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Enovert

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14th August 2018

Robert Ranger
Case Manager
The Planning Inspectorate
National Infrastructure
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Dear Robert,

Tilbury2 DCO – Ecological Mitigation Site, Mucking, Essex

The revised draft DCO submitted at Deadline 7 includes a requirement that the applicant, Port of Tilbury London Limited ('PoTLL'), must comply with a document it has prepared known as the 'Ecological Mitigation and Compensation Plan' ('EMCP').

The EMCP prescribes the location of off-site ecological compensation areas (at Mucking and Paglesham); and describes how they must be created (including phasing), managed and monitored. In particular the EMCP prescribes that the management of the Mucking site will be undertaken for 99 years.

As has been previously indicated to you, PoTLL and Enovert South Limited ('the Company') have reached agreement in relation to the use of land owned by the Company at Mucking as an ecological compensation site.

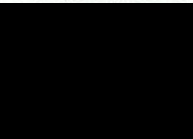
~~Following further discussions between the parties, I can now also confirm that Heads of~~
Terms have now been signed between the parties and good progress has been made on fully agreeing all the necessary documentation.

To assist the Examining Authority, a redacted copy of these Heads of Terms is attached to this letter.

All commercial and ecological technical points are agreed between the parties, and we therefore consider that full agreement should be able to be reached in short order.

If you have any further questions on this matter, please do not hesitate to contact us.

Yours sincerely,



Alistair Holl
Director, Enovert South Limited

HEADS OF TERMS

PORT OF TILBURY LONDON LIMITED (POTLL)

ENOVERT SOUTH LIMITED (Owner)

Relating to land at Mucking Essex (the Site)

- (A) The Owner and POTLL have agreed terms to relocate Substrate from specified areas of invertebrate ecological interest and the imbedded invertebrate population from POTLL's proposed development at Tilbury 2 (the Development) on to land owned by the Owner. It is agreed that the Owner and POTLL will enter into a conditional agreement covering the securing of requisite consents to import Substrate and imbedded invertebrate population, site works required for the importation of Substrate and subsequently by way of a management agreement the long term management of the Site. When all Substrate has been imported and works undertaken by the Owner long term arrangements will apply for the management of the Site for which POTLL will make a payment of £[REDACTED] per annum (the Agreement). [REDACTED]
[REDACTED]
[REDACTED]

- B) The documentation for the proposed transaction may contain further terms as the parties may require, including additional terms on matters that are covered in this document.
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AGREED TERMS

1 OWNER

Enovert South Limited

Company number: 2664840

Registered office address: 20 Old Broad Street, London, EC2N 1DP

2 POTLL

Port of Tilbury London Limited.

Company number: 2659118.

3 SITE

3.1 A c10ha area of land at the Mucking landfill site adjacent to the land used for a compensatory scheme in 2014 for the POTLL's London Distribution Park project and suitable for the translocation scheme "

4 CONDITIONAL AGREEMENT

- 4.1 The parties will enter into the Agreement which will become unconditional once the Owner has secured the required consents to import the Substrate onto the Site and the Development Consent Order for which POTLL has applied to authorise the Development (DCO) has been made on terms satisfactory to POTLL.
- 4.2 No fee will be paid on the signing of the Agreement but POTLL has paid to the Owner on the signing of these heads of terms the sum of £[REDACTED] as a non-returnable fee which is part of the overall payments to be made by POTLL to the Owner under the Agreement.
- 4.3 The Agreement will require the Owner not to encumber the Site or materially change its appearance level or structure during the period of the Agreement.
- 4.4 The Agreement will permit POTLL and their consultants and contractors to access the Site before the Agreement becomes unconditional to undertake site surveys and investigations to assess the suitability of the Site as a receptor for the Substrate, subject to suitable constraints and notification to the Owner governing the exercise of these rights.
- 4.5 The Agreement will provide a mechanism for POTLL and the Owner to agree the details of the works required to make the Site suitable to receive the Substrate comprising the installation of interpretation boards, the creation of pathways and landscaping.

