

Kirstie Parr
Tonbridge & Malling Borough Council
Gibson Building
Gibson Drive
Kings Hill
West Malling
ME19 4LZ

Ecologia Ref: 19.091.3

26th January 2021

Dear Kirstie,

**Re: Priory Wood Landfill, Tonbridge, Kent, TN11 0NA – Gas Extraction System
Condition Survey**

1. Introduction

Ecologia have provided costs for checking the condition of the gas extraction system at the above referenced site. The inspection will include the following works:

- Site visit to identify the infrastructure and provide a condition report, including gas monitoring on the 5No. vent stacks; and,
- Flare Service Engineer to inspect and report on the condition / performance of the electrical gas booster unit.

Cost Summary:

Item	Total (£)
Condition Report on Current Infrastructure (inc. gas monitoring on 5No. vent stacks)	762.00
Inspect / Service Gas Booster Unit	390.00
Total Cost (exc. VAT)	1,152.00

Payable (30 days payment terms) as follows:

To be invoiced on submission of the condition report.

Standard Conditions of Contract Apply.

2. Timescales

Ecologia will require the following time to complete the works:

- Mobilisation – Currently allow a minimum 10 working days' notice. This may be reviewed following receipt of instruction.
- Reporting – up to 5 working days after completion of inspections.

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Kent Science Park
Sittingbourne
Kent ME9 8BZ UK

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3. Requirements

The following will be required for the works:

- Infrastructure location plan to show the 5 vent stacks and compound area.
- Locations need to be accessible i.e. padlock keys available, locations free from significant vegetation overgrowth.
- Power is required to the motor control on the blower to allow for a full inspection.

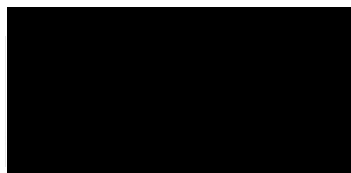
We hope the above costs are to your satisfaction, however, if you have any queries or wish to discuss further please do not hesitate to contact us.

Yours Sincerely,

For and on behalf of Ecologia

Prepared by: Lucy Allen
Project Manager

Checked & Authorised by: Leigh Anne Cammack
Director





CONDITIONS OF CONTRACT

These Conditions of Contract ("the Conditions") and the Proposal Ref: 19.091.3 dated 26/01/2021 together form the "Agreement" and are submitted by Ecologia Environmental Solutions Limited (the "Company") to Tonbridge & Malling Borough Council (the "Client").

DEFINITIONS

"Company"	means Ecologia Environmental Solutions Limited, its employees, agents and consultants.
"Client"	means the party with whom this Agreement is made upon the acceptance of the proposal.
"Proposal"	means the documents outlining the Company's proposed Services to be performed for the Client, with all attachments and amendments.
"Services"	means those specific tasks undertaken by the Company and detailed within the Proposal, and any additional tasks subsequently agreed between the Company and the Client.
"Site"	means the property, land or area on which the Services are to be provided.

In these Conditions, unless the context requires otherwise, any references to the singular includes the plural (and vice versa).

The Company will only provide the Services in accordance with these Conditions and the Client will be deemed to have been accepted by the Client upon instructing the Company to provide the Services detailed in the Proposal. The Company hereby expressly excludes any terms and conditions of the Client.

1 (of 19). APPOINTMENT

- 1.1 Subject to sub clause 1.2, the appointment of the Company shall commence from the date of acceptance by the Company of a written instruction by the Client to perform the Services set out in the Proposal;
- 1.2 At the Company's complete discretion, it may accept an oral instruction to carry out the Proposal, provided that written confirmation from the Client is received within 24 hours of that oral instruction. If such written confirmation is not received within this time the Company may immediately cease further work until it is provided and the Company shall have no further obligation to perform the Services until it is so received.

2. THE SERVICES

- 2.1 The Company shall provide the Services to the Client in accordance with these Conditions.
- 2.2 While time estimates are given in good faith, time for delivery of the Services shall not be of the essence.
- 2.3 The Services will be performed for the exclusive use of the Client, unless expressly provided otherwise in the Proposal.

