

To: Net Zero North Sea Storage Limited
Liverpool Bay CCS Limited
Any other interested parties

Energy Act 2023

Section 13(7)

Decision to modify the Special Conditions of the carbon dioxide transport and storage licences (the 'Licence') held by Net Zero North Sea Storage Limited and Liverpool Bay CCS Limited (the 'Licensees')

1. Under section 13(2) of the Energy Act 2023 (the '**Act**') the Gas and Electricity Markets Authority (the '**Authority**')¹ gave notice on 11 July 2025 (the '**Notice**') that we proposed to modify the Licence. We stated that any representations to the modification proposal must be made on or before 13 August 2025.
2. We received 6 responses to the Notice, which we carefully considered. We have published all non-confidential responses on our website. The Authority has decided to make the modifications as proposed in the Notice, subject to a number of minor alterations highlighted in response to the Notice.

Modification to existing Special Condition J5: Ongoing Devex Re-opener

3. Special Condition J5 sets out the process by which Ofgem (the '**Regulator**') and a Licensee can manage the progress and spend on development projects. Where a Licensee has been granted an allowance for development expenditure (**devex**), it is sometimes appropriate to manage both project and cost uncertainty by introducing re-openers (**Ongoing Devex Re-openers**) at milestones within the project. Defined sets of development activities take place between these milestones, and these are referred to as tranches. Progression to each subsequent tranche can then be managed with Ofgem approval via the re-opener.
4. The original drafting of Special Condition J5 required completion of a tranche of development activities before a Licensee could submit a re-opener application for the next tranche.
5. The effect of this modification will permit a Licensee to make a reopener application prior to the completion of a tranche of development activities in circumstances where the Regulator has agreed to it doing so and for the Regulator to determine the impact (if any) of that application in accordance with Special Conditions J5.6 to J5.10. The final determination from the Regulator can still only be made upon completion of the previous tranche.

¹ The terms "the Authority", "we", and "us" are used interchangeably in this document

Responses to our consultation

6. The responses to the Notice were supportive of the proposed amendments to Special J5. Some responses did offer feedback on the drafting and requested amendments. We have grouped responses by theme and addressed all substantive comments below. Where relevant, we have made changes to our drafting as a result of them.

Form of approval for the early submission of Ongoing Devex Re-openers

7. Net Zero North Sea Storage Limited commented that in J5.5 it would be fairer for any earlier date of re-opener submission to be mutually agreed between the Regulator and Licensee. J5.5 is the condition that controls the Licensee's ability to submit an Ongoing Devex Re-opener. This was amended to include the ability to submit before the completion of the current tranche, with the addition of 'or at an earlier date as agreed by the Regulator'.
8. We do not believe this requires amendment. We believe the current drafting allows for mutual agreement but the decision to permit this ultimately rests with Ofgem. We intend to engage with Licensee's in the run up to submissions to understand proposed timelines.

Provision of costs to the Regulator

9. Net Zero North Sea Storage Limited highlighted a possible drafting issue in J5.7(b) where they believed it was not clear what the Licensee must do in the circumstances of (b). J5.7 places a requirement on the Licensee to provide certain cost information where it proposes to proceed to undertake the next tranche of stage check activities. The intention of J5.7(b) is to ensure that the Licensee must provide actual cost information in circumstances where it has only previously provided forecasts of those costs.
10. On review, we consider the drafting of 5.7(b) should include the word "provide" to ensure it is made clear that what the Licensee must do in the circumstances of (b) is provide the actual costs incurred in completing the relevant development activities. The drafting has been updated to reflect this change.

Application of J5 modification to Project Specific Conditions

11. Liverpool Bay CCS Limited requested that the J5 modification be drafted so that the flexibility introduced also applies to the activities carried out according to Schedule 10: Project Specific Conditions, to the extent deemed appropriate by Ofgem.
12. Schedule 10 to the Licence contains the Project Specific Conditions as agreed at Licence award. We accept that, in principle, where conditions in Schedule 10 operate in a similar manner to Special Condition J5, there may be benefits to seeking modification to those conditions as well. However, we do not believe modification to J5 to be the appropriate route for this and therefore have not made any amendments to J5 on this basis. We are however open to further consideration of this as a separate modification.
13. This means that our final decision is to modify Special Condition J5 as per the drafting in the Notice with one minor alteration to 5.7(b) stated in paragraph 10 above.

