

Dated

2016

MERSEYSIDE WASTE DISPOSAL AUTHORITY

– and –

[]

LICENCE

For the importation and deposition of suitable restoration soils at
Foul Lane Landfill Site Southport, Merseyside

THIS LICENCE is made the [] day of [] 2016
BETWEEN

- (1) MERSEYSIDE WASTE DISPOSAL AUTHORITY of 7th Floor, No. 1 Mann Island Liverpool,
L3 1BP ("the Licensor") and
- (2) [] ("the Licensee")

BACKGROUND

- (A) The Licensor wishes to restore the Site in accordance with its planning consent and a number of obligations pursuant to Environmental Laws.
- (B) The Licensor wishes to grant the Licensee access to the Site so that it can restore the Site for the Licensor through the importation of Waste Soils.
- (C) The Licensee shall be responsible for compliance with all Environmental Laws in restoring the Site including obtaining an Environmental Permit.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Licence the following words and expressions shall have the meanings hereby assigned to them

“Agreed Aftercare Scheme” the Aftercare Scheme agreed with the Ministry of Agriculture referred to in Schedule 1 Part 2 and annexed to this Licence

“Authority’s Representative” means the person appointed by the Authority to act as such for the purposes of the Contract or any other person so appointed from time to time by the Authority and notified in writing as such to the Contractor

“Bond” the on demand financial bond to be procured by the Licensee before commencing the Restoration Works in favour of the Licensor for the sum of £[] *[DN to be discussed and agreed, but as a minimum shall reflect the cost to the Licensor of completing the Restoration Works in the event of any default by the Licensee]* for a minimum term of 5 years the draft form of which is contained in Schedule 7

“Environment”	the natural and man made environment and all or any of the following media, being land, water and air (wherever situated (including in buildings and man made structures or otherwise) whether alone or in combination) and all human, plant or animal life and living organisms (including the ecosystems which support them)
“Environmental Laws”	all and any common law, statute, subordinate legislation, regulation, code of practice or guidance, European law, directives, regulations, decisions of the European Court, order, notice, injunction, or judgment of any competent authority or court of law or tribunal which has as a purpose or effect the protection of the Environment or the health and safety of any person
“Environmental Monitoring”	all activities associated with the maintenance of apparatus and monitoring and sampling of gas, groundwater, leachate and surface water on the Site
“Environmental Permit”	the permit to be obtained by the Licensee from the Environment Agency authorising the Restoration Works
“Insolvent”	means any of the following events or circumstances:– <ul style="list-style-type: none"> (i) a winding up petition is presented or an order for the winding up of a party is made or a party goes into insolvent liquidation but excluding merging with another company or a solvent restructuring of the business; (ii) an administrator is appointed or an administration order is made for the appointment of an administrator or any application for an administration order or a notice is of intention to appoint an administrator being given pursuant to the Insolvency Act 1986; (iii) the appointment of an administrative receiver; (iv) a fixed charge or any other receiver is appointed over all or any of the assets of the Licensee; (v) a proposal is made for a voluntary arrangement under part 1 of the Insolvency Act 1986 or a composition or entering into any arrangement with all creditors or a class of them

and the term “Insolvency” shall be interpreted accordingly

“Licence Fee”	the sums and amounts payable under Schedule 4
“Licence Period”	the period of this Licence in accordance with Clause 3
“Licensed Rights”	the rights described in Schedule 2
“Necessary Consents”	all permits, consents, licences, permissions, certificates, authorisations and approvals whether of a public or private nature that are required pursuant to Environmental Laws in relation to the Restoration Works including but not limited to the Environmental Permit
“Phase”	means a phase of the Restoration Works
“Phasing Plan”	means the implementation plan for the Phases approved by the Licensor
“Planning Permission”	the Planning Permissions referred to in Schedule 1 Part 2 and annexed to this Licence
“Public Highway”	a road, footpath, cycleway or thoroughfare, available to the public for use for travel or transportation, or any such road or footpath leading to or from the public highway
“Restoration Scheme”	restoration of the Site to agricultural use in accordance with the Planning Permission, Agreed Aftercare Scheme, Environmental Permit, Restoration Works and Specification by the importation of Waste Soil in accordance with Environmental Laws
“Restoration Works”	the importation of Waste Soils in accordance with Schedule 5
“Site”	the land known as Foul Lane Landfill Site, Foul Lane, Southport shown edged red on the plan annexed to this Licence
“Statutory Undertakers”	Statutory undertakers shall include public and private bodies such as the Environment Agency and utility companies performing

functions in relation to railways, canals, electricity supply, gas, water, sewerage and electronic communications.

