

SCHEDULE 1

Definitions

In this Contract the following words and expressions shall, save where the context or the express provisions of this Contract otherwise require or admits, be deemed to have the following meanings:

"1999 Act" means the Local Government Act 1999;

"2005 Regulations" shall have the meaning given to it in Clause 63.1 (*Sub-Contractors in the Construction Industry Scheme*);

"2009 Order" means the Contracting Out (Highway Functions) Order 2009 (SI 2009/721);

"Abnormal Load" means any indivisible load vehicle authorised by Article 9 of the Road Vehicles (Authorisation of Special Types) (General) Order 2003 or a vehicle combination, whether or not authorised by Article 9, which either:

- (a) exceeds 80 tonnes; or
- (b) does not comply with the Road Vehicles (Construction and Use) Regulations 1986 (SI 1986 No 1078) concerning weight and its distributions;

"Abnormal Load Movement Notification" means the notification of movement of an Abnormal Load including General Order Vehicles and Special Order Vehicles through the Project Network;

"Abnormal Load Movement Notification System" means the Service Provider's electronic database for logging and responding to notifications from hauliers for their proposed movements of Abnormal Loads including General Order Vehicles and Special Order Vehicles, including the identification of any restrictions required on the Project Network as set out in Annexure 5 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Abnormal Load Officer" means the officer with such title appointed by the Service Provider pursuant to Service Standard 1 for the purposes of administering the Abnormal Loads Management System;

"Abnormal Loads Management System" means a system to manage Abnormal Loads including General Order Vehicles and Special Order Vehicles, which meets the requirements as set out in the Highways Structures Code;

"Access Chamber" means a purpose built chamber constructed to gain access to Underground Apparatus for the purpose of inspection or maintenance;

"Accident Investigation and Prevention Engineer" means the role fulfilled by suitably trained and competent members of the Service Provider's Personnel in relation to accident investigation as identified in the Method Statements including Method Statement 10;

"Accrual Calculation Values" shall have the meaning given to it in Paragraph 2.6.3 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Accrual Cap" shall have the meaning given to it in Paragraph 6.1.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Accrual Date" means the date specified in an Authority Notice of Accrual issued in respect of a Proposed Accrual Project Network Part or a Scheme;

"Accrual Provision" [REDACTED] included in the Base Case for the use of the Authority to pay for Accruals as identified in paragraph 5 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Accrual Unit Cost of Intervention" shall have the meaning given to it in Paragraph 5.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Accrual Value" means the cost of the Service Provider or Service Provider Party maintaining a particular Proposed Accrual Project Network Part or Scheme in accordance with this Contract, as calculated in accordance with Paragraph 5.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Accrued" means, when applied to any Project Network Part, a Project Network Part which has become the responsibility of the Service Provider pursuant to this Contract by reason of an Authority Change under Schedule 18 (*Change Protocol*) and/or the application of the provisions of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*) and **"Accrual"** and **"Accrue"** shall be construed accordingly;

"Achieved Milestone Factor" has the meaning given to it in Paragraph 3.1.4 of Schedule 4 (*Payment Mechanism*);

"Acknowledgement" means an acknowledgement of a communication by the Service Provider pursuant to the Output Specification, comprising an acknowledgement of receipt of the communication and the date on which it was received, the identity of the person dealing with the

communication and the timescale within which the Service Provider (acting reasonably) will Fully Respond to the communication, taking into account the complexity and/or scale of the request;

"Acknowledgement of Service Commencement" shall have the meaning given to it in Clause 5.1.4.1 (*Mobilisation*);

"Actual Drawdown Figure" means the amount of Senior Debt actually drawn down by the Service Provider in respect of the relevant Milestone Year pursuant to the Senior Financing Agreements (as at the date of Financial Close) (excluding any amount drawn down for the purpose of funding cost overrun, increased expenses or lost revenue of the Service Provider not envisaged by the Base Case (at the date of Financial Close));

"Actual Electricity Consumption" shall have the meaning given to it in Paragraph 3.1 of Schedule 9 (*Electricity Market Test*);

"Actual Liability" means a liability for Tax in consequence of or in respect of a Termination Payment or, where applicable, an Indemnity Payment;

"Actual Monthly Payment Report" means the report the Service Provider shall prepare and deliver to the Authority for each Month in an Agreed Form containing the information required to enable the calculation of the Monthly Payment, such report to be based on the relevant Draft Monthly Payment Report, and including the content required pursuant to Clause 56.7 (*Actual Monthly Payment Report*);

"Actual Populated Carbon Model" means the Populated Carbon Model submitted by the Service Provider pursuant to Performance Requirement 1.123 based on the Services carried out in the previous Contract Year;

"Actual Traffic Management Calculation" means the Traffic Management Calculation submitted by the Service Provider pursuant to Performance Requirement 1.120 based on the Programmed Maintenance carried out in the previous Contract Year;

"Additional Certification Sampling Months" shall have the meaning given in Clause 29.7.11.1(b) (*Certification*);

"Additional CVI Sampling" shall have the meaning given to it in Clause 27.10.9 (*CVI Surveys*);

"Additional CVI Sampling Data" shall have the meaning given to it in Clause 27.10.9.1 (*CVI Surveys*);

"Additional CVI Sampling Report" shall have the meaning given to it in Clause 27.10.9.2 (*CVI Surveys*);

"Additional Footway Sampling" shall have the meaning given to it in Clause 27.15.9 (*Footway Surveys*);

"Additional Footway Sampling Data" shall have the meaning given to it in Clause 27.15.9.1 (*Footway Surveys*);

"Additional Footway Sampling Report" shall have the meaning given to it in Clause 27.15.9.2 (*Footway Surveys*);

"Additional GI Sampling Months" shall have the meaning given to it in Clause 27.18.8.3 (*General Inspections*);

"Additional Income" shall have the meaning given to it in Clause 58.4 (*Additional Income*);

"Additional Income Sharing Amount" shall have the meaning given to it in Clause 58.4 (*Additional Income*);

"Additional Milestone Rectification Works GI Sampling Weeks" has the meaning given in Clause 27.18.8.3(b);

"Additional Patching Sampling" shall have the meaning given to it in Clause 27.14.9 (*Patching Surveys*);

"Additional Patching Sampling Data" shall have the meaning given to it in Clause 27.14.9.1 (*Patching Surveys*);

"Additional Patching Sampling Report" shall have the meaning given to it in Clause 27.14.9.2 (*Patching Surveys*);

"Additional Permitted Borrowing" means on any date, the amount equal to any amount of principal outstanding under the Senior Financing Agreements (as the same may from time to time be amended, whether or not with the approval of the Authority) in excess of the amount of principal scheduled under the Senior Financing Agreements at Financial Close to be outstanding at that date, but only to the extent that:

- (a) this amount is less than or equal to the Additional Permitted Borrowings Limit; and

(b) in respect of any Additional Permitted Borrowing, the Agent is not in material breach of its obligations under Clause 11.3.3 of the Senior Lenders' Direct Agreement as it applies to such Additional Permitted Borrowing,

and provided further that any such excess amount of principal which is (i) invested as part of any Qualifying Variation or (ii) outstanding from time to time as a result of any drawing under the Senior Financing Agreements as entered into at the date of Financial Close, disregarding any subsequent amendment; or (iii) outstanding from time to time as a result of any amendment to the Senior Financing Agreements in respect of which the Authority has agreed that its liabilities on a termination may be increased pursuant to Clause 87.2.1.1 (*Changes to Project Documents, Ancillary Documents and Financing Agreements*) shall not be counted as Additional Permitted Borrowing;

"Additional Permitted Borrowings Limit" means an amount equal to:

- (a) ten per cent (10%) of the Original Senior Commitment for any Additional Permitted Borrowing subsisting in the period from the date of Financial Close to the date on which the amount outstanding under the Senior Financing Agreements is reduced to fifty per cent (50%) or less of the Original Senior Commitment, and thereafter;
- (b) the higher of:
 - (i) five per cent (5%) of the Original Senior Commitment; and
 - (ii) the amount of any Additional Permitted Borrowing outstanding on the last day of the period referred to in Paragraph (a);

"Additional PI Sampling Months" shall have the meaning given to it in Clause 27.19.7.3 (*Principal Inspections*);

"Additional Rectification Works PI Sampling Weeks" has the meaning given in Clause 27.19.7.3;

"Additional Works" means any New Build and/or Third Party Works;

"ADEPT" means the Association of Directors of Environment, Economy, Planning and Transport, formerly known as the CSS;

"Adjudicator" means an adjudicator selected to consider a Dispute and selected in accordance with Clause 82.2 (*Adjudication*);

"Adjusted Amount" shall have the meaning given to it in Clause 67.8 (*Adjusted Amount*);

"Adjusted Estimated Fair Value of the Contract" means the Estimated Fair Value of the Contract, less an amount equal to the aggregate of:

- (a) where relevant any Post Termination Service Amounts paid to the Service Provider (if a positive number);
- (b) the Tender Costs; and
- (c) amounts that the Authority is entitled to set off or deduct under Clause 80.7.4 (*Set-off on Termination*),

plus an amount equal to the aggregate of:

- (d) all credit balances on any bank accounts held by or on behalf of the Service Provider on the date that the Estimated Fair Value of the Contract is calculated;
- (e) any insurance proceeds and other amounts owing to the Service Provider (and which the Service Provider is entitled to retain), to the extent not included in (d); and
- (f) the Post Termination Service Amounts (if a negative number),

to the extent that:

- (g) (d), (e) and (f) have not been directly taken into account in calculating the Estimated Fair Value of the Contract; and
- (h) the Authority has received such amounts in accordance with the Contract;

"Adjusted Highest Compliant Tender Price" means the Highest Compliant Tender Price less the aggregate of:

- (a) any Post Termination Service Amounts paid to the Service Provider to date;
- (b) the Tender Costs; and
- (c) amounts that the Authority is entitled to set off or deduct under Clause 80.7.4 (*Set off on Termination*),

plus an amount equal to the aggregate of:

- (d) all credit balances on any bank accounts held by or on behalf of the Service Provider on the date that the highest priced Compliant Tender is received;

(e) any insurance proceeds and other amounts owing to the Service Provider to the extent not included in (d); and

(f) the Post Termination Service Amount (if a negative number),

to the extent that:

(g) (d), (e) and (f) have not been directly taken into account in that Compliant Tender; and

(h) the Authority has received such amounts in accordance with the Contract;

"Adjustment" means a Performance Adjustment, Accrual Adjustment, Milestone Adjustment Factor, Traffic Management Adjustment, a Carbon Adjustment, and a Sundry Adjustment or any of them;

"Administering Authority" means the South Yorkshire Pension Authority, or any successor body;

"Admission Agreement" means an admission agreement entered into in accordance with the Pension Regulations by the Authority, the Service Provider and the Administering Authority, the form of which is attached as Annexure 8 (*Form of Pensions Admission Agreement*) to this Contract;

"Admission Agreement Bond" means bond entered into in respect of the Admission Agreement in accordance with the Pension Regulations by the Service Provider and the Administering Authority and a bondsman, the form of which is attached as Annexure 9 (*Form of Pensions Admission Agreement Bond*) to this Contract;

"Adverse Weather Event" means an Event Storm, lightning, tempest, earthquake, gale force winds, hurricane or tornado;

"Adverse Weather Warning" means an amber or red flash warning or early warning of severe or extreme weather (or equivalent terminology) by the Weather Forecasting Service;

"Advertising" means publicity or information intended to attract the public's attention to goods and services in the form of hanging banners, posters, boards, signage (whether illuminated or not), electronic display boards, and similar as are attached to any Project Network Parts;

"Affected Party" shall have the meaning given to it in the definition of Force Majeure Event;