3. PAYMENT

- 3.1 The Client shall pay the Company the fees set out in the Proposal and in accordance with this Condition 3.
- 3.2 Time shall be of the essence for all payments under these Conditions.
- 3.3 Save as may otherwise expressly agreed, the Company will submit invoices on a monthly basis and payment in full is due within 30 days of the date of the invoice. The Client shall notify the Company in writing within 10 days of receipt if any invoice is disputed.



- 3.4 All fees quoted shall be exclusive of expenses, disbursement and VAT, unless otherwise stated.
- 3.5 If an invoice remains unpaid for 30 days the Company shall be entitled to charge interest from the date of that invoice at the rate of 8% above the base lending rate of The Bank of England from time to time applying until the invoice is paid in full.

4. RIGHT OF ENTRY

- 4.1 The Client hereby grants the Company and its sub-contractors the right of entry to the Site and permission to perform the Services, including without limitation the performance of test borings and all other Site investigations which are contained in the Proposal.
- 4.2 Should the Client not own the Site, the Client warrants that it has obtained the permission of Site owner and, so far as may be relevant, the permission of the Site occupier to grant the Company the right of entry and permission referred to in sub clause 4.1 and the Client hereby indemnifies the Company against all liability, loss, costs and expenses incurred by reason of any claim brought by any person for loss, damage or distress caused to that person as a result of the Company entering on to the Site and performing the Services without permission of the Site owner or Site occupier.

5. SURFACE and SUB-SURFACE EXPLORATIONS

- 5.1 The Client acknowledges that, in performing the Services, the terrain, vegetation and buildings, structures, improvements and equipment at, in or upon the Site may be affected, altered or damaged as a result of the use of equipment necessary for the Company to provide the Services. The Company will not be liable for any effect, alteration or damage so arising and the Client hereby indemnifies the Company against any loss or claim arising out of or connected with any effect, alteration or damage as the case may be.
- 5.2 The Client grants permission to the Company to conduct Site investigations in accordance with the Proposal. The Company relies on the information provided to it by the Client and does not accept liability for any damage, injury or interference with the Site or any subterranean structure or condition of the Site, including without limiting the generality of this term, any pipe, tank, cable or any other service provided at the Site if the existence and location of the same is not drawn to the Company's attention by the Client prior to commencement of the Services.

6. INFORMATION TO BE SUPPLIED BY THE CLIENT

- 6.1 The Client shall supply to The Company without charge and within sufficient time to permit the Company to provide the Services in a timely manner all necessary and relevant data and information in the possession of the Client related to the Proposal and shall give such assistance as shall reasonably be required in the provision of the Services.
- 6.2 Without reducing the generality of the obligation in sub clause 6.1, the Client shall provide the Company with any information in the Client's possession regarding the existence of hazardous materials or waste at or under the Site, and all relevant documents relating to handling practices, environmental permits, records of compliance or non-compliance, or other matters which might reasonably be considered to affect the provision of the Services.
- 6.3 If the Client is not the Site owner or operator it shall nevertheless procure such information as is required under sub clauses 6.1 and 6.2 and all such data and information shall be deemed to be supplied directly by the Client for the purpose of these Conditions. The Company will not be responsible for damages, claims or liabilities which arise as a result of the Client providing inaccurate or incomplete information.