New Special Condition J15: Early Development Activities Use-it-or-lose-it Allowance

14. The Licence made no provision for early development activities ahead of formal re-opener submissions for network expansion, enhancement or supervening events outside of the Licensee's control such as a Force Majeure Event. We believe that allowing the licensee to have access to funding to enable early, targeted spend will drive better outcomes for users and allow more efficient and economic development of the networks. This will be through:
- **Higher quality re-opener submissions.** Early development spend will allow more refined, well thought out, submissions to be made to us with a higher degree of cost maturity. This will then reduce contingency estimates and expedite the approval process.
 - **More informed User selection.** As user selection is currently Government led, early development spend will allow the network to consider the impact of different scenarios and offer opportunities for network optimisation where possible. This could ultimately provide important information to support better decision making in the user selection process.
15. To address this funding gap, in our Notice we proposed modifying the Licence to insert a new Special Condition J15: Early Development Activities Use-it-or-lose-it Allowance. The effect of the modification is to introduce a use-it-or-lose-it style allowance for early development work. This type of allowance reduces the time and administrative burden on both the Licensee and Regulator, whilst ensuring any spend used for activities that fall outside of the permitted activities will be treated as Excluded Project Spend and will not be recoverable under the Licence.

Responses to our consultation

16. The responses to the Notice were supportive of the proposed inclusion of this condition. Some responses did offer feedback on the drafting and requested amendments. After careful consideration, we have addressed all substantive comments by theme below and, where relevant, made changes to our drafting as a result of them.

Definition of "Development Project"

17. Three respondents requested clarification on, or expansion of, the definition of a "Development Project". The definition of Development Project exists in the current Licence. It is defined as "an expansion or enhancement of the Approved T&S Network".
18. The aim of using the term Development Project is to align with the wider provisions surrounding development activities within the Licence. The definition is appropriately broad in that context to ensure that it captures the full range of potential changes to the networks that could be required. As such we do not believe that changing the definition of a Development Project is a viable solution.
19. We considered a number of alternatives to the current approach, such as a new defined term or further guardrails in this condition. However, these options were ultimately not preferred due to concerns with creating a parallel definition in the Licence or overly constraining activities that could be beneficial under the scope of this allowance.
20. Early Development Activities, under limb (a) of the definition, for which the allowance could be used must support a Selection Process (as defined in the CCS Network Code) and relate to potential future Development Projects. This therefore

seeks to limit the use of the allowance to activities supporting a formal HMG led selection process for new Users to connect to T&S Networks, the selection of existing Users who wish to modify their existing connection and/or the allocation of Network Capacity.

21. When combined, the effect is to limit limb (a) of Early Development Activities to potential expansion or enhancement of the network only when in support of a formal Selection Process (which is currently determined by HMG). There are then further limitations, designed to limit the use to developments that do not have existing provision under the Licence. Our view is that the current definition, combined with the cap on spend, is an appropriate balance considering the purpose of such an allowance.
22. As such we do not consider further expansion or clarification of the definition in the condition itself is necessary or appropriate, but we hope that the comments provided in this decision paper offer further clarification.

Activities for which the Early Development Activities allowance can be used

23. We received feedback from a number of respondents requesting inclusion of the following within the activities listed in J15.5:
 - a. Engagement with relevant regulators (e.g. Ofgem, NSTA, OPRED, HSE) in relation to EDAs;
 - b. Work in support of carbon storage licensing round submissions;
 - c. Any other Early Development Activity approved or determined by the Regulator;
 - d. Managing connections for existing and future Users in accordance with the CCS Network Code;
 - e. Managing operational requirements generated by each User connecting to the network, through their Local Requirements;
 - f. Activities that are required to prepare Network Code Modification or Local Requirements as defined in the Network Code;
 - g. Laboratory-based and facilities testing activities among the Research and Development studies; and
 - h. Electrical connection studies initiated with the relevant electricity distribution network operator, which are prerequisites for future network development and require early engagement and planning.
24. Items a, b, g and h appear to be activities that are consistent with the intent of the allowance and we accept those changes. These have been reflected in the drafting of J15.5.
25. Item c is rejected. This allowance has been designed to ensure the prior approval of the Regulator is not required. Adding in regulatory approvals will likely slow down use of the allowance and add to the regulatory burden for the Licensee and Regulator. We also wish to ensure the list of activities remains bounded at this time and any future changes are subject to wider consultation.
26. Items d, e, and f are rejected. We do not believe that this is the appropriate mechanism for funding studies relating to modifications to the CCS Network Code for existing Users. There may however be instances where studies conducted to assess the feasibility of connecting new Users will inform modifications to the CCS Network Code. We believe this is permitted under the current drafting.