"Affiliate" means in relation to:

(a) any person (including Aberdeen Asset Management PLC), any parent undertaking or subsidiary undertaking of that person or any subsidiary undertaking of such parent undertaking;

(b) Aberdeen Asset Management PLC. only, any unit trust investment fund, partnership or other entity of which Aberdeen Asset Management PLC or any Affiliate of Aberdeen Asset Management PLC under sub-paragraph (a) of this definition, is the general partner, trustee or principal manager (the "**Relevant Entity**"), provided that if Aberdeen Asset Management PLC or the relevant Affiliate of Aberdeen Asset Management PLC under sub-paragraph (a) of this definition ceases to be general partner, trustee or principal of the Relevant Entity as a result of the decision of the investors in the Relevant Entity pursuant to the Relevant Entity's constitutional documents then the Relevant Entity shall continue to be an Affiliate of Aberdeen Asset Management PLC for the purposes of this clause for so long as Aberdeen Asset Management PLC or the relevant Affiliate of Aberdeen Asset Management PLC under sub-paragraph (a) of this definition has a direct interest in, or an entitlement to receive by way of a distribution in specie upon a dissolution or winding up, 4 per cent. or more of the assets of the Relevant Entity,

and "parent undertaking", "subsidiary undertaking" and "undertaking" shall have the meaning given to them in Sections 1161 and 1162 of the Companies Act 2006 save that for the purposes of determining whether one entity is an Affiliate of another any transfer of shares by way of security or to a nominee of the transferor shall be disregarded;

"AG26 (Version 2) UK Roads Board 2003" means Application Guide AG26 (Version 2) Footway and Cycle Route Design, Construction and Maintenance Guide, prepared for the Highways Infrastructure Group and the Highways Agency, by TRL Limited, as amended or replaced from time to time;

"Agent" means The Bank of Tokyo-Mitsubishi UFJ, Ltd. of Ropemaker Place, 25 Ropemaker Street, London EC2Y 9AN and any of its assignees, transferees or successors in its capacity as agent for the Senior Lenders under the Senior Financing Agreements;

"Agent's Certificate" has the meaning given to it in Clause 26.4.1.3;

"Aggregate Latent Defect Cap" shall have the meaning given to it in Clause 8.2.2 (*Liability for Latent Defects*);

"Agreed Form" means, in relation to any document, the form of the document agreed between the Parties and initialled by or on behalf of the Parties for the purpose of identification and annexed to the Contract or as otherwise agreed between the Parties;

"Agreed Measurement Points" means four (4) locations, one of which shall be Olive Grove Depot with the remainder being in Ecclesfield, Bradley and Topley/Dore areas;

"Agreed Non-Compliant Project Network Parts" means the Agreed Non-Compliant Street Lighting and the Agreed Non-Compliant Structures, or any of them;

"Agreed Non-Compliant Street Lighting" means the list of Lighting Units which have been designated as such in Schedule 16 (*Agreed Non-Compliant Project Network Parts*);

"Agreed Non-Compliant Type 1 Lighting Unit" means a Lighting Unit which has been designated as such in Schedule 16 (*Agreed Non-Compliant Project Network Parts*);

"Agreed Non-Compliant Type 2 Lighting Unit" means a Lighting Unit which has been designated as such in Schedule 16 (*Agreed Non-Compliant Project Network Parts*);

"Agreed Non-Compliant Structures" means the list of Structures and/or Third Party Structures which have been designated as such in Schedule 16 (*Agreed Non-Compliant Project Network Parts*);

"Agreed Non-Core Services Abatement" means £100 (Indexed);

"Agreed Service Time" shall have the meaning given to it in ITIL;

"Agrément" or **"BBA"** means the body entitled the British Board of Agrément (BBA), or any replacement or successor body;

"Ambassadors" means those officers within the Authority's City Centre Management Team from time to time whose role it is to patrol streets within the City Centre and provide assistance to the public;

"Anchored Earth Structures" means a structure built to support or prevent the advance of a mass of earth and which is anchored by rods or cables;

"Ancillary Document" means the documents entered into by the Service Provider or a Service Provider Party for the performance of its obligations under this Contract which are listed in Part 2 of Annexure 2 (*Project Documents, Ancillary Documents and Finance Agreements*);

"Annexure" means an annexure of this Contract referred to in the Main Body and numbered 1 to 14 (inclusive) together with all relevant Appendices;

"Annual Communication Plan" means the Service Provider's communication plan required to be prepared by the Service Provider in accordance with Annexure 6 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Annual Debt Service Cover Ratio" has the meaning given to it in the Senior Financing Agreements;

"Annual Environmental/Carbon Reduction Plan" means an annual plan setting out a range of smart targets relating to the delivery of the Services showing significant carbon management and environmental protection impacts, and including an overall annual carbon reduction target;

"Annual Environment/Climate Change Review" means an annual management process to review the progress made towards the Service Provider's agreed long term carbon reduction and environmental protection targets, to refine the targets to be sets for the coming year, and to review the effectiveness of the Environmental Management Systems in place to achieve them;

"Annual Grounds Maintenance Action Plan" means the Service Provider's annual plan for the management, preservation and enhancement of Landscape Areas, to be prepared by the Service Provider in accordance with Annexure 1 of Service Standard 6 of Schedule 2 (*Output Specification*);

"Annual Highway Emergency Plan" means the Service Provider's plan relating to the action to be taken in the event of a Highway Emergency, to be prepared by the Service Provider in accordance with Annexure 1 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Annual Investment Programme" means (for the first Contract Year) the programme set out in Schedule 25 (*Investment Programmes*), and thereafter as prepared by the Service Provider in accordance with Clause 20.3 (*The Annual Investment Programme*) as amended from time to time in accordance with Clause 22.1 (*Amendment of Investment Programmes*) and the Review Procedure;

"Annual Powered Apparatus Inventory Report" has the same meaning given to it in DTLR Inventory of Road Lighting Stock, to be produced by the Service Provider pursuant to Performance Requirement 1.47 of Service Standard 1 of Schedule 2 (*Output Specification*);

"Annual Service Plan" means the written statement to be produced by the Service Provider to the Authority pursuant to Paragraph 3.4 of Schedule 33 (*Best Value*);

"Annual Service Report" means the written report to be provided by the Service Provider to the Authority, to be prepared by the Service Provider in accordance with Annexure 3 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Annual Tree Management Programme" means the Service Provider's annual tree management programme setting out all details of the actions to be taken by the Service Provider in relation to

Highway Trees in the forthcoming Contract Year, to be prepared by the Service Provider in accordance with Annexure 1 of Service Standard 6 of Schedule 2 (*Output Specification*);

"Annual Unitary Charge" means the amount calculated in accordance with Paragraph 3.2 of Schedule 4 (*Payment Mechanism*);

"Annual Winter Maintenance Operational Report" means the Service Provider's report to be prepared by the Service Provider in accordance with Annexure 2 to Service Standard 7 of Schedule 2 (*Output Specification*);

"Annual Winter Maintenance Service Operational Plan" means the Service Provider's Winter Maintenance Services operational plan, to be prepared by the Service Provider in accordance with Annexure 1 to Service Standard 7 of Schedule 2 (*Output Specification*);

"Annual Winter Maintenance Service Review" means a review of the Winter Maintenance Service carried out annually by the Service Provider on the provision of the Winter Maintenance Service over the previous winter period, to be carried out by the Service Provider in accordance with Annexure 3 to Service Standard 7 of Schedule 2 (*Output Specification*);

"Annual Winter Maintenance Services Review Report" means the Service Provider's report prepared following the Annual Winter Maintenance Service Review, to be prepared by the Service Provider in accordance with Annexure 3 to Service Standard 7 of Schedule 2 (*Output Specification*);

"Anti-Climbing Measures" means measures taken, including anti-climbing spikes and anti-climbing paint, to deter persons from climbing a Lighting Unit in order to vandalise the Luminaire or to gain illegal access to adjacent premises;

"Anti- Skid Treatment" means treatment to the surface of a Road Section Length, Footway Section Length, Cycle Way or Cycle Path or part thereof, in order to improve its skid resistance;

"APB Distribution" means, for the period during which the Additional Permitted Borrowing subsists, an amount equal to the aggregate of all Distributions made during that period up to an amount equal to the principal of the Additional Permitted Borrowing on the first day of that period;

"Apparatus" means all Powered Apparatus and all other apparatus on the Project Network, or which is not on the Project Network but is identified in Schedule 20 (*Project Network Information*) (or, where applicable, is visible from or adjacent to the Project Network), which is the responsibility of the Service Provider from time to time in accordance with the provisions of this Contract, including Traffic Signs, Street Name Plates, Pedestrian Barriers, Safety Fences and Vehicle Barriers, Seats,

Cycle Stands, Cycle Barriers, Litter Bins, Grit Bins, Bollards, Tree Grilles, Highway Artwork, Highway Artefacts, and all materials and equipment used in or relating to the operation thereof;

"Appendices" means the appendices to the Schedules or Annexures and referred to in the Main Body and/or the Schedules or Annexures, and which shall be treated as part of that Schedule or Annexure;

"Appropriate Limit" shall have the meaning given to it in Clause 90.7 (*Cost of Compliance*);

"Appropriate Species List" means the list of species of tree contained in the Highway Tree Replacement Policy;

"Approval in Principle" or "AiP" has the same meaning given to it in Highways Agency Standard BD2;

"Approved Purposes" shall have the meaning given to it in Clause 84.1 (*Use of Service Provider Materials*);

"Arbitrator" has the meaning given to it in Clause 82.3.2 (*Arbitration*);

"ARD" or "Acquired Rights Directive" means EU Directive No. 2001/21/EC;

"Ascertained Land Rights" means Land Rights in respect of which the Authority has disclosed to the Service Provider, prior to the date of this Contract, the existence of such Land Rights whether:

- (a) by its inclusion in the Authority Dataroom; or
- (b) by giving written notice to the Service Provider identifying specific Land Rights.

