

Ecology Solutions Terms & Conditions

1. Definitions

- 1.1. In this Agreement (unless the context otherwise requires):
- 1.1.1. "Agreement" means the Fee Quote (including any documentation appended to or referred to therein) together with these Conditions;
- 1.1.2. "Business Day" is a day other than a Saturday, Sunday, or public holiday in England, when banks in London are open for business;
- 1.1.3. "Client" means as stated in the Fee Quote to which the Fee Quote is addressed, or otherwise formally notified to Ecology Solutions as being responsible for payment of Ecology Solutions invoices;
- 1.1.4. "Client Materials" any document, drawings, specifications, data, or information in any form (including information contained in emails) provided by or on behalf of the Client to Ecology Solutions;
- 1.1.5. "Client Provided Information" means information that is included or referenced in the Fee Quote or included within any response to preliminary enquiries received by Ecology Solutions prior to a Contract coming into existence;
- 1.1.6. "Conditions" are these terms and conditions, as amended from time to time;
- 1.1.7. "Contract" is the contract for the supply of Services by Ecology Solutions to the Client comprising these Conditions, the Fee Quote, and any supplementary conditions;
- 1.1.8. "Deliverables" are any products, reports, or other documentation to be produced by Ecology Solutions for the Client as part of the Services including but not limited to reports, assessments, and technical notes, as set out in the Fee Quote;
- 1.1.9. "Ecology Solutions" means Ecology Solutions Limited (Ecology department, Mitigation & Management department, and Landscape Planning & Design department), registered in England and Wales with the company registration number 05276191 and whose registered address is Farncombe House, Farncombe Estate, Broadway, Worcestershire, WR12 7LJ;
- 1.1.10. "Ecology Solutions IPRs" relates to all Intellectual Property Rights subsisting in the Deliverables excluding Client Materials incorporated within them;
- 1.1.11. "Fee" is as defined in the Fee Quote and all expenses and disbursements as detailed in the Fee Quote;
- 1.1.12. "Fee Quote" is the letter to which these Conditions relate and where details of the Fee, Project, Services, and other particular requirements are set out;
- 1.1.13. "Force Majeure" means any event outside Ecology Solutions' control, including without limitation, extreme weather events, war, terrorism, acts of God, flood, drought, earthquake or other natural disaster, and any epidemic or pandemic, including any consequences thereof;
- 1.1.14. "Instruction" refers to the act of the Client formally notifying Ecology Solutions of their acceptance of the Fee Quote in writing.
- 1.1.15. "Intellectual Property Rights" Includes all patents, copyright, database rights, trademarks, business names, domain names, design rights, goodwill, and any other intellectual property rights in reports, data, drawings, software, or other materials produced by Ecology Solutions Limited. This includes rights to protect confidential information, enforce against misuse, and all future renewals or extensions of such rights, in any part of the world.
- 1.1.16. "Parties" means the Client and Ecology Solutions;
- 1.1.17. "Programme" is as set out in the Timings section of the Fee Quote or such other timescales agreed between Ecology Solutions and the Client;
- 1.1.18. "Project" is the project stated in the Fee Quote;
- 1.1.19. "Project Lead" is the person or persons from Ecology Solutions responsible for managing the Project.
- 1.1.20. "Relevant Event" means any change in any law, order, rules, regulations, codes of practice and/or decisions of a government body, and/or the UK no longer being a member state of the EU (including the continuing consequences of the UK leaving the EU), and/or any trade agreement between the UK and any country being entered into, abandoned, or delayed;
- 1.1.21. "Services" are as defined in the Fee Quote, including any Deliverables, to be provided by Ecology Solutions to the Client as described in the Fee Quote, subject to any subsequent amendments.
- 1.1.22. "Third Party Materials" are any document, data, or information in any form (including information contained in emails) provided by or on behalf of the Client to Ecology Solutions and which originates from a third party.
- 1.1.23. "Works" are any time and materials spent by Ecology Solutions in order to provide Services as set out in the Fee Quote or otherwise instructed.

