

Condition 2.3A: Transmission Charges, Other Terms for the Transmission of Gas on the Transmission Network and the provision of Transmission Services

2.3A.1 Charges to be subject to Total Allowed Transmission Revenue

- (a) The Licensee shall be subject to the provisions of this Condition 2.3A with effect from the Designation Date.
- (b) In respect of any period when a Designation Order is not in place in respect of those transmission pipe-lines used by the Licensee for the transmission of gas pursuant to this Licence Document, the Licensee shall, in setting its charges for the transmission of gas in such pipe-lines during the Revenue Recovery Period, use its best endeavours to ensure that in each Gas Year the Total Transmission Revenue shall not exceed the Total Allowed Transmission Revenue for that year calculated in accordance with the Formula, in addition to observing the provisions of Condition 2.3A.9.
- (c) In respect of the Gas Year commencing on or after the Designation Date and each Gas Year or part of a Gas Year thereafter for so long as a Designation Order is and remains in force in respect of those transmission pipe-lines used by the Licensee for the transmission of gas pursuant to this Licence Document, the Licensee shall ensure that for each such Gas Year both:
 - (i) its Forecast Required Revenue; and
 - (ii) its Actual Required Revenue,notified to the Authority and the PSA in accordance with Conditions 2.3A.1(e) and 2.3A.1(f) shall be the same as the Total Allowed Transmission Revenue for that Gas Year.
- (d) For the avoidance of doubt, the Licensee's Forecast Required Revenue and Actual Required Revenue for the purposes of Part 2A of this Licence Document shall be the same amount; and both shall equal the Total Allowed Transmission Revenue both during and after the Revenue Recovery Period.

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- (e) No later than the first Business Day in July in any Gas Year commencing on or after the Designation Date the Licensee shall provide to the Authority its calculation of Forecast Required Revenue for the next Gas Year together with such explanations and information as may be reasonably necessary to permit the Authority to verify that the Forecast Required Revenue has been calculated in accordance with any formula in place for the time being for the purposes of calculating Total Allowed Transmission Revenue.
- (f) No later than the fifteenth Business Day in July in any such Gas Year referred to in sub-paragraph (e) the Licensee shall provide to the PSA its calculation of Forecast Required Revenue in respect of the next Gas Year.

2.3A.2 The Formula

The Total Allowed Transmission Revenue for each Gas Year during the Revenue Recovery Period shall be calculated in accordance with the following formula:

$$ARR_t = (CRR + ORR_t) * RPI_{et} / RPI_0 + PA_t + K_{t-1}$$

where :

ARR_t = Total Allowed Transmission Revenue in Gas Year t.

CRR = Capital Asset Base Recovery, as determined pursuant to Condition 2.3A.3.

ORR_t = Allowed Operating Expenditure in Gas Year t, as determined pursuant to Conditions 2.3A.4 and 2.3A.7.

RPI_{et} = The estimate of the absolute value of the Retail Prices Index to be published in respect of March of Gas Year t.

RPI_0 = The absolute value of the Retail Prices Index published for March of 2004, being 184.6.

PA_t = Postalisation Adjustment for Gas Year t, as determined pursuant to Condition 2.3A.5, subject to a Designation Order being in place.

K = An correction factor to account for forecasting error in estimating the Retail Prices Index, calculated as:

$$K_t = (CRR + ORR_t) * [(RPI_{at} - RPI_{et}) / RPI_0]$$

RPI_{at} = The actual absolute value of the Retail Prices Index published for March of Gas Year t

2.3A.3 Capital Asset Base Recovery

- (a) For the period until the end of the Gas Year commencing on 01 October 2015 the Capital Asset Base Recovery shall be determined according to the following formula:

$$CRR = \frac{OAV \times r}{[1 - (1 + r)^{-N}]}$$

Where:

OAV = Opening asset value of £82,168,095

N = 20, being the number of Gas Years between 1st October 2004 and the end of the Revenue Recovery Period.

r = Agreed pre-tax real rate of return which shall be equal to 7.5%.

