

Port of Tilbury London Limited

Thurrock Flexible Generation Plant

Deadline 8 Submission

Appendix 1

Comparison Heads of Terms

PORT OF TILBURY LONDON LIMITED AND THURROCK POWER LIMITED
HEADS OF TERMS
for a proposed
FRAMEWORK AGREEMENT
relating to the application for and implementation of the
THURROCK FLEXIBLE GENERATING PLANT DEVELOPMENT CONSENT ORDER

Definitions of terms used in these Heads of Terms

Term	Definition
Abnormal Loads	A load that, when placed on a vehicle, has any of the following characteristics: <ul style="list-style-type: none"> i) a weight of more than 150 tonnes; ii) an axle load of more than 10,000 kilograms for a single non-driving axle; iii) an axle load of more than 11,500 kilograms for a single driving axle; iv) a length of more than 100 feet; v) a width of more than 6 metres; or vi) a height or more than 6 metres.
Abnormal Load Movement	A movement of a vehicle with an Abnormal Load to and from the adopted highway and the Development Site via the Easement Land
Abnormal Load Movement Fee	£45 (exclusive of VAT) for each Abnormal Load Movement required to be undertaken through the Easement Land at any time during the term of the Access Easement. Such figure to be indexed with reference to the CPI in accordance with the process set out in Part 2 of Schedule 4 to the previously circulated Access Licence.
Access Conditions	As per paragraph 18 of the draft Access Easement terms below.

Term	Definition
Access Easement	A leasehold easement to be granted to TPL by the Landowner over the Easement Land subject to and in accordance with the terms to be appended to the Framework Agreement permitting TPL to use the Easement Land to access the Development Site only and not to any other land.
Access Easement Notice	A notice from TPL to the Landowner indicating that it is ready, willing and able to enter into the Access Easement.
Access Fees	The Construction Access Fee, the Operational Access Fee and the Decommissioning Fee.
Advance Investigations and Advance Works	<p>Prior to the service of the Access Easement Notice and subject to TPL having obtained (1) the consent of the Landowner and paid all fees due to it, and (2) all required consents, the carrying out :</p> <ul style="list-style-type: none"> • by TPL of any ground investigations within the Easement Land (“Advance Investigations”); and • by TPL of preparatory works to facilitate the New Fort Road Access (“Advance Works”)
Anticipated Construction Traffic Notice	As per paragraph 18 of the draft Access Easement terms below.
Anticipated Operation Traffic Notice	As per paragraph 18 of the draft Access Easement terms below.
Causeway	The proposed infrastructure within the river Thames to facilitate the delivery of Abnormal Loads by barge, as described in Work Nos. 10 and 11 of the draft DCO.
Construction Access Fee	<p>£36,500 (exclusive of VAT) per month from the completion date of grant of the Access Easement until the Construction End Date, this figure to be indexed with reference to the CPI in accordance with the process set out in Part 2 of Schedule 4 to the previously circulated Access Licence. The Construction Access Fee does not reduce during any site preparation period (see paragraph 11).</p> <p>The Construction Access Fee may be reviewed by the Landowner if, following the service of two Anticipated Construction Traffic Notices, it is clear to the</p>

Term	Definition
	Landowner, acting reasonably, that the number of construction Vehicle Movements is more than 100 a day HGVs or coaches, or a combination of the two. The increase will be £15 (subject to increase in accordance with CPI) for each Vehicle Movement in excess of 100.
Construction End Date	The anticipated date of the end of construction notified by TPL in an End of Construction Notice.
DCO	The Thurrock Flexible Generation Plant Development Consent Order made following TPL's application (given Planning Inspectorate reference number EN010092) and includes any amendment or variation thereof.
DCO Change	<p>A change to the draft of the DCO submitted by TPL to:</p> <ul style="list-style-type: none"> • remove from the DCO all powers in respect of the Causeway and access to it over the Landowners <u>Landowner's</u> Property • remove from the DCO all powers of compulsory acquisition in respect of the Existing Access Road.
Decommissioning Access Fee	£36,500 (exclusive of VAT) per month from the Operational End Date until the date that is confirmed by TPL to the Landowner that the Development Site is fully decommissioned (the " Decommissioning Date ") and the Landowner (acting reasonably) has confirmed that it agrees with and accepts the Decommissioning Date. This figure to be indexed from the date of the Access Easement with reference to the CPI in accordance with the process set out in Part 2 of Schedule 4 to the previously circulated Access Licence.
Development	The construction, operation and decommissioning on the Development Site of (i) a power generation plant and associated infrastructure pursuant to the DCO and (ii) any other power generation plant and associated infrastructure for which all required statutory consents have been secured but in both cases excluding the manufacture and storage of hydrogen and other fuels or other forms of energy other than where this is exclusively for use on the Development Site and is not for sale to third parties; and further excluding any uses within classes E(g), B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended and in the form applicable to the Development Site as at 12 August 2021) except to the extent use classes E(g), B2 or B8 are ancillary to the use of the Development Site.

Term	Definition
Development Option	TPL's option of part of the Development Site dated 5 April 2019 and made between (1) TPL and (2) Diana Mary Cole and James Andrew Cole and Diana Mary Cole and Sheila Elizabeth Hodson (3) Diana Mary Cole, Sheila Elizabeth Hodson and Sue Cole (4) Diana Mary Cole and James Andrew Cole (5) Diana Mary Cole, James Andrew Cole and Sheila Elizabeth Hodson (6) Diana Mary Cole and James Andrew Cole (7) Diana Mary Cole and James Andrew Cole (8) Sue Cole, Diana Mary Cole and James Andrew Cole (9) Diana Mary Cole, James Andrew Cole and Sheila Elizabeth Cole (10) Diana Mary Cole and Sheila Elizabeth Hodson, Sue Cole and James Andrew Cole (11) Diana Mary Cole, Sheila Elizabeth Hodson, James Andrew Cole and Sue Cole (12) Diana Mary Cole, Sheila Elizabeth Hodson and James Andrew Cole (13) Diana Mary Cole, James Andrew Cole and Sue Cole and all documents supplemental or collateral to that option.
Development Lease	The lease granted pursuant to the Development Option.
Development Freehold Land	The freehold interest in the Development Site.
Development Site	The whole or such part as TPL shall require of the land shown edged red on the attached plan 2.
the Easement Land	The Existing Access Road and the New Fort Road Access.
End of Construction Notice	A notice served by TPL on the Landowner notifying the Construction End Date.
Existing Access Road	The access road coloured orange on the attached plan 1. <i>(Note for information: as there are two access agreements to be put in place the plan for the Port of Tilbury agreement will end at the boundary with the RWE land and a separate plan for the RWE – see Plan 5 Tilbury 2 access to be brown and Tilbury 3 access to be yellow)</i>
Funder	Any bank funder or financial institution providing funding to the Development Site or TPL and/or any security trustee or agent for such bank funder or financial institution.
Generation Licence	A generation licence under the Electricity Act 1989 or any successor legislation.

Term	Definition
Handling Agreement	<p>An agreement to be reached between the Landowner and TPL setting out the arrangements for the arrival, unloading and storage of Abnormal Loads within Tilbury1 and the collection of such Abnormal Loads from the storage area by TPL.</p> <p>Such agreement to be on the Landowner's standard Port of Tilbury terms and conditions applying at the time but to include as a minimum provision:</p> <ul style="list-style-type: none"> • that the Landowner will undertake receiving and stevedoring operations for Abnormal Loads, utilising resources and mechanical equipment at a level which in the reasonable opinion of the Landowner is sufficient or practicable to lift such goods at Tilbury1; • for agreement of the time and date when the goods shall arrive; • for agreement of the space to be utilised (on the basis that 3 months' notice has been given) for the storage of Abnormal Loads at Tilbury1 once they have been stevedored from the vessel; • for charges (based on the Landowner's publicly available standard charges at the time) to be payable by TPL for Wharfage, Crane Licence, Lock and berth usage, EC waste; ISPS Security; utilities and standing-by of quay labour and any special charges required as a result of the detailed Abnormal Load transport requirements; • for TPL to be able to access Tilbury1 with vehicles that can transport Abnormal Loads (and any ancillary cranes necessary to load and unload such Abnormal Loads onto such vehicles) to pick up the Abnormal Loads from the storage area chosen by the Landowner; • that TPL will be responsible for its own costs in relation to lashing and securing of cargo; and to provide a crane lifting method statement; and • that title to, and risk in respect of, goods shall remain at all times with TPL as the customer.
Handling Agreement Notice	A notice from TPL to the Landowner indicating that it is ready, willing and able to enter into a Handling Agreement within 3 months from the date of the notice.
Landowner	Port of Tilbury London Limited.

Term	Definition
Landowner's Property	Tilbury2.
New Fort Road Access	The land coloured green on the attached plan 1.
Notice of Operational End	A notice served by TPL on the Landowner giving at least 6 months' notice of the Operational End Date and setting out the anticipated Vehicle Movements that will be associated with the decommissioning of the Development Site.
Operational Access Fee	£29,300 (exclusive of VAT) per annum from the Construction End Date to the Operational End Date. This figure to be indexed with reference to the CPI in accordance with the process set out in Part 2 of Schedule 4 to the previously circulated Access Licence.
Operational End Date	The date when TPL commences decommissioning the Development Site, as notified to the Landowner by TPL through a Notice of Operational End. Agreed that there may be instances where the Development Site ceases to operate for periods of time. Any period of cessation would not result in notification and loss of the access.
Port Operational Requirements	The Byelaws and Regulations applying to the Port of Tilbury at any given time together with any further reasonable requirements relating to the safe, efficient and economic operation of the Port of Tilbury properly issued by the Landowner from time to time.
Port of Tilbury	Tilbury1 and Tilbury2.
Relocation Works	Works to secure the relocation of the transformer and/or electrical equipment cabinets on the land shown in pink on plan1.
RWE	RWE Generation UK Plc.
RWE Access Road	The access route within Tilbury3 comprising the Eastern Access Extension Road and the Plant Road Extension (as defined in the RWE Heads of Terms).
RWE Heads of Terms	Heads of Terms completed or to be completed by TPL and RWE relating to the use by TPL of the RWE Access Road for access to and from the Development Site.

