

Lincoln Analytical Terms and Conditions of Business

In these conditions "the Company" means Lincoln Analytical Services Ltd

1. Unless otherwise specifically agreed in writing the Company undertakes services in accordance with these general conditions and accordingly all offers or tenders of service are made subject to the same. All resulting contracts, agreements or other arrangements will in all respects be governed by these conditions.
2. The Company is a business enterprise engaged in the provision of asbestos services.
3. The Company acts for the persons or bodies from whom the instructions to act have originated (hereinafter called 'the Principal'). No other party is entitled to give instructions as to the scope of work or to be supplied with any report of the Company unless so authorized by the Principal.
4. The Company will provide services in accordance with:
 - 4.1 the Principal's specific instructions as confirmed by the Company
 - 4.2 Any relevant guideline, standard, method, trade, custom, usage or practice
 - 4.3 Such methods as the Company shall consider suitable on technical and/or financial grounds.
5. Documents reflecting engagements contracted between the Principal and third parties are (if received by the company) considered to be for information only, without extending or restricting the Company's mission and obligations.
6. The Company's standard services are as follows:
 - 6.1 Qualitative site survey and inspection;
 - 6.2 Data collection, analysis and computer modelling;
 - 6.3 Evaluation, monitoring and reporting;
 - 6.4 Related consultancy and advisory services.
7. Specific services where these exceed the scope of standard services as referred to in paragraph 6 will only be undertaken by the Company by particular arrangement; such special services may be illustratively and not exhaustively, qualitative and/or quantitative guarantees.
8. The Company will charge for services rendered and personnel, equipment or material applied according to the rate of fees or other charges in the Company's price guide or quotation(s) or otherwise agreed prices at the time the contract is made. In the event that no change is agreed in advance the Company shall be entitled to reasonable remuneration for work done, services rendered, travel expenses, subsistence and for personnel, equipment or materials supplied.
 - 8.1 All quotations for fees and services are given on the basis that the services will commence to be performed within the next 90 days unless otherwise specified. Thereafter the quotation will lapse.
 - 8.2 In the event that any unforeseen problems or expenditure arise in the course of carrying out any of the contracted services the Company shall be entitled to make additional charges to cover additional time and cost necessarily occurred to complete the service.
 - 8.3 If by any reason of the intervention of a third party, including, but not limited to, protesters, rioters, strikers, terrorists, police, military, security or similar personnel, the Company is delayed or interrupted in its performance of its work or the Company's equipment is damaged or the Company is obliged to incur additional expenses to protect its personnel or equipment or to protect the site of any work, then all such additional costs and expenses incurred by the Company will be reimbursed to the Company by the Principal together with any additional charges to cover delays or time loss by reason of any such interventions.
9.
 - 9.1 The Company will issue reports which contain statements of opinion made within the limitations of instructions received but the Company is under no obligation to refer to or report upon any facts or circumstances which are outside the specific instructions received.
 - 9.2 Reports issued following testing or analysis of samples containing the Company's specific opinion on those samples only but do not express any opinion on the mass or bulk from which the samples were drawn. If a more general opinion is required special arrangements must be made in advance with the company.
 - 9.3 Designs proposed by the Company are based within the limitations of instructions received but the Company is under no obligation to refer to or report upon any facts or circumstances which are outside the specific instructions received.
 - 9.4 Reports issued by the Company may only be quoted or reproduced as follows:
 - 9.4.1 Reports which cite or imply the name of the company may be reproduced or published by the Principal or by persons authorised by it providing such reproduction or publication is verbatim and within the abridgement of the full report.
 - 9.4.2 Extracts from and precis in the report in which the Company's name is cited may only be reproduced or published with prior written consent of the Company. In the event that any extracts or precis whether or not including the Company's name, in any way misrepresents the finding of the Company or gives misleading impressions as a result of which the Company suffers any loss or damage then in such circumstances the Principal will indemnify and hold harmless the Company against all such loss and damage.
10. The Principal agrees that it will:

- 10.1 Inform the Company of any known hazards or danger, actual or potential, relating to the subject matter of any contract including, for example, presence or risk of radiation, toxics or explosive material, contaminations, pollutions or poisons.
Failure to do so could result in suspension of work.
- 10.2 Fully exercise all its rights and discharge all its liabilities under any relevant agreement with any third party, including any sale and purchase contract, whether or not a report has been issued by the Company, failing which the Company shall be under no obligation to the Principal.
- 11 The Company shall be entitled at its discretion to delegate the performance of the whole or any part of the services contracted for with the Principal to any agent or subcontractor but such delegation shall in no way derogate from the right and obligations of the Company under these conditions.
- 12 12.1 The Company undertakes to exercise reasonable care and skill in the performance of its services and accepts responsibility only for proven negligence by the Principal.
12.2 The liability of the Company to the Principal in respect of any claims for loss, damage or exposure of whatsoever nature and however arising shall in no circumstances exceed a total aggregate sum equal to ten times the amount of the fee payable in respect of the specific service required under the particular contract which give rise to the claim. Where the fee payable relates to a number of services and a claim arises in respect of one of those services the fee shall be apportioned for the purpose of this paragraph by reference to the estimated time involved in the performance of each service.
13. The Principal shall guarantee, hold harmless and indemnify the Company and its servants, agents or subcontractors against all claims made by any third party for loss, damage or expense of whatsoever nature and howsoever arising relating to the performance, purported performance or non-performance, of any services to the extent that the aggregate of any such claim relating to any one service exceeds the limited mentioned in paragraph 12.
14. Every officer, servant, agent or subcontractor of the Company shall have the benefit of the limitations of liability and indemnity contained in these conditions and so far as relates to such provisions any contract entered into by the Company is entered into not only on its own behalf but also as agents and trustees for every such person as aforesaid.
15. The Principal shall punctually pay not later than 28 days after the relevant invoice date or in such other manner as may have been agreed in writing all proper charges rendered by the Company.
16. In the event of the Company being prevented by reasons of any cause whatsoever outside the Company's control from performing or completing any service for which an order has been given or an agreement made, the Principal will pay the Company:
- 16.1 The amount of all abortive expenditure actually made or incurred
- 16.2 A proportion of the agreed fee equal to the proportion (if any) of the service actually carried out and the Company shall be relieved of any responsibility whatsoever for the partial or total non-performance of the required service
17. The Company shall be discharged from all liabilities to the Principal for all claims for loss, damage or expense, other than for death or personal injury suffered by the Principal itself if the Principal is an individual, unless suit is brought within one year after the date of the performance by the Company of the service contracted for or in the event of any alleged non-performance within one year of the date when the service should have been completed.
18. In the event of the client directly or indirectly engaging the services of any Company employee to carry out works for the client within a period of six months from the date on which works were last performed by the Company for the client the client shall pay an amount equivalent to the normal Company's introduction fee of twenty five percent of the first years remuneration.
19. 19.1 These conditions and all agreements between the Company and the Principal shall be guaranteed by and construed in accordance with the Law of England and shall be subject to the jurisdiction of the English Courts unless the Company at its sole option elects to proceed in any other jurisdiction.
- 19.2 In the event that any other provisions of these conditions shall be or become invalid by law these conditions shall be read and construed as if any such invalid provisions had been wholly omitted so that all other conditions shall remain in full force and effect.