- (b) For the period commencing with the start of the Gas Year beginning on 01 October 2016 and ending on the expiry of the Revenue Recovery Period (the "Remaining RRP") the Capital Asset Base Recovery shall be determined using the following formula:

$$\frac{AV \times rr}{[1 - (1 + rr)^{-(N-12)}]}$$

Where:

AV = Value of the asset base as of October 2016, being £47,210,151;

rr = the rate of return determined pursuant to Condition 2.3A.3(c); and

N has the value attributed to it in Condition 2.3A

- (c) No later than 1st October 2015, the Licensee shall submit to the Authority a requested rate of return to apply in respect of the calculation of the Capital Asset Base Recovery in the Remaining RRP pursuant to Condition 2.3A.3(b) together with any information it feels necessary to justify that rate (the "Requested Rate of Return"). The rate of return for the purposes of Condition 2.3A.3(b) above shall be that determined by the Authority on written notice to the Licensee having regard to the information provided to them (the "Determination"). In the event that the rate of return determined by the Authority pursuant to the Determination differs from that proposed by the Licensee:-

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- (i) the Determination shall not have effect for 28 days commencing with the date of the notice of the Determination;
- (ii) the Licensee may within 28 days of the date of the notice of the Determination request the Authority by written notice to the Authority (a "disapplication notice"), not to apply the provisions of this Condition 2.3A.3(c), in which event the Determination shall not apply;
- (iii) unless within one month of the date of the disapplication notice the Authority makes a reference to the Competition Commission under Article 15 of the Order relating in whole or part to a modification of Condition 2.3A.3, then:
 - (aa) the rate of return determined by the Authority pursuant to the Determination will continue not to be applied after that period has passed; and
 - (bb) the value of r for the purposes of the calculation set out in Condition 2.3A.3(b) shall be the same as the value of r set out in Condition 2.3A.3(a);
- (iv) in the event of such a reference to the Competition Commission under Condition 2.3A.3(c)(iii), and if the Competition Commission finds that the continuation of this Condition 2.3A.3 without modification operates or may be expected to operate against the public interest, then until this Licence Document shall be modified in accordance with the Order as a result of that reference and any findings by the Competition Commission then the value r for the purposes of the calculation set out in Condition 2.3A.3(b) shall be the same as the value of r set out in Condition 2.3A.3(a).

2.3A.4 Allowed Operating Expenditure

Allowed Operating Expenditure for the purpose of this Condition and the determination of Total Allowed Transmission Revenue in accordance with the Formula shall be the operating expenditure which the Authority deems necessary or appropriate for the development, construction, maintenance and operation of the Transmission Network to provide transmission services in an economically efficient and safe manner given forecast development and throughput and in accordance with established gas transmission pipe-line engineering and cost control principles, determined in accordance with the procedure set out in Condition 2.3A.7.

2.3A.5 Postalisation Adjustment

The Postalisation Adjustment for the purposes of the determination of Total Allowed Transmission Revenue in Gas Year t will be an allowance (which could be positive or negative) comprised of the sum of the amounts set out in Conditions 2.3A.5(a) to 2.3A.5(c) inclusive:

- (a) costs and expenses, losses and/or liabilities to be incurred, or incurred by the Licensee associated with the PSA and/or the Trustee under the agreements under which they are appointed;
- (b) amounts due in respect of Commodity Reconciliation Payments for Gas Year t-2 calculated according to the following formula:

$$\text{UNRPT}_{t-2} \times (1+\text{RE})^{1.5} \times \frac{\text{CPI}_t}{\text{CPI}_{t-2}} \times \frac{\text{ARR}_{L t-2}}{\text{PS ARR}_{t-2}}$$

where:

UNRPT_{t-2} = Un-recovered Postalisation Payments as calculated by the PSA in respect of Gas Year t-2 ;

CPI_t = the forecast of the absolute value of the General Index of Consumer Prices – All items (1996 =100) as published by the Office of National Statistics (Series Identifier CHVJ) for Gas Year t, as published in the preceding year's May edition of the Bank of England Inflation Report or if such index is no longer published, such alternative index as the Authority shall, after consultation with the Licensee, determine most closely reflects the Consumer Prices Index;