“Temporary Works”

all plant and equipment fencing Site access roads welfare facilities and other works of a temporary nature necessary to carry out the Restoration Scheme

“The Specification”

criteria prescribed by the Licensor for the acceptable quality delivery and distribution of Waste Soils detailed in Schedule 6

“Waste Soils”

soil materials suitable to be used and deposited at the Site pursuant to the Specification

- 1.2 Words importing the singular also include the plural and vice versa when the context requires and one gender includes all other genders.
- 1.3 Any reference to any laws shall include any modification extension or re-enactment of it for the time being in force and shall also include all instruments orders plans regulations permissions and directions for the time being made issued or given under such law or deriving validity from it.
- 1.4 Any covenant by the Licensee not to do any act or thing shall be deemed to include an obligation on its part not to permit or suffer such act or thing to be done by any person under its control or in its employment or for whom it is responsible and to use reasonable endeavours not to permit or suffer the same to be done by any other person save where the act or omission has been authorised by the Licensor in writing or is done or omitted by someone other than the Licensee and its employees or agents or invitees on the Site with the authority (express or implied) of the Licensor.
- 1.5 References to “consent of the Licensor” or words to similar effect means a consent in writing signed by or on behalf of the Licensor and to “approved” and “authorised” or words to similar effect mean (as the case may be) approved or authorised in writing on behalf of the Licensor; any consent or approval or authorisation of the Licensor shall be given by an officer of the Licensor as the Licensor shall from time to time designate for the purpose of this Licence.
- 1.6 The terms “the parties” or “party” mean the Licensor and/or the Licensee.
- 1.7 Reference in this Licence to any clause sub-clause or schedule without further designation shall be construed as a reference to the clause sub-clause or schedule to this Licence so numbered.

- 1.8 The clause paragraphs and schedule headings do not form part of this Licence and shall not be taken into account in its construction or interpretation.

2. GRANT OF LICENCE

- 2.1 In consideration of the payment of the Licence Fee and of the covenants on the part of the Licensee contained in this Licence the Licensor grants to the Licensee during the period of this Licence the Licensed Rights.
- 2.2 The parties agree and declare that this Licence is not intended to confer exclusive possession of the Site upon the Licensee or to create the legal relationship of Landlord and Tenant between the parties.

3. THE LICENCE PERIOD

- 3.1 The Licensed Rights shall be held by the Licensee subject to clause 3.2 for a period of 5 years commencing on the date of this Licence and reserving to the Licensor the rights specified in Schedule 3.
- 3.2 When the Site has been restored in accordance with the Restoration Scheme the Licensee shall (provided it has complied in all material respects with its obligations under this Licence) be able by notice to the Licensor of not less than 3 months terminate this Licence and on the expiry of such notice this Licence shall determine as if the same had come to an end by effluxion of time.

4. LICENSEE'S COVENANTS

- 4.1 The Licensee covenants with the Licensor that the Licensee shall:-
- (a) The Bond – Procure the Bond in favour of the Licensor.
 - (b) Licence Fee – Pay to the Licensor a Licence Fee in accordance with the provisions of Schedule 4.
 - (c) Restoration Works – Carry out the Restoration Works:-
 - (i) at its own cost;
 - (ii) in accordance with the Restoration Scheme using a level of skill, care, and diligence expected of a competent company undertaking projects of a similar scope, size and nature; and
 - (iii) In accordance with the agreed Phasing Plan.
 - (d) Necessary Consents – Prior to undertaking any Restoration Works obtain any Necessary Consents.
 - (e) Temporary Works – Undertake all necessary Temporary Works.

- (f) Phasing – On completion of a Phase in the Phasing Plan vacate that Phase and the Licensees rights pursuant to this Licence in relation to that Phase shall immediately terminate.
- (g) Compliance with Environmental Laws – Observe and comply in all respects with the provisions and requirements of any and every Environmental Law so far as they relate to or affect the Remediation Scheme and the Licensee's use of the Site and to keep the Licensor indemnified against all penalties and liability of every kind for breach of such Environmental Laws.
- (h) Working hours – Permit the Licensor to carry out Waste Soil importation and spreading at any time during the hours of 08.00 – 18.00 Monday to Friday and not at all on Saturday, Sundays or Bank Holidays
- (i) Access – Permit the Licensor and its agents contractors and employees with or without vehicles plant and equipment at all times after giving (except in the case of emergency) 24 hours verbal notice to enter the Site or any part of it:–
 - (i) to view the state and condition of the same and to ensure that the Licensee is performing and observing the covenants and conditions contained in this Licence.
 - (ii) to carry out modifications repairs and maintenance to the existing infrastructure.
 - (iii) to undertake Environmental Monitoring.
 - (iv) to carry out or to undertake any works which may in the opinion of the Licensor be necessary or desirable for any other purposes of the Licensor provided the same do not avoidably interfere with the use of the Site by the Licensee for the purpose authorised by this Licence.
- (j) Use – Not to use the Site or any part of it other than in accordance with the Licensed Rights and at all times ensure that Waste Soils delivered to and deposited on the Site are in accordance with the Restoration Scheme.
- (k) Site Infrastructure – Pay due care and attention to the existing Site infrastructure (environmental monitoring boreholes, chambers, drainage systems and the like) and provide proper protection to avoid damage to such infrastructure during the carrying out of the Restoration Works. The Licensee shall make good to the Licensees satisfaction any such damage and shall indemnify and keep indemnified the Licensor in respect of any losses, expenses, costs or charges whatsoever in respect thereof or in relation thereto.
- (l) Public Highway – Pay due care and attention to the public highway and provide proper protection to avoid damage to the existing highway street furniture and the like. The Licensee shall make good to the Local Highways Departments satisfaction any such damage and shall indemnify and keep

indemnified the Licensor in respect of any losses, expenses, costs or charges whatsoever in respect thereof or in relation thereto.