Term	Definition
RWE Option	The option to be entered between TPL and RWE pursuant to the RWE Heads of Terms.
Statutory Functions	Any power or duty of the Landowner deriving from any Act of Parliament, statutory instrument, byelaw, marine licence or permit imposing duties or conferring powers on the Landowner in respect of the operation of the Port of Tilbury including without limitation those powers and duties imposed and conferred by the Port of Tilbury Transfer Scheme 1991 (as confirmed by the Port of Tilbury Transfer Scheme 1991 Confirmation Order 1992) and the Port of Tilbury (Expansion) Order 2019.
Tilbury1	The Port of Tilbury land holding, including the Landowner's docks and river jetties (other than the river jetty authorised by the Port of Tilbury (Expansion) Order 2019) but excluding Tilbury2.
Tilbury2	The land (including land covered by water) and jetty known as Tilbury2 edged red on the attached plan 3 and registered under title numbers EX932756 EX953808 and AA21545.
Tilbury3	The land known as Tilbury3 edged red on the attached plan 4 and registered under title number EX639032.
TPL	Thurrock Power Limited and its permitted (under this agreement) successors in title.
Usual Quarter Days	1 January, 1 April, 1 July and 1 October in any year.
Vehicle Movement	A movement of a vehicle to and from the adopted highway and the Development Site via the Easement Land.

Principal Terms of the Framework Agreement

Item No.	Topic	Agreed Scope
DCO matters		
1	DCO Change	<u>TPL bringing forward a DCO Change application</u>

		<p>In so far as is reasonably possible within the remainder of the examination phase following the <u>Following</u> completion of the Framework Agreement, TPL must forthwith</p> <ul style="list-style-type: none"> • TPL must submit the DCO Change application as soon as it is possible to do so having regard to statutory and the Examining Authority's procedural requirements. <p>Where the Parties agree it is not reasonably possible to i) bring forward a request for the DCO Change within the remainder of the examination phase and/or ii) comply with the procedural requirements to make a valid change request within the remainder of the examination phase, or iii) any change request is not accepted; then TPL will write to the Secretary of State immediately after conclusion of the examination phase requesting that the DCO Change be considered in the determination phase of the application for the DCO such that any DCO that is then made fully reflects the essence of the DCO Change.</p>
2	DCO Change: TPL obligations	<p>If the DCO Change is accepted by the Examining Authority or post Examination by the Secretary of State, TPL must be responsible for obtaining all approvals required by the DCO to facilitate construction and use of the New Fort Road Access.</p>
3	DCO Change: Landowner obligations	<p>The Landowner must respond to any consultation on the DCO Change application by TPL and any requests for comment by the Examining Authority <u>Secretary of State</u> with confirmation that the DCO Change application is supported by the Landowner if that application meets the definition of a DCO Change.</p>

		<p>If the DCO Change is accepted for examination by the Examining Authority or is accepted by the Secretary of State, the Landowner must withdraw its objections to the DCO in respect of the Causeway and access to it.</p> <p>If the DCO Change is not accepted for examination by the Examining Authority or post Examination by the Secretary of State, the Landowner is able to continue to advocate and submit representations to the Examining Authority and/or the Secretary of State that the DCO Change should be made.</p>
4	DCO powers	The Framework Agreement will include an obligation whereby TPL agrees that, irrespective of whether or not the DCO Change is accepted into the Examination or incorporated into any DCO that may be made, TPL will not utilise any powers that may be granted to it in a DCO in respect of the Causeway and access to it, the use of the Existing Access Road, and the construction and use of the New Fort Road Access.
4a	DCO Amendments	Nothing in this Agreement prevents the Landowner from making any representations in respect of any proposed amendment to or variation of the DCO or any other consent application in respect of the Development Site <u>order limits as defined in the DCO.</u>
Handling of Abnormal Loads		
5	Handling Agreement	The Landowner agrees and commits that, on service of a Handling Agreement Notice by TPL, it will enter into a Handling Agreement with TPL as soon as reasonably practicable and in any event within 10 Working Days from the date of service of a Handling Agreement Notice. This notice can only be served by TPL if at the time such notice is

		served TPL is either entitled to be registered as the freehold owner of the Development Freehold Land or unconditionally committed to exercise the Development Option and to enter into the Access Easement and the easement of the RWE Access Road pursuant to the RWE Option.
Option mechanics and protection		
6	Entering into the Access Easement	<p>For a period of 8 years commencing from the date that the DCO (which expression for the avoidance of doubt includes any amendment to the DCO) comes into force, and for a fee of £1, TPL may serve the Access Easement Notice provided that at the time that it serves the Access Easement Notice TPL is either entitled to be registered as the freehold owner of the Development Freehold Land or unconditionally committed to exercise the Development Option and to exercise the RWE Option.</p> <ul style="list-style-type: none"> • Following the service of the Access Easement Notice and prior to the Access Easement being entered into, TPL shall confirm the interest held in the Development Site; and • Following the service of the Access Easement Notice and prior to the Access Easement being entered into, the Landowner must instruct (at TPL's cost) an independent surveyor to provide at TPL's cost a schedule of defects in respect of the Existing Access Road (the Schedule of Defects) and • a Schedule of Condition in respect of the New Fort Road Access (the New Fort Road Schedule of Condition),

		<p>both of which will be appended to the Access Easement. The Landowner will deal with the instruction promptly to assist TPL with its wider development programme.</p> <p>The Access Easement will be completed on the date which is the later of:</p> <ul style="list-style-type: none"> (i) 10 Working Days after service of the Access Easement Notice; and (ii) 10 Working Days after delivery of the Schedule of Defects and the New Fort Road Schedule of Condition referred to above.
7	Protection of option	The Landowner shall consent to the registration of a restriction and unilateral notice in favour of TPL in respect of the Access Easement over the Easement Land. This restriction will be worded such that it will be able to be self-certified by the Landowner and its application will be limited to applying to freehold transfers of whole only by the Landowner.
8	Substitution or variation of the Easement Land	The Landowner shall be able, with not less than 28 days' written notice, at its own cost and with the prior written agreement of TPL (such agreement not to be unreasonably withheld or delayed) , to substitute or vary the location of all or any part of the Easement Land (PROVIDED THAT such substitution or variation must be a viable workable alternative) prior to entry into the Access Easement; but any such substitution or variation must take into consideration the access requirements for Abnormal Loads and provide TPL with the equivalent of the rights to be granted in the Access Easement. If TPL fails to respond to notice of the proposed substitution or variation

		<p>within the period of 15 Working Days following service of notice TPL will be deemed to accept such proposed substitution or variation. In the event TPL does not agree to the proposed substitution or variation the matter will be resolved under the dispute resolution clause 10A.</p> <p>Where Port Operational Requirements or the Landowner's Statutory Functions apply or in an emergency the Landowner shall not be required to provide notice to TPL (but shall endeavour to provide as much notice as possible in the circumstances) and shall not be required to secure the consent of TPL but shall endeavour to ensure that the substituted or varied land and route meet the requirements set out above.</p> <p>TPL may also request a substitution or variation of the Easement Land subject to which the Landowner's may consent (not to be unreasonably withheld or delayed) <u>to at its absolute discretion</u>.</p> <p>Following any substitution or variation of the Easement Land after completion of the Access Easement, the parties shall act reasonably to enter into a new deed of easement or deed of variation (as the case may be) to document the relocation of the relevant access route.</p>
9	Dealings and development by the Landowner	Prior to entry into the Access Easement, the Landowner must not create or grant any new easements, rights of access, wayleaves, title conditions, leases or licences affecting the Easement Land which materially affect the rights to be granted under the Access Easement without the consent of TPL (such consent not to be unreasonably withheld or delayed) or without first

		<p>having provided a substitution or variation of the Easement Land in accordance with this Agreement, save as required by Port Operational Requirements or the Landowner's Statutory Functions or in an emergency.</p> <p>Prior to entry into the Access Easement, the Landowner must not develop or materially alter (including, but not limited to, excavating or building over) the Easement Land so as to materially affect the rights to be granted to TPL under the Access Easement without first having provided a substitution or variation of the Easement Land in accordance with this Agreement, save as required by Port Operational Requirements or the Landowner's Statutory Functions or in an emergency.</p> <p>Where, prior to entry into the Access Easement, Port Operational Requirements, the Landowner's Statutory Functions or an emergency have required development to be undertaken on the Easement Land so as to materially affect the rights to be granted to TPL under the Access Easement, the Landowner must vary the Easement Land so as to enable TPL to be able to enjoy the rights to be granted in the Access Easement as soon as possible thereafter.</p>
10	Dealings by TPL	<p>TPL may assign the benefit of the Framework Agreement without consent to the party entitled to be registered as the freehold owner of the Development Freehold Land or an assignee of the Development Option or the Development Lease simultaneously with and subject to completion of such transfer or assignment. The parties accept the concept of stapling, i.e. that the Framework Agreement the Access Easement and any</p>

		<p>Handling Agreement are stapled in terms of dealings with either the freehold interest in Development Freehold Land or the Development Option and the Development Lease. The Landowner is to be kept informed of all dealings. The Landowner accepts that TPL will need to grant rights out of the Access Easement to others involved in the operation and use of the Development Site.</p> <p>Any such assignment, novation or sharing arrangement shall not release TPL from its antecedent obligations under the Framework Agreement.</p>
10A	Dispute Resolution	Any Dispute between the Parties to be resolved through a staged mechanism – first by a meeting of the Parties; and if not agreed by reference to an expert appointed by President of the Institution of Civil Engineers; both Parties to be responsible for their own costs.
Advance Works		
11	Advance Works Advance Investigations and Relocation Works	<p>Prior to commencing any Advance Investigations or Advance Works, TPL must obtain the consent of the Landowner to these (not to be unreasonably withheld or delayed) and the works Advance Investigations and the Advance Works must be carried out in accordance with the terms and conditions of that consent. The works Advance Investigations and the Advance Works shall be undertaken in accordance with the method statement to be provided by TPL to the Landowner for its approval (such approval not to be unreasonably withheld or delayed) and if the Landowner fails to respond to TPL within 15 Working Days of receipt of the method statement then such approval shall be deemed to be given. The Landlord shall be deemed to be acting</p>