27. Net Zero North Sea Storage Limited requested the Early Development Activities definition to include technology development as there is currently no such mechanism. Whilst we acknowledge the gap, we do not believe that this is the correct mechanism and broader development of the CCS sector should be addressed through mechanisms outside of the Licence.
28. The CCSA also requested the mechanism encompasses broader network development, covering both upstream and downstream aspects, and addressing both technical and commercial considerations. We believe the proposed modification addresses these issues if they can be demonstrably in support of network expansion or enhancement in support of an ongoing user selection process.

Periodic Reviews

29. Liverpool Bay CCS Limited response requested the inclusion of studies in support of periodic reviews relating to expansions or enhancements. We have reviewed and believe this an appropriate use of the mechanism given proposals for network development may be through re-openers within the current price control period, however during the Periodic Review the Licensee may also wish to put forward plans for expansion or enhancements to the network. We consider that the most appropriate way to address this is through an amendment to the definition of "Resultant Project" to include Periodic Reviews alongside re-openers in limb (a) of the definition.

Cost recoverability

30. The CCSA questioned whether costs could be reclaimed retrospectively if incurred before the modification comes into effect. This is not possible given the lack of transparency for both Users and Licensees on the period of applicability. Only costs from the date of implementation will be recoverable.

Mechanism for amendment

31. One response questioned if the mechanism for amending the condition applied to both the project cap and cumulative price control cap. The EDA UIOLIA Adjustment could apply to either or both and would apply to all activities from the point of implementation.

Appeals process

32. Two respondents requested the inclusion of an appeals process for excluding project spend. There are existing options for challenging regulatory decisions and we do not believe it is appropriate, nor proportionate, to have a bespoke mechanism for this allowance.

Increased allowance

33. Liverpool Bay CCS Limited recommend a cap of £4 million per project and £10 million per price control. This was the only request for an amendment to the cost limits. Further evidence is required before we believe any increase can be justified. We will keep this under review.

Our decision

34. Following careful consideration of responses, under the powers set out in section 13 of the Act we have decided to make the licence modifications set out in Appendices 1 and 2 of this document. These incorporate the minor changes we have noted above into the drafting proposed in the Notice. Specifically: the word "provided" has been added to J5.7(b) for the reasons set out in paragraphs 9-10;

the activities listed in J15.5 have been expanded for the reasons set out in paragraphs 25-28; and the definition of "Resultant Project" has been amended to include reference to "Periodic Review" for the reasons set out in paragraph 31. The effect of the modifications is set out further above and has not materially changed from the Notice.

35. The appendices include tracked change versions of the modifications we will be implementing, with alterations from the text included in our statutory consultation highlighted in yellow. The licence modifications take effect on 18 Nov 25.

Gordon Hutcheson

Duly authorised on behalf of the

Gas and Electricity Markets Authority

24/09/2025

Appendix 1 Amendments to Special Condition J5

Special Condition J5: Ongoing Devex Re-opener

Introduction

- 5.1 The purpose of this special condition is to:
- (a) establish the re-opener that may be triggered by the Licensee in relation to the Ongoing Devex Stage Check Activities; and
 - (b) set out the process that needs to be followed by the Licensee and the Regulator once such re-opener is triggered.

Structure

- 5.2 This special condition is structured as follows:
- (a) Part A sets out the provisions that apply in relation to an Ongoing Devex Re-opener; and
 - (b) Part B refers to the provisions that apply where an Ongoing Devex Re-opener relates to a Variation.