1.1.24. "Works Start Date" is the day on which Ecology Solutions will start the provision of Services as set out in the Fee Quote.

- 1.2. Unless expressly stated otherwise in this Contract, any reference to legislation includes any amendments made from time to time, as well as all related subordinate legislation.
- 1.3. Any words following the terms *including, include, in particular, for example*, or any similar expression are illustrative and do not limit the meaning of the preceding words.
- 1.4. Any reference to writing or written includes email.

2. Basis of Contract

- 2.1. Unless otherwise agreed with Ecology Solutions, the conditions laid out here will be the terms to which this project is conducted under.
- 2.2. If the Client would prefer Ecology Solutions to sign up to the Client terms and conditions, the Client must state as such and provide their terms and conditions alongside formal Acceptance of the Fee Quote. Ecology Solutions will only give counter acceptance of the contract once the Client terms and conditions have been reviewed and agreed.
- 2.3. The Contract is made up of the Fee Quote and these Conditions, the Mandatory Policies, and any Schedules. In the event of any conflict between the documents making up the Contract, the terms will take priority in the following order of precedence:
- 2.3.1. The Fee Quote;
- 2.3.2. The Schedules;
- 2.3.3. The Mandatory Policies; and
- 2.3.4. These Conditions.

3. Acceptance and Commencement

- 3.1. Completion and return of a Confirmation of Appointment form is required. Written instruction, such as in the form of an email, is the minimum requirement for Works to be considered Instructed.
- 3.2. Where Instruction of only part of a Fee Quote is to be given, the Client must clearly state which Tasks are and are not instructed. If Ecology Solutions undertakes a task that has not been made clear as not instructed, this will be invoiced for in accordance with these terms.
- 3.3. These Conditions will come into effect once Ecology Solutions has received instruction from the Client, and that Instruction has been reviewed and accepted by the Project Lead.
- 3.4. The Project will continue under these Conditions, unless otherwise updated in subsequent Agreements following the Programme, as set out in the Fee Quote until all Instructed Deliverables have been met, at which point the Contract is said to have reached its end date.
- 3.5. If the client has a query about the scope described in the Fee Quote or the Fees, they must contact Ecology Solutions prior to instructing the works, asking for clarification.
- 3.6. To proceed with Works and to be able to raise invoices, Clients must provide to Ecology Solutions at minimum:
- 3.6.1. Client company name;
- 3.6.2. Client business address the invoices are to be addressed to;
- 3.6.3. Name of individual(s) that invoices are For the Attention of (FAO);
- 3.6.4. Email addresses of any individual that invoices are to be sent to.
- 3.7. Where the Client accepts the Fee Quote in the whole, the Confirmation of Appointment form should be filled out and returned to Ecology Solutions.
- 3.8. Where the Client operates a Purchase Order (PO) system, a PO must be issued to Ecology Solutions prior to Ecology Solutions starting Works. In the absence of a PO, the information provided on the Confirmation of Appointment form will be used to quote the invoice.

4. Fees/ Payment

- 4.1. Unless otherwise agreed in writing, the following terms apply:-
- 4.1.1. Ecology Solutions shall be paid the Fee in performing the Services subject to VAT at the rate prevailing at the date of any invoice.
- 4.1.2. In addition to the Fee, Ecology Solutions shall be paid any reimbursable costs and expenses associated with the work for travel, accommodation, subsistence, printing, computer, and any other reasonable expenses that were not included within the Fee.
- 4.1.3. The invoice shall be paid in full within 30 days without any deduction, set-off, counterclaim or withholding (other than as required by law).
- 4.1.4. In the event that the Client has a query within the invoice, this should be notified to Ecology Solutions in writing within the first seven days of receipt of the invoice. In the absence of this Ecology Solutions will deem that the Client agrees with the amounts due.