		<p><u>reasonably if it withholds its consent to the Advance Investigations or Advance Works or the method statement on the basis that the undertaking of the Advance Works will cause disruption or interference to the operation or development of Tilbury2 or Tilbury3.</u></p> <p>In seeking to obtain the consent of the Landowner, all reports submitted to the Landowner must be provided to the Landowner on the basis that the Landowner may rely on them as well as TPL and where requested by the Landowner in writing, TPL shall procure collateral warranties for the Landowner in respect of the Advance Works upon terms approved by the Landowner (acting reasonably).</p> <p>In seeking the consent of the Landowner, TPL must provide a breakdown of the Vehicle Movements that are to be used in the process of undertaking the Advance Investigations and constructing the Advance Works and must pay an access fee for those vehicles of £15 (indexed to CPI) per Vehicle Movement.</p> <p>The Advance Works and Advance Investigations are to be undertaken by TPL at its own cost.</p> <p>TPL must subject to the indemnity section of paragraph 24 below indemnify the Landowner against <u>all liabilities, costs, expenses, damages and losses and all other professional costs and expenses but subject to the cap on liability contained in the indemnity section of paragraph 24) suffered or incurred by the Landowner arising out of or in connection with:</u></p>
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		<ul style="list-style-type: none"> • any physical damage to the Easement Land (with the exception of the approved Advance Works themselves) or the Landowner's Property caused as a result of the or the Advance Investigations or the Advance Works; <u>or</u> • <u>any road accident or vehicular breakdown by vehicles involved in the carrying out of the Advance Works on the Existing Access Road which negatively affect traffic flows on the Existing Access Road.</u> <p>TPL must carry out the Advance Investigations and the Advance Works in compliance with all consents, approvals title requirements and laws governing or relating to:</p> <ul style="list-style-type: none"> • the carrying out of the Advance Investigations and the Advance Works; • the Port of Tilbury; and • Port Operational Requirements and the Landowner's Statutory Functions. <p><u>Relocation Works</u></p> <p>If requested by TPL by service of notice on the Landowner either</p> <p>(a) during the term of the Framework Agreement which TPL shall be entitled to serve after:</p> <p>(i) it has served notice to exercise the right under the Framework Agreement to call for the grant of the Access Easement and provided to the Landowner evidence that it is bound to</p>
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		<p>accept the grant Development Land Lease or otherwise acquire the Development Land for the purposes of the Development; and</p> <p>(ii) it has provided a copy of its planning application for any additional required consents to <u>has secured any necessary consents upon terms approved by</u> the Landowner for approval (such (such approval not to be unreasonably withheld or delayed) PROVIDED THAT such approval shall be deemed if the Landowner fails to respond or provide any comments to TPL within 15 Working Days of receipt of the proposed planning application or</p> <p>(b) during the term of the Access Easement</p> <p>then the Landowner shall in accordance with a specification and works programme (including a timetable for works) proposed by the Landowner and approved by TPL (both parties acting reasonably) undertake the Relocation Works promptly and in accordance with the approved specification and works programme. The works shall be undertaken in accordance with a works programme provided by the Landowner which meets the requirements of the relevant statutory undertakers and the need to minimise disruption to the Landowner, its occupiers and tenants, other users and neighbours and further ensures that there is maintained a continuous supply of electricity at Tilbury 2 for the Landowner and the tenants and occupiers of the Landowner's Land. TPL is to be responsible for the costs of</p>
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		undertaking the Relocation Works and shall provide to the Landowner reasonable security for the Landowner's costs in undertaking the Relocation Works and shall pay to the Landowner within 30 days of receipt of an invoice the reasonable and proper costs incurred or to be incurred by the Landowner undertaking the Relocation Works. TPL acknowledges that the cost of undertaking the Relocation Works will need to reflect the need to maintain a continuous supply of electricity at Tilbury 2 for the Landowner and the tenants and occupiers of Tilbury2.
Termination of Framework Agreement		
12	Termination of Framework Agreement	<p>The Framework Agreement will terminate if:</p> <ul style="list-style-type: none"> • the DCO applied for is not made; or • TPL does not serve an Access Easement Notice within the period of 8 years commencing from the date that the DCO comes into force. <p>If either of the above events occurs TPL must, at its own cost, forthwith:</p> <ul style="list-style-type: none"> • remove any entry on the Landowner's titles to the Landowner's Property at the Land Registry and if it fails to remove such entries within a reasonable period then TPL will grant to the Landowner a power of attorney to allow the Landowner to remove such entries itself ; and • if requested by the Landowner, remove any equipment and reinstate the Easement Land where any Advance Investigations

		and/or Advance Works have been carried out.
Terms of the Access Easement		
13	Access Easement Rights – Existing Access Road	<p>Subject to the Access Conditions:</p> <p>A right for vehicles (utilised for the construction or decommissioning of the Advance Works or the Development Site and/or for operational and maintenance purposes for the Development Site) carrying loads (including staff) that are not Abnormal Loads to pass and re-pass (but not of waiting, queuing, obstruction, parking or otherwise at any time) to and from the Development Site over the Existing Access Road from the date of the Access Easement to the date of termination of the Access Easement.</p> <p>A right for vehicles (utilised for the construction or decommissioning of the Advance Works or the Development Site and/or for operational and maintenance purposes for the Development Site) carrying Abnormal Loads to pass and re-pass (but not of waiting, queuing, obstruction, parking or otherwise at any time) over the Existing Access Road to and from the Development Site from the date of the Access Easement to the date of termination of the Access Easement.</p> <p>A right for pedestrians to pass and re-pass to and from the Development Site over any footpaths within the Existing Access Road from the date of the Access Easement to the date of termination of the Access Easement.</p>

	<p>A right to install (subject to the Landowner's consent to the location, size and design of such signage, such consent not to be unreasonably withheld or delayed) directional signage on the Landowners' Property indicating the location of the Existing Access Road and the Development Site.</p> <p>A right to operate a breakdown recovery and load shedding response team upon the Existing Access Road upon terms agreed with the Landowner acting reasonably.</p> <p>All rights granted to TPL over the Existing Access Road will not be exclusive to TPL and are subject to all existing and all committed to third party rights.</p> <p>Rights to enlarge upgrade or improve (including widening and realigning, and constructing any necessary culverts and/or bridges (over culverts and ditches) or supports including if necessary a right to pile and/or construct necessary ground supports) the Existing Access Road are also granted subject to the prior consent of the Landowner (such consent not to be unreasonably withheld or delayed) and the works must be carried out in accordance with that approval. The works shall be undertaken in accordance with the method statement to be provided by TPL to the Landowner for its approval (such approval not to be unreasonably withheld or delayed) and if the Landowner fails to respond to TPL within 15 Working Days of receipt of the method statement then such approval shall be deemed to be given.</p> <p>As built drawings are to be provided to the</p>
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		<p>Landowner when the works are complete and <u>The Landlord shall be deemed to be acting reasonably if it withholds its consent to the works or the method statement on the basis that the undertaking of the Advance Works will cause disruption or interference to the operation or development of Tilbury2 or Tilbury3. The works shall be undertaken</u> so as not to interfere with or disrupt the exercise of rights over the Existing Access Road by the Landowner and all other parties using or entitled to use the Existing Access Road from time to time. <u>As built drawings are to be provided to the Landowner when the works are complete. If required by the Landowner, TPL will procure the grant to the Landowner of collateral warranties in respect of these works in forms approved by the Landowner (acting reasonably).</u></p> <p>A right to carry out the Advance Works within the Existing Access Road to the extent that they relate to the Existing Access Road subject to complying with the conditions and requirements set out at paragraph 11 above.</p> <p>A right to enter the land shown coloured pink on the attached plan 1 with or without vehicles plant and machinery to undertake works to the RWE land permitted under the RWE Option and the lease of easements granted pursuant to the RWE Option.</p>
14	Access Easement Rights – New Fort Road Access	<p>Subject to the Access Conditions:</p> <p>A right to construct temporary or permanent access roads or tracks and to upgrade or improve</p>