Part A: Ongoing Devex Stage Check Activities

- 5.3 Where (as applicable):
- (a) at Licence Award, the SoS considers that not all of the relevant Development Activities are sufficiently certain (either in terms of cost or scope) to set a full and final Ongoing Devex Allowance in respect of all of the Development Activities related to an entire Development Project; or
 - (b) at the date such Development Activities are included in the APDP further to a determination under Special Condition J2.9 (*Supervening Event Re-openers, Insured Risk Events and Relief Events*), the Regulator considers that not all of the relevant Development Activities are sufficiently certain (either in terms of cost or scope) to set a full and final Ongoing Devex Allowance in respect of all the Development Activities related to an entire Development Project,
- then:
- (i) this Special Condition J5 shall apply;
 - (ii) the Development Activities relating to the relevant Development Project shall be referred to as "**Ongoing Devex Stage Check Activities**";

- (iii) such Development Activities shall be divided into tranches of Ongoing Devex Stage Check Activities (each a **"Tranche of Stage Check Activities"**); and
- (iv) such Tranches of Stage Check Activities shall be set out in section 5 of the APDP.

5.4 Prior to completion of any Tranche of Stage Check Activities, the Licensee may submit to the Regulator a draft application for a re-opener under this Special Condition J5 in respect of such Tranche of Stage Check Activities, which draft application will include the particulars referred to in Special Condition J5.6 (a **"Draft Ongoing Devex Re-opener Application"**), and following receipt of a Draft Ongoing Devex Re-opener Application:

- (a) the Regulator will be entitled to request any Supporting Information that it considers appropriate in respect of such Draft Ongoing Devex Re-opener Application, which Supporting Information the Licensee shall promptly provide; and
- (b) the Regulator will review and consider the relevant Draft Ongoing Devex Re-opener Application and may provide comments to the Licensee in respect of the same,

provided that any comments or other response made by the Regulator in respect of a Draft Ongoing Devex Re-opener Application shall not be construed as binding as to the Regulator's determination(s) in respect of any application for a re-opener submitted under J5.5(a).

5.5 Promptly following completion of each Tranche of Stage Check Activities, **or at an earlier date as agreed by the Regulator:**

- (a) the Licensee must submit an application for a re-opener (an **"Ongoing Devex Re-opener"**); and
- (b) the Regulator will determine the impact (if any) of an application for an Ongoing Devex Re-opener,

in accordance with Special Conditions J5.6 to J5.10.

5.6 The Licensee's application for an Ongoing Devex Re-opener under Special Condition J5.5(a) must give particulars of:

- (a) the Ongoing Devex Stage Check Activities that have been completed by the Licensee;
- (b) **if relevant, the Ongoing Devex Stage Check Activities that are yet to be completed by the Licensee in respect to the relevant Tranche of Stage Check Activities, including anticipated date of completion;**

- (c) the Actual Ongoing Devex Costs incurred by the Licensee in completing the relevant Ongoing Devex Stage Check Activities **and, if there are Ongoing Devex Stage Check Activities that are yet to be completed by the Licensee in respect to the relevant Tranche of Stage Check Activities, forecasts of the Actual Ongoing Devex Costs that the Licensee envisages will be incurred in completing those Ongoing Devex Stage Check Activities;**
 - (d) whether any changes should be made to the subsequent Tranche(s) of Stage Check Activities, including whether any additional Development Activities should be included in such Tranche(s) of Stage Check Activities; and
 - (e) whether the Licensee considers that following the completion of the relevant Ongoing Devex Stage Check Activities to the current stage:
 - (i) settlement can now be reached in respect of SRAV Capex or Ongoing Capex for the expansion or enhancement of the Approved T&S Network, such that a Change in Scope shall apply; or
 - (ii) the Licensee proposes the cancellation of the remaining Development Activities (including the cancellation of any next Tranche of Stage Check Activities) associated with the Development Project, such that a Change in Scope shall apply.
- 5.7 Where the Licensee has proposed that it should proceed to undertake the next Tranche of Stage Check Activities (and that Special Condition J5.6(e)(ii) does not apply), the Licensee must:
- (a) provide a forecast of the Actual Ongoing Devex Costs that the Licensee envisages will be incurred in undertaking any next Tranche(s) of Stage Check Activities (including any additional Development Activities proposed to be included in such Tranche(s) of Stage Check Activities under Special Condition J5.6(d)); **and**
 - (b) **where forecasts of Actual Ongoing Devex Costs in respect to Ongoing Devex Stage Check Activities were provided in accordance with Special Condition J5.6(c), provide the Actual Ongoing Devex Costs incurred by the Licensee in completing those Ongoing Devex Stage Check Activities.**
- 5.8 Where the Regulator considers that the analysis or information received under Special Conditions J5.6 and J5.7 is insufficient to enable the Regulator to assess the Licensee's proposals then the Regulator ~~can make a~~ **may** request ~~for~~ any Supporting Information ~~that~~ it considers appropriate and the Licensee must provide such information to the Regulator within ten Business Days of the request, or within such extended time as agreed by the Regulator.