- (m) Statutory Undertakers – Pay due care and attention to Statutory Undertakers apparatus and provide proper protection to avoid damage. The Licensee shall make good to the Statutory Undertakers satisfaction any such damage and shall indemnify and keep indemnified the Licensor in respect of any losses, expenses, costs or charges whatsoever in respect thereof or in relation thereto.
- (n) Avoidance of Nuisance
 - (i) Carry out the Restoration Works at such times, and in such a manner, as to cause as little inconvenience as possible to the occupiers of the adjoining land, their contractors, and the public.
 - (ii) Keep the Site access and adjacent highways and footpaths in a clean and tidy condition and take all proper measures to minimise the spread of dust and litter etc.
 - (iii) Not permit any oil or grease or other deleterious matter to be discharged into any drainage systems or allow any act or thing whereby the waters of any stream or river may be polluted.
 - (iv) Prevent the incursion of soil materials into the adjacent waters and watercourses.
- (o) Indemnity and Insurance
 - (i) The Licensee shall indemnify and keep indemnified the Licensor against all claims for injury to/or death of any person and for loss of or damage to property (except insofar as the same are due to any act or neglect of the Licensor) arising directly or indirectly from the Restoration Works and against all claims demands proceedings costs charges and expenses whatsoever in respect thereof or in relation thereto or in relation to any breach of this Licence or Environmental Law by the Licensee.
 - (ii) The Licensor shall not be liable for or in respect of any damages or compensation payable pursuant to Environmental Law or otherwise in respect or in consequence of any accident or injury to any workman or other person in the employment of the Licensee or its associates save and except to the extent that such accident or injury results from or is contributed to by any act or default of the Licensor its agents or servants and the Licensee shall indemnify and keep indemnified the Licensor against all such damages and compensation (save and except as aforesaid) and against all claims demands proceedings costs charges and expenses whatsoever in respect thereof or in relation thereto.

- (iii) All sums payable by the Licensee to the Licensor pursuant to this Clause 4(l) shall be paid by the Licensee within 20 business days of the Licensee receiving notice from the Licensor that any such sum is properly due and payable in accordance with the terms of this Licence free and clear of all deductions or withholdings whatsoever, save only as may be required by law. In the event that the Licensee fails to make any such payment, then the Licensor shall at its sole discretion be able to draw down from the Bond any such sums.
- (iv) Without prejudice to the Licensee's liability to indemnify the Licensor the Licensee shall maintain insurances to cover the Licensee's liability under this Clause 4 with a general indemnity limit of not less than £10m for any one occurrence. The Licensor shall be able to request evidence of such insurance cover from the Licensee at any time during the Licence Period.
- (p) Assignment – Not assign nor allow any other person to exercise this Licence nor grant any licence in respect of the Site or share the occupation of the Site with another or others without the prior written consent of the Licensor.
- (q) Clearance of Site – Upon completion of a Phase, the Restoration Works or the expiration of the Licence Period or earlier termination of this Licence clear away and remove from the Site (or that part of the Site) in accordance with Environmental Laws and at its own cost all Licensee's equipment surplus material refuse and temporary works of every kind and leave the Site (or that part of the Site) in a clean and workman like condition to the reasonable satisfaction of the Licensor including for the avoidance of doubt the removal of any Waste Soils imported to the Site by the Licensee that do not meet the Specification.
- (r) Security – Keep the Site secure at all times, preventing acts of trespass and the establishment of traveller encampments

5. LICENSOR'S COVENANTS

The Licensor hereby covenants with the Licensee that the Licensor or any person using the Site with the authority of the Licensor for whatever purpose (including the exercise of the rights of access herein contained) will cause as little interference or interruption as possible to the operations of the Licensee in on or upon the Site.

6. FORCE MAJEURE

Notwithstanding any other provisions of this Licence neither party shall be under any liability to the other to the extent that it may be hindered or prevented from performing any of its obligations (other than obligations on the part of the Licensee to make payment of the Licence Fee) by reason of any circumstances whatsoever beyond all reasonable control of the party affected including but not limited to the following circumstances namely labour disputes fire riot or explosion or by any act

of national or local government or local authority (other than where the imposition thereof is due to the act neglect or default of the party affected).

7. TERMINATION

7.1 The Licensor may by giving written notice to the Licensee terminate this Licence if:-

- (a) the Licence Fee shall remain unpaid for 20 business days after the Licensee having received a written demand notice; or
- (b) the Licensee commits a material breach of any of the covenants or obligations contained in this Licence on the part of the Licensee including but not limited to the importation to the Site of any Waste Soils that do not comply with the Specification; or
- (c) the Licensee becomes Insolvent.