	<p>(including widening and realigning, and constructing any necessary culverts and/or bridges (over culverts and ditches) or supports including if necessary a right to pile and/or construct necessary ground supports) any existing roads or tracks over and across the New Fort Road Access (the "New Fort Road Access Works") together with all necessary rights to construct, maintain, renew and enlarge such roads or tracks. The rights are subject to compliance with the requirements of paragraph 22 under the heading "Works and Repair" and to the conditions listed below.</p> <p>Prior to undertaking such works TPL must have obtained the Landowner's prior written approval, such approval not to be unreasonably withheld or delayed (with approval deemed if the Landowner fails to respond within 20 Working Days of notification of the proposed works) and the works must be carried out in accordance with that approval. The works shall be undertaken in accordance with the method statement to be provided by TPL to the Landowner for its approval (such approval not to be unreasonably withheld or delayed) and if the Landowner fails to respond to TPL within 15 Working Days of receipt of the method statement then such approval shall be deemed to be given. <u>The Landlord shall be deemed to be acting reasonably if it withholds its consent to the works or the method statement on the basis that the undertaking of the works will cause disruption or interference to the operation or development of Tilbury2 or Tilbury3.</u> As built drawings are to be provided to the Landowner when the works are complete (including the relocation and/or reinstatement of any street lighting, signage and any other street furniture</p>
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		<p>temporarily removed and/or relocated to facilitate the works). If required by the Landowner, TPL will procure the grant to the Landowner of collateral warranties in respect of these works in forms approved by the Landowner (acting reasonably).</p> <p>A right to carry out the Advance Works within the New Fort Road Access to the extent that they relate to the New Fort Road Access subject to complying with the conditions and requirements set out at paragraph 11 above.</p> <p>A right for vehicles (utilised for the construction or decommissioning of the Advance Works or the Development Site and/or for operational and maintenance purposes for the Development Site) carrying Abnormal Loads to pass and re-pass (but not of waiting, queuing, obstruction, parking or otherwise at any time) over the New Fort Road Access from the date of the Access Easement to the date of termination of the Access Easement.</p> <p>A right for pedestrians to pass and re-pass to and from the Development Site over any footpaths within the New Fort Road Access from the date of the Access Easement to the date of termination of the Access Easement, in relation to the carrying of Abnormal Loads to and from the Development Site.</p> <p>A right to install (subject to the Landowner's consent to the location, size and design of such signage, such consent not to be unreasonably withheld or delayed) directional signage on the Landowner's Property indicating the route to be followed by Abnormal Loads vehicles to reach the Development Site.</p>
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		<p>A right to operate a breakdown recovery and load shedding response team upon the New Fort Road Access upon terms agreed with the Landowner acting reasonably.</p> <p>All rights granted to TPL over the New Fort Road Access are subject to any existing third party rights.</p> <p>Upon service of 1 months' written notice, the Landowner and its tenants and customers will be entitled to exercise vehicular and pedestrian rights over and to use the New Fort Road Access but shall make good any damage caused by such exercise.</p> <p>The Landowner reserves rights to undertake works at the Landowner's Property including within the New Fort Road Access PROVIDED THAT such works do not materially affect the rights granted to TPL or are in accordance with the Access Conditions.</p>
15	Consideration	<p>The Construction Access Fee from the date of grant of the Access Easement until the Construction End Date as notified by TPL in an End of Construction Notice, payable monthly in advance on the first day in each month during the period from the grant of the Access Easement to the Construction End Date (and proportionately in respect of any part of a month during such period) plus any VAT payable on that sum.</p> <p>The Operation Access Fee from the Construction End Date until the date of termination of the Access Easement payable annually in advance in</p>

		<p>four equal instalments in advance of the Usual Quarter Days plus any VAT payable on that sum.</p> <p>The Decommissioning Access Fee from the Operational End Date to the date of termination of the Access Easement payable monthly in advance on the first day in each month during the period from the Operational End Date until the end of the Access Easement (and proportionately in respect of any part of a month during such period) plus any VAT payable on that sum.</p> <p>The Abnormal Load Movement Fee is dependent on vehicle movements and is to be paid in arrears 10 Working Days after each of the Usual Quarter Days.</p>
16	Term	<p>The Access Easement will be granted for an initial period of 30 years. TPL will be granted a right to call for a further 20 year easement but only in conjunction with and conditional upon a contemporaneous renewal of TPL's Development Lease or if TPL acquires the Development Freehold Land (so that there is no Development Lease) as follows: TPL may at any time after the 29th anniversary of the commencement of the initial period call for a further 20 year easement but only if on the 29th anniversary of the commencement of the initial period TPL continues to hold a Generation Licence and further only if at such time TPL continues to operate the Development</p> <p>The further 20 year easement will be in the form of the initial Access Easement (save for the right to call for a further easement) with the fees payable under the new easement being an amount equivalent to the Construction Access Fee, Operational Access Fee and</p>

		<p>Decommissioning Access Fee (subject to CPI review as provided for in the initial Access Easement), as is appropriate for the construction, operation and decommissioning uses in the extended period, payable by TPL under the Access Easement).</p> <p>If TPL serves notice to exercise its renewal option then the parties shall following service of such notice and acting reasonably agree which of the fees (being the Construction Access Fee, the Operational Access Fee and the Decommissioning Access Fee) are payable on the grant of the renewal lease of easements taking into account the operations on the Development Site for the Development at the time of completion of the renewal easement.</p>
17	Contamination	<p>TPL is not to have any responsibility for any pre-existing contamination affecting the Easement Land (unless its actions exacerbate pre-existing contamination) but will subject to the indemnity section of paragraph 24 be liable for any contamination brought or released onto the Easement Land or released onto the Landowner's Property due to TPL's actions or omissions, of those of its employees, servants or agents.</p>
18	Access Conditions	<p><u>General Conditions</u></p> <p>All TPL contractors, agents and staff seeking to utilise the Existing Access Road will be subject to the security requirements of the Landowner.</p> <p>The Landowner will be entitled to temporarily prevent the flow of traffic on the Existing Access Road or reduce its capacity if reasonably required:</p> <ul style="list-style-type: none"> • for any Port Operational Requirements;

		<ul style="list-style-type: none"> • for performance of the Landowner's Statutory Functions; • to comply with TPL's covenants (see paragraph 22 below); or • in an emergency, <p>provided that (i) the Landowner shall give TPL no less than 10 Working Days' written notice (save in the case of emergency in which case as much notice as reasonably practicable shall be given) and where the Existing Access Road shall be closed to traffic for a period of more than 3 Working Days, the Landowner shall produce and share with TPL a traffic management plan prior to carrying out such restrictions to traffic flow which shall explain how the anticipated traffic flows within an Anticipated Construction Traffic Notice or Anticipated Operational Traffic Notice shall be managed to enable those flows to reach the Development Site, including in respect of Abnormal Loads and (ii) access (including in respect of Abnormal Loads) to the Development Site is maintained at all times (save where there is an emergency) either via the Easement Land or via a workable alternate route within the Landowner's Property or any other property the Landowner secures for these purposes.</p> <p>The rights in the Access Easement are carried out and exercised at TPL's own risk and expense and transportation of loads must be undertaken by agreed named contractors, or by contractors approved by the Landowner acting reasonably (with approval deemed if the Landowner fails to respond within 10 Working Days of notification of the proposed contractor).</p>
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		<p>The Landowner is not liable for:</p> <ul style="list-style-type: none"> • the death of, or injury to any agents, licensees or employees of TPL; or • any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by TPL in exercising its right or purported rights under the Access Easement. <p>However, nothing in the above shall limit or exclude the Landowner's liability for death or personal injury or damage to property caused by negligence on the part of the Landowner or its employees or agents or where it would be unlawful for the Landowner to exclude liability.</p> <p>The Landowner shall have the right to suspend the exercise of rights under the Access Easement where sums due under the Access Easement remain unpaid for 30 days after the date the same shall have become due or where otherwise there is a material breach of the terms of the Access Easement by TPL and TPL fails to remedy the breach within 30 days after having received written notice to do so from the Landowner (or sooner in the case of emergency) PROVIDED THAT any period of suspension shall end on the date that payment is received or the material breach has been remedied.</p> <p>It is agreed that if TPL is unable to exercise its rights under the Access Easement (and requires to do so) for a period of five days or more then (save where (a) this is a result of an emergency or another cause beyond the Landowner's</p>
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		<p>reasonable control or (b) the Landowner is not in breach of its obligations under the Access Easement to allow TPL to exercise the rights granted to it under the Access Easement or (c) the exercise of the rights under the Access Easement has not been suspended as referred to in the paragraph above) the Access Fees or the Decommissioning Fees (as the case may be) shall be suspended (and any overpayment set off against future liabilities under the Access Easement) until such time as TPL can once more exercise such rights and requires to do so.</p> <p><u>Conditions from the date of the Access Easement to the Construction End Date</u></p> <p>Starting with the date of the Access Easement, TPL must provide on a monthly basis the anticipated approximate construction traffic (both delivery and staff) types, numbers and Vehicle Movements for the upcoming month including any anticipated Abnormal Load Movement (“Anticipated Construction Traffic Notice”).</p> <p>If during the period between any two Anticipated Construction Traffic Notices, it becomes clear to TPL that the number of Vehicle Movements on a given day is to be more than 30 Vehicle Movements more than the numbers that had been estimated for that day in the most recent Anticipated Construction Traffic Notice, TPL must provide the Landowner with at least one week’s notice (save in emergency) that this is to be the case.</p> <p><u>Conditions from the Construction End Date to the Operational End Date</u></p>
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		<p>Starting with the Construction End Date, TPL must provide on a four monthly basis the anticipated approximate traffic types, numbers and Vehicle Movements associated with the operation and maintenance of the Development Site, including any anticipated Abnormal Load Movements (“Anticipated Operational and Maintenance Traffic Notice”).</p> <p>If during the period between any two Anticipated Operational and Maintenance Traffic Notices, it becomes clear to TPL that the number of Vehicle Movements on a given day is to be more than 30 Vehicle Movements more than the numbers that had been estimated for that day in the most recent Anticipated Construction Traffic Notice, TPL must provide the Landowner with at least one month's notice (save in emergency) that this is to be the case.</p> <p><u>Conditions from Operational End Date to the date of termination of the Access Easement.</u></p> <p>Starting with the Operational End Date, TPL must provide on a monthly basis the anticipated approximate construction Vehicle Movements (both delivery and staff) types, numbers and movements for the upcoming month including any anticipated Abnormal Load Movement (“Anticipated Decommissioning Traffic Notice”).</p> <p>If during the period between any two Anticipated Decommissioning Traffic Notices, it becomes clear to TPL that the number of Vehicle Movements on a given day is to be more than 30 Vehicle Movements</p>
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		more than the numbers that had been estimated for that day in the most recent Anticipated Decommissioning Traffic Notice, TPL must provide the Landowner with at least one week's notice (save in emergency) that this is to be the case.
19	Substitution or variation of Easement Land	<p>The Landowner shall be able, with not less than 28 days' written notice, at its own cost and with the prior written agreement of TPL (such agreement not to be unreasonably withheld or delayed), to substitute or vary the location of all or any part of the Easement Land (PROVIDED THAT such substitution or variation must be a viable workable alternative); but any such substitution or variation must take into consideration the access requirements for Abnormal Loads and provide TPL with the equivalent of the rights granted in the Access Easement. If TPL fails to respond to notice of the proposed substitution or variation within the period of 15 Working Days service of notice TPL will be deemed to accept such proposed substitution or variation. In the event TPL does not agree to the proposed substitution or variation the matter will be resolved under the dispute resolution clause 10A.</p> <p>TPL may also request a substitution or variation of the Easement Land which the Landowner may consent to at its absolute discretion.</p>
20	Dealings and development by the Landowner	The Landowner must not create or grant any new easements, rights of access, wayleaves, title conditions, leases or licences affecting the Easement Land which materially affect the rights in the Access Easement without the consent of TPL (such consent not to be unreasonably withheld or delayed) or without first having provided a substitution or variation of the

