



Coal Combustion Inc.  
Understanding the business of coal

## Center for Coal and Archeology 2012 Rate Sheet

### Laboratory and sample preparation fees

#### Coals, cokes and fuels

Proximate and Ultimate . coal rank determination	\$ 299.00
Coal Petrography . fingerprinting	\$ 599.00

#### Slags

Major and Minor elements in coal ash	\$ 399.00
Optical and SEM with EDAX Microscopic examination	\$1,499.00
XRD	\$ 399.00

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All analyses will include report describing the results of the analyses, comparison to know coal sources and will be included in the Center for Coal and Archeology's Coal Analyses Data Base.

We Accept Visa, MC, AMEX

Tax info:

EIN 13-4233240



# Coal Combustion Inc. . Center for Coal and Archeology

## Terms & Conditions

1. **Acceptance.** The proposal attached hereto and these Terms and Conditions (collectively, the “Proposal”) is subject to withdrawal by Coal Combustion Inc. (the “Consultant”), by giving notice to the Client, at any time prior to the acceptance thereof by the Client, and shall automatically lapse sixty (60) days after the date hereof. No acceptance or Purchase Order which varies the terms of this Proposal, including these Terms and Conditions, shall be effective unless expressly approved by the Consultant in writing. (“Consultant” as herein shall, unless the context clearly requires otherwise, include the firm of Coal Combustion Inc. and its officers, directors, employees, sub-contractors and others for whom it may be legally liable.
2. **Payments.** Prices quoted are in U.S. dollars unless otherwise specified in Proposal. Any travel and living expenses and courier charges will be billed at cost plus 15%. Payment is due within ten (10) days after the date of invoice. Accounts will be assessed an interest charge of 1.5 percent per month on any overdue balance. Failure of the Client to make payments when due shall be cause for suspension of Services, as defined below. The Consultant shall not be responsible for any loss, claim, cost, expense or delay resulting from such suspension of Services. The Client agrees to pay the Consultant all costs incurred by it to collect overdue invoices, including, without limitation, arbitration expenses and reasonable legal fees. The prices contained in this Proposal do not contain any sales, use, excise or similar taxes imposed by any governmental authority whatsoever and all such applicable taxes will be added.
3. **Additional Services.** The consultant shall be compensated for additional services performed at the Client’s request which are outside the scope of the services described in this Proposal (“Additional Services”). Such compensation shall be in the amount agreed to in advance by the Client and the Consultant or, in the absence of the prior agreement, shall consist of hourly and/or testing fees at the Consultants then current rates, plus actual disbursements in connection with such Additional Services, all subject to and payable as provided in Paragraph 2 above.
4. **Cost Estimates.** Since the Consultant has no control over the construction costs, equipment costs, contractors’ prices or the final design of facilities or equipment recommended by the Consultant, any cost estimates relating to such facilities or equipment are made on the basis of the Consultant’s experience and judgment as a professional, but the Consultant cannot and does not warrant or guarantee that the contractors’ or vendors’ proposals, bids or costs will not vary from the Consultant’s estimates.
5. **Ownership and Use of Documents.** Upon payment in full of services described in this Proposal and any Additional Services in connection herewith (collectively, the “Services”), the Client shall have a non-exclusive, single use license to use all reports, recommendations and other documents furnished by the Consultant for the materials and processes described in this Proposal, provided, however that (a) the copyright in all such documents shall be and remain with the Consultant; (b) the patent rights in any patentable item or idea described or contained in any such report or document shall be and remain with the Consultant if relating to the handling of material, and with the Client if relating to the materials themselves; and (c) the Consultant shall not furnish copies of any report or recommendation prepared for the Client to anyone other than the Client, without the Client’s consent, and shall not disclose to others any information concerning the Client’s business, operations, or products which the Client informs the Consultant in writing is proprietary in nature and which is not in the public domain or information which has been disclosed to the Consultant by a party who is under no obligation not to disclose such information.
6. **Compliance and Indemnification.** The Client agrees that it shall retain ownership of all sample materials which may be delivered to and/or tested by the Consultant, acknowledging, however, that the Consultant may use and/or deplete such materials as it deems necessary. The Client further agrees to comply with all applicable federal, state, and local laws, rule, and regulations in any way relating to the manufacturing, storage, use, transportation or disposal of any materials which the Consultant is requested to evaluate, test or otherwise deal with and which are deemed to be hazardous materials, as that term is defined in the Resource Conservation and Recovery Act of 1976, as amended (42-U.S.C. Sec. 6901 et seq.) and the Client agrees to exonerate, indemnify and hold harmless the Consultant from and against all claims, suits, obligations, liabilities and damages, including reasonable attorneys’ fees, based upon or in any way arising out of the failure by the Client to comply with any such laws, rules, regulations or other requirements of any governmental authority having jurisdiction.
7. **Consultants Responsibilities.** (a) Many of the Services provided by the Consultant hereunder are conceptual and advisory only. Except as expressly contained in this Proposal, implementation of the Consultants recommendations shall be carried out by others, and the Consultant shall not be responsible for producing drawings, specifications or other final construction contract documents, for any errors or omissions therein, or for providing services during construction, except as expressly requested by the Client and agreed to in writing by the Consultant. The Consultants recommendations shall be based upon samples and information provided by the Client, and upon expected conditions as described by the Client. The Consultant’s recommendations shall assume the information furnished by the Client is accurate and complete, that the samples and expected conditions are representative of those which do or will exist in the Client’s facility, and that the Client has or will develop and implement a maintenance program and will carry out routine, and, where prudent, special tests, maintenance inspections, and any other necessary repairs and maintenance during the periods of operation in accordance with prudent industrial practice and such additional procedures as the Consultant may prescribe. The Consultant shall not be liable for any damages or claims arising out of the inaccuracy or incompleteness of information furnished by the Client, the failure of the Client to carry out such tests, maintenance or procedures, the failure of the Client to follow advice given by the Consultant, the existence of operating conditions other than those described by the Client, or the use of the facility or any recommended equipment in connection with materials whose properties differ from samples furnished by the Client.