"Aspects Not Covered By Standards" has the same meaning given to it in Highways Agency Standard BD2;

"Assembly Stewardship" means the Service Provider's model for informing and engaging stakeholders through the community as identified in the Method Statements including Method Statements 1.8 and 1.9;

"Asset Management Plan" means the plan to be provided by the Service Provider to be prepared in accordance with the requirements of the Framework for Highway Asset Management;

"Asset Valuation" shall have the same meaning as given to it in the CIPFA Code of Practice on Transport Infrastructure Assets;

"Assets" means all assets and rights to enable the Authority or a successor contractor to operate and maintain the Project in accordance with this Contract, including:

- (a) any land or buildings;
- (b) any equipment;
- (c) any books and records (including operating and maintenance manuals, health and safety manuals and other know-how);
- (d) any spare parts, tools, stocks, consumables, materials and other assets (together with any warranties in respect of assets being transferred);
- (e) any revenues and any other contractual rights; and
- (f) any Intellectual Property Rights,

but excluding any assets and rights in respect of which the Authority is full legal and beneficial owner;

"Assigned Employees" shall have the meaning given to it in Clause 69.15.1 (*Returning Employees Information Provision*);

"Associated Company" means in respect of a relevant company, a company which is a subsidiary, a Holding Company or a company that is a subsidiary of the ultimate Holding Company of that relevant company, and in the case of the Service Provider shall include Holdco and each of the Shareholders save that for the purposes of determining whether one entity is an Associated Company of another any transfer of shares by way of security or to a nominee of the transferor shall be disregarded;

"Association for Public Service Excellence" or **"APSE"** means the body with specialism in local authority front line services, hosting a network for front line service providers in areas such as waste and refuse collection, parks and environmental services, leisure, school meals, cleaning, housing and building maintenance, or any replacement or successor body;

"Attachment" means any item attached to a Project Network Part or other structure (such as a tree, building or other permanent construction), comprising both the Fixture and Fixing and which may include:

- (a) any Traffic Sign or Street Name Plate;

- (b) dog fouling notices;
- (c) notices pursuant to Legislation;
- (d) information notices;
- (e) any environmental monitoring equipment;
- (f) alcohol prohibition and other by-law signs;
- (g) privilege direction signs;
- (h) Advertising;
- (i) Hanging Baskets;
- (j) Banners;
- (k) pennants;
- (l) Festive Decorations;
- (m) cameras; and
- (n) Litter Bins;

"Attachments Plan" shall have the meaning given to it in Paragraph 7.2.2 of Schedule 8 (*Attachments and Advertising*);

"Attachments Survey" means the survey to be carried out by the Service Provider pursuant to Clause 28.10.2 (*Attachments Surveys*);

"Audit and Inspection Programme" means the Service Provider's overarching audit and inspection programme listing all internal and external audits and inspections as identified in the Method Statements including Method Statement 1.12;

"Audit Commission" means the body defined by Section 1 of the Audit Commission Act 1998;

"Audit Document" means the document set out at Schedule 41 (*Audit Document*);

"Authorised Attachment" means an Attachment which has been authorised by the Authority under the procedure detailed at Appendix 1 to Schedule 8 (*Attachments and Advertising*), and **Authorised** and **Authorisation** shall be read accordingly;

"Authorised Attachment Notice" shall have the meaning given to it in Paragraph 2.1 of Appendix 1 to Schedule 8 (*Attachments and Advertising*);

"Authorised Statutory Powers" shall have the meaning given to it in Clause 14.11 (*Authorised Statutory Powers*);

"Authority Approval" means written approval by the Authority Representative to a request for the Authority's consent to a proposed action by the Service Provider pursuant to the Output Specification, to be provided within ten (10) Business Days of receipt of such request, not to be unreasonably withheld or delayed and which may be granted subject to such conditions as the Authority determines appropriate (acting reasonably) in accordance with the Output Specification (where appropriate);

"Authority Attachment" means an Attachment that is owned by the Authority attached or to be attached to other items (including Project Network Parts), and shall where the context so allows include Existing Attachments;

"Authority Business Continuity Plan" means the document described as the business continuity plan of the Authority set out in Schedule 29 (*Authority Policies*);

"Authority Comment" means comments made by the Authority Representative in writing to the Service Provider on an Acknowledgement, Further Acknowledgement or Full Response submitted by the Service Provider to the Authority for comment in accordance with the Output Specification;

"Authority Customer Charter" means the document described as the customer charter of the Authority set out in Schedule 29 (*Authority Policies*);

"Authority Dataroom" means the Authority's electronic data room provided via the 4projects online system;

"Authority Default" means one of the following events:

- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Authority Default Termination Sum" means the sum calculated in accordance with Clause 80.1 (*Compensation following Authority Default*);

"Authority Depots" means the depots situated within Sheffield at Olive Grove Road, Station Road Ecclesfield, Eyre Lane, Manchester Road Deepcar, and Bracken Hill, which have been used prior to the Services Commencement Date as depots for the delivery of services related to the Project by the Authority;

"Authority Existing Employee" means in relation to any service equivalent to any of the Service (or any part of the Service) all those persons employed by the Authority under a contract of employment (excluding to avoid doubt any person employed by the Authority as an independent contractor or persons employed by any sub-contractor engaged by the Authority) who are wholly or substantially engaged in the provision of that service immediately before the Service Commencement Date;

"Authority Health and Safety Policy" means the document described as the health and safety policy of the Authority set out in Schedule 29 (*Authority Policies*);

"Authority Indemnity Sum" shall have the meaning given to it in Clause 60.1 (*Tax*);

"Authority Materials" shall have the meaning given to it in Clause 84.13.2 (*Consequences of Termination/Expiry*);

"Authority Notice of Accrual" shall have the meaning given to it in Paragraph 3.1.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Authority Party" means any officer, agent or employee of the Authority (in its capacity as counterparty to this Contract) including the Authority Representative, acting in the course of office of his employment, and any subcontractor and its employees employed by the Authority (in its capacity

as counterparty to this Contract) but excluding in each case the Service Provider and any Service Provider Party;

"Authority Policies" means those policies of the Authority as are set out at Schedule 29 (*Authority Policies*);

"Authority Project Intellectual Property" means all Intellectual Property Rights owned by the Authority and subsisting in any Disclosed Information, the Data, the Trade Marks and/or any other materials, information, documents, data and/or know how, provided to or made available by the Authority to the Service Provider or any Service Provider Party at any time during the Term;

"Authority Property" means any property which belongs to or is otherwise the responsibility of the Authority, but not including the Project Network or any Project Network Parts;

"Authority Representative" means the Head of Highway Maintenance, Sheffield City Council or such other person as the Authority shall from time to time appoint and notify to the Service Provider in writing;

"Authority Revenue Share" shall have the meaning given to it in Clause 58.1 (*Revenue Sharing*);

"Authority Submitted Item" shall have the meaning given to it in Paragraph 8.1 of Schedule 21 (*Review Procedure*);

"Authority Weekly Briefing Report" means the report that the Service Provider shall prepare and submit to the Authority as set out in Annexure 2 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Authority's Branding Policy" means the document described as the branding policy of the Authority set out in Schedule 29 (*Authority Policies*);

"Authority's Climate Change Risk Assessment Report" means a report completed by the Authority which address the likely impacts of climate change with information on the possible future climate as referred to in the Method Statements including Method Statement 1.10, as updated or replaced from time to time;

"Authority's Customer Complaints Procedure" means the document described as the customer complaints procedure of the Authority as set out at Schedule 29 (*Authority Policies*);

"Authority's Ecology Unit" means the department of the Authority that provides ecological advice service to the Authority's departments, other organisations and members of the public as referred to in the Method Statements including Method Statement 1.10;

"Authority's Emergency Plan" means the plan prepared by the Authority for dealing with Major Emergencies as notified to the Service Provider from time to time;

"Authority's First Alternate Representative" shall have the meaning given to it in Clause 33.7.1 (*Authority's Alternate Representatives*);

"Authority's Information Security Policy" means the document described as the information security policy of the Authority set out in Schedule 29 (*Authority Policies*);

"Authority's IT Partner" means Capita Business Service, Sheffield Partnership as at the date of this Contract or as otherwise notified by the Authority to the Service Provider;

"Authority's Second Alternate Representative" shall have the meaning given to it in Clause 33.7.1 (*Authority's Alternate Representatives*);

"Authority's Web Accessibility Standard Policy" means the document described as the web accessibility standard policy of the Authority set out in Schedule 29 (*Authority Policies*);

"Available" means

(Agreed Service Time – Down Time)

_____ x 100 and expressed as a percentage;

Agreed Service Time

"Availability Adjustment" means any Adjustment made pursuant to Performance Requirements 2.55 and/or 2.56;

"Average MIS Response Time" means the average response time of the Service Provider's Management Information System to requests from the Authority hosted systems outlined in Annexure 4 to Service Standard 1 and from user initiated enquiries, as measured by the Service Provider from the boundary of the Authority's infrastructure to the Management Information System over a Month during each Working Day

"BA 50 (Post-tensioned Concrete [Bridges]: planning, organisation and methods of carrying out Special Inspections) (3)" means the volume of the DMRB entitled "BA 50 (Post-tensioned Concrete [Bridges]: planning, Organisation and Methods of Carrying out Special Inspections)(3)";

"Balancing and Settlement Code" ("BSC") means the document with such title administered by ELEXON Limited, which defines the rules and governance for the balancing mechanism and imbalance settlement process of electricity in Great Britain, as updated or replaced from time to time;

"Balancing and Settlement Code Procedure 520" means the Procedure 520 for unmetered supplies of electricity set out in the Balancing and Settlement Code as amended or replaced;

"Banners" means vertical hanging decorative, informative or festive banners;

"Barbour Index" means the document with such title issued by Barbour EHS which gives information services and working tools for construction and health and safety professionals, that allows users direct desktop access to relevant, up-to-date and comprehensive information on health and safety, as referred to in the Method Statements including Method Statement 1.10, as updated or replaced from time to time;

"Base Case" means the financial model agreed between the Parties prior to the date of this Contract (as updated from time to time in accordance with the terms of this Contract) for the purpose of, amongst other things, calculating the Unitary Charge, as set out in Schedule 5 (*Base Case*);

"Base Date" means September 2012 and is used as the starting point for:

- (a) Net Present Value calculations;
- (b) Revenue indexation calculations;
- (c) Cost indexation calculations;

"Base Senior Debt Termination Amount" means, (subject to Clause 87.2.1 (*Changes to Project Documents, Ancillary Documents and Financing Agreements*)):

- (a) all amounts outstanding at the Termination Date, including interest and Default Interest accrued as at that date, from the Service Provider to the Senior Lenders in respect of Permitted Borrowing (other than in respect of Additional Permitted Borrowing); and
- (b) all amounts including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Service Provider to the Senior Lenders as a result of a prepayment in respect of Permitted Borrowing (other than in respect of Additional Permitted Borrowing), or, in the case of early termination of interest rate hedging arrangements only, as a result of termination of this Contract, subject to the Service Provider and the Senior Lenders mitigating all such costs to the extent reasonably possible;

less, to the extent it is a positive amount, the aggregate of (without double counting in relation to the calculation of the Base Senior Debt Termination Amount or the amounts below):

- (c) all credit balances on any bank accounts held by or on behalf of the Service Provider on the Termination Date;
- (d) any amounts claimable on or after the Termination Date in respect of Contingent Funding Liabilities;
- (e) all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Senior Lenders to the Service Provider as a result of prepayment of amounts outstanding in respect of Permitted Borrowing (other than in respect of Additional Permitted Borrowing), or, in the case of early termination of interest rate hedging arrangements only, as a result of termination of this Contract; and
- (f) all other amounts received by the Senior Lenders on or after the Termination Date and before the date on which any compensation is payable by the Authority to the Service Provider as a result of enforcing any other rights they may have;

"Baseline Review" means an initial review by the Service Provider which provides a snapshot of the current environmental performance of an activity as referred to the Method Statements including Method Statement 1.10;

"BBA HAPAS Roads and Bridges Certificate" means the document with such title issued by BBA, which is awarded to a product which has successfully passed HAPAS assessment and providing highway engineers with product performance, design and installation data, as updated or replaced from time to time;

"BCI_{AV}" means the average Bridge Condition Index for a Structure (Type 1), excluding Retaining Walls (Type 1), evaluated taking into account the condition of all structural elements of a structure as described in the CSS Bridge Condition Indicators - Commission Report;

"BCI_{CRIT}" means the critical Bridge Condition Index for a Structure (Type 1), excluding Retaining Walls (Type 1), evaluated taking into account the condition of those elements of a structure deemed to be of very high importance as described in the CSS Bridge Condition Indicators - Commission Report;

"BD 21/01" means DMRB Volume 3 Highways Structures: Inspection and Maintenance Section 4 (Assessment) Part 3, as amended or replaced from time to time;

"BD 63/07" means DMRB Volume 3 Highways Structures: Inspection and Maintenance Section 1 (Inspection) Part 4, as amended or replaced from time to time;

"BD 79/06" means DMRB Volume 3 Highways Structures: Inspection and Maintenance Section 4 (Assessment) Part 18, as amended or replaced from time to time;

"BD 86/07" means DMRB Volume 3 Highways Structures: Inspection and Maintenance Section 4 (Assessment) Part 19, as amended or replaced from time to time;