		<p>Easement Land, save as required by Port Operational Requirements or the Landowner's Statutory Functions or in an emergency.</p> <p>The Landowner must not develop or materially alter (including, but not limited to, excavating or building over) the Easement Land so as to materially affect the rights granted in the Access Easement without first having provided a substitution or variation of the Easement Land, save as required by Port Operational Requirements or the Landowner's Statutory Functions or in an emergency.</p> <p>Where Port Operational Requirements, the Landowner's Statutory Functions or an emergency have required development to be undertaken on the Easement Land so as to materially affect the rights granted to TPL under the Access Easement, the Landowner must vary the Easement Land so as to enable TPL to be able to enjoy the rights granted in the Access Easement as soon as possible thereafter.</p>
21	Dealings by TPL	<p>See paragraph 10 above.</p> <p>The Landowner will if required by TPL enter into a direct agreement with a Funder (at the cost of TPL) on such terms as the Funder reasonably requires subject to the approval of the Landowner (acting reasonably).</p>
22	TPL's covenants	<p><u>Statutory requirements, etc</u></p> <p>TPL must comply with all consents, approvals and laws governing:</p>

		<ul style="list-style-type: none"> • the use of the Easement Land; • any construction by, or apparatus and equipment left or owned by, TPL on the Easement Land; • the Port of Tilbury; and • Port Operational Requirements and the Landowner's Statutory Functions. <p><u>Obstruction or waste</u></p> <p>TPL must not (save that exercise of the rights contained in the Access Easement in accordance with the terms of the Access Easement do not constitute a breach of these matters):</p> <ul style="list-style-type: none"> • obstruct, wait or queue on or along the Existing Access Road or the New Fort Access Road; • deposit waste, rubbish, soil or other material (save where required to do so to construct new roads on the New Fort Road Access) on the Easement Land, or the Landowner's Property; • cause or permit nuisance, damage or disturbance to the Landowner or the users customers or occupiers from time to time of Tilbury2 or to adjoining owners or occupiers PROVIDED THAT exercise of the rights in accordance with the terms of the Access Easement will not constitute a breach; or • put the Landowner, or its employees, servants or agents in breach of Port Operational Requirements, of the
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		<p>Landowner's Statutory Functions or of the Landowner's obligations as landlord contained in any lease relating to land within the Port of Tilbury PROVIDED THAT exercise of the rights in accordance with the terms of the Access Easement will not constitute a breach.</p> <p><u>Indemnity</u></p> <p>Subject to the indemnity section of paragraph 24 below, TPL to indemnify the Landowner against:</p> <ul style="list-style-type: none"> • any physical damage to the Easement Land (with the exception of any new road and associated infrastructure permitted to be constructed on the New Fort Road Access or the Landowner's Property); • any road accident or vehicular breakdown by vehicles accessing the Development Site on the Existing Access Road which negatively affect traffic flows on the Existing Access Road ;or • any breach of TPL's obligations in the Access Easement. <p><u>Works and Repair</u></p> <ul style="list-style-type: none"> • If TPL wishes to undertake the New Fort Road Access Works (as defined in Row 14) it shall serve written notice on the Landowner giving not less than 10 Working Days' notice (the "New Fort Road Access Works Commencement Notice").
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		<ul style="list-style-type: none"> • TPL must carry out the New Fort Road Access Works in compliance with all consents, approvals title requirements and laws governing or relating to: <ul style="list-style-type: none"> ○ the carrying out of the New Fort Road Access Works; ○ the Port of Tilbury; and ○ Port Operational Requirements and the Landowner's Statutory Functions. • Following service of a New Fort Road Access Works Commencement Notice until the New Fort Road Works Handover Date TPL shall maintain, repair, cleanse and renew the New Fort Road Access in no better state of repair and condition than it is in recorded in the New Fort Road Schedule of Condition appended to the Access Easement. • Following completion of the New Fort Road Access Works TPL shall serve notice on the Landowner confirming that it has completed the New Fort Road Access Works (the "New Fort Road Access Works Completion Notice"). On or promptly after the service of a New Fort Road Access Works Completion Notice TPL must instruct (at TPL's cost) an independent surveyor to provide an updated schedule of condition in respect of the New Fort Road Access recording the condition of the New Fort Road Access on completion of the New Fort Road Access Works (a "Supplemental New Fort Road Schedule of Condition"). Following
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		<p>service of a New Fort Road Access Works Completion Notice the Landowner has a period of 15 Working Days to inspect the New Fort Road Access and the New Fort Access Works and to identify any defects in the New Fort Road Access Works or damage caused by the New Fort Road Access Works and to require that such defects and damage are remedied (a “New Fort Road Access Damage Notice”). If TPL does not contest the New Fort Road Access Damage Notice TPL will undertake any necessary works identified in a New Fort Road Access Damage Notice and will then re-serve a New Fort Road Access Works Completion Notice and the process above will be repeated until the Landowner is satisfied that there are no remaining defects in the New Fort Access Works or damage that should be remedied. If TPL contests a New Fort Road Access Damage Notice the matter will be referred to expert determination (see paragraph 10A above).</p> <ul style="list-style-type: none"> • If the Landowner serves a notice confirming that it has not identified any defects in the New Fort Road Access Works or damage caused by the New Fort Road Access Works or if the Landowner fails to respond to a New Fort Road Access Works Completion Notice within the 15 working day period referred to above, the Landowner shall be deemed to accept the condition of the New Fort Road Access (the “New Fort Road Works Handover Date”).
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		<ul style="list-style-type: none"> • TPL may serve multiple New Fort Road Access Works Commencement Notices during the Term. • At the Landowner's written request, TPL must (as soon as reasonably practicable and in any event by the reasonable deadline stipulated in the Landowner's written request to do so): <ul style="list-style-type: none"> ○ repair, replace, cleanse, renew or otherwise make good to the reasonable satisfaction of the Landowner any defects in or damage caused by TPL to the Existing Access Road, or the Landowner's Property which are beyond any defects or damage which are identified in the Schedule of Defects in respect of the Existing Access Road; ○ repair, replace, cleanse, renew or otherwise make good to the reasonable satisfaction of the Landowner any defects or damage caused by TPL in relation to the New Fort Road Access beyond those identified in the New Fort Road Access Schedule of Condition or (following completion of the New Fort Road Access Works) the Supplemental New Fort Road Schedule of Condition; and ○ remedy any breach of its obligations in the Access Easement. • For the avoidance of doubt TPL shall not be liable to repair, replace, cleanse, renew or
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		<p>otherwise make good any damage caused to the Existing Access Road the Landlord's Property or the New Fort Road Access by the Landowner or any other third party (save where such third party is undertaking Vehicle Movements on behalf of TPL) .</p>
23	Landowner's covenants	<p>The Landowner must maintain, repair, cleanse and renew the Existing Access Road in no better state of repair and condition than it is in as recorded in the Schedule of Defects appended to the Access Easement, and take reasonable measures to keep the Existing Access Road suitably lit and clear of ice and snow in accordance with the Landowner's normal estate management practices.</p> <p>In undertaking any such maintenance, repairs, cleansing and renewal of the Existing Access Road, the Landowner shall be entitled to temporarily prevent the flow of traffic on the Existing Access Road or reduce its capacity provided that the Landowner shall give TPL no less than 10 Working Days' written notice (save in the case of emergency in which case as much notice as reasonably possible shall be given) and where the Existing Access Road shall be closed for traffic for a period of more than 3 Working Days the Landowner shall produce a traffic management plan to TPL which will deal so far as possible with TPL's access requirements established through the process, prior to carrying out such works.</p> <p>Until such time as TPL serves the New Fort Road Access Works Commencement Notice (and to the extent not adopted) the Landowner must maintain, repair, cleanse and renew the New Fort Road Access in no better state of repair and condition</p>

		<p>than it is in as recorded in the New Fort Road Schedule of Condition appended to the Access Easement.</p> <p>From the New Fort Road Works Handover Date TPL must maintain, repair, cleanse and renew the New Fort Road Access in no better state of repair and condition than it is in as recorded in the Supplemental New Fort Road Schedule of Condition PROVIDED THAT TPL shall not be liable to repair, replace, cleanse, renew or otherwise make good any damage caused to the New Fort Road Access by the Landowner or any other third party (save where such third party is undertaking Vehicle Movements on behalf of TPL)</p> <p>.</p> <p>If the Landowner is required to make good damage it (or its customers) caused to the New Fort Road Access as result of the exercise of rights granted to it (see Row 14) the Landowner shall be entitled to temporarily prevent the flow of traffic on the New Fort Road Access or reduce its capacity provided that the Landowner shall give TPL no less than 10 Working Days' written notice (save in the case of emergency in which case as much notice as reasonably possible shall be given) and where the New Fort Road Access shall be closed for traffic for a period of more than 3 Working Days the Landowner shall produce a traffic management plan to TPL which will deal so far as possible with TPL's access requirements established through the process, prior to carrying out such works.</p>
24	Insurance and Indemnity	<u>Insurance</u>