Ecology Solutions Terms & Conditions

- 4.15. If the invoice fails to be paid within 30 days, the company reserves the right to suspend any or all of the Services until the outstanding amount, together with interest, has been received. No liability is accepted for any loss, damage, or consequential loss, however, suffered by virtue of the suspension of the Services.
- 4.16. Ecology Solutions will exercise their statutory right to claim interest and compensation for debt recovery costs under the Late Payment of Commercial Debts (Interest) Act 1998 as amended by the Late Payment of Commercial Debt Regulations 2013, if not paid according to agreed credit terms (a part of a month being treated as a full month for the purpose of calculating interest).
- 4.17. All payments due shall be payable within the specified time as set out in the Fee Quote, irrespective of whether or not the Client has received payment from a third party.
- 4.2. For new Clients, or Clients returning after a longer period between Projects, Ecology Solutions have the right to undertake a credit check prior to Ecology Solutions accepting Instruction from the Client. Where a credit check is deemed required, Ecology Solutions will inform the Client of this prior to the credit check being actioned. Depend on the outcome of the credit check, Ecology Solutions may request a percentage of the Fee to be paid up front prior to starting Works.
- 4.3. Payment for projects outside of UK or clients based outside of UK will require full payment in advance.
- 4.4. Invoicing milestones will be included in the fee quote. If no such payment date or dates have been agreed, Ecology Solutions may invoice the Client monthly for Services performed.
- 4.5. Final versions of reports of other final Deliverables will not be released until payment for the Deliverable has been made in full.
- 4.6. Where Fees do not include expenses or disbursements, this will be clearly indicated in the Fee Quote. In this instance, expenses and disbursements will be added to invoices once the full extent of these costs is known.
- 4.7. Where a Client wishes to see a full breakdown of expenses as invoiced, the Client must give Ecology Solutions written notice of such within 7 days of receiving the invoice. In this instance, the Client must pay the Fees portion of the invoice (exclusive of expenses), within 30 days of receiving the invoice, unless the Client has another query about the invoice, pursuant to clause 4.1.3. If notice is not given within seven days, the Client is liable to pay the full value of the invoice, as per clause 4.1.4.
- 4.8. Invoices will be raised according to the timelines set out in the Fee Quote, or monthly as per clause 4.4. Invoices will be reflective of the tasks and Fees set out in the Fee Quote, plus any other works as instructed by the Client in addition to the agreed scope as in the Fee Quote.
- 4.9. Increases to the scope as instructed by the Client may be charged either:
- 4.9.1. On an hourly rate as per Ecology Solutions standard charge out rates.
- 4.9.2. Through an additional Fee Quote, provided by Ecology Solutions on request by the Client.
- 4.10. For works with no fixed Fee, a schedule of rates for individual Work items may be given. The quantity of items invoiced for will be dependant on the Project scope becoming more clearly defined during the course of the Project.
- 4.11. If as a result of (i) a Relevant Event, and/or (ii) any Force Majeure, additional or varied services are performed, costs incurred, and/or the Services are disrupted, delayed or prolonged, Ecology Solutions shall be entitled to an extension of time to the extent of the disruption, delay or prolongation and to additional payment in accordance with Ecology Solutions' hourly rates.
- 4.12. If any Relevant Event prevents or significantly impedes the performance by Ecology Solutions of the Services or any additional services under this Agreement, materially impacts the performance of the Services or any additional services and/or materially increases the cost of performing the Services or any additional services, Ecology Solutions may upon not less than 28 days' notice suspend the performance of all or any part of the Services under this Agreement.
- 4.13. Ecology Solutions shall not be in breach of this Agreement and shall have no liability under or in connection with this Agreement as a result of (i) any act, omission, or default, (ii) any failure to perform the Services in accordance with this Agreement and/or (iii) any prolongation or delay to the Services, to the extent it is caused or contributed to by any Force Majeure. If any Force Majeure occurs, Ecology Solutions may suspend performance of all or any part of its obligations on immediate written notice. If any Force Majeure continues for 30 (thirty) days or longer, Ecology Solutions may terminate this Agreement on 14 (fourteen) day's written notice.
- 4.14. Where sub-consultants and/or sub-contractors are employed by Ecology Solutions on the Client's behalf under clause 11.3, Ecology Solutions reserves the right to raise interim invoices to recharge the fee and management of the Sub-consultant's services and/or Sub-contractor's works to the Client.