7. SITE CONDITIONS

- 7.1 The Client agrees that in some circumstances Site conditions might prevent or inhibit provision of the Services as anticipated in the Proposal and that if unforeseen location of hazardous waste materials or conditions are encountered, including, without limiting the generality of the term, obstruction by others using the Site, provision of the Services under this Agreement may be delayed.
- 7.2 Any such delays referred to in sub clause 7.1 and any delays caused directly or indirectly by the



Client, its sub-contractors, consultants, agents, officers, directors and employees, shall automatically extend the contract completion date for provision of the Services and The Company shall be entitled to charge the Client for any additional costs incurred together with any reasonable delay charges. In this sub clause "delay charges" shall include, but not be limited to, costs associated with personnel and equipment rescheduling and/or reassignment adjustments and all other costs arising out of or connected such delay including, but not limited to, labour and material escalation costs and extended overhead costs.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 In this clause "Intellectual property rights" means any patent, copyright, registered or unregistered design right, database right, registered or unregistered trade mark, rights in relation to confidential information or any other intellectual property rights in any part of the world;
- 8.2 All databases, designs, documents, drawings, notebooks, photographs and records which are made by the Company or any of the Company's personnel in the course of providing the Services, any media containing or recording any part of any of the foregoing items, and any intellectual property rights in respect of any of those items, shall belong exclusively to the Company, and accordingly to the extent that it may be necessary for the avoidance of doubt to do so the Client hereby assigns to the Company (where appropriate, by way of present assignment of future copyright) or (in any other case) agrees to assign to the Company absolutely on demand with full title guarantee and for no further consideration, all intellectual property rights in respect of those items.
- 8.3 If and to the extent that it is not reasonably practicable for the Company to provide the Services without the use of any intellectual property rights of the Client, the Client hereby grants to the Company a non-exclusive, irrevocable, non-transferable and royalty-free licence to use such intellectual property rights of the Client as the Company shall require for that purpose.

9. FORCE MAJEURE

The Client shall not hold the Company responsible for damages or delays in performance caused by acts of God, acts and/or omissions of government or regulatory authorities, or other events which are beyond the control of the Company. For this purpose, such acts or events shall include, but not limited to storms, floods, epidemics, war, riot, strikes, lockouts or other industrial disturbances, and inability with reasonable diligence to supply personnel, information or material to the project. Should such acts or event occur, it is agreed that the Company shall use reasonable efforts to overcome all difficulties arising and to resume as soon as reasonably possible the normal pursuit and schedule of the Services covered by this Agreement. Delays in excess of thirty (30) days within the scope of this Clause shall, at the option of either party, entitle either party to terminate this Agreement.

10. CONFIDENTIALITY

- 10.1 Subject to sub clause 10.2, the Company will not disclose information about the Agreement, its Services or its reports to anyone except on the Client's written instructions. The Company will keep information confidential except to the extent necessary (1) for the Company to perform its Services, or (2) to comply with professional standards to protect public health, safety and the environment, or (3) to comply with any decision, judgement or order of the Court, or any lawful direction, instruction, notice or order of any competent regulatory authority ("Orders"). Information which is known to the public or technical information which the Company may have developed independently or acquired without any breach of duty will not be considered confidential.
- 10.2 If by Order the Company is required by law to disclose information in its possession, the Company shall give the Client prompt notice in writing, whenever possible, of such facts. Thereafter, the Company may, without liability to the Client or others, comply with such Orders. If any claims are asserted against the Company because of the Company's compliance, the Client will hold the Company harmless from such claims, provided that the Company's disclosure is made under a reasonable bona fide belief, or on advice of counsel, that disclosure is required by Order.

11. PROVISION OF THE SERVICES

- 11.1 The Company shall exercise all reasonable skill, care and diligence in the discharge of the Services



and shall exercise the same degree of care ordinarily exercised by qualified professionals undertaking work under similar circumstances in the same geographical area.