- 5.9 Where the Licensee has **notified the Regulator that it has completed a Tranche of Stage Check Activities and** proposed that it should proceed to undertake the next Tranche of Stage Check Activities (and that Special Condition J5.6(e)(ii) does not apply), the Regulator will:
- (a) determine any positive or negative adjustments (and/or the grant of any new Ongoing Devex Allowance(s)) to be made in respect of:
 - (i) any existing Ongoing Devex Allowance in respect of the Ongoing Devex Stage Check Activities in the next Tranche of Stage Check Activities; and
 - (ii) where relevant, any other Ongoing Devex Stage Check Activities relating to the relevant Development Project,and (where relevant) the Regulator will make amendments to update any relevant Project-Specific Documents to reflect any such adjustments;
 - (b) determine and make any amendments to the Approved Project Development Plan that are required to reflect the Ongoing Devex Stage Check Activities that remain to be undertaken by the Licensee, including any changes (or additions) that may be required to the Ongoing Devex Stage Check Activities which form part of the relevant Tranche of Stage Check Activities or any subsequent Tranche(s) of Stage Check Activities; and
 - (c) determine any additional stage checks to apply to the relevant Ongoing Devex Stage Check Activities to be undertaken by the Licensee (including any creation of any new Tranche of Stage Check Activities and/or reallocation of Ongoing Devex Stage Check Activities between Tranches of Stage Check Activities) and make any associated amendments to the Approved Project Development Plan to reflect any such additional stage checks.
- 5.10 Where the Licensee has proposed pursuant to Special Condition J5.6(e) that a Change in Scope shall apply, then the Licensee must comply with the provisions of Part A of Special Condition J2 (*Supervening Event Re-openers, Insured Risk Events and Relief Events*).
- 5.11 Where ~~following completion of a Tranche of Stage Check Activities~~ the Licensee's application for an Ongoing Devex Re-opener under Special Condition J5.5(a) ~~the Licensee~~ makes the proposal set out in Special Condition J5.6(e)(ii), the Licensee must notify the Regulator under Special Condition J2 (Part A) of a Change in Scope under limb (c) of the definition of Change in Scope to cancel such Development Activities and associated Development Project.

Part B: Variation

- 5.12 Where an Ongoing Devex Re-opener in respect of a ~~completed~~ Tranche of Stage Check Activities relates to a Variation, Special Conditions J7.1 (*Variation Re-openers*) to J7.6 shall apply.

Appendix 2 Early Development Activities Use-it-or-lose-it Allowance

Special Condition E1: Definitions

“Actual EDA UIOLIA Costs” means the actual costs incurred by the Licensee in respect of Permitted EDA UIOLIA Activities excluding any Excluded Project Spend;

“Early Development Activities” means either:

(a) activities that:

- (i) support a Selection Process; and
- (ii) relate to potential future Development Projects; or

(b) activities that are required to prepare a QCiL Submission or FME Submission,

and, in each case, neither the relevant activities nor the Resultant Project to which the activities relate are (at the time that the Early Development Activities are undertaken):

- (A) the subject of any allowance under this licence;
- (B) part of the Approved T&S Network; or
- (C) included in the APDP;

“Early Development Activities Use-it-or-lose it Allowance” or **“EDA UIOLIA”** means the allowance for Permitted EDA UIOLIA Activities set out in the Financial Settlement Document for a Regulatory Period and which may be recovered under Special Condition J15;

“EDA UIOLIA Adjustment” has the meaning given in Special Condition J15.133;