7.2 In the event the Licensor exercises its right pursuant to Clause 8.1 to terminate this Licence then:-

- (a) the Licensee shall promptly at its own cost:-
 - (i) use all reasonable endeavours to assign to the Licensor or such other party as the Licensor directs any Necessary Consents that are in the name of the Licensee; and
 - (ii) take any other such steps as the Licensor reasonably requests to enable it to complete the Restoration Works or to appoint a third party to complete and implement the Restoration Works or any part thereof.
- (b) the Licensor shall at its sole discretion be able to draw down from the Bond on a monthly basis the monthly costs to the Licensor of completing and/or implementing the Restoration Works or any part thereof until the Site has been restored in accordance with the Restoration Scheme.

7.3 The exercise of any rights by the Licensor in accordance with this Clause 8 shall not in any manner whatsoever relieve, diminish, extinguish or otherwise limit the obligations and liabilities of the Licensee pursuant to this Licence.

7.4 If for reasons outside the Licensee's reasonable control suitable and appropriate Waste Soils are no longer available to the Licensee for the purpose of the Restoration Scheme the Licensee shall be entitled to terminate this Licence by giving notice to the Licensor of not less than three months but such termination shall be without prejudice to the observance and performance by the Licensee of its obligations hereunder and the Licensee shall if it gives such notice fulfil and discharge before the determination of the Licence any obligation which would otherwise be required to be fulfilled or discharged by it at the expiration of the Licence Period except to the extent that the Licensor may otherwise require by notice to the Licensee.

8. CONFIDENTIALITY

- 8.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 2.2.
- 8.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Licence. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 2.2; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 8.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Licence.

9. CONSEQUENCES OF TERMINATION

- 9.1 Any provision of this Licence that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Licence shall remain in full force and effect.
- 9.2 Termination or expiry of this Licence shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Licence which existed at or before the date of termination or expiry.

10. COSTS

Each party shall pay its own costs incurred in connection with the negotiation, preparation and execution of this Licence.

11. ENTIRE LICENCE

- 11.1 This Licence constitutes the entire Licence between the parties and supersedes and extinguishes all previous Licences, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 11.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Licence. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Licence.

12. VARIATION

No variation of this Licence shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

13. RIGHTS AND REMEDIES

Except as expressly provided in this Licence, the rights and remedies provided under this Licence are in addition to, and not exclusive of, any rights or remedies provided by law.

14. SEVERANCE

- 14.1 If any provision or part-provision of this Licence is or becomes invalid, illegal or unenforceable, 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. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Licence.
- 14.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Licence is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15. NO PARTNERSHIP OR AGENCY

- 15.1 Nothing in this Licence is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 15.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

16. FURTHER ASSURANCE

Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, execute and deliver such documents and perform such

acts as may reasonably be required for the purpose of giving full effect to this Licence.

17. NOTICES

17.1 Any notice or other communication given to a party under or in connection with this Licence shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (b) sent by fax to its main fax number.

17.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- (c) if sent by fax, at 9.00 am on the next Business Day after transmission.

17.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

18. RIGHTS OF THIRD PARTIES

18.1 Except as expressly provided a person who is not a party to this Licence shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence.

18.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Licence are not subject to the consent of any other person.

19. GOVERNING LAW

This Licence and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

20. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection

with this Licence or its subject matter or formation (including non-contractual disputes or claims).