		<p>TPL shall obtain and keep in full force and effect at all times a valid policy of insurance of not less than £10 million against public and third party liability.</p> <p><u>Indemnity</u></p> <p>Notwithstanding any other provision:</p> <p>(a) TPL shall not be liable in respect of losses attributable solely to any act or default on the part of the Landowner;</p> <p>(b) the Landowner shall be obliged to intimate to TPL as soon as practicable details of such losses and shall take all necessary steps to mitigate all losses so far as is reasonably practicable;</p> <p>(c) <u>the liability of</u> TPL shall have no extend to liability for economic or consequential losses (including loss of production, loss of profit, loss of profitability, economic loss, loss of use, loss of contract, loss of goodwill) or for any indirect loss or damage whatsoever whether or not TPL knew (or ought to have known) that such losses would be likely to be suffered as a result of such performance, non-performance, act, omission or breach;</p> <p>(d) <u>subject to (e.) below</u> the maximum liability of TPL for each and every individual claim shall be £5,000,000 (the “Initial Maximum Liability”) subject to the Initial Maximum Liability being index linked (by reference to CPI) every 5 years provided always that TPL shall not seek to limit its liability in</p>
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		<p>respect of personal injury and/or death resulting from its negligence or the negligence of any of its officers employees agents and/or sub-contractors; and</p> <p>(e) TPL shall not be liable in respect of all environmental damages and liability arising out of claims by any third party or action taken by any competent authority or the costs necessarily incurred to secure compliance with environmental law in all cases in respect of (unless such environmental damages and liability arose as a consequence of TPL's use of the Easement Land):-</p> <p>(i) the presence of hazardous materials in, on, at, over, or under, the Easement Land at the date of the Framework Agreement; or</p> <p>(ii) those hazardous materials referred to immediately above migrating from the Easement Land;</p> <p>and provided that in respect of (a) — (e) above the maximum aggregate liability of TPL to the Landowner for all claims under this sub-paragraph (e) for each and every claim is £10,000,000 (the “Initial Maximum Aggregate Liability”) subject to the Initial Maximum Aggregate Liability being index linked (by reference to CPI) every 5 years provided further that TPL shall not seek to limit its liability in respect of personal injury and/or death resulting from its negligence or the negligence of any of its officers employees agents and/or sub-contractors.</p>
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25	Property acknowledgements	<p>All rights not specifically and expressly granted by the Access Easement are reserved to the parties and no implied rights are granted by the Access Easement whether pursuant to section 62 of the Law of Property Act 1925 or otherwise.</p> <p>The rights granted by the Access Easement are not granted exclusively and are granted in common with the corresponding rights of the Landowner and other persons lawfully entitled to exercise such rights (including any persons to whom similar rights may lawfully have been granted by the Landowner as at the date of the Access Easement or at any time thereafter). Further they are granted subject to all relevant title matters and the rights of third parties which exist or which the Landowner is committed to grant (and which will be disclosed to TPL prior to entering into the Access Easement) together with the renewal of any such rights.</p> <p>Nothing in the Access Easement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties or constitute any party the agent of another party.</p> <p>Each party confirms it is acting on its own behalf and not for the benefit of any other person.</p>
26	Termination and reinstatement	<p>The Access Easement shall terminate on:</p> <ul style="list-style-type: none"> • the expiry of notice served by TPL terminating the Access Easement; or • the Development not being commenced (as defined in the DCO) within 5 years of the DCO coming into force or within such longer period (up to a maximum of 10

		<p>years in total) as may be authorised by the Secretary of State; or</p> <ul style="list-style-type: none"> • termination of the Development Lease which TPL shall notify to the Landowner when it occurs or (if there is no Development Lease) when TPL notifies the Landowner that the Development Site is no longer operational or capable of operational use for the use or uses permitted by the Access Easement; or • termination of the access easement granted to TPL under the RWE Option. • Termination or expiry of the Generation Licence • <u>The sale of the Development Site or a disposal of the Development Land Lease for a use other than the Development</u> <p>If any of the above events occurs:</p> <ul style="list-style-type: none"> • the Landowner shall have the ability to demand that TPL reinstates the New Fort Road Access to the condition set out in the New Fort Road Schedule of Condition for these areas appended to the Access Easement, at TPL's cost; subject to (i) six months' written notice of the date of termination, or if this is not possible, (ii) the Landowner serving written notice requiring such reinstatement within 12 months of determination and (iii) the Landowner granting TPL a licence of not less than 6 months to use the parts of the Easement Land that are properly required to undertake all necessary works of reinstatement;
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		<ul style="list-style-type: none"> the Landowner shall have the ability to demand that TPL remedies any new defects to the Existing Access Road not shown in the Schedule of Defects for that area and any defects to the New Fort Road Access shown in the New Fort Road Schedule of Condition or following completion of the New Fort Road Access Works the Supplemental New Fort Road Schedule of Condition which the parties acting reasonably agree has been caused by TPL and still subsists at the time of termination of the Access Easement; and TPL must remove any entry relating to the Access Easement on the titles to the Landowner's Property and if it fails to remove such entries within a reasonable period then TPL will grant to the Landowner a power of attorney to allow the Landowner to remove such entries itself .
27	Dispute Resolution	Any Dispute between the Parties to be resolved through a staged mechanism – first by a meeting of the Parties; and if not agreed by reference to an expert appointed by the President of Institution of Civil Engineers; both Parties to be responsible for their own costs.
28	VAT	All sums payable under these heads of terms the Framework Agreement and the Access Easement are subject to VAT
29	Notices	All notices to be served or given under these heads of terms the Framework Agreement and the Access Easement are to be in writing which excludes fax and email.
30	Completion of the Framework Agreement	The parties agree to act collaboratively and reasonably following the signing of these heads of

		terms to settle and exchange the Framework Agreement (incorporating the agreed form of Access Easement) as soon as practicable after the date of signing of the heads of terms.
31	Entire Agreement	These heads of terms constitute the entire agreement and understanding of the parties and supersede any previous agreement or negotiations between them relating to the subject matter of these heads of terms.

Item No.	Topic	Agreed Scope
Tilbury 3		
432	General	<p>Tilbury3 (which includes the continuation of the Existing Access Road, the Eastern Access Road and the Plant Road ExtensionSubstation Bend New Road (as defined in the RWE Heads of Terms) and the New Road (as defined in the RWE Heads of Terms) referred to as the RWE Access Road is currently owned by RWE although the Landowner is in negotiations with RWE to purchase Tilbury3.</p> <p>It is agreed that RWE has or will shortly conclude the RWE Heads of Terms in respect of the use by TPL of the RWE Access Road as a continuation of the Easement Land to access the Development Site. TPL agrees with the Landowner that (to the extent that it has not already concluded and signed the RWE Heads of Terms prior to the date of these heads of terms) that it will use all reasonable but commercially prudent endeavours to do so to settle and sign the RWE Heads of Terms as soon as possible after the date of these heads of terms but agrees however :</p> <ul style="list-style-type: none"> not to sign the RWE Heads of Terms (if they have not been signed prior to the date of these Heads of Terms) or conclude any legal agreement with RWE pursuant to the RWE Heads of Terms or otherwise in respect of the RWE Access Road without the consent of the Landowner and to incorporate into the RWE Heads of Terms and any related legal agreements such amendments, revisions and commercial terms as the Landowner shall reasonably require; and in the event that the Landowner purchases Tilbury3 it shall inform TPL and the parties shall agree such amendments as shall be required to these Heads of Terms and to the Framework

Item No.	Topic	Agreed Scope
		<p>Agreement to incorporate into the Access Easement so far as consistent and appropriate the remainder <u>relevant terms</u> of the RWE Heads of Terms and the terms of any relevant legal agreements completed by TPL and RWE pursuant to them. <u>In the event of any inconsistency between these Heads of Terms and the RWE Heads of Terms and save as expressly referred to below TPL agrees that the terms of these Heads of Terms shall prevail.</u> Provided that the parties agree that the following specific terms shall apply to the rights to be granted by the Landowner to TPL in respect of the RWE Access following its purchase of Tilbury 3;</p> <ul style="list-style-type: none"> - The rights will be granted for a fee of £100 (exclusive of VAT) per annum (no sums will be payable in respect of Vehicle Movements in respect of such land). This figure to be indexed with reference to the CPI. This payment is to be in substitution for the payments reserved under the RWE Heads of Terms which payments will cease to apply. - - In the Access Easement TPL will be granted : - a right to construct temporary or permanent access roads or tracks and to upgrade or improve (including widening and realigning, and constructing any necessary culverts and/or bridges (over culverts and ditches) or supports including if necessary a right to pile and/or construct necessary ground supports) any existing roads or tracks over and across the land shown coloured pink and marked Substation Bend New Road on plan 5 (the “Substation Bend New Road”) together with all necessary rights to retain, maintain, renew and enlarge such roads or tracks. <u>Prior to undertaking such works TPL must have obtained the Landowner’s prior written approval, such approval not to be unreasonably withheld or delayed (with approval deemed if the Landowner fails to respond within 20 Working Days of notification of the proposed works) and the works must be carried out in accordance with that approval. The works shall be undertaken in accordance with the method statement to be provided by TPL to the Landowner for its approval (such approval not to be unreasonably withheld or delayed) and if the Landowner fails to respond to TPL within 15 Working Days of receipt of the method statement then such approval shall be deemed to be given. The Landlord shall be deemed to be acting reasonably if it withholds its consent to the works or the method statement on the basis that the undertaking of the works will cause disruption or interference to the operation or development of Tilbury2 or Tilbury3. As built drawings are to be provided to the Landowner when the works are complete (including the relocation and/or reinstatement of any street lighting, signage and any other street furniture temporarily removed and/or relocated to facilitate the works). If required by the Landowner, TPL will procure the grant to the Landowner of collateral warranties in respect of these works in forms approved by the Landowner (acting reasonably).</u> If constructed the Landowner and its tenants

