

# **BSK ANALYTICAL LABORATORIES**

## **ACKNOWLEDGEMENT OF TERMS AND CONDITIONS**

### **1. PRICES AND TAXES**

Prices are exclusive of federal, state, and local taxes, fees or charges now in force or enacted in the future.

### **2. SHIPMENT**

BSK Analytical Laboratories (LABORATORY) will ship completed reports by U.S. First Class mail. Shipping charges will be included with all sample prices. LABORATORY will expedite mailing at CLIENT's request and at CLIENT's expense.

### **3. TERMS OF PAYMENT**

- A. Terms are net thirty (30) days. Amounts past due will be subject to a monthly charge at the rate of one and one half percent (1.5%) per month to cover the costs of servicing these accounts.
- B. Orders from customers with invoices that are sixty (60) days overdue (i.e., not paid within 60 days of invoice date) will be accepted only on a C.O.D. or cash with order basis until credit can be re-established to LABORATORY's satisfaction. LABORATORY reserves the right to withhold reports, if currently under progress, if a client fails to pay on any invoice beyond 60 days.

### **4. DELIVERY OF SERVICES**

- A. Completion of any services purchased are subject to LABORATORY availability schedule. LABORATORY shall make every reasonable effort to meet any completion date(s) quoted or acknowledged. However, LABORATORY will not in any way be liable for damages caused by its failure to meet such date(s), unless agreement is made in writing between LABORATORY and CLIENT prior to sample receipt.
- B. LABORATORY liability under, for breach of, or arising out of this agreement and/or sale will be limited to refund of the purchase price. In no event will LABORATORY be liable for costs of procurement of substitute services by client. This exclusion includes any liability that may arise out of third party claims against client.
- C. LABORATORY will use, where applicable, standard testing procedures that conform to published analytical methodologies. LABORATORY reserves the right to make changes or alter these methodologies if necessary due to composition or nature of the sample or based upon the reasonable judgment of the LABORATORY. Such deviations will be made on the basis consistent with either industry standards or according to the LABORATORY's Standard Operating Procedures.
- D. Verbal and/or preliminary results may be given in advance to the final written report of results. Such verbal or preliminary results are tentative results only and are subject to change or confirmation based upon LABORATORY quality assurance review procedures. LABORATORY shall not be liable in any way for damages incurred by CLIENT as a result of CLIENT's relying on such verbal or preliminary results.
- E. LABORATORY reserves the right to subcontract services ordered by the CLIENT if it is in the client's best interest to do so, and with the prior approval of the CLIENT. LABORATORY shall not be liable in any way for subcontracted services except as specifically stated in section 4A and 4B above, unless other arrangements have been made in writing with LABORATORY prior to sample delivery.
- F. All results provided by LABORATORY are strictly for the use of the CLIENT and LABORATORY is in no way responsible for use of such results by the CLIENT or third parties. All results should be considered in their entirety and LABORATORY is not responsible for the detachment, separation or other use of any portion of the results.
- G. The CLIENT represents and warrants that any sample delivered to LABORATORY will be preceded or accompany complete written disclosure of the existence of any Title 22 CAC listed hazardous substances known or suspected by the CLIENT. The CLIENT further warrants that any sample known to contain any hazardous substance(s) that is to be delivered to LABORATORY will be packaged, labeled, transported and delivered properly and in accordance with applicable laws.
- H. LABORATORY will retain pertinent records relating to the services performed for a period of five years following submission for the report, during which period the records will be made available to CLIENT for listed archive retrieval fees at reasonable times.
- I. LABORATORY liability is specifically limited to claims for negligence in the analysis of samples supplied to LABORATORY at its principal place of business. LABORATORY shall not be responsible nor liable in any way for the following:
  - 1) The method or methods by which samples are taken, obtained, transported, labeled or delivered by CLIENT or CLIENT's agents.
  - 2) The evaluation, reporting, or use by CLIENT or any third party, or the interpretation of any data, reports or findings given by LABORATORY to CLIENT.
  - 3) The retention, return and/or preservation or disposal of any sample after the analysis is completed.
- J. CLIENT will indemnify and hold LABORATORY harmless from any claim, law suit, judgment or award (including attorney fees and costs associated with the defense of any action) arising out of those items set forth in I.1,2, and 3.

### **5. EXPERT WITNESS**

In the event that LABORATORY personnel are required by any party to serve as expert witness with respect to any analytical work performed, the contracting party will reimburse LABORATORY for all costs associated with such testimony, including but not limited to the time involved in preparing for and in actually testifying; and the cost of any materials including photocopies, magnetic tapes, floppy diskettes, etc.

### **6. BANKRUPTCY**

If CLIENT becomes bankrupt or insolvent, or commences ending of its business, LABORATORY will be entitled by notice in writing to cancel this contract without judicial intervention or declaration of default of CLIENT.