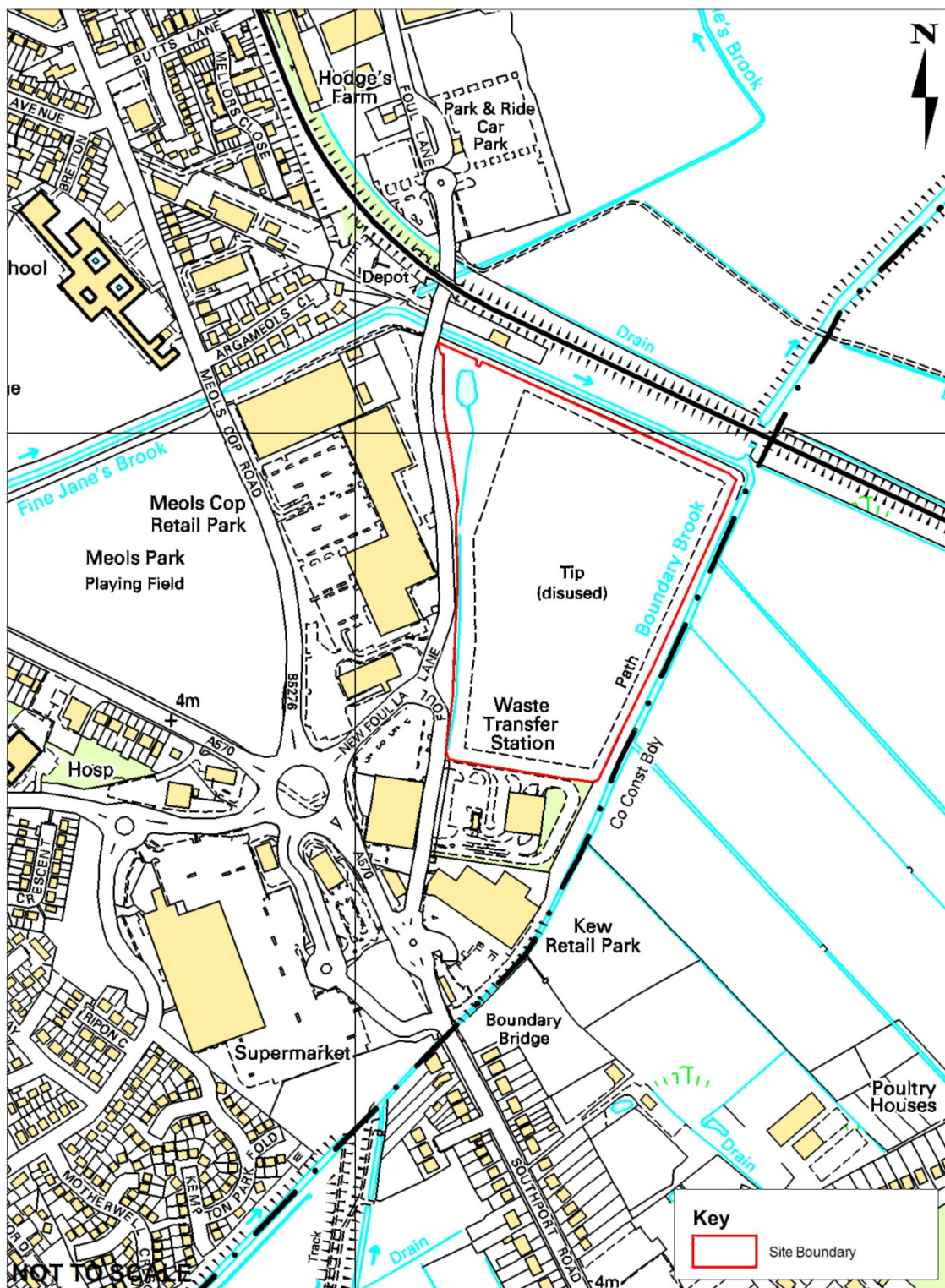
This licence has been entered into on the date stated at the beginning of it.

SCHEDULE 1

Part 1

The Site

the land situate at and known as Foul Lane Landfill Site, Foul Lane, Southport shown edged red on the plan annexed to this Licence.



FOUL LANE SITE BOUNDARY

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Part 2

The Planning Permission

1. Planning Permission dated 14th June 1983 granted by Merseyside County Council Application No. S20162 annexed to this Licence.
2. The Aftercare Scheme agreed with the Ministry of Agriculture and enclosed with the letter from the Director of Planning & Development dated 31st July 1985 in support of Planning Permission S20162 annexed to this Licence.
3. Planning Permission dated 24th February 1988 granted by Metropolitan Borough of Sefton Application No. 87/.754/N annexed to this Licence.



Merseyside
County Council

Application No: S20162

Date of Application: 27th January 1983

Town and Country Planning Act 1971
Town and Country Planning General Regulations 1976

GRANT OF DEEMED PLANNING PERMISSION.

Initiating Committee: HIGHWAYS & TUNNELS COMMITTEE

Particulars of Development : Landfilling and waste reception centre,
Foul Lane, Southport.

Notice is hereby given that deemed planning permission was granted for the above development by resolution of the County Council on 14th June 1983 pursuant to Regulation 4 (5) of the Town and Country Planning General Regulations 1976 subject to compliance with the following condition(s):-

(a) in respect of landfill operations :-

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.
2. before development is commenced, a suitable restoration and aftercare scheme shall be agreed with the Director of Development and Planning, in consultation with the Ministry of Agriculture, Fisheries and Food;
3. the restoration works on the site shall be fully completed within 12 months of the landfilling operations having ceased, or the earliest appropriate planting season thereafter;
4. the landfill site shall not be operated other than between the hours of 8.00am to 5.30pm Mondays to Fridays and 8.00am to 11.30am on Saturdays and it shall not be open at any time on Sundays and Public Holidays (except for the internal disposal of waste from the waste reception centre) other than in exceptional circumstances;
5. the site access road, all fencing and any temporary buildings installed on the site shall be removed within 3 months of the completion of restoration operations; and
6. before development is commenced, an appropriate landscaping and fencing scheme for the boundaries of the site shall be agreed with the Director of Development and Planning in consultation with the Borough Planning Officer:

P.T.O.

Date... 14th June, 1983.....

Signed.....
County Solicitor and Secretary.