5. Services

- 5.1. Ecology Solutions shall exercise reasonable skill and care in the performance of the Services. Notwithstanding any other provision of this Agreement, Ecology Solutions shall have no greater obligation in respect of the Services than to exercise the level of skill and care required by this clause 5.1. Nothing in this Agreement or otherwise shall impose any obligation, warranty, or guarantee (whether express or implied) on or from Ecology Solutions that the Services shall be suitable or fit for any specified purpose.
- 5.2. Ecology Solutions shall comply with the Client's reasonable written Instructions in connection with the Services. Where the Client gives Instruction to change the Services (which shall include any addition, alteration, or variation thereto and any abortive work), the Client and Ecology Solutions shall acting reasonably agree a fair and reasonable adjustment to the Fee. Where such agreement cannot be reached, the Fee shall be adjusted on a fair and reasonable basis having regard to the Fee.
- 5.3. Any timescales provided in the Fee Quote for completion of the Services are estimates only and are commonly based on the seasonal nature of our Services. Ecology Solutions shall use reasonable endeavours to comply with the Programme. Where no Programme is provided or agreed, Ecology Solutions shall perform the Services within a reasonable time of being instructed to proceed with the Services, having regard to any dates or approximate time scales provided by Ecology Solutions for the purposes of estimating the Fee.
- 5.4. Where for reasons beyond Ecology Solutions' reasonable control Ecology Solutions is delayed in performing the Services and/or is required to carry out any additional services or, altered or varied Services, Ecology Solutions shall be entitled to additional time to perform the Services to the extent of such delay and/or for a reasonable time commensurate with the additional services or altered or varied Services and shall not be in breach of this Agreement as a result of such delay. In such circumstances Ecology Solutions shall also be entitled to an additional Fee calculated on the same basis as in clause 5.2.
- 5.5. Ecology Solutions shall not be responsible for, or in any way liable for the existing site/ property constituting the Project.
- 5.6. Ecology Solutions shall comply with the Construction (Design and Management) Regulations 2015 (the "2015 Regulations") where applicable to the Services. However, nothing in this Agreement shall require Ecology Solutions to assume any duties or obligations as a Principal Designer or Principal Contractor under the 2015 Regulations, unless expressly agreed in writing.
- 5.7. Ecology Solutions shall provide reasonable assistance to the Client in supplying relevant information for the Client's health and safety file, where applicable. Ecology Solutions shall not be responsible for the completeness or accuracy of any health and safety documentation beyond the scope of its agreed Services.

6. Suspension and termination

- 6.1. Ecology Solutions may suspend performance of all or part of the Services by giving 7 days' notice in writing if payment of any amount due and payable to Ecology Solutions is not received by the final date for payment or if as a result of any circumstances for which Ecology Solutions is not responsible, Ecology Solutions considers that it is impossible or irresponsible for it to perform all or part of the Services. If such suspension continues for 14 days and the event giving rise to suspension has not been remedied by the Client, Ecology Solutions may terminate by immediate notice.
- 6.2. Ecology Solutions may serve 14 days' written notice of its intention to terminate if the Client is in material breach of its obligations in this Agreement or payment of any amount due and payable to Ecology Solutions under clause 4 is not received within 14 days of the final date for payment. If the Client fails to rectify the default in such 14-day period, Ecology Solutions may at the expiry of that period give further written notice terminating its employment hereunder with immediate effect. In the event of the Client's insolvency or bankruptcy (as appropriate), and any breach by the Client of the Bribery Act 2010, Ecology Solutions shall be entitled to immediately terminate the Agreement.
- 6.3. If for any reason Ecology Solutions' employment is suspended or terminated, Ecology Solutions shall be paid any Fee due and payable at the date of termination or suspension, any reasonable costs, expenses and/or losses incurred by Ecology Solutions as a result of such suspension or termination, and a fair and reasonable proportion of any Fee instalments in respect of which the Services are part-performed at the date of termination.