CPI_{t-2} = the absolute value of the General Index of Consumer Prices – All items (1996 =100) as published by the Office of National Statistics (Series Identifier CHVJ) - for Gas Year t-2, or if such index is no longer published, such alternative index as the Authority shall, after consultation with the Licensee, determine most closely reflects the

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General Index of Consumer Prices –All items (1996 =100);

ARR_{t-2} = the Licensee's Actual Required Revenue in respect of Gas Year t-2;

$PS\ ARR_{t-2}$ = the sum of the Actual Required Revenues (as defined in each Licensees Respective Licence) of all Designated Pipe-line Operators in respect of Gas Year t-2;

RE = the applicable real interest rate, which is calculated as the one-year LIBOR rate, as published on the 10th business day of June in Gas Year t-1, plus 2% minus CPI factor, calculated as:

$LIBOR\ rate\ \% + 2\% - [(CPI_t / CPI_{t-1}) - 1] \times 100)$

CPI_{t-1} = the absolute value of the General Index of Consumer Prices – All items (1996 =100) as published by the Office of National Statistics (Series Identifier CHVJ) - for Gas Year t-1, or if such index is available the latest CPI figure published in Gas Year t-1

- (c) such amount as the Authority may, after consultation with the Department, deem appropriate in respect of costs incurred by the Licensee in connection with approved activities in relation to the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland.

2.3A.6 Termination Payments

If the Licensee receives any sums due under the Network Code upon the termination of a Gas Supplier's Accession Agreement in respect of future Gas Years following the Gas Year in which the date of termination occurs, the Authority shall amend the Forecast Required Revenue and Actual Required Revenue to take account of such payment, according to a methodology agreed with the licensee.

2.3A.7 Allowed Operating Expenditure Calculation

- (a) In respect of the Gas Years beginning on 01 October 2004, 01 October 2005 and 01 October 2006 the Allowed Operating Expenditure shall be as follows; £1,256,230; £709,297; and of £1,075,986.
- (b) The Licensee shall not later than 12 months before the commencement of each Review Period submit a forecast of annual operating expenditure for each Formula Year of that Review Period.

The Review Periods shall be:

- (i) the period from the commencement of the Gas Year beginning on 01 October 2007 until the expiry of the Gas Year beginning on 01 October 2011;
 - (ii) the period from the commencement of the Gas Year beginning on 01 October 2012 until the expiry of the Gas Year beginning on 01 October 2016;
and
 - (iii) the period from the commencement of the Gas Year beginning on 01 October 2017 until the expiry of the Gas Year beginning on 01 October 2023.
- (c) If, in respect of a particular Review Period, the Authority, following verification, approves the forecast of annual operating expenditure submitted under Condition 2.3A.7(b) above, the forecast annual operating expenditure for each Gas Year comprised in such Review Period shall be the Allowed Operating Expenditure for such Gas Year.
- (d) If, in respect of a particular Review Period, the Authority, following verification and consideration of such further information as may be submitted by the Licensee, considers that the Licensee's forecast should be approved subject to modification, the forecast annual operating expenditure for each Gas Year comprised in such Review Period and as set out in the Licensee's forecast (as modified in the manner notified to the Licensee by the Authority) shall, subject to subsequent adjustment in accordance with Condition 2.3A.7(i) below, be the Allowed Operating Expenditure for such Gas Year.