R. Holliday

Waste Disposal Section,
County Engineer's Department,
Steers House,
Canning Place,
Liverpool.
L1 8JW

2531

For the attention of Mr. K. Lewis

EL/JP/S20/62

31st July, 1985

Dear Sir,

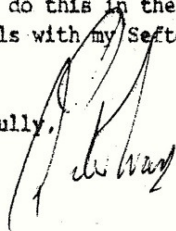
Application no. S20162
Landfilling, Foul Lane,
Southport.

I refer to the site meeting and to my letter of the 13th September, 1984 concerning the above.

My Land and Environment Division has discussed with Mr. Cottle of the Ministry of Agriculture the details of a restoration and aftercare scheme for the site, as required by condition no. 2 of permission S20162. I now enclose the final scheme for implementation. Should you have any queries please contact Dr. Holliday of my Department.

As you are aware, condition no. 6 of S20162 required a landscaping scheme to be agreed. Mr. Lewis undertook to contact my Land and Environment Division on this matter and I understand he is to do this in the near future. I will need to discuss the draft landscaping proposals with my Sefton planning colleagues before agreeing any final scheme.

Yours faithfully,



Director of Development & Planning



c.c. to: Ministry of Agriculture, Government Buildings, Cop Lane,
Penwortham, Preston. PR1 0SP (For the attention of Mr. T. Cottle)
Dr. R. Holliday - Land & Environment Division

Mr. B. Liptott

MERSEYSIDE COUNTY COUNCIL
FOUL LANE, SOUTHPORT - AFTERCARE SCHEME

1. GENERAL

This aftercare scheme relates to the Foul Lane Landfill Site, near Southport and is designed to control the treatment of the land for a period of 5 years following soil replacement, with the objective of improving soil structure and fertility and bringing the land eventually into arable cultivation. Landfilling and restoration will take place progressively in bays 30m wide, 150 to 300m long. The surface layer of peat will be excavated to a depth of 1m to 1.5m, stored and replaced to give an absolute minimum of 1m final cover over the clay-sealed waste. The landfill operation is estimated to last for about 5 years; hence, aftercare on the initial phases should be complete as the final phases are being landfilled.

The aftercare scheme is dependent on strict adherence to two restoration conditions:-

- i) Soil replacement will be carried out only in dry conditions and preferably in time to allow appropriate soil testing and cultivations for autumn seeding, and
- ii) Soil replacement will be carried out with the absolute minimum of machinery running over the replaced soil.

2. SITE INSPECTIONS

- i) The land will be inspected at least once per annum, such inspection involving the planning authority, MAFF, the site operator and the farmer/contractor. It is important that the Aftercare Scheme is flexible and inspections will enable progress to be reviewed and highlight matters which will need attention in the forthcoming year. The inspection would be best held in early spring. Additional inspections will be carried out regularly by the LPA.

3. PLANT NUTRIENTS

- i) Following replacement, soil will be sampled from 15 locations in each bay, bulked to provide 3 samples for determination of lime requirement, phosphate, magnesium and potash status.
- ii) Magnesian or ground limestone, fertiliser and other minerals, identified as being necessary by the soil testing, will be applied and incorporated prior to seeding. Subsequent fertiliser applications will take place:-
 - a) in the spring - Nitrogen top dressing to be advised by LPA
 - b) at each cut - type and rate to be agreed by the LPA with farmer/contractor.
- iii) Further soil sampling and analysis to determine nutrient requirements will be carried out in the third and fifth year of the aftercare period, and at other times if deemed necessary by the LPA.

Metropolitan Borough of Sefton

13

Town and Country Planning Act 1971

Application No 87/0754/N

Town and Country Planning General Development Order 1977

Date of application: 22 September 1987

Planning permission

Name and address of agent (if any)

Name and address of applicant
Merseyside Waste Disposal Authority
4th Floor
Steers House
Canning Place
Liverpool
L1 8JW

Address or location of development:
Approx. 9.11 ha of land
east of Foul Lane and
west of Boundary Brook
Southport

Nature and Particulars of development:
raise level of landfill site by 2 metres. (Variation of scheme for which deemed planning permission was granted on 14.6.83 ref S/MCC/DPP/21062).

The Council of the Metropolitan Borough of Sefton hereby give notice in pursuance of the provisions of the Town and Country Planning Act 1971 that permission has been granted for the carrying out of the development referred to above in accordance with the application and plans submitted subject to the following conditions:

1. The development must be begun not later than the expiration of five years beginning with the date of this permission.
2. The landscaping scheme shall from the agreed date of planting thereafter be maintained for a period of 5 years and if within this period any tree, shrub or hedge shall die, become diseased or be removed, it shall be replaced by a similar species to the satisfaction of the Local Planning Authority.
3. The landfill site shall not open for business outside the hours of 8.00 am to 5.30 pm Monday to Friday; 8.00 am to 11.30 am Saturday; and at no time on Sundays or Bank Holidays.
4. The site shall be restored and maintained in accordance with the restoration and aftercare scheme agreed by the former Merseyside County Council and Ministry of Agriculture, Fisheries & Food.