"Belisha Beacon" means the Straight Posts, galleries, orange flexi globes, lighting units, Lamps, electrical circuits and components, control devices, wiring brackets, cut out and electricity connection and numbering found on either side of a pedestrian crossing, which is also an Illuminated Sign;

"Beneficiary" shall have the meaning given to it in Clause 66.4 (*Conduct of proceedings for matters covered by Service Provider's and Authority's indemnities*);

"Bespoke Items" means, in relation to Non-Core Scheme Construction Services, those items which are commissioned by the Authority as Part of the Non-Core Scheme Services which are not contained within the Schedule of Rates;

"Best Value" shall mean the state of being in or ensuring compliance with the Authority's Best Value Duty;

"Best Value Authority" means an authority which is subject to the Best Value Duty in accordance with Section 1 of the Local Government Act 1999;

"Best Value Duty" means the duty imposed on the Authority by Section 3 of the Local Government Act 1999 or any subsequent Legislation or Guidance which places an obligation on the Authority to show it is obtaining value for money in provision or procurement of a service;

"Best Value Notice" means the notice to be served by the Authority upon the Service Provider pursuant to Paragraph 3.3 of Schedule 33 (*Best Value*);

"Bill" means a legislative proposal for enactment of a law;

"Biodiversity" means the variability among living organisms from all sources including, inter alia, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems as referred to in the Method Statements including Method Statement 1.10;

"Bollard" means a short vertical post or other similar device on the Project Network positioned so as to prevent vehicular traffic from entering parts of the Project Network and which is not Powered Apparatus, including the Bollards identified in Schedule 20 (*Project Network Information*);

"Boundary Polygon" means an area on the Mayrise MapNow GIS layer that defines a discrete section of the Project Network for the purposes of identifying the required Lighting Class;

"Boundary Sign" means:

- (a) a Traffic Sign used to denote the boundary between two neighbouring local authorities as identified in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such signs installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional such signs installed by the Service Provider as a result of compliance with the Output Specification;

"Boxes and Planters" means Boxes And Planters (Type 1) and Boxes And Planters (Type 2), or any of them;

"Boxes And Planters (Type 1)" means:

- (a) boxes and planters for permanent plants, shrubs, roses or trees, including the boxes and planters identified as being 'Boxes and Planters (Type 1)' in Schedule 20 (*Project Network Information*);and
- (b) shall include any additional such boxes or planters identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional boxes or planters identified as "(Type 1)" installed by the Service Provider as a result of compliance with the Output Specification;

"Boxes And Planters (Type 2)" means:

- (a) boxes and planters for bedding plants, including the boxes and planters identified as being 'Boxes and Planters (Type 2)' identified in Schedule 20 (*Project Network Information*);; and

- (b) shall include any additional such boxes or planters identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional boxes or planters identified as "(Type 2)" installed by the Service Provider as a result of compliance with the Output Specification;

"Bridge Authority" has the meaning given in Section 88(1)(b) of NRSWA;

"Bridge Condition Index" means the numerical value of the condition of a Structure (Type 1), excluding Retaining Walls (Type 1), as evaluated in accordance with the CSS Bridge Condition Indicators - Commission Report, on a scale of 100 (best condition) to 0 (worst condition);

"Bridge Condition Indices" means the BCI_{AV} , BCI_{CRIT} , $BSCI_{AV}$, and $BSCI_{CRIT}$;

"Bridge Management System" means an electronic data base specifically designed to record information relating to Structures and Third Party Structures as described in Annexure 4 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Bridge (Type 1)" means

- (a) a bridge identified as a Bridge (Type 1) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional bridges identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Bridge (Type 2)" means

- (a) a bridge identified as a Bridge (Type 2) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional bridges identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Bridge (Type 3)" means

- (a) a bridge identified as a Bridge (Type 3) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional bridges identified as "(Type 3)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"British Horse Society" ("BHS") means the body with such title which represents the interests of the 4.3 million people in the UK who ride or who drive horse-drawn vehicles, or any replacement or successor body;

"British Standards" or "BS" means those standards published by the British Standards Institution as amended or replaced from time to time;

"British Standards Institution" means the body with such title responsible for producing standards to implement the International Organisation for Standardisation requirements, or any replacement or successor body;

"British Summer Time" means the period between 1.00am GMT on the last Sunday in March and 1.00am GMT on the last Sunday in October as determined pursuant to the Summer Time Act 1972 as amended by the Summer Time Order 2002 (SI 2002/262), which implements Directive 2000/84/EC, or any successive Legislation;

"BS 7533-6" means BS 7533-6 in respect of pavements constructed with clay, natural stone or concrete pavers, containing the code of practice for laying natural stone, precast concrete and clay kerb units, as updated or replaced from time to time;

"BS7941-2:2000" means BS7941-2:2000 in respect of methods for measuring the skid resistance of pavement surfaces, relating to the test method for measurement of surface skid resistance using the GripTester braked wheel fixed slip device, as updated or replaced from time to time;

"BS 8500-2" means BS 8500-2:2006 in respect of concrete surfacing, a complementary British Standard to BS EN 206-1, containing the specification for constituent materials and concrete;

"BCI_{AV}" means the average condition index of the stock of the type of Structure (Type 1) being considered, and evaluated using the BCI_{AV} values as described in the CSS Bridge Condition Indicators - Commission Report;

"**BSCI_{CRIT}**" means the critical condition index of the stock of the type of Structure (Type 1) being considered and evaluated using the BCI_{CRIT} values as described in the CSS Bridge Condition Indicators - Commission Report;

"**BS EN**" means 'British Standard European Norm', a prefix to European product standards operated by the International Organisation for Standardisation which specify how manufacturers can ensure their products achieve compliance with international standards;

"**BS EN 124 Class B125**" means Class B125 in BS EN 124 in respect of Gully tops and manhole tops for vehicular and pedestrian areas, relating to the design requirements, type testing, marking and quality control;

"**BS EN 124 Class D400**" means Class D400 in BS EN 124 in respect of Gully tops and manhole tops for vehicular and pedestrian areas, relating to the design requirements, type testing, marking and quality control, as updated or replaced from time to time;

"**BS EN 12697**" means BS EN 12697 in respect of bituminous mixtures, relating to test methods for hot mix asphalt, as updated or replaced from time to time;

"**BS EN 13036-4:2003**" means BS EN 13036-4:2003 in respect of road and airfield surface characteristics, relating to test methods, the method for measurement of slip/skid resistance of a surface, and the pendulum test, as updated or replaced from time to time;

"**BS EN 13108**" means BS EN 13108 in respect of bituminous mixtures, relating to material specifications, as updated or replaced from time to time;

"**BS EN 206-1**" means BS EN 206-1:2000 in respect of concrete for structures cast in situ, precast structures and structural precast products for buildings and civil engineering structures, as updated or replaced from time to time;

"**Business Continuity Plan**" shall have the meaning given to it in Clause 39.2 (*Business Continuity Plan*);

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the city of London and as further described in Paragraph 5.1.4.3 of the Payment Mechanism;

"Business Transfer Agreement" means the agreement between the Authority and the Service Provider dealing with the transfer of various assets and stock from the Authority to the Service Provider, the form of which is attached as Annexure 11 (*Business Transfer Agreement*);

"C 6/8" means concrete strength class 6/8 as specified in BS EN 206-1 and/or BS 8500-2;

"C 30" means concrete strength class C30 as specified in BS EN 206-1 and/or BS 8500-2;

"Call-Off Services" means those works or services listed within the Catalogue of Rates or which are agreed to be included in the Catalogue of Rates pursuant to the procedure set out in Part 3 of Schedule 7 (*Non-Core Services*);

"Call-Off Services Request Form" means the form of request attached at Appendix 4 to Schedule 7 (*Non-Core Services*) to be completed by the Authority in order to request Call-Off Services;

"Cap Expiry Date" shall have the meaning given to it in Clause 8.6 (*Cap Expiry*);

"Capital Contribution" has the meaning given to it in Paragraph 3.1.4 of Schedule 4 (*Payment Mechanism*);

"Capital Expenditure" means any expenditure which falls to be treated as capital expenditure in accordance with generally accepted accounting principles in the United Kingdom from time to time provided that any expenditure that falls (in accordance with such principles) to be treated as either capital expenditure or revenue expenditure shall be treated as revenue expenditure for the purposes of this Contract;

"Carbon Adjustment" means the Carbon Adjustment as defined in Schedule 4 (*Payment Mechanism*);

"Carbon Emission Factors" means the carbon emission factors set out in Appendix 3 to Schedule 40 (*Carbon Model*), and as updated pursuant to Clause 20.8 (*Updates to Carbon Model*);

"Carbon Model" means the form of Carbon Model produced by the Service Provider pursuant to Clause 20.7 (*Carbon Model*) as set out in Appendix 1 to Schedule 40 (*Carbon Model*), and as updated pursuant to Clause 20.8 (*Updates to Carbon Model*);

"Carbon Model Instructions" means the instructions produced by the Service Provider pursuant to Clause 20.7 (*Carbon Model*) as set out in Appendix 2 to Schedule 40 (*Carbon Model*), and as updated pursuant to Clause 20.8 (*Updates to Carbon Model*);

"Carbon Model Review" means the Service Provider's documented method for reviewing the performance of the Carbon Model as referred to in the Method Statements including Method Statement 1.10;

"Carbon Model Targets" means the Carriageways and Footways Carbon Model Target, the Street Lighting Carbon Model Target and the Powered Apparatus Energy Carbon Model Target;

"Carcass" means a dead body of an animal (excluding small rodents);

"Caring Contractor Scheme" means the document described as the Caring Contractor scheme of the Authority set out in Schedule 29 (*Authority Policies*);

"Carriageway" means a way constituting or comprised in a Highway, being a way (other than a Cycle Path) on the Project Network over which the public have a right of way for the passage of vehicles;

"Carriageway Aesthetic Section Condition Index" means the Carriageway Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the street environment;

"Carriageway and Footway Service" means the Service provided in accordance with the provisions of Service Standard 2 of the Output Specification;

"Carriageway Average Edge Sub-Section Condition Index" means the Carriageway Average Sub-Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the structural integrity of the edge of the Carriageway;

"Carriageway Average Overall Sub-Section Condition Index" means the Carriageway Average Sub-Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the overall condition of the Carriageway;

"Carriageway Average Patch Sub-Section Condition Index" means the Carriageway Average Sub-Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the degree of patching on the Carriageway;

"Carriageway Average Ride Sub-Section Condition Index" means the Carriageway Average Sub-Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the ride quality of the Carriageway;

"Carriageway Average Sub-Section Condition Index" means the length-weighted average of the Carriageway sub-section condition index, as set out in the Technical Specification Document;

"Carriageway Average Surface Sub-Section Condition Index" means the Carriageway Average Sub-Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the surface condition of the Carriageway;

"Carriageway Average Structural Sub-Section Condition Index" means the Carriageway Average Sub-Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the structural integrity of the Carriageway;

"Carriageway Condition Index (CCI)" means the Carriageway Condition Index as calculated within the Sheffield Performance Model, reflecting the overall condition of Carriageways;

"Carriageway Condition Indices" means the Carriageway Aesthetic Section Condition Index, the Carriageway Average Edge Sub-Section Condition Index, the Carriageway Average Overall Sub-Section Condition Index, the Carriageway Average Patch Sub-Section Condition Index, the Carriageway Average Ride Sub-Section Condition Index, the Carriageway Average Sub-Section Condition Index, the Carriageway Average Surface Sub-Section Condition Index, the Carriageway Average Structural Sub-Section Condition Index, the Carriageway Overall Section Condition Index, the Carriageway Section Condition Index, the Carriageway Structural Section Condition Index, the Carriageway Surface Section Condition Index, the Deflection Condition Index, the Deflection Average Sub-Section Condition Index, the Skid Risk Score, the Wheel Track Rutting depth, the CCI_{link} , the CCI_{local} , the CCI_{prim} and the CCI_{sec} ;

