

Terms and Conditions

Important Notice: Clause 10 of this contract sets out the limitations of the company's financial responsibilities. The client should identify any issues with our terms before entering into the contract.

1. Interpretation

- 1.1 In these conditions:
 - (a) 'CLIENT' means the person who accepts a quotation of the Company for the provision of the Services or whose order for the Services is accepted by the Company.
 - (b) 'COMPANY' means Riverside Environmental Services Ltd (registered in England under number 04620034).
 - (c) 'CONDITIONS' means the terms and conditions set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Client and the Company.
 - (d) 'CONTRACT' means the contract between the Client and the Company for the provision of the Services.
 - (e) '(IS OR BECOMES) INSOLVENT', for the purposes of Condition 12, has the meaning in Condition 12.3;
 - (f) 'OUTPUT MATERIAL' means test results, data, drawings, plans, conclusions, advice or recommendations, and any other information or documents prepared or communicated by the Company in relation to the Services.
 - (g) 'SERVICES' means the provision of consultancy, testing, survey, training, inspection or other services which the Company undertakes to perform for the Client under the Contract.
 - (h) 'WRITING' means any writing recorded in permanent form and includes (without limitation) electronic mail, fax and comparable means of communication.
- 1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the time the Contract is formed.
- 1.3 The headings and numbering in these Conditions are for convenience only and shall not affect their interpretation.

2. Orders and specifications

- 2.1 The Client is responsible for the accuracy of any order (including any applicable specification) submitted by it.
- 2.2 Where not contained in the order, the Client shall provide:
 - (a) full, adequate and accurate instructions; and
 - (b) all information, data, drawings and items; necessary for the provision of the Services, and shall do so in sufficient time to enable the Company to perform the Contract in accordance with its terms without impeding the commencement or progress of the Services.
- 2.3 No order submitted by the Client shall be deemed to be accepted by the Company unless and until confirmed in Writing by the Company's authorised representative.
- 2.4 Following acceptance, no order may be cancelled by the Client except with the agreement in Writing of the Company and on condition that the Client shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as the result of cancellation.
- 2.5 The Company reserves the right to make any changes in the specification of the Services which are required to conform with any safety or statutory requirements.
- 2.6 Unless the conveyance of samples and other items is expressly specified in the Contract as being the Company's responsibility, the Client will arrange (at its own expense and risk) for the conveyance of all test items to and from the Company's laboratories.
- 2.7 The Company shall use all reasonable endeavours to meet any performance dates specified in the Contract, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.

3. Basis of the Contract

- 3.1 The Company only agrees to contract on the basis of these Conditions, which shall be incorporated into the Contract to the exclusion of all other terms.
- 3.2 The Company shall, subject to these Conditions, provide the Services (i) in accordance with any written quotation or tender of the Company which is accepted by the Client, or any written order of the Client which is accepted by the Company; and (ii) with reasonable care and skill.
- 3.3 The Company warrants to the Client that it is accredited by appropriate bodies including UKAS for asbestos testing and inspection, and that asbestos services (with the exception of advice and consultancy) will be provided in accordance with the accredited procedures of UKAS.
- 3.4 Except as expressly provided in this Contract (and so far as is permitted by statute): (i) all warranties, conditions, guarantees or representations, express or implied, statutory or otherwise are hereby excluded; and (ii) any duty in tort is likewise excluded.
- 3.5 The Services are provided to and for the benefit of the Client exclusively and all collateral warranties, or duties to third parties, are hereby excluded.
- 3.6 For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Contract is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.
- 3.7 This Contract shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties, other than the contractual relationship expressly provided for in this agreement that the parties shall be entitled to perform in their own commercial interests.

- 3.8 The Client acknowledges that the Company may occasionally receive reasonable commission or payments from commercial third parties, for services supplied to those parties (which may include facilitating an introduction between that party and the Client). Those commissions/payments are not intended to, and shall not, affect or influence the terms or manner of performance of this Contract.

4. Price of Services

- 4.1 The Client shall pay the Company's quoted price.
- 4.2 All prices quoted by the Company are valid for 30 days. The Company reserves the right (exercisable at any time before commencement of the Services) to cancel, or to adjust the price of, any Contract purportedly entered into after that date.
- 4.3 The Company may, by giving notice to the Client at any time before commencement of the Services, increase the price of the Services to reflect any increase in the cost to the Company which is due to any factor beyond its control (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture, or any breach of Condition 2).
- 4.4 Value Added Tax ("VAT") will be added to all charges at the rate applicable at the tax point at the time of invoice. Where the Client is registered for VAT within the European Union but outside the United Kingdom the work will be zero-rated provided the Company has been notified of the Client's VAT registration number.
- 4.5 If the Client is not registered or the Company has not been so notified prior to the time of invoicing, VAT at the rate applicable at the tax point shall become payable.