The reasons for the condition(s) are:

1. Required to be imposed pursuant to section 41 of the Town and Country Planning Act 1971.
2. In the interests of visual amenity.
3. To ensure that nearby properties are not adversely affected by the development.
4. To ensure an early restoration of the site to agricultural use and in the interest of visual amenity.

Date 24 February 1988

91

Borough Planning Officer

This document is a copy of the original and does not include any consent or approval

SCHEDULE 2

The Licensed Rights

The following rights are granted to the Licensee

1. Exclusive use of the Site for the purpose of restoring the Site to agricultural use by the importation of Waste Soils in accordance with the Restoration Scheme.
2. To gain access to and from the Site in common with the Licensor and all others duly authorised with or without workmen vehicles and plant for the purposes of exercising the rights granted above.
3. To construct, subject to the Licensor's approval (such approval not to be unreasonably withheld or delayed), temporary access roads or pathways in and around the Site for the purpose of carrying out the Restoration Works. Such roads or pathways will be allowed to remain provided there is sufficient soil cover placed over them to meet the requirements of the Restoration Works failing which they shall be removed prior to completion of the restoration scheme.
4. Subject first to obtaining planning permission (if required) to display a notice board at the entrance to the Site stating the name and business of the Licensee in such a position and of such a size and type as shall be approved by the Licensor.
5. Subject to the Licensor's approval as to the siting and position of any fixed plant (such approval not to be unreasonably withheld or delayed) to install any plant or machinery on the Site in connection with the use of the Site for the purposes authorised by this Licence.

SCHEDULE 3

Rights reserved to the Licensor

1. To pass and repass or cross with or without workmen vehicles and plant over any road or pathway on any part or parts of the Site.
2. To undertake regular Environmental Monitoring and inspections at the Site.
3. Subject to consultation with the Licensee to raise alter or amend the existing infrastructure to accommodate the restoration works.
4. Subject to consultation with the Licensee to carry out or to undertake any works which may in the opinion of the Licensor be necessary or desirable for any other purpose of the Licensor provided the same do not avoidably interfere with the use of the Site by the Licensee for the purpose authorised by this Licence.

SCHEDULE 4

The Licence Fee

1. The Licence Fee shall subject to paragraphs 1.1 and 1.2 be at a rate of £_ _ . _ _ exclusive of VAT per tonne of soil materials accepted at the Site for the purposes of the Restoration Scheme.
 - 1.1 Minimum Licence Fee payable by the Licensee.
 - 1.1(a) Provided that the Licence has not been terminated prior to the completion of the Restoration Scheme in accordance with Clause 8 the guaranteed minimum Licence Fee payable by the Licensee shall be £_ _ _ _ _ . _ _ .
 - 1.1(b) In the case of a termination of the Licence in accordance with Clause 8 a survey shall be carried out to establish the actual volume of soil materials delivered and deposited in compliance with the Restoration Scheme and the minimum licence fee payable shall be calculated at a rate of £_ _ . _ _ per cubic metre based on an agreed density and the actual volume.
2. The Licensee shall within 10 business days after the end of each calendar month any part of which falls within the Licence Period deliver to the Licensor a statement of the amount of soils imported to and accepted at the Site for that calendar month.
3. With each monthly statement delivered to the Licensor for the purposes of paragraph 2 the Licensee shall provide a schedule containing a record of all vehicle loads accepted at the Site including a record of the date and time of entry, the vehicle registration number, payload, identification of the owner/operator and the origin of the material carried on the vehicle. The monthly statement shall also include a computation of the amount of the Licence Fee assessed by the Licensee to be due for that month by reference to the number of loads accepted at the Site during the course of that month.
4. The Licence Fee for each calendar month shall be due and paid by the Licensee to the Licensor not later than the twenty eighth day of the next subsequent month.
5. If the Licensee fails to deliver to the Licensor the statement for any month within the period required under paragraph 2 the Licensor may at any time after the end of that period serve notice on the Licensee of the Licensor's estimate of the Licence Fee and the Licensee shall be bound to pay the Licence Fee so estimated.
6. The Licensee shall at all times keep complete and accurate records and accounts showing the quantities of all soil materials brought onto and accepted at the Site

including the dates approximate volume and all other facts and circumstances as for the purposes of compliance with Environmental Laws and also as may be necessary or proper or reasonably required by the Licensor:

a) for determining the quantity and type of soil for any period; or

b) for ascertaining whether the requirements of the Restoration Scheme and the provisions of this Licence have been complied with.

7. The Licensee shall permit the Licensor at all times during the Licence Period to enter upon any premises where any records or accounts are held of the matters of which by paragraph 6 the Licensee is required to keep.
8. If the Licensee fails to make any payment due to the Licensor under this agreement by the due date for payment, then the Licensee shall pay interest on the overdue amount at the rate of 4% per annum above Lloyd's Bank base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Licensee shall pay the interest together with the overdue amount.