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- (e) The Allowed Operational Expenditure in respect of a particular Review Period will be adjusted for any costs incurred under their Network Code by the Licensee as approved by the Authority during the previous Review Period.
- (f) The Licensee shall, within 6 months after the end of each Gas Year, submit to the Authority a statement, certified by its auditors as being accurate, detailing the actual operating expenditure incurred by the Licensee during such Gas Year in the development, construction, maintenance and operation of the Transmission Network.
- (g) The Licensee shall promptly provide such information or explanation and access to documents and records as the Authority reasonably requires for the purpose of verifying the forecast annual operating expenditure figures provided by the Licensee in accordance with Condition 2.3A.7(b).
- (h) Any decision made by the Authority under Condition 2.3A.7(c) or Condition 2.3A.7(d) shall be notified to the Licensee in writing (together with, in the case of a decision made by the Authority pursuant to Condition 2.3A.7(d), details of the modifications made by the Authority and the reasons for them).
- (i) In the event that the Authority makes a decision under Condition 2.3A.7(d) (in this Condition 2.3A.7(i), the "Decision"):-
 - (i) the Decision shall not have effect for 28 days commencing with the date of the notice of the Decision;
 - (ii) the Licensee may within 28 days of the date of the notice of the Decision request the Authority by written notice to the Authority (a "disapplication notice"), not to apply the provisions of Condition 2.3A.7(d), in which event the Decision shall not apply;
 - (iii) unless within one month of the date of the disapplication notice the Authority makes a reference to the Competition Commission under Article 15 of the Order relating in whole or part to a modification of Condition 2.3A.7, then:
 - (aa) the Allowed Operating Expenditure determined by the Authority under Condition 2.3A.7(d) will continue not to be applied after that period has passed; and

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- (bb) the Allowed Operating Expenditure in relation to any Gas Year falling within the disputed Review Period for the purposes of the calculation set out in Condition 2.3A.2 shall be the same as that for the most recent Gas Year in respect of which the value of Allowed Operating Expenditure was not disputed by the Licensee under this Condition 2.3A.7(i);
- (iv) in the event of such a reference to the Competition Commission under Condition 2.3A.7(i)(iii), and if the Competition Commission finds that the continuation of this Condition 2.3A.7 without modification operates or may be expected to operate against the public interest, then until this Licence Document shall be modified in accordance with the Order as a result of that reference and any findings by the Competition Commission then the Allowed Operating Expenditure in relation to any Gas Year falling within the disputed Review Period for the purposes of the calculation set out in Condition 2.3A.2 shall be the same as that for the most recent Gas Year in respect of which the value of Allowed Operating Expenditure was not disputed by the Licensee under this Condition 2.3A.7(i).

2.3A.8 Allowed revenue after expiry of Revenue Recovery Period

- (a) Not less than 12 months prior to the expiry of the Revenue Recovery Period the Licensee shall submit to the Authority:
 - (i) a proposal as to the formula to be used for calculation of Total Allowed Transmission Revenue following the end of the Revenue Recovery Period (the “Proposed Formula”); and
 - (ii) a forecast of the amount of Total Allowed Transmission Revenue for the five Gas Years immediately following the expiry of the Revenue Recovery Period (the “Forecast”);

which comply with the basis of calculation set out in Condition 2.3A.8(d).

- (b) The Licensee shall promptly provide such further information or explanation and access to documents and records as the Authority reasonably requires for the purpose of verifying that the Proposed Formula and the Forecast submitted to it by the Licensee comply with the principles set out in Condition 2.3A.8(d).

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- (c) The Authority may, following review of the Proposed Formula and the Forecast, by written notice (including, where approval has been given by the Authority pursuant to Condition 2.3A.8(c)(ii), details of the amendments made by the Authority and the reasons for them) to the Licensee:
 - (i) approve the Proposed Formula and the Forecast. The Proposed Formula shall then be the basis for calculating Total Allowed Transmission Revenue; or
 - (ii) approve the Proposed Formula and the Forecast with such amendments as it deems necessary or appropriate to ensure compliance with the basis of calculation set out in Condition 2.3A.8(d).
- (d) The Licensee shall draw up the Proposed Formula and the Forecast having regard to the principle that the Licensee shall be entitled to receive by way of transmission charges:
 - (i) the costs incurred by the Licensee deemed necessary or appropriate by the Authority in administering, maintaining and operating the Transmission Network; and
 - (ii) the costs incurred by the Licensee deemed necessary or appropriate by the Authority from time to time to expand, reinforce and renew the Transmission Network together with an appropriate return on those costs as agreed between the Authority and the Licensee.
- (e) In the event that the Authority gives its approval under Condition 2.3A.8(c)(ii) (in this Condition 2.3A.8(e), the "Approval"):-
 - (i) the Approval shall not have effect for 28 days commencing with the date of the notice of the Approval;
 - (ii) the Licensee may within 28 days of the date of the notice of the Approval request the Authority by written notice to the Authority (a "disapplication notice"), not to apply the provisions of Condition 2.3A.8(c)(ii), in which event the Approval shall not apply;
 - (iii) unless within three months of the date of the disapplication notice the Authority makes a reference to the Competition Commission under Article