"Carriageway Hierarchical Type" means one of the following: Primary Road, Secondary Road, Link Road or Local Access Road;

"Carriageway Overall Section Condition Index" means the Carriageway Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the overall condition of the Carriageway;

"Carriageway Section Condition Index" means the Condition Index Value obtained through the appropriate combination of the Average Carriageway Sub-Section Condition Indices, as set out in Table 4.10 of the Technical Specification Document;

"Carriageway Structural Section Condition Index" means the Carriageway Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the structural integrity of the Carriageway;

"Carriageway Surface Section Condition Index" means the Carriageway Section Condition Index, as calculated within the Sheffield Performance Model, reflecting the surface condition of the Carriageway;

"Carriageways and Footways Carbon Model Target" means the forecast target in relation to carbon production in the delivery of the Services in relation to Carriageways and Footways, as set out by the Service Provider in the Original Populated Carbon Models or the Updated Populated Carbon Models (as applicable) for each Contract Year;

"Catalogue of Rates" or **"Catalogue"** means the Catalogue of Rates attached as Appendix 1 Part A to Schedule 7 (*Non-Core Services*);

"Catchpit" means a chamber constructed as part of a drainage system designed to intercept waterborne solids and so prevent blockage;

"Category 1 Defect" means any fault or defect in or on the Project Network that requires prompt attention because it represents a potential hazard or because there is a risk of short term structural deterioration of a Project Network Part or Project Network Parts;

"CCI_{link}" means the Carriageway Condition Index as calculated within the Sheffield Performance Model, for the whole Link Road Network or Link Road Network within a Community Assembly Area as defined within the Network Model;

"CCI_{local}" means the Carriageway Condition Index as calculated within the Sheffield Performance model, for the whole Local Road Network or Local Roads within a Community Assembly Area as defined within the Network Model;

"CCI_{prim}" means the Carriageway Condition Index as calculated within the Sheffield Performance Model, for the whole Primary Road Network or Primary Roads within a Community Assembly Area as defined within the Network Model;

"CCI_{sec}" means the Carriageway Condition Index as calculated within the Sheffield Performance Model, for the whole Secondary Road Network or Secondary Roads within a Community Assembly Area as defined within the Network Model;

"CDM Regulations" means the Construction (Design and Management) Regulations 2007 together with any Approved Code of Practice issued in connection therewith as amended from time to time;

"Certificate of Acceptance" means the certificate issued when a design of a Non-Core Scheme has been checked and it complies with design standards as referred to in the Method Statements including Method Statement 11;

"Certificate of Compliance" means a document in the form set out at Part 4 of Schedule 37 (*Inspection and Certification Proformas*) completed and signed by the Service Provider or the Independent Certifier (as applicable in accordance with Clause 29.7), to certify that:

- (a) all relevant CIP Certified Apparatus and Partially Compliant Street Lighting which are required to be Removed pursuant to the Core Investment Period Programme has been Removed in accordance with the relevant Investment Programmes, all relevant requirements of the Method Statements and the Output Specification, as set out in the checklist at Part 4 of Schedule 37 (*Inspection and Certification Proformas*); and
- (b) all relevant Replacement CIP Certified Apparatus which are required to be installed pursuant to the Core Investment Period Programme has been installed in accordance with the relevant Investment Programmes, and that the relevant Replacement CIP Certified Apparatus and the Partially Compliant Street Lighting is in accordance with all relevant requirements of the Method Statements and the Output Specification, as set out in the checklist at Part 4 of Schedule 37 (*Inspection and Certification Proformas*),

(as applicable), and the terms **"Certified"** and **"Certification"** shall be construed accordingly;

"Certificate of Non Acceptance" means the certificate issued when a design of a Non-Core Scheme has been checked and it does not comply with design standards as identified in the Method Statements including Method Statement 11;

"Certification Notice" shall have the meaning given in Clause 29.7.4 (*Certification of Removal*);

"Certification Sampling Month" shall have the meaning given in Clause 29.7.9.1 (*Certification*);

"Certifying Month" shall have the meaning given in Clause 29.7.9 (*Certification*);

"Cessation Date" shall have the meaning given to it in Clause 70.4.1 (*Alternative Pension Scheme*);

"Change Advisory Board" means the Authority's board convened to assess and control the implementation of ICT changes;

"Change in Highway Standards" means:

- (a) a change in the method in which the Service Provider is complying with any of the Highway Standards in accordance with a notification made by the Authority to change such method pursuant to Clause 54.2 or 54.4 (as applicable) (*Change in Highway Standards*), or
- (b) a change in any of the Highway Standards, whether by way of amendment, replacement, withdrawal, revocation or the publication of additional Highway Standards coming into effect after the date of this Contract that was not reasonably foreseeable to the highways maintenance industry at the date of this Contract and which have a retroactive effect (being an effect that results in the requirement to replace Project Network Parts that would not otherwise require such replacement from the date of the Change in Highway Standards until the Expiry Date in order for the Service Provider to comply with the Output Specification but for the change in Highway Standards);

"Change in Law" means the coming into effect after the date of this Contract of:

- (a) Legislation, other than any Legislation which on the date of this Contract has been published:
 - (i) in a draft Bill as part of a Government Departmental Consultation Paper;
 - (ii) in a Bill;
 - (iii) in a draft statutory instrument; or
 - (iv) as a proposal in the Official Journal of the European Union;
- (b) any Guidance; or
- (c) any applicable judgment of a relevant court of law which changes a binding precedent;

"Change in Ownership" means:

- (a) any sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares in a corporation (including the control over the exercise of voting rights conferred on those shares or the control over the right to appoint or remove directors);
- (b) any arrangements which have or may have the effect of a sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares in a corporation (including the control over the exercise of voting rights conferred on those shares or the control over the right to appoint or remove directors); and/or

(c) any other arrangements that have or may have or which result in the same effect as Paragraphs (a) and (b) above;

"Change Protocol" shall mean the protocol set out at Schedule 18 (*Change Protocol*);

"Channel Block" means an edge delineation comprising precast concrete or natural stone blocks located within the Carriageway or the Footway within the Project Network;

"Chapter 8 Traffic Safety Measures and Signs for Road Works and Temporary Situations" means the document with such title issued by the Department for Transport, as updated or replaced from time to time;

"Characteristic SCRIM Coefficient" or "CSC" means the Characteristic SCRIM Coefficient calculated in accordance with HD 28/04, as determined from the SCRIM Survey, after the results have been seasonally adjusted;

"Chartered Institute of Arbitrators" means such body or any successor body;

"Chartered Institute of Waste Management" ("CIWM") means the body with such title responsible for representing waste and resource professionals working in the sustainable waste and resource management sectors worldwide, or any replacement or successor body;

"Chartered Institute of Waste Management Special Interest Group on Cleansing" means the body with such title responsible for waste collection, recycling and environmental cleansing, or any replacement or successor body;

"CIP Certified Apparatus" means the CIP Certified Street Lighting and the CIP Certified TSCI;

"CIP Certified Street Lighting" means the Street Lighting which is not Compliant Street Lighting or Agreed Non-Compliant Street Lighting, which are to be Removed in order to comply with Service Standard 4 of the Output Specification and are to be Certified pursuant to Clause 29 (*Certification*);

"CIP Certified TSCI" means the Traffic Signal/Control Infrastructure (or components thereof) which are to be Removed in order to comply with Service Standard 5 of the Output Specification and are to be Certified by the Independent Certifier pursuant to Clause 29 (*Certification*);

"CIP Long Stop Date" shall be the date falling two (2) years after the Planned CIP Completion Date;

"CIPFA" means the Chartered Institute of Public Finance and Accountancy;

"CIPFA Code of Practice on Transport Infrastructure Assets" means the document with such title issued by CIPFA, as amended or replaced from time to time;

"CIS Scheme" shall have the meaning given to it in Clause 63.1 (*Sub-Contractors in the Construction Industry Scheme*);

"City Centre" means the City Centre Platinum Highway, City Centre Gold Highway, City Centre Silver Highway, City Centre Bronze Highway and City Centre Copper Highway;

"City Centre Bronze Highway" means:

- (a) any RSL or FSL in the Highway or any specific area shown as Bronze on the "Map of City Centre Priority Zones" set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional RSLs, FSLs or specific area identified as "Bronze" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"City Centre Copper Highway" means:

- (a) any RSL or FSL in the Highway or any specific area shown as Copper on the "Map of City Centre Priority Zones" set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional RSLs, FSLs or specific area identified as "Copper" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"City Centre Gold Highway" means:

- (a) any RSL or FSL in the Highway or any specific area shown as Gold on the " Map of City Centre Priority Zones" set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional RSLs, FSLs or specific area identified as "Gold" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"City Centre Management Team" means the department within the Authority with such name which has been established to manage activities within the City Centre;

"City Centre Platinum Highway" means:

- (a) any RSL or FSL in the Highway or any specific area shown as Platinum on the "Map of City Centre Priority Zones" set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional RSLs, FSLs or specific area identified as "Platinum" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"City Centre Silver Highway" means:

- (a) any RSL or FSL in the Highway or any specific area shown as Silver on the "Map of City Centre Priority Zones" set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional RSLs, FSLs or specific area identified as "Silver" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Civil Procedure Rules" means the Civil Procedure Rules 1998 (SI 1998/3132) as amended or replaced;

"Claim" means any claim, demand, proceedings or liability;

"Claimant" shall mean any person bringing a Highway Claim;

"Clause 8 Structures" means the Structures (Type 1), and the Structures (Type 2) excluding Retaining Walls (Type 2);

"Clean" means that the Project Network Part in whole or in part is not dirty to the extent that it would Detract From The Visual Appearance or the performance of the Project Network Part;

"Cleansing Hotspots" means Cleansing Hotspots (Type 1), Cleansing Hotspots (Type 2), Cleansing Hotspots (Type 3), or any of them;

"Cleansing Hotspot (Type 1)" means:

- (a) any location on the Project Network or on Other Designated Land designated as a 'Cleansing Hotspot (Type 1)' as set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such cleansing hotspots identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Cleansing Hotspot (Type 2)" means:

- (a) any location on the Project Network or on Other Designated Land designated as a 'Cleansing Hotspot (Type 2)' as set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such cleansing hotspots identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Cleansing Hotspot (Type 3)" means:

- (a) any location on the Project Network or on Other Designated Land designated as a 'Cleansing Hotspot (Type 3)' as set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such cleansing hotspots identified as "(Type 3)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Client" shall have the meaning given to it in Clause 38 (*CDM Regulations*);

"Climate Change Adaptation Plan" ("CCAP") means a the document with such title issued by the Department for Business, Enterprise and Skills, which defines the adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects as referred to in the Method Statements including Method Statement 1.10, as updated or replaced from time to time;

"CMS" means the Service Provider's Central Management System as referred to in the Method Statements including Method Statements 1.10 and 4;

"Code of Practice BS7533" means the British Standards Code of Practice for the construction of pavements;

"Code of Practice for Recording of Underground Apparatus in Streets" means the document with such title published by the Department for Transport, as updated or replaced from time to time;

"Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters" means the document with such title issued by the DfT, as amended or replaced from time to time;

"Code of Practice on Litter and Refuse" means the document with such title issued by the Secretary of State under section 89(7) of the Environmental Protection Act 1990, which sets out practical guidance on the discharge of the duties under section 89(1) and (2) of that Act on local authorities and the Secretary of State to keep clean public highways for which they are responsible, as amended or replaced from time to time;