(b) The Consultant shall render the Services free of negligence, in accordance with generally accepted engineering standards and practices as those standards and practices are known to the Consultant when the Services are rendered. Such Services shall be rendered without any other warranty, express or implied; the Consultant shall be responsible only for its own negligence; and, by authorizing the commencement of Services by the Consultant, the Client accepts all terms and provisions of this Proposal, including these Terms and Conditions, and agrees to make no claim and hereby waives, to the fullest extent permitted by law, any claim, or cause of action of any nature against the Consultant which may arise out of or in connection with the Services performed for the Client, excepting those claims arising from negligent acts or omissions of Consultant, which shall be limited to those set forth in this Paragraph 7(b) and elsewhere in this Proposal. In this connection, the Client agrees to indemnify and hold the Consultant harmless to such extent as will limit all liability claims (by the Client or others), the cost of defense and other expenses which may be levied against or incurred by the Consultant as a result of any error or omission in any recommendation, report, study or other service furnished or performed by the Consultant hereunder to a sum not to exceed \$10,000 or the amount of the Consultant’s fees for Services paid hereunder, whichever is greater. Under no circumstances shall the Consultant, its officers, directors, employees or agents be liable to the Client or any other person for any special, incidental, indirect or consequential including but not limited to loss of use, loss of profit, loss of business, loss of income or loss of reputation. The parties also agree that the Client will not, directly or indirectly through suits against parties other than the Consultant which parties may join the Consultant as a third party defendant, seek damages in excess of the limitations contained in this Paragraph 7(b).