SCHEDULE 5

The Restoration Works

1. The Licensee will source Waste Soils suitable to be used and deposited at the Site for the purpose of restoring the Site to agricultural use in accordance with the Restoration Scheme.
2. Prior to the commencement of any Restoration Works the Licensee shall provide to the Licensor for its prior approval a method statement and operational plan for sourcing and depositing Waste Soils which shall include inter alia:
 - Soil classification assurance – source of materials (Site identification), description of material, chemical analysis certificates
 - Compliance with the Environmental Laws
 - Site preparation to receive soils
 - Phasing of the works
 - Protocol for acceptance and rejection of soils at the Site
 - Temporary works / access in around the Site
 - Protection of existing infrastructure
3. The Licensee shall be responsible for clearing the Site of existing vegetation in accordance with a Site operations plan and method statement to be agreed with the Licensor prior to bringing any Waste Soils on Site for restoration purposes.
4. Prior to any Waste Soils being delivered to the Site the Licensee shall give notice to the Licensor of each planned schedule of deliveries from a particular source, the estimated tonnage/volume and the duration. Further notice shall be given when such scheduled deliveries are suspended or have ceased.
5. The Licensee shall be responsible for ensuring that the soil materials delivered to the Site comply with the Specification. Visual inspections of each delivery shall be carried out prior to and during deposition to ensure such compliance.
6. An area shall be set aside on the Site to store rejected materials. The underlying ground shall be protected from contamination from rejected soils.
7. The Licensee shall at its own cost be responsible for the removal from the Site of all material delivered which is subsequently rejected or is surplus to requirements. A record of all materials removed from the Site shall be kept by the Licensee and issued to the Licensor.

8. Any temporary access roads or pathways installed by the Licensee which are not removed on completion of the Restoration Works shall be allowed to remain providing there is a nominal one meter depth of soil material covering such roads and pathways and the finished profile is in keeping with the Restoration Scheme.

[PROPOSED CONTOUR AND PHASING PLAN TO BE ADDED ONCE AGREED AND APPROVED BY THE LICENSOR]

SCHEDULE 6

The Specification

1. General

- 1.1 Planning permission was granted in June 1983 for Foul Lane landfill Site (Planning Ref S20162). This was amended in February 1988 to increase levels by 2m (Planning Ref 87/0754/N). An aftercare scheme to satisfy Condition 2 of the original planning consent was agreed with MAFF (the “**Scheme**”). Details of the planning consents and Scheme are included in Schedule 1 Part 2. It is accepted by the Planning Authority that certain elements of the Scheme in respect of progressive restoration etc included under the heading “General” of the Scheme are no longer valid. It is also accepted that the current topsoil cover is inadequate to return the Site to agricultural use. Consequently, implementation of the Scheme shall be considered so far as it is relevant to the current situation in order to provide a restored Site suitable for arable cultivation.
- 1.2 It would appear from initial consultations with MAFF (prior to original planning consent being granted) that the Site was shown on MAFF’s land classification map as Grade 1. However, such classification was not stipulated in the granted planning consent or the Scheme. There are various criteria other than soil quality that have to be considered when classifying the land (e.g. physical characteristics, the gradient of the Site, risk of flooding etc). Consequently, having regard to the potential limitations for restoring the Site it may not be possible to achieve Grade 1 classification. Therefore, for the purpose of this Licence it is deemed that the Site is to be restored to arable use in accordance with the current planning condition.

2. Supply of Waste Soils

- 2.1 Imported soil shall be free from foreign matter, and having a minimum sand fraction of 30% and clay fraction not exceeding 40%.
- 2.2 It shall be free from chemical or other pollution, pernicious weeds, or other extraneous matter.
- 2.3 It shall be medium texture, friable, free of frozen material, and capable of being spread in layers not exceeding 300mm.
- 2.4 It shall not contain stones in excessive quantities, and those that are present shall not exceed 100mm in any dimension. Rubble, bricks, root growth, or other deleterious matter shall be removed from the soil by the Contractor.

- 2.5 Before delivery to Site commences, the Contractor shall afford the Licensor the opportunity to inspect and approve the soil at source, and if required, shall deliver a small load to Site for approval.
- 2.6 The Authority's Representative reserves the right to reject any soil imported to the Site, notwithstanding that it is from an approved source, should it fail to comply in any respect to the Specification.
- 2.7 Any soil so rejected shall be deemed to have been imported at the Contractors' expense and shall be immediately removed at the Contractor's expense.

3. Distribution of approved soils

- 3.1 Approved soil shall be spread in layers not exceeding 300mm in depth. Each layer shall be consolidated to remove air pockets/voids and to eliminate undue settlement; but not so much that it renders the material detrimental to root penetration, plant growth, or natural drainage.
- 3.2 Each layer shall be raked over to ensure thorough bonding between individual layers.

SCHEDULE 7

The Bond

Signed by [THE CLERK TO THE
AUTHORITY]

for and on behalf of [NAME OF
LICENSOR]

Signed by [NAME OF DIRECTOR]

for and on behalf of [NAME OF
LICENSEE]

.....

The Clerk to the Authority

.....

Director