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- 4.6 These heads of terms set out the commercial principles agreed between the parties. The parties will work together to agree the structure and formal legal documentation to ensure that the rights and obligations of the parties are fully enforceable and satisfactory for the purposes of the Development Consent Order for Tilbury2 when made and that the interest in the land for the compensatory scheme at Mucking is protected for the 99 year period, and otherwise acceptable to both parties acting reasonably

5 OBLIGATIONS OF THE OWNER

- 5.1 Once the Agreement is exchanged (or earlier by agreement) the Owner will apply for the requisite consents to allow for the importation and retention of Substrate on the Site and will keep POTLL informed of the progress made.
- 5.2 Once the Agreement is unconditional the Owner will undertake the agreed works (see paragraph 5.6) so that the Site is ready to receive the Substrate.

6 FINANCIAL TERMS

- 6.1 A total premium of £[REDACTED] plus VAT (if applicable) will be payable by POTLL to the Owner as follows:
- 6.1.1 £[REDACTED] on the signing of these heads of terms;
- 6.1.2 £[REDACTED] on the Agreement becoming unconditional;
-
- 6.1.3 £[REDACTED] twelve months after the Agreement becoming unconditional or (if earlier and following the Agreement becoming unconditional) on 31 March 2020).
- 6.2 POTLL will pay the Owner a royalty of £[REDACTED] in respect of each tonne of Substrate that is imported onto the Site. This charge includes the cost of unloading Substrate and its transportation from the Owner's jetty to the Site and spreading which will be undertaken by the Owner. No further offset fees to be payable by POTLL.
- 6.3 POTLL will pay the Owner (or as it directs it being acknowledged that the Owner may direct the payments to EWT) £[REDACTED] per annum annually in advance to cover the future management of the Site.
- 6.4 POTLL will pay at agreed market rates for landscaping, pathways (up to maximum of 1500m) and interpretation boards

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7 TERMS OF THE MANAGEMENT AGREEMENT

7.1 The Agreement will include (without limitation) the following terms to govern the future management of the Site:

7.1.1 A term of 99 years.

7.1.2 Provision for the annual payment referred to above.

7.1.3 Management functions and duties to be undertaken by EWT to whom the payment of £[REDACTED] pa will be directed.

7.2 The Agreement will not include the grant of a proprietary interest in the Site to POTLL.

8 IMPORT OF SUBSTRATE

8.1 The Substrate will be imported from the Development to the Site by barge. It will arrive at the Owner's jetty and be unloaded and imported onto the Site by the Owner (who will manage all inbound deliveries) with all costs being included in the royalty to be paid by POTLL of £[REDACTED] per tonne.

8.2 POTLL will be entitled to deliver Substrate to the Owner's jetty and the Owner will accept it from the later of the date when the Agreement becomes unconditional and the date upon which the required works are completed.

~~8.3 The input rates and deliveries of Substrate are to be agreed with the Owner.~~

9 EXCHANGE OF THE AGREEMENT

The parties will endeavour to exchange the Agreement as soon as possible after the Owner's Solicitor has received the draft documentation from POTLL's Solicitor.

10 COSTS

POTLL will contribute a reasonable amount plus VAT (if not recoverable) towards the Owner's reasonable legal and planning costs in connection with this transaction.

11 SOLICITORS

11.1 The Owner's Solicitors are:

To Be advised



POTLL's Solicitors are:

Walker Morris LLP, Kings Court, 12 King Street, Leeds LS1 2HL

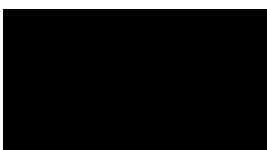
Ref: POR00396.43

For the attention of Judith Pike

Dated: 23rd July 2018

Signed: 

For and on behalf of Enover South Limited

Signed: 

For and on behalf of Port of Tilbury London Limited