- 11.2 The Client acknowledges that provision of the Services requires decisions, which are based upon professional judgement, rather than scientific certainties, and that there are inherent risks associated with the assessment or remediation of Sites, especially those containing hazardous materials. The Company's recommendations and conclusions are subject to modifications due to changes in Site conditions or regulations which may occur after the Services have been performed or during the performance of the services.
- 11.3 The Client acknowledges that the Company's Services as described in the Proposal will be performed solely for the use of the Client and to the standards outlined in Conditions above and will not be disclosed or used or relied upon in any way by any third party unless stated otherwise in the Proposal. No warranty, indemnity or guarantee either express or implied, is given or intended by the Company in either this Agreement or in the Company's report(s).
- 11.4 The Client acknowledges that the findings and recommendations of the Company relate only to the conditions at the site at the time the Company undertakes the Services.
- 11.5 The Client acknowledges that it will place no reliance on information, data or any other matter other than that contained within a final report prepared and provided by the Company, and the Client acknowledges that the Company has no liability for any loss, damage or injury caused by the Client's reliance upon information, data or other matters not so presented to the Client.
- 11.6 The Client acknowledges that the Company has neither created nor contributed to the presence of hazardous materials or hazardous conditions at or near the Site, and that the Company's compensation for Services is disproportionately small in relation to the potential risk of injury, loss or damages arising from release of, or exposure to, such conditions. The Client agrees to indemnify and hold the Company harmless from any claim for liability, damages (whether direct or consequential), injury, loss or expenses sustained by any party arising from the presence of hazardous materials or hazardous conditions at the Site, except to the extent caused by the gross negligence or wilful misconduct of the Company.

12. LIMITATION OF LIABILITY

12.1 In this clause 12:

12.1.1 "Liability" means any liability by reason of any representation (unless fraudulent) or the breach of any implied condition, warranty or other term or any duty at common law or under any statute, or under any express term of this agreement or otherwise; and

12.1.2 "Loss" means, in relation to either party, any loss of profit, contracts, goodwill, anticipated savings, wasted expenditure or other loss of any kind which is incurred by that party, or any damages, costs or other claims for compensation and any expenses (including legal expenses) which are awarded against or incurred by or paid or agreed to be paid by that party, however the same may arise and whether occasioned by the negligence of the other party, its employees or agents or otherwise.

12.2 Neither party seeks to limit any Liability which it may have arising out of or in connection with this agreement in respect of death or personal injury caused through negligence or fraudulent misrepresentation.

12.3 Save as may otherwise be expressly provided in clause 5 and subject to clause 12.2:

12.3.1 neither party shall have any Liability to the other party arising out of or in connection with this agreement for any indirect, special or consequential Loss of the other party; and

12.3.2 the total Liability of either party for any other Loss of the other party in respect of any one event or series of connected events shall not exceed the sum payable to the Company for the Services or £50,000 whichever is the greater amount.

13. DURATION OF AGREEMENT

13.1 This agreement shall commence on the date referred to in clause 2 hereof and, subject to the



following provisions, shall continue until the Services have been provided.

- 13.2 The Client may forthwith terminate this agreement by giving written notice to the Company if the Company:
- 13.2.1 commits a material breach of this agreement and, if the breach is capable of being remedied, fails to remedy it within 30 days after receipt of a written notice specifying the breach and requiring it to be remedied; or
 - 13.2.2 goes into liquidation or administration, has a receiver appointed over any of its assets or makes a voluntary arrangement or composition with its creditors (in each case, within the meaning of the Insolvency Act 1986).
- 13.3 The Company may forthwith terminate this agreement by giving written notice to the Client if the Client:
- 13.3.1 fails to pay any sum payable by it under this agreement within 30 days of the due date of payment;
 - 13.3.2 commits a material breach of this agreement (other than one to which clause 13.3.1 applies) and, if the breach is capable of remedy, fails to remedy it within 30 days after receipt of a written notice specifying the breach and requiring it to be remedied; or
 - 13.3.3 into liquidation or administration, has a receiver appointed over any of its assets or makes a voluntary arrangement or composition with its creditors (in each case, within the meaning of the Insolvency Act 1986).
- 13.4 For the purposes of clauses 13.2.1 and 13.3.2, a breach of any provision of this agreement shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that the time of performance is not of the essence).
- 13.5 No time or indulgence granted by either party shall be considered a waiver of any provision by the party, and no waiver by either party of a breach of this agreement shall be considered a waiver of any subsequent breach of the same or any other provision.
- 13.6 The termination of this agreement for any reason shall not affect any accrued right or liability of either party arising under this agreement and shall not affect any other right or remedy of either party.