5. Terms of payment

- 5.1 Subject to any special terms agreed in Writing between the Client and the Company, the Company shall be entitled to invoice the Client for the price of the Services on or at any time after commencement of the same.
- 5.2 The Client shall pay the price of the Services (and all VAT thereon where applicable) within 30 days of the date of the Company's invoice, in pounds sterling. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.3 If the Client fails to make any payment on or before the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
 - (a) exercise clause 12.1;
 - (b) charge the Client interest under the Late Payment of Commercial Debts (Interest) Act 1998. Interest shall accrue on the unpaid amount from the due date until payment in full (both before and after any judgment), at the rate the higher of 4% per annum above base rate from time to time or the rate applicable under that Act; and/or
 - (c) charge the Client: (i) the costs (including legal costs and disbursements) of recovering any outstanding amount, and (ii) any bank charges incurred. That sum shall be due as a debt.

6. Accuracy and Use of Output Material

- 6.1 Output Material:
 - (a) is based on information supplied by the Client and the evidence known and available to the Company at the time;
 - (b) relates solely to the goods or samples reported on, and not bulk from which the goods or samples were drawn; and
 - (c) relies on scientific and engineering research and analysis deployed by the Company.
- 6.2 The Company does not warrant that the Output Material would necessarily be achieved by other parties, or that the Output Material will necessarily be valid in circumstances other than those tested or analysed. All Output Material is believed to be accurate and reliable, subject to the reasonable limitations of testing and analysis.
- 6.3 The Output Material is prepared exclusively for the Client for the purposes of the Contract and may not under any circumstances be used by any third party or for any other purpose. The Company is not liable for any such unauthorised use and, in particular, shall not be liable (whether in contract, tort or otherwise) to any third party who uses or relies on the Services or Output Material without the Company's express permission in Writing. The Client shall indemnify the Company against all liability and loss, damages and expenses awarded against or incurred by the Company in connection with any claims by third parties in connection with such use.

7. Confidentiality and Intellectual Property

- 7.1 The property, and any copyright, design rights or other intellectual property rights in any Output Material shall, unless otherwise agreed in Writing between the Client and the Company, belong to the Company. The Client shall be entitled upon full payment of all sums payable under this Contract to an exclusive license to use the Output Material.
- 7.2 Any information provided by the Client which is so designated by the Client and any Output Material shall be kept confidential by the Company, and all Output Material or other information provided by the Company which is so designated by the Company shall be kept confidential by the Client; but the foregoing shall not apply to any documents or other materials, data or other information which either party is required to disclose by law or by statutory requirements or which are public knowledge at the time when they are so provided by either party, and shall cease

Terms and Conditions

to apply if at any future time they become public knowledge through no fault of the other party.

- 7.3 While the Company is not aware, to the best of its knowledge, that any Output Material infringes any design rights, copyright or other intellectual property rights of any third party, it does not give any particular warranty in this respect.

8. Assignments and Sub-Contracting

- 8.1 The Company will perform the Services using its own staff. However, the Company reserves its right to sub-contract the whole or part of the work and will notify the Client accordingly.

9. Force Majeure

- 9.1 The Company shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Services, if the delay or failure was due to any events, circumstances or causes beyond the Company's reasonable control.

10. Limitation of Liability

10.1 The Company shall have no liability to the Client for any loss, damage, costs or expenses (howsoever caused), or for any claims or demands:

- arising from any fault of the Client including, in particular, any breach of its obligations under Condition 2; and/or
- for loss or damage to any goods or samples submitted for examination by the Client. Following examination of the goods or samples the remainder will only be returned to the Client upon written request. Unless the Company receives notice in Writing to the contrary, the Company shall be entitled to dispose of all goods or samples within 6 months of the completion of the Contract.

10.2 The Client shall indemnify and keep the Company indemnified against all costs, expenses, damage or other losses incurred or suffered by the Company, and any claims made against the Company, due to the infringement of any regulation, enactment or legislation by the Client.