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15 of the Order relating in whole or part to a modification of Condition 2.3A.8, then:

- (aa) the Proposed Formula and the Forecast (in the form in which they were approved by the Authority under Condition 2.3A.8(c)(ii)) will continue not to be applied after that period has passed; and
- (bb) the Proposed Formula and the Forecast (in the form originally proposed by the Licensee under Condition 2.3A.8(a)) shall apply as if approved by the Authority pursuant to 2.3A.8(c)(i);
- (iv) in the event of such a reference to the Competition Commission under Condition 2.3A.8(e)(iii), and if the Competition Commission finds that the continuation of this Condition 2.3A.8 without modification operates or may be expected to operate against the public interest, then until this Licence Document shall be modified in accordance with the Order as a result of that reference and any findings by the Competition Commission then the Proposed Formula and the Forecast (in the form originally proposed by the Licensee under Condition 2.3A.8(a)) shall apply as if approved by the Authority pursuant to 2.3A.8(c)(i).

2.3A.9 Determination of charges on the Transmission Network

In respect of any Gas Year, where a Designation Order is not in force in relation to the Licensee's Transmission network, the Licensee shall be subject to the provisions of this Condition.

(a) Licensee to establish methods

The Licensee shall establish the methods and principles on which transmission charges shall be determined for gas suppliers wishing and entitled (or entitled within the Gas Year in respect of which the methods and principles shall be determined for the next following Gas Year) to use the Transmission Network and, provided the Authority's approval has been obtained in accordance with Condition 2.3A.9(b), the Licensee shall publish the same in accordance with Condition 2.3A.9(c).

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(b) Authority's approval required for transmission charges and other terms for the transmission of gas in the Transmission Network

The Authority's approval in writing is required for transmission charges on the Transmission Network and other terms for the transmission of gas in the Transmission Network.

No later than 20 Business Days before it intends to publish its statement under Condition 2.3A.9(c) the Licensee shall notify the Authority of the contents of that statement, and seek the approval of the Authority of the charges and other terms to be included in the statement. The Licensee shall:

- (i) provide the Authority with such information and access to documents and records as will enable the Authority to be reasonably satisfied that the methodology, principles and effect of the charges are consistent with the terms of this Condition 2.3A, including without limitation Condition 2.3A.1(a) and any arrangements made pursuant to Condition 2.3A.8 where appropriate;
- (ii) provide the Authority with an explanation of the other terms set out in the statement.

The Authority may require such changes to such charges and/or such other terms as it thinks desirable or necessary before giving its approval. The Authority shall notify the Licensee of its approval of such charges and such other terms in writing.

(c) Publication of Charges and Other Terms

The Licensee shall for each Gas Year publish a statement of:

- (i) its transmission charging methodology for the use of the Transmission Network by gas suppliers for such Gas Year, by which any such gas supplier may reasonably be able to calculate applicable transmission charges; and
- (ii) its other terms for the use of the Transmission Network by gas suppliers (and in relation to the Network Code by reference to the Network Code);

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in such manner as will secure adequate publicity for it and the Licensee shall send a copy of any such statement to any person who requests a copy and subject to Condition 2.3A.10 such statement shall clearly distinguish cases and classes of cases of gas supplier for whom the transmission charging methodology may result in differing transmission charges.

The Licensee shall, unless the Authority otherwise consents, not charge for the transmission of gas in the Transmission Network during any Gas Year or apply other terms for the transmission of gas in the Transmission Network on any basis other than contained in its statement of transmission charges in respect of that Gas Year.

(d) Forecast Volumes

The Licensee shall, no later than two months after the first date on which those transmission pipe-lines which form part of the Transmission Network are no longer subject to a Designation Order, submit a five-year forecast of annual volumes of gas to be conveyed in the Transmission Network in respect of the first five Gas Years falling in whole or in part after such date, and shall submit such a forecast in respect of each period of five consecutive Gas Years thereafter.