14. CONSEQUENCES OF TERMINATION

- 14.1 On the termination of this agreement for any reason the Company shall:
- 14.2 return to the Client all Confidential Information and Personal Data obtained or produced in the course of providing the Services;
- 14.3 The expiry of this agreement shall not affect any:
- 14.3.1 payment which is owing by either party to the other;
 - 14.3.2 other accrued rights of either party; or
 - 14.3.3 provision of this agreement which is expressed to come into force or continue in force on or after termination.

15. PUBLICITY

- 15.1 Save that the Company reserves the right to publicise the existence of the Agreement but give no details of the contract, no press release or other public statement relating to the Proposal shall be made by either party without the written consent of the other, which consent shall not be unreasonably withheld.

16. WAIVER

- 16.1 The failure by either party to exercise any right or remedy shall not constitute a waiver of that right or remedy.



16.2 No waiver shall be effective unless it is communicated to the other party in writing in accordance with clause 17.

16.3 A waiver of any right or remedy arising from a breach of the Conditions shall not constitute a waiver of any right or remedy arising from any other breach of the Conditions.

17. NOTICE

17.1 A notice relating to this agreement will be validly given only if it is in writing and delivered personally or by courier, or sent by first class post (or air mail if overseas), recorded delivery or fax, to the party in question (marked for the attention of "The Company Secretary", or such other officer of that party as it notified to the other party in writing for this purpose) at the address or fax number set out in this agreement or such other address or fax number as the party in question may specify by notice. A notice shall not be valid if sent by e-mail.

17.2 In the absence of evidence of earlier receipt, a notice is deemed given:

17.2.1 if delivered personally or by courier, when left at the relevant address;

17.2.2 if sent by first class post, two days after posting it or if sent by air mail, six days after posting it; and

17.2.3 if sent by fax, on completion of transmission, provided that the transmitting fax machine prints out a successful transmission report.

17.3 If a notice is deemed under sub-clause 17.2 to have been given on a day other than a normal working day, or if the notice is given by fax and transmission is completed after 5.00pm on a normal working day, it shall instead be deemed to be given on the next working day.

17.4 Each party shall immediately give notice to the other of a change in its address or fax number.

18. NATURE OF AGREEMENT

18.1 The Company shall be entitled to exercise any of its rights or perform any of its obligations under this Agreement through a subcontractor or agent or one more of its affiliated companies.

18.2 The parties shall not without the prior written consent of the other assign, mortgage, charge or otherwise transfer to another person, or create any trust over, any of its rights under this agreement.

18.3 Neither party shall unreasonably withhold or delay giving its consent to the other transferring any of its rights or obligations to a person who acquires substantially the whole of the assets of the party in question, provided that the transferee enters into a binding written agreement with the party in question to comply with all the applicable provisions of this agreement.

18.4 Nothing in this agreement shall constitute or create or be deemed to constitute or create a partnership or the relationship of principal and agent or employer and employee between the Company and the Client or any of the Company's personnel.

18.5 This agreement contains the entire agreement between the parties with respect to its subject matter and may not be varied except by a written agreement between the parties.

18.6 Each party acknowledges that in entering into this agreement it does not rely on any representation, warranty or other term or any understanding except as expressly set out in this agreement, but nothing in this agreement affects the liability of either party for fraudulent misrepresentation.

18.7 Except as otherwise may be provided, a person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this agreement, but nothing in this agreement shall affect any right or remedy of a third party which exists or is available otherwise than as a result of that Act.

18.8 If any provision of this agreement is held by any court or other competent authority to be invalid or unenforceable in whole or in part, this agreement shall continue to be valid as to its other provisions and the remainder of the affected provision.

19. APPLICABLE LAW AND JURISDICTION



- 19.1 English law shall apply to the whole of this agreement.
- 19.2 Any dispute arising out of or in connection with this agreement shall be subject to the non-exclusive jurisdiction of the English courts, to which the parties agree to submit.