**8. Arbitration.** All claims, disputes and other matters arising out of or relating to the Services performed pursuant to this Proposal, including the breach by either party of these terms and Conditions, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of America Arbitration Association then in effect, unless the parties agree otherwise. Each party's obligation to arbitrate shall be specifically enforceable under the prevailing arbitration law. Any demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, provided that in no event shall such demand be made after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other matter in question would be barred by the applicable statute of limitations. The parties mutually agree that each arbitrator selected shall, as a condition of confirmation to the position of arbitrator, commit to enforce in any decision or award, of the limitations on liability, waivers, individual protection and indemnities in this Proposal. No arbitration arising out of or relating to this Proposal shall include, by consolidation, joinder or in any other manner, any additional persons other than the Consultant and the Client, without the written consent of the Consultant. Any arbitration hereunder shall be held in Versailles, Kentucky, unless the parties have agreed otherwise. The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

**9. Termination.** The Consultant shall have the right to terminate any Services described in this Proposal, by giving notice thereof to the Client if the Client (a) fails to pay any invoice when due and payment is not received by the Consultant within ten (10) days after the consultant's notice of nonpayment; (b) fails to comply with any other provisions of this Proposal, including these Terms and Conditions, for a period of thirty (30) days after notice thereof from the Consultant; (c) commits any act that would permit the entry of an order for relief under the Bankruptcy Reform Act of 1978 (or any successor thereto); (d) is declared bankrupt or insolvent according to law; (e) makes an assignment for the benefit of its creditors. In the event of termination, the Client shall compensate the Consultant for all Services performed and expenses incurred through the termination date, plus all expenses incurred as a result of such termination, including, without limitation, reasonable attorneys' fees and expenses. All indemnities, waivers, limitations of liability and exclusions contained in this proposal shall survive any termination of Services, and shall remain in full force and effect.

**10. Remedies.** The rights and remedies of the Consultant described herein are cumulative and in addition of all other rights and remedies available under applicable law. The Consultant's waiver of any breach by the Client of any provision hereof shall not constitute a waiver of any other violation by the Client. It is the intent by the parties that the Consultant's Services shall not be subject to the Consultant's individual employees, officers, or directors to any personal legal liability whatsoever. Therefore, and notwithstanding anything to the contrary contained herein, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the Consultant, a Kentucky corporation, and not against any of the Consultant's individual employees, officers or directors.

**11. Force Majeure.** If the Consultant is prevented, hindered or delayed in performing Services described in this Proposal as the result of circumstances beyond its reasonable control, the Consultant shall be excused from performance until such time as such circumstances no longer affect the Consultant's performance. The Consultant shall give notice to the Client of any such circumstances which the Consultant believes will prevent or delay the Consultant from fulfilling its obligation herein.

**12. Assignment.** The Consultant reserves the right to assign or subcontract for any portion of the Services arising from this Proposal. The Client shall not assign its rights or obligations under this Proposal without obtaining the prior consent of the Consultant, which the Consultant may withhold in its sole discretion.

**13. Conflict in Terms and Conditions.** In the event of a conflict between these Terms and Conditions and any other provisions contained in this Proposal, the latter shall prevail. These Terms and Conditions of this Proposal shall always prevail over any inconsistent provisions of any purchase order issued by the Client.

**14. Notices.** Notices and other communications shall be in writing and shall be deemed given when mailed, postage prepaid, addressed to the parties at their respective addresses contained in this Proposal, except that either party may from time to time designate by notice of another address which shall thereupon become the effective address of the party.

**15. Miscellaneous.** This Proposal including these Terms and Conditions, supersedes all prior agreements relating to the subject matter hereof; may be amended only in writing; is binding upon the parties and their permitted successors, assigns and legal representatives; represent the entire agreement between the parties; and shall be governed interpreted in accordance with the laws of the Commonwealth of Kentucky, excepting only that with respect to the limitations on liability, waivers, and indemnities in this Proposal, the arbitrator or arbitrators shall apply the law of any jurisdiction as may be necessary to give such provisions their full and intended benefit and application as set forth in this Proposal. If any provision of this Proposal or the application thereof to any person or circumstance should be held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision hereof, which shall remain in full force and effect.