“EDA UIOLIA Project Limit” means the maximum amount of Actual EDA UIOLIA Costs which may be recovered by the Licensee under the EDA UIOLIA for Early Development Activities related or connected to the same Resultant Project, as set out in the Financial Settlement Document;

“EDA UIOLIA Regulatory Period Limit” means in respect of a Regulatory Period, the maximum aggregate amount of Actual EDA UIOLIA Costs which may be recovered by the Licensee under the EDA UIOLIA in that Regulatory Period, as set out in the Financial Settlement Document;

“Permitted EDA UIOLIA Activities” has the meaning given in Special Condition J15.5;

“Resultant Project” means either:

- (a) a Development Project or other set of activities that would become (if approved by the Regulator) or becomes (by way of re-opener **or Periodic Review** under this licence) part of the Approved T&S Network, included in the APDP and the subject of any allowance (including for Actual Ongoing Devex Costs); or
- (b) a set of activities that would become (if approved by the Regulator) or becomes (by way of re-opener pursuant to Part B or Part C of Special Condition J2) part of the Approved T&S Network, included in the APDP and the subject of any allowance;

"Selection Process" has the meaning given to it in the CCS Network Code;

Special Condition J15: Early Development Activities Use-it-or-lose-it Allowance

Introduction

- 15.1 The purpose of this Special Condition is to set out the terms that apply to and the activities for which the Licensee may use the EDA UIOLIA.
- 15.2 The EDA UIOLIA is an uncertainty mechanism available to allow the Licensee to undertake Early Development Activities. Early Development Activities are not included within the scope of any existing allowance although the resultant Development Project or other activities may, subsequent to any Early Development Activities being carried out, be taken forward through re-openers under the licence.
- 15.3 An EDA UIOLIA is available to be spent over a specified Regulatory Period. The Licensee can manage the profile of its spending in accordance with Special Condition J15.10, and is not otherwise required to use the EDA UIOLIA in any specific profile over any Charging Year(s) of the Regulatory Period.

Allowable Expenditure

- 15.4 Where the Licensee considers it appropriate to undertake Early Development Activities:
 - (a) prior to submitting a formal request for a re-opener relating to a proposed new expansion or enhancement of the Approved T&S Network for:
 - i. any potential new User(s) (including any Prospective Users) that is part of a Selection Process; or
 - ii. an increase in the Maximum Flow Rates and/or in the Overall Store Capacity; or
 - iii. an addition of a new Storage Site; or
 - (b) that are required in response to a Qualifying Change in Law or FME,
- then (provided limbs (A)-(C) of the definition of Early Development Activities are met) the Licensee may undertake the Permitted EDA UIOLIA Activities.

15.5 Subject to Special Conditions J15.6, J15.107 and J15.10, the EDA UIOLIA may only be used for the following types of Early Development Activities:

- (a) early desk-based research and design, comparison of different options and development of project plans;
 - (b) laboratory studies and facilities testing;
 - (c) electrical connection studies or other such long lead studies;
 - (d) engagement with relevant regulators;
 - (e) work in support of carbon storage licensing round submissions;
 - (f) providing technical advice to the relevant authority on new User selection or expansion projects;
 - (g) feasibility studies;
 - (h) cost estimation;
 - (i) flow assurance studies;
 - (j) concept definition and pre-FEED work, which may include a risk assessment and establishing a needs case;
 - (k) early works required to outline requirements and costs for obtaining planning consent;
 - (l) associated customer and stakeholder engagement; and/or
 - (m) the preparation of a re-opener submission,
- (the “**Permitted EDA UIOLIA Activities**”).

15.6 The Licensee is not required to obtain approval from the Regulator prior to incurring any costs in respect of the Permitted EDA UIOLIA Activities or the recovery of such costs under the EDA UIOLIA in accordance with this Special Condition. However, if any expenditure does not meet the requirements set out in this Special Condition, such expenditure will be treated as Excluded Project Spend.