"Codes of Practice" means all relevant codes of practice, regulations, guidance, directions, British and European Standards and Authority Policies but excluding Legislation and Guidance;

"Collaborative Working Platform" shall have the meaning given to it in Annexure 4 to Service Standard 1 of the Output Specification;

"Colour Luminance Factor" has the meaning given to it in BS 5489-1: 2003;

"Colour Rendering Index (Ra)" means the ability of a Lamp to reproduce the colours of various objects faithfully in comparison with an ideal or natural light source;

"Combined Kerb Drainage Unit" means units, typically made of pre cast concrete, designed to fulfil the functions of both a kerb and a drain;

"Commence" means, in relation to the Winter Maintenance Service, that the Service Provider shall have started to carry out the first action on its Daily Proposed Actions List or Updated Proposed Daily Actions List, as appropriate;

"Commercially Available Software Package" shall have the meaning given to it in Clause 84.6 (*Computer Data*);

"Commercially Sensitive Information" means the sub-set of Confidential Information listed in column 1 of Part 1 (*Commercially Sensitive Contractual Provisions*) and column 1 of Part 2 (*Commercially Sensitive Material*) of Schedule 30 (*Commercially Sensitive Information*) in each case for the period specified in column 2 of Parts 1 and 2 of Schedule 30 (*Commercially Sensitive Information*);

"Communication Grid" means the Service Provider's communication grid required to be prepared by the Service Provider in accordance with Annexure 6 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Communications Group" means the Service Provider's forum for the integrated planning and reviewing of communications, as outlined in Method Statement 1.9;

"Community Assembly" means the assembly established by the Authority for the purposes of certain governance functions in relation to each Community Assembly Area;

"Community Assembly Area" means the area in which each Community Assembly operates, as set out in Schedule 20 (*Project Network Information*);

"Community Assembly Briefing Meeting" means a meeting attended by Members and officers of the Community Assembly together with relevant service representatives to test evidence, discuss issues and recommend solutions;

"Community Assembly Meeting" means a meeting taking place at least quarterly at which Members of the Community Assembly make executive decisions;

"Community Assembly Partner Panel Meeting" means a meeting of the Community Assembly management team and agencies within the Community to identify key projects and issues, to monitor performance and to provide advice;

"Companies Act" means the Companies Act 2006;

"Compensation Date" means either:

- (a) if Clause 80.5.3 (*Retendering Procedure*) applies, the earlier of:
 - (i) the date that the New Contract is entered into; and
 - (ii) the date on which the Authority pays the Adjusted Highest Compliant Tender Price to the Service Provider; or
- (b) if Clause 80.5.4 (*No Retendering Procedure*) applies, the date that the Adjusted Estimated Fair Value of the Contract has been agreed or determined;

"Compensation Event" means:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"**Compensation Regulations**" means the Local Government (Discretionary Payments) Regulations 1996 (as amended from time to time);

"**Compensating Sum**" has the meaning given to it in Clause 60.1 (*Adjustment of payments after taking a Relevant Tax Liability into account*);

"Complainant Behaviour Policy" means the Authority policy entitled 'Policy and Guidance for Staff on Unreasonable and Unreasonably Persistent Complainant Behaviour' as set out in Schedule 29 (*Authority Policies*);

"Complexity" means, in relation to Non-Core Scheme Design Services, the complexity of the services to be carried out in accordance with the parameters for determination of such complexity set out in Appendix 1 Part E to Schedule 7 (*Non-Core Services*);

"Compliant Street Lighting" means a Lighting Unit which is not a Non-Compliant Lighting Unit or an Agreed Non-Compliant Lighting Unit;

"Compliant Tender" means any tender submitted by a Compliant Tenderer that meets the qualification criteria notified under Clause 80.5.3 (*Retendering Procedure*);

"Compliant Tenderer" means a tenderer who is a Suitable Substitute Contractor;

"Composite Index" shall have the meaning given to it in Paragraph 1.3 of Schedule 7 (*Non-Core Services*);

"Condition Index Value" is an index reflecting the condition of the Carriageway or Footway as calculated within the Sheffield Performance Model;

"Condition Indices" means all or any of the Carriageway Condition Index, the Footway Condition Index, the Bridge Condition Index and the Retaining Wall Condition Index;

"Confidential Information" means:

- (a) information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1988; and
- (b) Commercially Sensitive Information;

"Conflict Area" has the meaning given in BS5489-1:2013. The lighting of a Conflict Area shall be undertaken in accordance with the Institution of Lighting Professionals (ILP) Professional Lighting Guide 02 – The Application of Conflict Areas on the Highway;

"Connection" means a connection to the distribution system of a DNO;

"Connections Review" shall have the meaning give to it in Paragraph 1.1 of Schedule 17 (*Original Non-Contestable Works*);

"Conservation Areas" means those areas designated as such by the Authority and set out in Schedule 20 (*Project Network Information*);

"Construction Manager" means the person with responsibility for the construction of a Non Core Scheme as referred to in the Method Statements including Method Statement 11;

"Contaminated Flytipping" means illegally dumped waste on the Project Network and Other Designated Land requiring specialist removal;

"Contestable Works" means the works upon or connections to the distribution system of a DNO which the DNO allows a third party to undertake by reason of its standard licence conditions issued to it by virtue of the Electricity Act 1989 and the Utilities Act 2000 or by any other reason at Law;

"Contingent Funding Liabilities" means the contingent or future liabilities to subscribe for equity or subordinated debt (if any) at the relevant time of:

- (a) the Shareholders; and/or
- (b) the Subordinated Lenders; and/or
- (c) any other parties providing equity or subordinated debt,

owed under the Financing Agreements to the Service Provider, Holdco and/or the Senior Lenders together with, without double counting, any security (by way of letter of credit, guarantee or otherwise) for those liabilities;

"Continuation Notice" shall have the meaning given to it in Clause 76.7 (*Termination by Authority*);

"Contract" has the meaning given to it in Clause 1 (*Interpretation, Construction and Priority of Documents*) of this Contract;

"Contract Identification Protocol" means the Service Provider's code of conduct in relation to the use of branding across the Project, as referred to in the Method Statements including Method Statement 1.9;

"Contract Identification Toolkit" means the suite of tools the Service Provider will provide to support Project staff in achieving a consistent and integrated approach to the use of branding across the Project, as referred to in the Method Statements including Method Statements 1.10 and 6;

"Contract Manager (Commercial Services)" means [REDACTED] of the Authority or such other person as the Authority shall from time to time appoint and notify to the Service Provider in writing;

"Contract Year" means a year commencing on 1 April in each calendar year and expiring on 31 March in the succeeding year provided that the first Contract Year shall commence on the Service Commencement Date and shall expire on the following 31 March and the last Contract Year shall commence on the final 1 April of the Term and shall expire on the earlier of the Expiry Date or Termination Date;

"Control Gear" means the apparatus that operates a Lamp and maintains the appropriate electrical current flow through the Lamp;

"Controlled Pedestrian Crossing" means any pedestrian crossing which is controlled by a Traffic Signal;

"Control of Substances Hazardous to Health" ("COSHH") means the Control of Substances Hazardous to Health Regulations 2002 (SI 2002/2667), as amended or replaced from time to time;

"Convictions" means, other than in relation to minor road traffic offences, any prosecutions, convictions, cautions and binding-over orders which are unspent under the provisions of the Rehabilitation of Offenders Act 1974 and the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975;

"Copper Area" means any area shown as Copper on the "Map of City Centre Non Highway Areas" set out in Schedule 20 (*Project Network Information*);

"Core Carbon Footprint Supply Chain" ("CCFSP") means the Service Provider's supply chain which are within the Carbon Model scope pursuant to Schedule 40 (*Carbon Model*) and as referred to in the Method Statements including Method Statement 1.10;

"Core Cities" means Birmingham, Bristol, Leeds, Liverpool, Manchester, Newcastle, Nottingham and Sheffield;

"Core Investment Period" or **"CIP"** means the period commencing on the Service Commencement Date and ending on the Planned CIP Completion Date or as such period is extended in accordance with the terms of this Contract;

"Core Investment Period Programme" or **"CIPP"** means the initial intensive programme of the Services developed in accordance with Clause 20.2 (*The Core Investment Period Programme*) and set out in Schedule 25 (*Investment Programmes*), as may be amended in accordance with Clause 22.1 (*Amendment of Investment Programmes*) and the Review Procedure;

"Corporate Travel Plan" means a package of measures produced by employers to encourage staff to use alternatives to single-occupancy car-use as referred to in the Method Statements including Method Statement 1.10;

"Correction" shall have the meaning given to it in Clause 56.6 (*Response to Payment Report*);

"Cost Base" means the aggregate of any estimated revised capital construction costs, operating costs, energy costs and financing costs;

"Credit Agreement" means the credit agreement dated 14 December 2016 between the Service Provider, Holdco, the financial institutions named therein as Mandated Lead Arrangers, the financial institutions named therein as the Original Lenders, and the facility agent and security trustee for the finance parties, as amended, novated, supplemented, extended, restated, replaced or re-enacted from time to time;

"Critical Path" means the sequence the activities must be undertaken to deliver a Non-Core Scheme as referred to in the Method Statements including Method Statement 11;

"CRM Solution" means a customer relationship management solution providing a number of access channels, including in person, telephone, web and short messaging service, to the Authority's customers;

"CSS" means the organisation formerly known as the County Surveyors' Society;

"CSS Bridge Condition Indicators - Commission Report" means the document with such title issued by the CSS, as amended or replaced by ADEPT from time to time;

"CSS Guidance Documents" means any guidance document issued from time to time in respect of highways maintenance by the CSS, as amended or replaced by ADEPT from time to time;

"Culvert (Type 1)" means:

- (a) an enclosed conduit under a Highway on the Project Network to convey water across the Highway identified as a Culvert (Type 1) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional culverts identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional culverts identified as "(Type 1)" installed by the Service Provider as a result of compliance with the Output Specification;

"Culvert (Type 2)" means:

- (a) an enclosed conduit under a Highway on the Project Network to convey water across the Highway identified as a Culvert (Type 2) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional culverts identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional culverts identified as "(Type 2)" installed by the Service Provider as a result of compliance with the Output Specification;

"Culvert (Type 3)" means:

- (a) an enclosed conduit under a Highway on the Project Network to convey water across the Highway identified as a Culvert (Type 3) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional culverts identified as "(Type 3)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional culverts identified as "(Type 3)" installed by the Service Provider as a result of compliance with the Output Specification;

"Cumulative Capital Expenditure" means the aggregate of:

- (a) all Capital Expenditure that has been incurred as a result of each General Change in Law that has come into effect during the Service Period; and
- (b) the amount of Capital Expenditure that is agreed, or determined to be required, as a result of a General Change in Law under Clause 53.2 (*Qualifying Change in Law - Notification Procedure*);

"Custodian" means NCC Services Limited (company registration number 03081952) whose registered office is at Manchester Technology Centre, Oxford Road, Manchester M1 7EF or any new custodian jointly appointed by the Service Provider and the Authority pursuant to this Contract from time to time using the Custody Agreement;

"Custody Agreement" means the agreement to be entered into between the Authority, the Service Provider and the Custodian in respect of the safe custody of the Base Case, the agreed form of which is set out in Annexure 5 (*Form of Custody Agreement*);

"Customer Care Management Sub-System" means an electronic database for recording information in relation to the Service Provider's contact with customers, including members of the public and all other persons, bodies or organisations, in accordance with Annexure 4 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Customer Care Team" means the Service Provider's team of staff who deal with customer interaction as referred to in the Method Statements including Method Statements 1.8 and 1.9;