7. Insurance

- 7.1. Provided such insurance is available on commercially reasonable rates and terms, Ecology Solutions shall maintain professional indemnity insurance with a limit of indemnity of £1,000,000 in the aggregate from commencement of the Services until 6 years after the completion of the Services or termination of this Agreement, whichever is the earlier.

Ecology Solutions Terms & Conditions

8. Liability

- 8.1. Notwithstanding anything to the contrary contained in this Agreement unless expressly stated within the Fee Quote, and without prejudice to any other provision in this Agreement whereby Ecology Solutions' liability is excluded or limited to a lesser amount, Ecology Solutions' total aggregate liability (including, without limitation, legal costs and interest) under or in connection with this Agreement shall not exceed the lesser of (i) 10 times the total Fee payable to Ecology Solutions and (ii) £1,000,000.00 (One Million Pounds) howsoever that liability arises including, without limitation, in contract, in tort, in negligence, for breach of statutory duty or otherwise, provided that nothing shall not exclude or limit Ecology Solutions' liability for death or personal injury caused by Ecology Solution's negligence or for fraud or fraudulent misrepresentation.
- 8.2. Notwithstanding any other provision of this Agreement:
- 8.2.1. Ecology Solutions shall not be liable for any loss of income, loss of actual or anticipated profits, loss of business, loss of contracts, loss of goodwill or reputation, wasted management time, loss of anticipated savings, loss of, damage to or corruption of data, or for any special, indirect or consequential loss or damage of any kind, in each case howsoever arising, whether foreseeable or in the contemplation of the Parties and whether arising in or for breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise;
- 8.2.2. Ecology Solutions' liability to the Client under or in connection with this Agreement shall not exceed such sum as it would be just and equitable for Ecology Solutions to pay, having regard to the extent of Ecology Solutions' responsibility for the loss and/or damage and on the assumption that all other consultants, contractors, subcontractors and other persons involved in the Project have paid to the Client such sums as it would be just and equitable for them to pay; and
- 8.3. The Client agrees not to pursue any claims in contract, tort or for breach of statutory duty (including negligence) against any individuals working or employees who work for Ecology Solutions in their personal capacity at any time. The Client acknowledges that such individuals are entitled to enforce this term pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 8.4. Without prejudice to any shorter statutory limitation period, no action, claim, or proceedings arising out of or in connection with this Agreement (howsoever arising) shall be commenced after the expiry of a period of 6 years from the completion of the Services or termination of this Agreement, whichever is earlier.

9. Client Obligations

- 9.1. The Client shall:
- 9.1.1. Provide all data, information and materials, obtain and maintain any necessary licences, permits, consents and other approvals, give all access and give any decisions, approvals, confirmations or instructions, as Ecology Solutions may reasonably require and/or are necessary for the performance of the Services in a timely manner; and
- 9.1.2. Comply with its duties and ensure that all other designers and contractors engaged in respect of the Project shall comply with their respective duties, under the Construction (Design and Management) Regulations 2015.