10.3 If the Client becomes aware of any circumstances that might lead to a claim against the Company ("Relevant Circumstances"), or of a potential claim (against the Client or the Company, by a third party or otherwise) ("a Possible Claim"); in each case arising out of the performance of the Services, clause 10.4 shall apply.

10.4 Where this clause applies, the Client:

- must immediately (except in the case of emergency, in which case it must do so as soon as is reasonably practicable) notify the Company in Writing of the Relevant Circumstances and (if applicable) of the Possible Claim;
- must, as soon as reasonably practicable, provide such further information about the Relevant Circumstances/the Possible Claim as is (or becomes) reasonably available to it;
- must not, without prior consultation with the Company, incur any costs or expense relating to the Relevant Circumstances or the Possible Claim;
- must allow the Company, at its own cost, to conduct reasonable investigations and corrective works in relation to the Relevant Circumstances or the matters giving rise to the Possible Claim;
- must allow the Company, at its own cost, to take part in all negotiations and proceedings relating to a Possible Claim by a third party;
- must not, without prior consultation with the Company, make any admission relating to a Possible Claim made by a third party, or enter into any settlement or compromise of it; and
- must provide the Company with such reasonable assistance regarding the Possible Claim as is required by the Company, subject to reimbursement by the Company of the Client's reasonable costs so incurred.

10.5 Subject to clause 10.8, neither party shall be liable to the other party (whether in contract, tort, breach of statutory duty or otherwise, and whether through negligence or otherwise) for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other party of an indirect or consequential nature (including, without limitation, any economic loss or loss of turnover, profits, business or goodwill).

10.6 The entire liability of the Company under or in connection with the Services, including interest claims, shall not exceed the larger of: (i) 10 (ten) times the price payable to the Company for the provision of the Services under the Contract; or (ii) such sum received by the Company under any insurance policy available to it (which the Company shall not be obliged to incept or maintain), in respect of that liability.

10.7 The Client acknowledges and agrees that the limitation of liability contained in this clause:

- is fair and reasonable;
- reflects the price for the Services, and the insurance cover carried by, or available to, the Company; and
- is just and equitable having regard to the extent of the responsibility of the Company for any loss or damage suffered, on the basis that all other consultants, the contractor and any subcontractors who have a liability shall be deemed to have provided contractual undertakings to the Client on terms no less onerous than those contained in this Contract.

10.8 Nothing in this Contract shall limit or exclude liability (i) for fraud; or (ii) for death or personal injury resulting from the negligence of the Company or that of its employees or agents.

11. Publicity

11.1 The Company's name shall not be used in connection with the Contract for purposes of publicity, promotion or advertising without the prior Written approval of the Company. The Company may publish or join in publishing any description or illustration of the works with the prior consent of the Client.

12. Events of Default, Termination, Repossession, Suspension

12.1 If:

- the Client fails to pay any sum when due under this Contract;
 - materially breaches any of the terms of the Contract or any other terms agreed with the Company; or
 - is or becomes Insolvent;
- the Company may (at its discretion, and without prejudice to such other rights as it may have) at any time by notice to the Client do any one or more of the following:-
- terminate the Contract and any other contracts with the Client;
 - declare immediately due, payable and interest-bearing any amounts liable to become due by the Client to the Company under any contract;
 - suspend the provision of any Services to the Client under the Contract or any other contract between the Company and the Client (and any period of suspension shall be ignored for the purposes of determining the Company's compliance with any obligation relating to the progress, or time for completion, of the Services);
 - require the Client to return any Output Material or other materials that have not been fully paid for. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
 - proceed against the Client for any sums owing under the Contract and/or damages, as appropriate.

12.2 If the Client becomes Insolvent:

- any debt or sums due from the Company (whether under this Contract, any other contract or otherwise) shall immediately cease to be payable;
- an account shall be taken of all sums due to the Client and all sums due to the Company (whether under this Contract, any other contract or otherwise; whether present, future or contingent; and whether for a liquidated sum or unascertained); and
- only the balance (if any) of that account shall be payable.