"Customer Complaints Procedure" means the Authority's Customer Complaints Procedure;

"Customer Contact Card" means a card issued to anyone approaching Service Provider with details of a fault report, complaint or request for information and/or action in relation to the delivery of the Services as referred to in the Method Statements including Method Statements 1.8, 1.9 and 1.15;

"Customer First Service" means the Authority's customer service centre which receives all forms of communications (including verbal, written and text) from members of the public;

"Customer First Service Script" means a document produced by the Service Provider pursuant to Service Standard 1 of the Output Specification, and for which Authority Approval has been obtained, to be provided to the Customer First Service to enable the Customer First Service agents to ask a

member of the public appropriate questions in order to obtain sufficient information to allow the Service Provider to respond appropriately;

"Customer Satisfaction Survey" means a survey of members of the public (including residents of Sheffield) in accordance with Schedule 33 (*Best Value*);

"Customer Satisfaction Survey Date" means September 2013 and every anniversary thereof;

"Cut or Screened Legends" means legends or diagrams mounted on Traffic Signs or Street Name Plates produced by a cutting or screening process;

"Cuttings" means earthworks so formed on the Project Network to carry the Highway below the adjacent ground level;

"CVI Re-Survey" shall have the meaning given to it in Clause 27.10.8.1 (*CVI Surveys*);

"CVI Re-Survey Audit" shall have the meaning given to it in Clause 27.10.8.2 (*CVI Surveys*);

"CVI Sampling Data" shall have the meaning given to it in Clause 27.10.6.2;

"CVI Sampling Report" shall have the meaning given to it in Clause 27.10.7 (*CVI Surveys*);

"CVI Sampling Week" shall have the meaning given to it in Clause 27.10.6 (*CVI Surveys*);

"CVI Survey" means the coarse visual inspection survey of the Project Network carried out in accordance with Clause 27.10 (*CVI Surveys*);

"CVI Survey Data" shall have the meaning given to it in Clause 27.10.5.2 (*CVI Surveys*);

"CVI Survey Programme" means the annual programme prepared by the Service Provider in accordance with Clause 27.10 (*CVI Surveys*) as set out in Schedule 25 (*Investment Programmes*) in respect of the first Contract Year and as submitted thereafter for each Contract Year in accordance with Clause 27.10.1 in respect of each Contract Year following the first Contract Year;

"CVI Surveyed Carriageway" shall have the meaning given to it in Clause 27.10.4 (*CVI Surveys*);

"CVI Surveying Week" shall have the meaning given to it in Clause 27.10.5 (*CVI Surveys*);

"Cycle Barrier" means any cycle barrier on the Project Network designed to restrict access for bicycles and motorcycles, including the Cycle Barriers identified in Schedule 20 (*Project Network Information*);

"Cycle Lane" means part of the Highway on the Carriageway which is laid out specifically for bicycles within the Project Network and which is part of a Road Section Length;

"Cycle Path" means that part of the Highway, not part of the Carriageway, which is laid out specifically for bicycles within the Project Network which is not part of a Road Section Length, but may be shared with pedestrians;

"Cycle Stand" means any cycle stand on the Project Network designed for the parking of bicycles and motorcycles, including the Cycle Stands identified in Schedule 20 (*Project Network Information*);

"Cycle Way" means part of the Highway adjacent to the Carriageway which is laid out specifically for bicycles within the Project Network and which is alongside a Road Section Length;

"Daily Actions Report" means a report setting out those Winter Maintenance Service Operations which have been carried out by the Service Provider in the twenty-four (24) hour period from 07:00 on the previous day to 07:00 on the day that the Daily Actions Report is to be submitted, and providing details including:

- (a) the time that Winter Maintenance Service Operations were carried out;
- (b) the reason why the decision to carry out Winter Maintenance Service Operations was made; and,
- (c) if applicable, the Priority Carriageway Routes, Priority Pedestrian Routes, and Carriageways and Pedestrian Routes not on the Priority Network which were treated, the times of such treatment, and quantities of those anti-icing products used in such treatments,

to be prepared by the Service Provider pursuant to Performance Requirement 7.48 of Service Standard 7 of Schedule 2 (*Output Specification*);

"Daily Proposed Actions List" means the list to be prepared by the Service Provider pursuant to Performance Requirement 7.10(a) of Service Standard 7 of Schedule 2 (*Output Specification*);

"Data" means all or any information, bespoke software, results, diagrams, schematics, formulae and any other form of information (whether recorded in writing, in electronic or electromagnetic form or otherwise) created or developed by the Service Provider or any Service Provider Party in the course of this Contract and for the purpose of providing the Services;

"Day Works Rates" means the rates set out as Appendix 1 Part D to Schedule 7 (*Non-Core Services*);

"**DDA**" means the Disability Discrimination Act 1995;

"**De-Accrual Calculation Values**" shall have the meaning given to it in Paragraph 2.6.4 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"**De-Accrual Cap**" shall have the meaning given to it in Paragraph 6.1.2 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"**De-Accrual Date**" shall have the meaning given to it in Paragraph 4.1.3 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"**De-Accrual Unit Cost of Intervention**" shall have the meaning given to it in Paragraph 5.2 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"**De-Accrual Value**" means the pre-estimate of the reduction in costs to the Service Provider or Service Provider Party of not being required to maintain a particular Project Network Part in accordance with this Contract, as calculated in accordance with Paragraph 5.2 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"**De-Accrued**" means, when applied to any Project Network Part, a Project Network Part which is no longer the responsibility of the Service Provider pursuant to this Contract by reason of an Authority Change under Schedule 18 (*Change Protocol*) and/or the application to the provisions of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*), and the term **De-Accrual** shall be construed accordingly;

"**Debris**" means any material deposits on the Project Network, excluding Litter and Detritus, but including material affecting the flow of water through or under a Structure (Type 1), Structure (Type 2) or Culvert (Type 3);

"**Deemed Liability**" means an Actual Liability which would have arisen but for the utilisation of a Relief other than a Relevant Relief;

"**Deemed New Contract**" means an agreement on the same terms and conditions as this Contract, as at the Termination Date, but with the following amendments:

- (a) if this Contract is terminated prior to the completion of the Core Investment Period Programme, then the Core Investment Period and the date for completion of any applicable Milestones shall be extended by a period to allow a New Service Provider to achieve completion of the Core Investment Period Programme and any applicable Milestones;

- (b) any accrued Milestone Default Termination Points and/or accrued Performance Adjustments pursuant to the provisions of Schedule 4 (*Payment Mechanism*) and/or any formal warning notices and/or final warning notices shall, for the purposes of termination only, and without prejudice to the rights of the Authority to make Adjustments, be cancelled;
- (c) the term of such agreement shall be for a period equal to the term from the Termination Date to the Expiry Date;

"Default Interest" means any increased margin that is payable to the Senior Lenders or which accrues as a result of any payment due to the Senior Lenders not being made on the date on which it is due;

"Defect Response Matrix" means the Service Provider's document which outlines the response to particular defects, including response times and responsible Personnel;

"Defined Business Process" means the processes and rules developed by the Service Provider for each Service Area and which includes:

- (a) rules to determine the priority/urgency classification of a service request;
- (b) taxonomy of all service requests types and sub-types and any rules associated with this classification;
- (c) attributes applicable to all service requests (for example customer identification reference, date logged etc);
- (d) attributes specific to category of service requests (for example pothole depth, tree type etc);
- (e) detailed data rules for optional attributes that define when these apply and should be sent;
- (f) timescales for dealing with each element of any service request; and
- (g) identification of any documents associated with a class or sub-class of service request;

"Deflection Average Sub-Section Condition Index" means the Carriageway Average Sub-Section Condition Index achieved in respect of Carriageways, which are surveyed via Deflectograph Surveys, as calculated within the Sheffield Performance Model;

"Deflection Condition Index" means the index achieved in respect of Carriageways, which are surveyed via Deflectograph Surveys, as calculated within the Sheffield Performance Model;

"Deflectograph Category" means the element of the Primary and Secondary Road Networks used for the calculation of the Deflection Condition Index as set out in the Technical Specification Document and defined in the Network Model;

"Deflectograph Rectification Programme" shall have the meaning given to it in Clause 27.13.7.1 (*Deflectograph Surveys*);

"Deflectograph Survey" means the survey of the Primary Road Network and Secondary Road Network carried out using a deflectograph device in accordance with Clause 27.13 (*Deflectograph Surveys*);

"Deflectograph Survey Calculation Date" shall have the meaning given to it in Clause 27.13.7 (*Deflectograph Surveys*);

"Deflectograph Survey Data" shall have the meaning given to it in Clause 27.13.6 (*Deflectograph Surveys*);

"Deflectograph Survey Programme" means the annual programme prepared by the Service Provider in accordance with Clause 27.13 (*Deflectograph Surveys*) as set out in Schedule 25 (*Investment Programmes*) in respect of the first Contract Year and as submitted thereafter for each Contract Year in accordance with Clause 27.13.1 in respect of each Contract Year following the first Contract Year;

"Delegated Obligations" means the obligations owed to Third Parties under the Third Party Agreements other than Retained Obligations which are listed as being assigned or assignable to the Service Provider under the terms of Part 1 of Schedule 23 (*Third Party Agreements*);

"Delegated Rights" means the rights in respect of obligations owed to the Authority by Third Parties under the Third Party Agreements which are listed as being assigned or assignable to the Service Provider under the terms of Part 1 of Schedule 23 (*Third Party Agreements*);

"Department for Transport" or **"DfT"** shall mean the United Kingdom Department for Transport, or any successor body;

"Departure from Standards" has the meaning given to it in Highways Agency Standard BD2;

"Design Conditions" shall have the meaning given to it in Paragraph 4.4 of Schedule 7 (*Non-Core Services*);

"Design Instruction" means the instruction of the Authority to carry out the Non-Core Scheme Design Services as set out in Paragraph 4.4.7 of Schedule 7 (*Non-Core Services*);

"Design Leader" means the person with responsibility for the design of a Non-Core Scheme as referred to in the Method Statements including Method Statement 11;

"Design Quality Plan" means a quality plan to be submitted by the Service Provider pursuant to Clause 35 (*Quality Management*) in relation to the design of Project Network Parts;

"Design Scope" shall have the meaning given to it in Paragraph 4.2 of Schedule 7 (*Non-Core Services*);

"Designated Sites" means areas which have been given national and international statutory designations protecting England's natural environment as referred to in the Method Statements including Method Statement 1.10;

"Design Variation Approval" shall have the meaning given to it in Paragraph 7.3.2 of Schedule 21 (*Review Procedure*);

"Design Variation Request" shall have the meaning given to it in Paragraph 7.1 of Schedule 21 (*Review Procedure*);

"Detector Equipment" means any equipment used in connection with devices in or above the Carriageway that detect the movement of vehicles, including without limitation Loop Detectors;

"Detract From The Visual Appearance" means the visual appearance of the Project Network Part does, or would (on the balance of probabilities) detract from the public's aesthetic appreciation of the Project Network Part in whole or in part;

"Detrimental" means, in relation to a Project Network Part, that an issue with such Project Network Part is, or would (on the balance of probabilities) be likely to be, detrimental to the relevant condition or performance of such Project Network Part or to the condition or safety of any Other Designated Land or Third Party property (as appropriate), by reference to any period of time in which it is envisaged that such an issue could arise, in the opinion of a competent highway/structural engineer or inspector (acting reasonably);

"Detritus" shall have the meaning given to it in paragraph 5.5 of the Code of Practice on Litter and Refuse;