15.7 Where the Licensee seeks to recover any costs (or claim that any costs accrue to the RAV or SRAV under this Special Condition J15) and such recovery is determined by the Regulator not to fall within the scope of this Special Condition J15, the Licensee shall be barred from subsequently seeking to recover the same costs under any other condition of the licence, including under any re-opener or adjustment process. Similarly, where the Licensee attributes or seeks to recover (or claim that any costs accrue to the RAV or SRAV) any cost under any alternative condition under this licence (including via a re-opener or any other

form of allowance) and such recovery is not accepted by the Regulator, the Licensee shall be barred from subsequently seeking to recover those same costs under this Special Condition J15. For the purposes of this condition, a Licensee will be considered to have sought recovery under a particular condition where it has included or referenced the relevant cost in any formal submission to the Regulator, even if that cost is subsequently disallowed or rejected in whole or in part.

- 15.8 The use of the EDA UIOLIA does not affect the exercise of the Regulator's discretion when considering re-opener requests which will be subject to the relevant licence process.
- 15.9 For clarity, Special Conditions J7.1 to J7.6 (Variation Re-openers) shall not apply to any use of the EDA UIOLIA by the Licensee under this Special Condition.

Calculation of Actual EDA UIOLIA Costs

- 15.10 The Licensee's Actual EDA UIOLIA Costs shall accrue to the SRAV or RAV (as applicable) in £ real (Base Year) prices, provided that if the Actual EDA UIOLIA Costs exceed:
- (a) the EDA UIOLIA Project Limit; or
 - (b) the EDA UIOLIA Regulatory Period Limit,
- then only the Actual EDA UIOLIA Costs up to (but not exceeding) the relevant limit shall accrue to the SRAV or RAV (as applicable). Both the EDA UIOLIA Project Limit and the EDA UIOLIA Regulatory Period Limit may apply concurrently in any given Regulatory Period.
- 15.11 No cost sharing will apply to any under or overspend against both the EDA UIOLIA Project Limit and the EDA UIOLIA Regulatory Period Limit.
- 15.12 Subject to Special Condition J15.10, relevant amounts of Actual EDA UIOLIA Costs will accrue to the SRAV or RAV as additions at the end of the Operational Charging Year/SRAV Calculation Period in which they are incurred. This shall apply notwithstanding that there is no applicable revenue building block for Actual UIOLIA Costs in Special Conditions F4.9, G7.9 and H3.8.

Amendment

- 15.13 The Regulator may by direction, adjust the value of the EDA UIOLIA where it considers that an adjustment is appropriate ("**EDA UIOLIA Adjustment**"). Where it does so, the Regulator shall determine any adjustments to any associated amendments to Project-Specific Documents to reflect the direction.
- 15.14 Before issuing a direction under Special Condition J15.13, the Regulator will publish on the Regulator's Website:

- (a) the text of the proposed direction (and associated determination);
- (b) the date on which the Regulator intends the direction to come into effect;
- (c) the reasons for the proposed direction; and
- (d) a period during which representations may be made on the proposed direction, which will be not less than 28 days.

15.15 The direction (and associated determination) may set out:

- (a) the value of the EDA UIOLIA Adjustment;
- (b) any modifications to the criteria for allowable expenditure; and
- (c) the Charging Years to which the EDA UIOLIA Adjustment relates within the remaining Regulatory Period.

15.16 Any expenditure prior to the date on which the direction comes into effect will not be impacted by the EDA UIOLIA Adjustment.

Provision of information

15.17 No later than 15 Business Days following each End of Quarter Date, the Licensee must provide to the Regulator details of:

- (a) the Actual EDA UIOLIA Costs incurred by the Licensee against each Resultant Project;
- (b) any Excluded Project Spend incurred by the Licensee;
- (c) the Licensee's forecasted Actual EDA UIOLIA Costs to be incurred in the current SRAV or RAV Calculation Period (as applicable);
- (d) any updates to any values provided by the Licensee in accordance with Special Condition E2.2(e) (*Interpretation*); and
- (e) any other information required relating to the EDA UIOLIA pursuant to the RIGs or any Regulator guidance.

FSD Addition – Early Development Activities Use-it-or-lose-it Allowance

Item reference	Item	Details
Special Condition J15	Early Development Activities Use-it-or-lose-it Allowance or EDA UIOLIA	£5 million in Base Year prices per Regulatory Period (being the “ EDA UIOLIA Regulatory Period Limit ”) with a respective limit of £2 million contributing to any potential Development Project (being the “ EDA UIOLIA Project Limit ”)