly agreed in writing, ACV's fees do not include any taxes, excise, fees, duties or other government charges related to the goods or Services provided under this Agreement, and Customer shall pay such amounts or reimburse ACV for any amount it pays. If Customer claims that any goods or Services are subject to a tax exemption, it shall provide ACV with a valid exemption certificate.

5: Insurance; Dispute Resolution; Allocation of Risk

5.1 Insurance. Each party shall procure and maintain, at its expense, during the term of this Agreement, at least the following insurance: Workers' Compensation (Statutory); Employers' Liability (Employers' Liability); General Liability (\$2,000,000 combined single limit); Environmental Liability (\$4,000,000 Each Loss); Insurance required under the Resource Conservation Recovery Act (Statutory or

Regulatory) and Auto (\$1,000,000). Each party shall name the other as an additional insured on the above referenced policies. Each contract of insurance, and certificate of insurance, shall provide that said issuance shall not be cancelled or materially altered until at least thirty (30) days after written notice is received by the other party.

5.2 Indemnification. Customer agrees to indemnify, hold harmless and defend ACV from any suits or legal proceedings, and shall promptly and upon demand, pay ACV's reasonable attorney's and witnesses' fees and other costs incurred for or payout as a result of death or bodily injury or threat thereof to any person, destruction or damage to any property, contamination of or adverse effect on natural resources of the environment, any violation of local, State or Federal laws, regulations or orders, or any other damages claimed by third parties (collectively, "Damages"), based on or arising in whole or in part out of ACV's performance or failure to perform under this Agreement, and Customer's other acts or omissions; provided, however, that Customer shall not be obligated to indemnify ACV to the extent such Damages are caused directly by the gross negligence or willful misconduct of ACV. Customer acknowledges that ACV does not have any responsibility for pre-existing Waste Materials at the site.

5.3 Limitation of Liability. ACV's aggregate liability for all claims arising out of the Agreement or out of any goods or Services furnished under this Agreement, whether based in contract, negligence, strict liability, agency, warranty, trespass, indemnity, or any other theory of liability, shall be limited to One Hundred Thousand and 00/100 Dollars (\$100,000.00) or the total compensation received by ACV from Customer under this Agreement, whichever is greater. In no event shall ACV be liable for special, indirect, incidental or consequential damages, including commercial loss, loss of use, or lost profits, even if ACV has been advised of the possibility of such damages.

5.4 Employee Injury. Customer agrees not to implead or to bring an action against ACV based on any claim of personal injury or death occurring in the course or scope of the injured or deceased person's employment with ACV or Customer and related to the Services performed under this Agreement.

5.5 Defense. Any defense of ACV required to be provided by Customer under this Agreement shall be with counsel selected by ACV and reasonably acceptable to Customer.

6: Miscellaneous Provisions

6.1 Notices. Notices between the parties shall be in writing and shall be hand delivered or sent by certified mail or nationally recognized overnight courier.

6.2 Assignment. Customer shall not assign or transfer any rights or obligations under this Agreement. Nothing in this Agreement or the parties' conduct shall be construed to create a relationship of agency, partnership or joint venture.

6.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey, without reference to principles of conflicts of laws. Each party agrees that suit may be instituted at any federal court in the District of New Jersey or in state court in Middlesex County in the State of New Jersey and each waives any objection which such party may now or hereafter have to the laying of the venue of any such action, suit or proceeding, and irrevocably submits to the jurisdiction of any such court. Any and all service of process and any other notice in any such action, suit or proceeding shall be effective against a party if given as provided in Section 6.1. Nothing contained herein shall prevent or delay either party from seeking, in any court of competent jurisdiction in New Jersey, specific performance or other equitable remedies in the event of any breach or intended breach by the other party of any of its obligations hereunder.

6.4 Headings. The headings in Agreement are for convenience only and are not a part of the agreement between the parties.

6.5 Entire Agreement. The written document of which these General Conditions are a part is the entire agreement between the parties and supersedes all prior agreements. Any amendments to the Agreement shall be in writing and signed by both parties. In no event will the printed terms on any purchase order, work order or other document provided by Customer modify or amend the Agreement, even if it is signed by ACV, unless ACV signs a written statement expressly indicating that such terms supersede the terms of this Agreement. In the event of an inconsistency between these General Conditions and any other writings which comprise the Agreement, the other writings shall take precedence.