12.3 A person is or becomes Insolvent within the meaning of this clause:

- if, being an individual:
 - he makes any voluntary arrangement with his creditors or becomes bankrupt;
 - he is unable to pay his debts as they become due, or the value of his assets is less than the amount of his liabilities (including contingent and prospective liabilities); and/or
 - he ceases to trade.
- if, being a company, limited liability partnership, partnership or similar entity:
 - it goes into liquidation (either compulsory or voluntary), except when solvent and for the purpose of reconstruction or amalgamation;
 - an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of its assets;
 - it enters into a voluntary arrangement with its creditors, or makes an assignment for the benefit of, or composition with, its creditors generally;
 - it is unable to pay its debts as they become due, or the value of its assets is less than the amount of its liabilities (including contingent and prospective liabilities); and/or
 - it ceases to trade; and
- in each case: (i) where that person threatens to do any of the things in sub-clause (a) or (b) above; or (ii) outside England and Wales anything corresponding to the events in (a) or (b) occurs or threatens to occur.

13. Non-solicitation of Staff

13.1 The Client shall not solicit or entice away or seek to entice away from the Company to work for its business, whether as principal, agent, partner, director, employee, seconded or consultant, any person who is or was employed or engaged by the Company in providing the Services. Should the Client be in breach of the above, then it shall pay to the Company a sum to cover the Company's reasonable losses.

14. Data Protection

14.1 The Company is registered under the Data Protection Act 1998 (Ref: Z1570885). The Company takes the security and privacy of your data seriously. We need to gather and use information or "data" about you as part of our business and to manage our relationship with you. We intend to comply with our legal obligations under the Data Protection Act 2018 (the "2018 Act") and the EU General Data Protection Regulation ("GDPR") in respect of data privacy and security. We have a duty to notify you of the information contained in this policy.

14.2 The Company has a separate Policy and Privacy Notice in place for our clients. A copy of the Policy can be viewed at: riverside-es.com.

14.3 A Privacy Notice is enclosed for your signature and return.

14.4 The Company has measures in place to protect the security of your data in accordance with our Data Protection Policy. A copy of this can be obtained from: riverside-es.com.

14.5 The Company will hold data in accordance with our Records Management Policy (a copy of which can be found at riverside-es.com). The information is contained

Terms and Conditions

within our Data Protection Policy referred to above. We will only hold data for as long as necessary for the purposes for which we collected it.

15. How will we process your personal data?

- 15.1 The Company will process your personal data (including special categories of personal data) in accordance with our obligations under the 2018 Act. We will use your personal data for the provision of services to you and for related purposes including:
- (a) if it is necessary for our legitimate interests (or for the legitimate interests of someone else). However, we can only do this if your interests and rights do not override ours (or theirs). You have the right to challenge our legitimate interests and request that we stop this processing, updating and enhancing client records;
 - (b) analysis for management purposes and statutory returns; and
 - (c) legal and regulatory compliance.
- 15.2 We can process your personal data for these purposes without your knowledge or consent. We will not use your personal data for an unrelated purpose without telling you about it and the legal basis that we intend to rely on for processing it.
- 15.3 Our use of that information is subject to your instructions, the Data Protection Act 1998 and our duty of confidentiality. Please note that our work for you may require us to disclose information to third parties. You have a right of access under data protection legislation to the personal data that we hold about you.
- 15.4 We may from time to time send you information which we think might be of interest to you. If you do not wish to receive that information please notify our office in writing.

16. Dispute Resolution and Applicable Law

- 16.1 Any dispute or difference arising out of or in connection with this Contract may be referred to adjudication by either party.
- 16.2 The adjudicator: (i) shall be agreed between the Client and the Company; (ii) failing such agreement within 14 days, shall be nominated, on the application by either party, by the Chairman for the time being of the Asbestos Testing and Consultation Association; or (iii) failing any such nomination, shall be nominated, on application by the referring party to any body that is an adjudicator nominating body within the meaning of the Scheme for Construction Contracts (England and Wales) Regulations 1998.
- 16.3 The contract shall in all respects be subject to and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.

17. General

- 17.1 All sums due under this Contract shall be paid without any discount, deduction, set-off or counterclaim whatsoever.
- 17.2 This Contract contains the whole agreement between the parties in respect of subject matter of agreement and supersedes any prior written or oral agreement between them relating to it.
- 17.3 The parties confirm that:
- (a) the Company's employees or agents are not authorised to make any representations unless confirmed by the Company in Writing;
 - (b) in entering into the Contract neither party has relied on any such representations which are not so confirmed;
 - (c) any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance or offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company;
 - (d) nothing in this agreement purports to exclude liability for any fraudulent statement or act.
- 17.4 No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Client and the Company.
- 17.5 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 17.6 No waiver by the Company of any breach of the Contract by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 17.7 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. The validity of the other provisions of these Conditions and the remainder or the provision in question shall not be affected thereby.