Item No.	Topic	Agreed Scope
		<p>agents employees contractors and occupiers and users of and visitors to Tilbury2 and Tilbury3 will have rights to use the Substation Bend New Road and to pass and repass over it at all times with or without workmen vehicles plant machinery and equipment and for all purposes and following construction the Landowner will be responsible for the maintenance and repair of such road. TPL will not be required to reinstate the Substation Bend New Road on determination.</p> <ul style="list-style-type: none"> - a right to construct temporary or permanent access roads or tracks and to upgrade or improve (including widening and realigning, and constructing any necessary culverts and/or bridges (over culverts and ditches) or supports including if necessary a right to pile and/or construct necessary ground supports) any existing roads or tracks over and across a route to be agreed between the parties acting reasonably within the land shown coloured green and marked New Road (the “New Road”) together with all necessary rights to retain, maintain, renew and enlarge such roads or tracks. <u>Prior to undertaking such works TPL must have obtained the Landowner’s prior written approval, such approval not to be unreasonably withheld or delayed (with approval deemed if the Landowner fails to respond within 20 Working Days of notification of the proposed works) and the works must be carried out in accordance with that approval. The works shall be undertaken in accordance with the method statement to be provided by TPL to the Landowner for its approval (such approval not to be unreasonably withheld or delayed) and if the Landowner fails to respond to TPL within 15 Working Days of receipt of the method statement then such approval shall be deemed to be given. The Landlord shall be deemed to be acting reasonably if it withholds its consent to the works or the method statement on the basis that the undertaking of the works will cause disruption or interference to the operation or development of Tilbury2 or Tilbury3. As built drawings are to be provided to the Landowner when the works are complete (including the relocation and/or reinstatement of any street lighting, signage and any other street furniture temporarily removed and/or relocated to facilitate the works). If required by the Landowner, TPL will procure the grant to the Landowner of collateral warranties in respect of these works in forms approved by the Landowner (acting reasonably).</u> If constructed the Landowner and its tenants agents employees contractors and occupiers and users of and visitors to Tilbury 2 and Tilbury 3 will have rights to use the New Road and to pass and repass over it at all times with or without workmen vehicles plant machinery and equipment and for all purposes and following construction the Landowner will be responsible for the maintenance and repair of the New Road. <u>TPL will not be required to reinstate the New Road on determination.</u> <p>The above rights are subject to the following conditions;</p>

Item No.	Topic	Agreed Scope
		<ul style="list-style-type: none"> • the routes of the new road within the land coloured green (and marked New Road) on Plan 5 is to be agreed between the Landowner and TPL both acting reasonably • all works and a works programme and method statement for the works are to be provided to the Landowner for approval before any works commence and the works shall not be commenced before the works the works programme and the method statement are approved by the Landowner (acting reasonably) • TPL shall secure all consents required to undertake the works and produce them to the Landowner for approval (acting reasonably) and no works shall be commenced until the Landowner has approved such consents. • The works shall not cause any disruption or interruption to the operation and development of Tilbury 2 or Tilbury 3 and shall be undertaken in accordance with a method statement approved by the Landowner (acting reasonably) which shall evidence this. • The rights are granted subject to any existing third party and title rights affecting the relevant land • TPL shall undertake all works at its own cost • TPL shall secure warranties for the Landowner in forms approved by the Landowner (acting reasonably) in respect of all works undertaken • The Landowner shall have a right to relocate all of any of the roads at its own cost to a route approved by TPL acting reasonably. TPL has the no right to relocate the access routes as outlined in paragraph 8 above <u>unless required by or agreed by the Landowner.</u> <p style="text-align: center;">-</p>

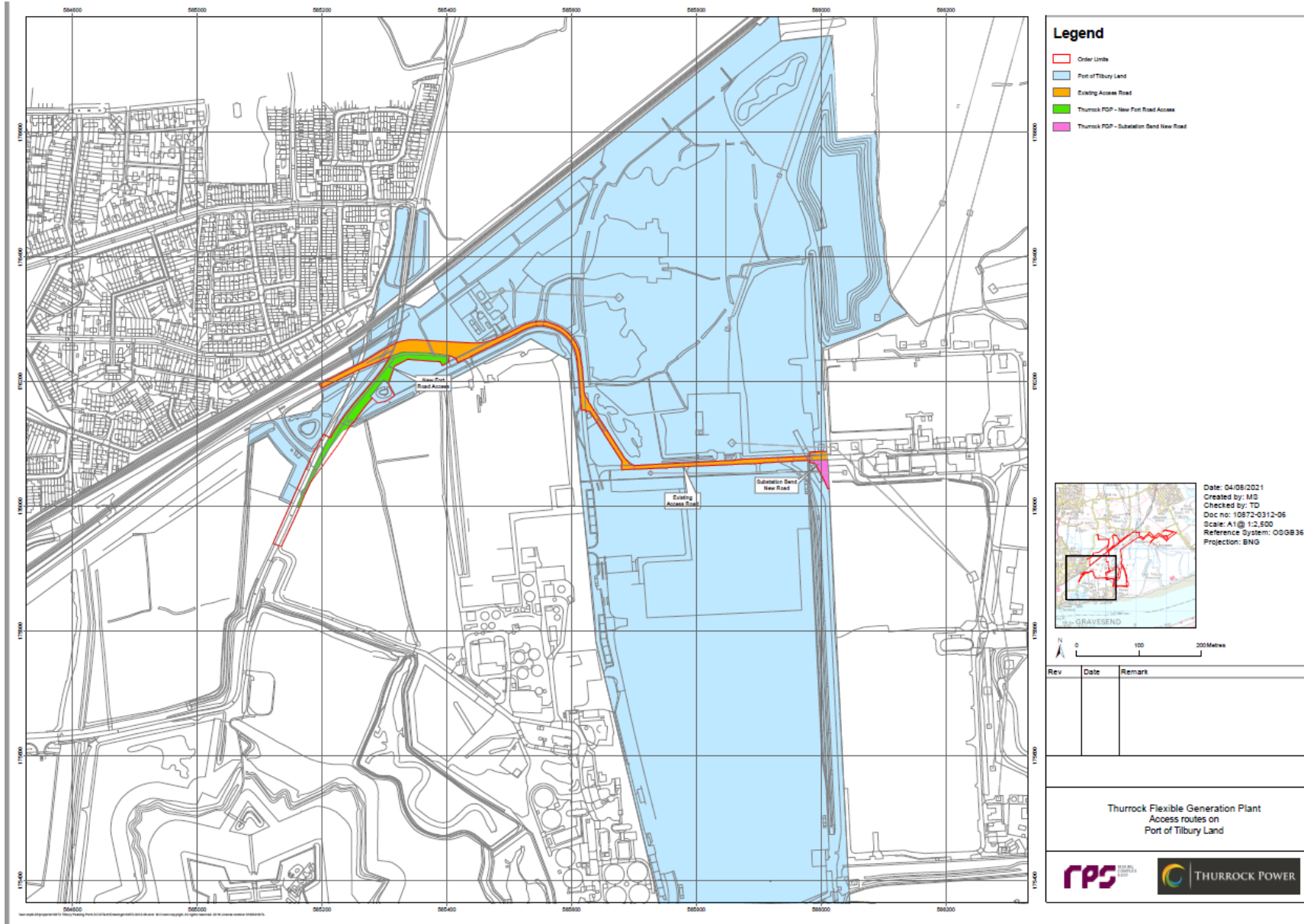
The terms of these heads of terms and all discussions between the parties regarding the proposed Framework Agreement remain subject to contract.

Signed on behalf of:

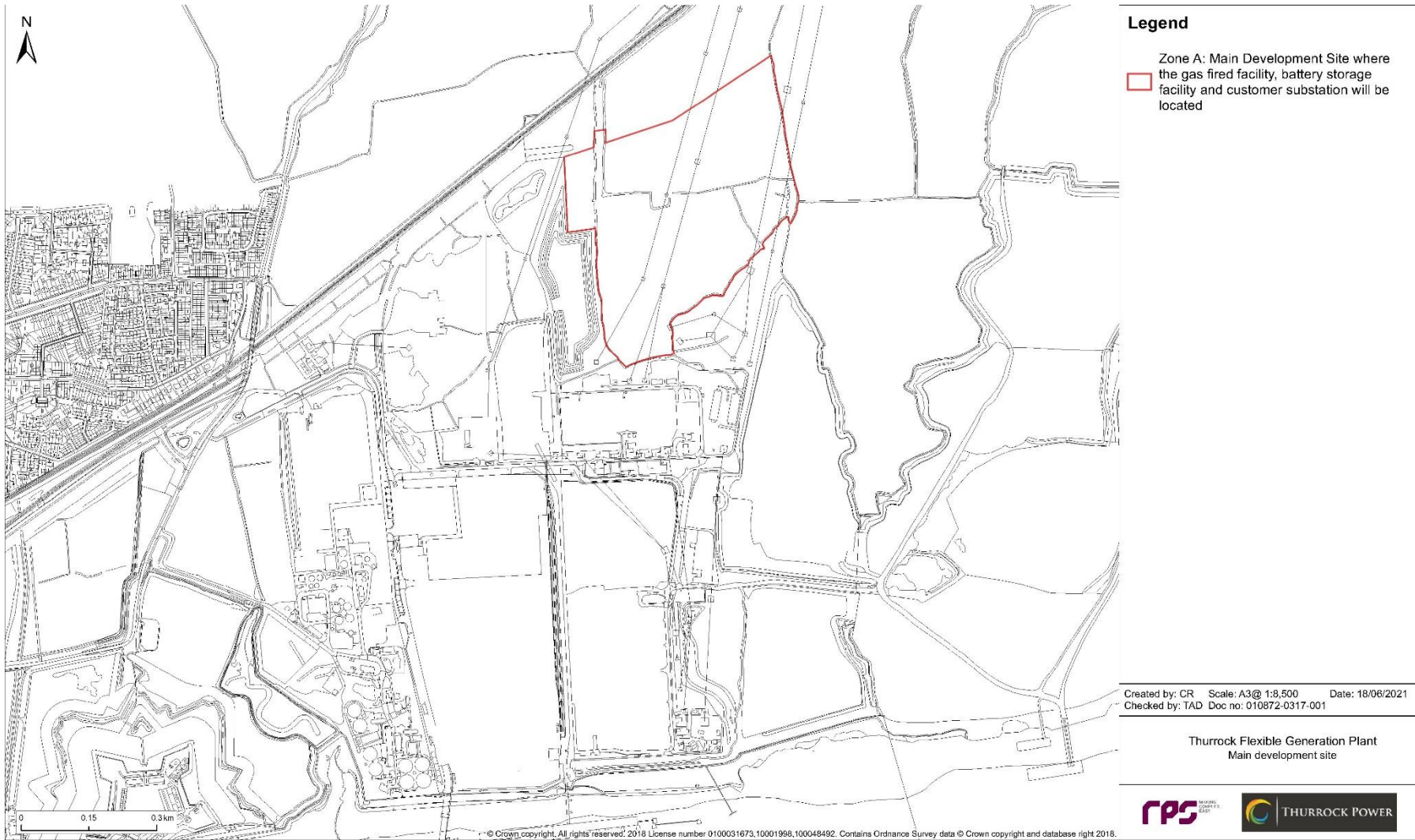
THURROCK POWER LIMITED

PORT OF TILBURY LONDON LIMITED

PLAN 1



PLAN 2



Legend

Zone A: Main Development Site where the gas fired facility, battery storage facility and customer substation will be located

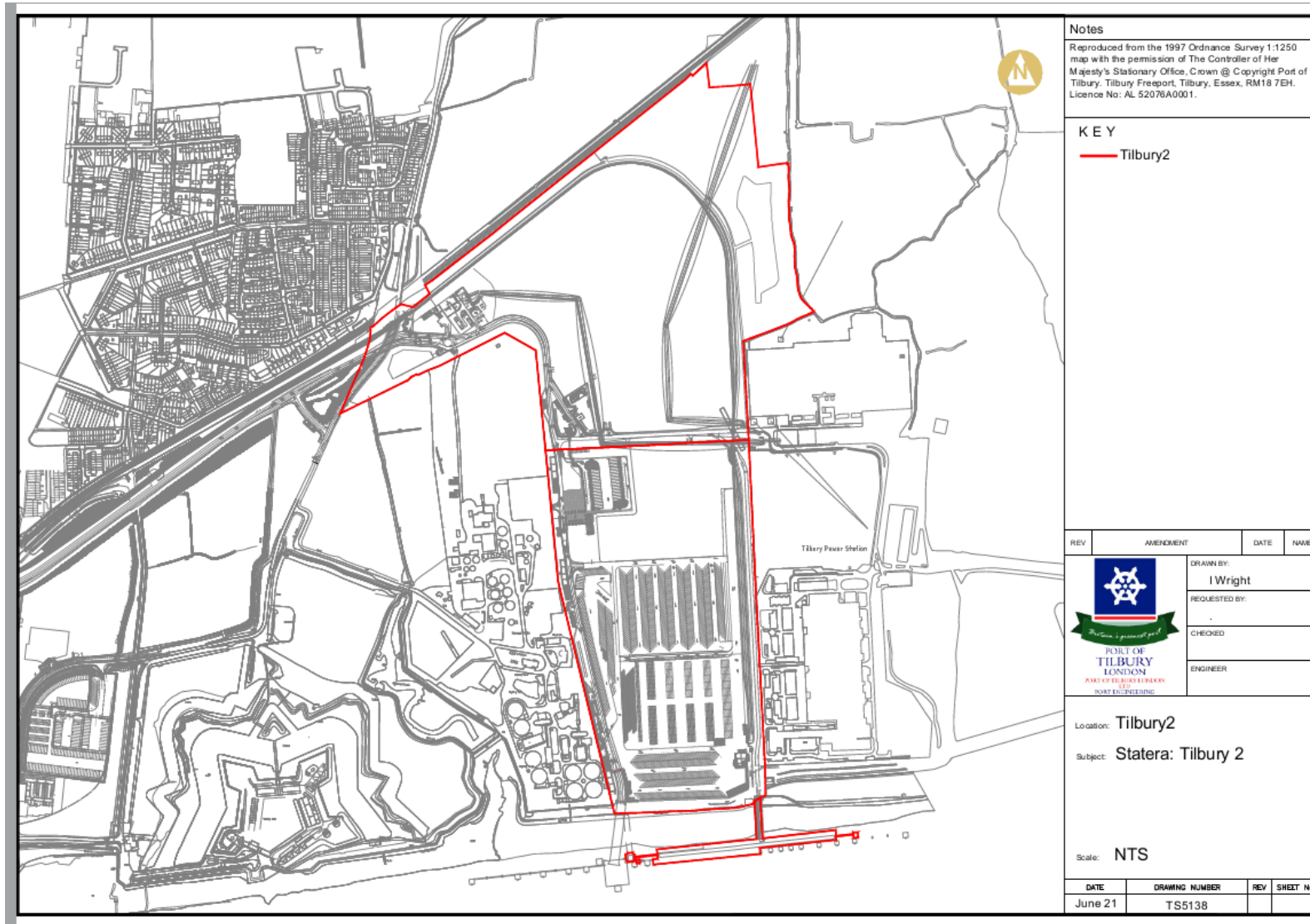
Created by: CR Scale: A3@ 1:8,500 Date: 18/06/2021
Checked by: TAD Doc no: 010872-0317-001

Thurrock Flexible Generation Plant
Main development site



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PLAN 3



Notes
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KEY
 — Tilbury2

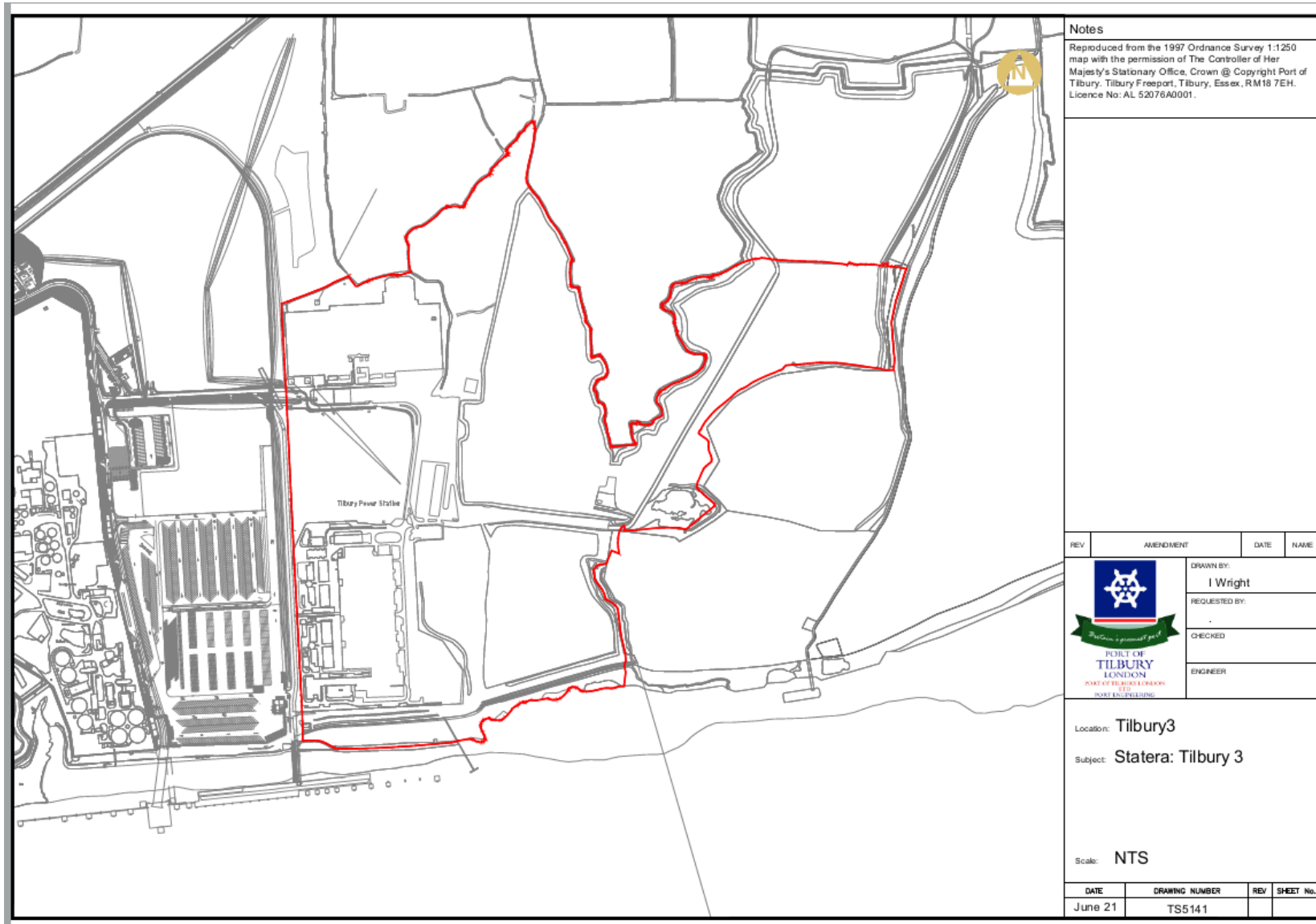
REV	AMENDMENT	DATE	NAME
DRAWN BY:		I Wright	
REQUESTED BY:			
CHECKED:			
ENGINEER:			

Location: Tilbury2
 Subject: Statera: Tilbury 2

Scale: NTS

DATE	DRAWING NUMBER	REV	SHEET No.
June 21	TS5138		

PLAN 4



Plan 5 –the parties agree that this will be adjusted so that the RWE access route is wholly within the RWE title