- (e) The Licensee shall not show any undue preference towards or undue discrimination against any gas supplier or case or classes of cases of gas supplier in the transmission charges made or other terms for the transmission of gas applied in relation to the Transmission Network.

2.3A.10 Request for transmission charges quotation

- (a) Within 28 days of receiving a request for the quotation of transmission charges for specified transmission services by a gas supplier, the Licensee shall provide the gas supplier with a specific statement of the transmission charges and other terms for the transmission of gas applicable to the transmission services for which the gas supplier requested a quotation;

and for the purposes of this Condition 2.3A.10(a) and the Licensee's obligation to provide a specific statement of transmission charges, a request for the quotation of

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transmission charges for specified transmission services shall be treated as such if it is in such form as the Licensee can reasonably be expected to provide a specific statement of transmission charges in return.

2.3A.11 Requirements relating to forecasts and estimates

The Licensee shall in submitting any forecasts or estimates required to be submitted under this Condition 2.3A use all reasonable endeavours to ensure that it provides the best forecasts or estimates based on the most comprehensive, current information obtainable at the time of submission.

2.3A.12 Powers of inspection

Without prejudice to the other provisions of this Licence Document, the Authority shall be entitled on reasonable prior notice to inspect those records of the Licensee reasonably sufficient to enable him to satisfy himself as to matters falling within the subject of this Condition.

2.3 A.13 Termination Payments

2.3A.14 Additional Definitions

For the purposes of this Condition 2.3A:

“Actual Required Revenue”	in relation to the Licensee shall mean the Licensee’s Total Allowed Transmission Revenue calculated in accordance with the Formula and in respect of any other Designated Pipe-line Operator shall have the meaning given in that Designated Pipe-line Operator’s licence;
“Allowed Operating Expenditure”	shall have the meaning given to it in Condition 2.3A.4;
“Business Day”	means a day, other than a Saturday or Sunday, on which banks are open for ordinary banking business in Belfast;
“Commodity Reconciliation Payment”	shall have the meaning given to it in Part 2A of this Licence Document;
“Designated Pipe-line Operator”	shall have the meaning given to it in Part 2A of this Licence Document;

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“Designation Date”	shall have the meaning given to it in Part 2A of this Licence Document;
“Designation Order”	shall have the meaning given to it in Part 2A of this Licence Document;
“Forecast Required Revenue”	shall mean the Licensee’s Total Allowed Transmission Revenue calculated in accordance with the Formula;
“Formula”	means the formula set out in Condition 2.3A.2;
“Gas Year”	shall have the meaning given to it in Part 2A of this Licence Document;
“LIBOR”	shall have the meaning given to it in Part 2A of this Licence Document;
“Postalised System”	shall have the meaning given to it in Part 2A of this Licence Document;
“PSA”	shall have the meaning given to it in Part 2A of this Licence Document;
“Remaining RRP”	shall have the meaning given to it in Condition 2.3A.8(a);
“Retail Prices Index”	means the Retail Prices Index published by the Office of National Statistics from time to time;
“Revenue Recovery Period”	means the period commencing on the date of the Grant and ending at 06:00 hours on 01 October 2024;
“Review Period”	means a period identified as a Review Period in Condition 2.3A.7(b);
“Total Allowed Transmission Revenue”	means the maximum amount which the Licensee is permitted to recover through transmission charges in any Gas Year (to be calculated in accordance with the Formula until the end of the Revenue Recovery Period);
“Total Transmission	means the total transmission charge revenue received by the

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Revenue"	Licensee in any Gas Year;
"transmission"	means the conveyance of gas by transmission pipe-line;
"transmission charges"	means the charges made by the Licensee for transmission services;
"Transmission Network"	means that part of the Network used for the transmission of gas;
"transmission services"	means all services provided by the Licensee of conveying gas by transmission pipe-line to, through and within the Licensed Area; and
"Trustee"	shall have the meaning given to it in Part 2A of this Licence Document.