10. Documents

- 10.1. The intellectual property rights in all reports/drawings and any other documents produced by Ecology Solutions under or in connection with this Agreement ("Documents") shall vest in or remain vested in Ecology Solutions. The Client shall have a licence to use the Documents produced for delivery to the Client for any purpose connected with the Project (other than the reproduction of any designs contained in the Documents in any extension to the Project). No party other than the Client shall be entitled to use, or have the benefit of, the Documents except with the express written permission of Ecology Solutions. The Client acknowledges that Ecology Solutions shall not be liable for the consequences of the use of any or all of the Documents for any purpose other than that for which they were prepared by, or on behalf of, Ecology Solutions.
- 10.2. Without prejudice to clause 10.1, the Client undertakes not to alter, amend or change the wording of any Documents and/or any part or extract thereof (including, for the avoidance of doubt, any reports) prepared and provided by Ecology Solutions.
- 10.3. Ecology Solutions shall be entitled to refer to the nature of the Services provided to the Client in its marketing materials, case studies, or promotional activities. However, Ecology Solutions shall not disclose any confidential information or commercially sensitive details without the prior written consent of the Client, such consent not to be unreasonably withheld or delayed.
- 10.4. The Client grants Ecology Solutions a non-exclusive, royalty-free licence to use its name and logo for the purposes of identifying it as a client in Ecology Solutions' promotional materials. The Client may revoke this consent at any time by providing written notice.

- 10.5. Any documents, data, samples, equipment, or other materials provided by the Client to Ecology Solutions ("Client Materials") shall remain the property of the Client. Ecology Solutions shall take reasonable care of such materials while in its possession but shall not be liable for any loss or damage to them unless caused by its gross negligence or wilful misconduct.
- 10.6. The Client shall collect all Client Materials within a reasonable time following completion of the Services. If the Client fails to collect Client Materials within 60 days of written notice from Ecology Solutions, Ecology Solutions reserves the right to dispose of or destroy them without further liability.

11. Third Party rights, assignment, and sub-contracting

- 11.1. Ecology Solutions are not required to provide Letters of Reliance or Collateral Warranties. If Ecology Solutions consents (at its sole discretion) to provide any Letter of Reliance and/or Collateral Warranty prior receipt of an additional fee in the sum of 10% of the Fee for the Project or £1,250 (whichever is greater) will be required for each Letter of Reliance or Collateral Warranty.
- 11.2. Save as provided in clauses 8.3 and 11.1 nothing in this Agreement confers any rights or benefit on any third party to enforce any term of this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999. Ecology Solutions will not provide any collateral warranties under or in connection with this Agreement.
- 11.3. Neither the Client nor Ecology Solutions shall assign or transfer any benefit or interest under this Agreement without the prior written consent of the other.
- 11.4. Ecology Solutions reserves the right to employ such sub-consultants and specialists as it deems necessary to carry the Services. Where any other person or persons are engaged by Ecology Solutions on the Client's behalf, Ecology Solutions shall have no liability whatsoever for any act, omission or otherwise of such person or persons.

12. General

- 12.1. This Agreement constitutes the entire agreement between the Parties and supersedes any previous arrangement, understanding or agreement between them relating to or connected with this Agreement and/or the Services (whether oral or in writing) and any terms and conditions submitted by the Client (whether before or after the date of the Fee Quote) or contained in any letter, purchase order. For the avoidance of doubt, this Agreement does not require Ecology Solutions to comply with, and Ecology Solutions shall have no additional obligations and/or liabilities arising out of or in connection with, any agreement between the Client and any third party.
- 12.2. Ecology Solutions and the Client warrant that, in relation to this Agreement, they shall comply with any applicable obligations under the Data Protection Act 2018, the General Data Protection Regulation (EU) 2016/679, the Modern Slavery Act 2015 and the Bribery Act 2010.
- 12.3. This Agreement sets out the full extent of Ecology Solutions' obligations and liabilities arising out of or in connection with the Services and there are no conditions, warranties, representations, or terms, express or implied, that are binding on Ecology Solutions, except as specifically stated in this Agreement. Any condition, warranty, representation, or term which might otherwise be implied into or incorporated in this Agreement whether by statute, common law or otherwise, is hereby expressly excluded.
- 12.4. This Agreement shall be governed by English law and the English courts shall jurisdiction with regard to all matters arising under it.