"Disability and Mobility Guidance Documents" means the documents entitled "Inclusive Mobility" and "Guidance on the Use of Tactile Paving Surfaces" issued by the DfT, and any documents identified as "Policy Statements" issued by the Joint Committee on Mobility of Blind and Partially Sighted People;

"Disability Glare" means the reduction in contrast between objects and their background so that their visibility is decreased;

"Disclosed Information" means all and any materials, documents, drawings, plans or other information relating in any way to the Project made available by the Authority or its agents in connection with the negotiation and preparation of this Contract (and during the procurement process which preceded such negotiation and preparation) whether provided in writing, orally, or by any other means including electronically, including all such materials, documents, drawings, plans, models or other information provided in connection with pre-qualification for that process;

"Discriminatory Change in Law" means a Change in Law, the terms of which apply expressly to:

- (a) the Project and not to similar projects procured under the PFI;
- (b) the Service Provider and not to other persons; and/or
- (c) PFI contractors and not to other persons;

"Dispute" means any difference or dispute between the Authority and the Service Provider arising out of or in connection with the Contract (including any question as to the validity or interpretation of the Contract and including any dispute arising before or after termination of the Contract or any failure by either Party to perform their obligations pursuant to the Contract);

"Dispute Resolution Procedure" means the procedures set out in Clause 82 (*Dispute Resolution*);

"Disputed Amount" shall have the meaning given to it in Clause 56.8 (*Disputed Amounts*);

"Distribution" means:

- (a) whether in cash or in kind, any:
 - (i) dividend or other distribution in respect of share capital;
 - (ii) reduction of capital, redemption or purchase of shares or any other reorganisation or variation to share capital;

- (iii) payments under the Subordinated Financing Agreements (whether of principal, interest, breakage costs or otherwise);
 - (iv) payment, loan, contractual arrangement or transfer of assets or rights to the extent (in each case) it was put in place after Financial Close and was neither in the ordinary course of business nor on reasonable commercial terms; or
 - (v) the receipt of any other benefit which is not received in the ordinary course of business and on reasonable commercial terms; or
- (b) the early release of any Contingent Funding Liabilities, the amount of such release being deemed to be a gain for the purposes of any calculation of Refinancing Gain;

"Diversity and Equality Policy" means the policy produced by the Service Provider under the provisions of Clause 36.8 (*Diversity and Equality Policy*) and as set out at Schedule 22 (*Workforce Policies, Health and Safety Manual and Quality Plans*);

"DMRB" means any and all volumes of the Design Manual for Roads and Bridges as amended or replaced from time to time;

"DMRB HD26" means the Highway Design Note from DMRB Volume 2 Section 2 Part 3 relating to Pavement Design, as amended or replaced from time to time;

"DMRB HD29" means the Highway Design Note from DMRB Volume 7 Section 3 Part 2 relating to Data for Pavement Assessments, as amended or replaced from time to time;

"DMRB HD39" means the Highway Design Note from DMRB Volume 7 Section 2 Part 5 relating to Footway Design, as amended or replaced from time to time;

"DNO" means a distribution network operator within the meaning of Part 1 of the Electricity Act 1989 as amended by the Utilities Act 2000;

"Domain" means the boundary of the information technology that is provided by the Service Provider to deliver the Management Information System, being any information technology that is under the ownership of the Service Provider or a Service Provider Party to support the Management Information System, including all infrastructure, information, applications, application hosting and local and wide area networks;

"Down Time" shall have the meaning given to it in ITIL;

"DPA" means the Data Protection Act 1998;

"Draft Monthly Payment Report" means the draft report the Service Provider shall prepare and deliver to the Authority for each Month in an Agreed Form containing the information required to enable the calculation of the Monthly Payment, and including the content required pursuant to Clause 56.4 (*Draft Monthly Payment Report*);

"Drainage Improvement Site" means a site which is prone to regular flooding as set out in Schedule 20 (*Project Network Information*);

"Drainage Structure" means

- (a) any drainage structure identified as a Drainage Structure in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional drainage structures installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional drainage structures installed by the Service Provider as a result of compliance with the Output Specification;

"Drainage System" means the system for preventing the accumulation of water on paved surfaces and minimising water damage to the structure of the Highway by the interception, collection, transportation and disposal of water from the Highway to enable water to be moved from the paved areas and prevent pollution from Highway drainage affecting water courses and includes:

- (a) Gullies and connecting pipes between gullies and main drains;
- (b) manholes, Catchpits, inspection chambers, Access Chambers and the like;
- (c) Combined Kerb Drainage Units;
- (d) Highway Culverts (excluding Culverts (Type 1), Culverts (Type 2) and Culverts (Type 3));
- (e) Highway surface water drains, including French Drains, which are not maintainable by a Statutory Undertaker;
- (f) outfalls; and
- (g) preformed drainage channels including covers where appropriate;

and for the avoidance of doubt, shall not include main drains which are maintainable by a Statutory Undertaker;

"Drawdown Factor" means [REDACTED];

"DLR Inventory of Road Lighting Stock" means the document produced by the United Kingdom Department of Transport, Local Government and Regions entitled the Inventory of Road Lighting Stock, as amended or replaced from time to time;

"Duty General Electrician" means the Service Provider's suitably trained and competent electrical operative who is available to attend to Highway Emergencies and Urgent Defects twenty four (24) hours a day for each day of the Term, as referred to in the Method Statements including Method Statements 1.1, 1.2 and 1.3;

"Duty Officer" means the Service Provider's employee supporting the OCR and ISU teams in the delivery of the Highway Emergency and Urgent Defect Services as referred to in the Method Statements including Method Statements 1.1, 1.2 and 1.3;

"E3 Environmental Zone Obstructive Light Limitations" means the obtrusive light limitations as detailed in the Guidance Notes For The Reduction Of Obtrusive Light;

"EAC" means the estimated rate of electricity consumption expressed in kWh/year of the Powered Apparatus;

"Early Life Skid Resistance" means the skid resistance of a new asphalt surfacing in the initial period after laying;

"Earthwork" means any man-made alteration to the ground level within the Highway which is not an Embankment or a Cutting;

"Eco-Management and Audit Scheme" ("EMAS") means the management tool which the Service Provider will use to evaluate, report and improve environmental performance of the Project as referred to in the Method Statements including Method Statement 1.10;

"Edging" means an edge delineation made from precast concrete, natural stone or timber usually located between the Footway and the Verge or Landscaped Area within the Project Network;

"Effective Date" shall have the meaning given to it in Clause 64.2.2 (*Revisions to the Base Case*);

"Electricity Consumption Report" shall have the meaning given to it in Paragraph 3.1 of Schedule 9 (*Electricity Market Test*);

"Electricity Contract" means a contract for the continuous supply of electricity to the Powered Apparatus entered into by the Service Provider or the Authority (as the case may be);

"Electricity Costs" means the cost of electricity supplying the Powered Apparatus for the purposes of this Contract and payable under an Electricity Contract or otherwise (including all fixed and standing charges, all associated metering and data management charges, the climate change levy (and any replacement levy or charge) and any premium charged for any specific terms and conditions related to the supply of electricity to the Powered Apparatus);

"Electricity Market Test" shall mean the competitive tender process to be conducted in accordance with Schedule 9 (*Electricity Market Test*), by which the Parties shall determine the price, terms and conditions of an electricity contract in the open market;

"Electricity Market Test Date" means the date agreed between the Parties and recorded in the Electricity Market Test Proposal which shall not be later than the date fifteen (15) weeks prior to the Supply End Date unless determined otherwise pursuant to the Dispute Resolution Procedure;

"Electricity Market Test Proposal" shall have the meaning given to it in Paragraph 2.6 of Schedule 9 (*Electricity Market Test*);

"Electronic Communication" means any forms of communication capable of being received by electronic methods including e-mails, facsimilies and e-forms;

"ELEXON Limited" means the body with such title, or any replacement or successor body responsible for defining the rules and governance for the balancing mechanism and imbalance settlement processes of electricity in Great Britain;

"Eligible Pension Scheme Employee" shall have the meaning given to it in Clause 70.1 (*Membership of the Pension Scheme*);

"Embankments" means earthworks so formed on the Project Network as to support the Highway above the adjacent ground level;

"Emergency" means any:

- (a) event or circumstance which gives rise to the involvement of the Emergency Services; or

(b) fire, flood, serious criminal act or other act which creates an immediate risk to public health and/or safety,

which may where the circumstances so dictate also constitute a Major Emergency;

"Emergency Communications Protocol" means the Service Provider's defined approach to communicating with stakeholders during and following an Emergency, as outlined in the Annual Highway Emergency Plan;

"Emergency Inspection Services" shall have the meaning given in paragraph 2.8 of Schedule 7 (*Non-Core Services*);

"Emergency Plan" means the emergency plan developed and updated by the Authority as notified to the Service Provider from time to time;

"Emergency Preparedness and Response Procedure" means a written procedure developed by the Service Provider which will deal with accidents, spills and fires at the Service Provider Depots, as referred to in the Method Statements including Method Statement 1.10;

"Emergency Services" means the police, fire and ambulance services;

"Employer Contribution Rate" means the percentage of an Eligible Pension Scheme Employee's wage which the Service Provider or a relevant Sub-contractor is liable to pay to the Administering Authority in relation to membership of the Local Government Pension Scheme (including any additional payments required by the Administering Authority in respect of early payment of a pension or enhancement of the benefits of an Eligible Pension Scheme Employee) calculated on a pooled basis as follows:

$$\frac{\text{Service Provider and each Sub Contractor}}{\sum} (\text{Employer Contributions} \times \text{Eligible Pension Scheme Employees Wage})$$

Total Eligible Pension Scheme Employees Wage

calculated as percentage rate and calculated to the nearest 0.01 percent;

"Endorsement 1" shall have the meaning given to it in Part 2 of Schedule 6 (*Insurance*);

"Endorsement 2" shall have the meaning given to it in Part 2 of Schedule 6 (*Insurance*);

"Enforcement Action" means any of the following:

- (a) a warning;
- (b) a caution;
- (c) a prosecution under the Highways Act and Town and Country Planning Act 1990;
- (d) an anti-social behaviour order as permitted by section 1 of the Crime and Disorder Act 1998 (extended by the Police Reform Act 2002)
- (e) an injunction;
- (f) or any other action;

"ENG 03/05" means the document entitled "ENG 03/05 Horses and Highway Surfacing: A guidance note for Highway Authorities" published by the County Surveyors' Society and British Horse Society, as amended or replaced from time to time;

"English Indices of Deprivation" means the document with such title, published by the Department for Communities and Local Government, as amended or replaced from time to time;

"Enhanced FNS Methodology" means the methodology described in the UKPMS Visual Survey Manual (as updated from time to time by the UKPMS Rules and Parameters), and including Sheffield modifications, in relation to the assessment of Kerb defects, as set out in the Technical Specification Document;

"Enhanced Standards" means any standards which exceed the requirements set out in the Output Specification;

"Environmental Action Group" means the group of Service Provider employees which will support the Service Provider's Environmental Manager, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Alert" means a document produced by the Service Provider's Environmental Manager with information on environmental issues which may impact on the Project, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Aspects" means an element of an organisation's activities, products or services that can interact with the environment, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Aspects and Impacts Register" means the register produced by the Service Provider which documents the Project's Environmental Aspects and Impacts, as referred to in the Method Statements including Method Statement 1.10;

"Environmental assessment" means the procedure followed by the Service Provider that ensures that the environmental implications of decisions are taken into account before the decision is implemented, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Awareness Training" means a training session to be undertaken by the Service Provider which enhances the knowledge of the Service Provider's employees and supply chain partners on environmental topics, as referred to in the Method Statements including Method Statement 1.10;

"Environmental briefings" means a communication method used by the Service Provider to provide information, instruction or essential information on the environment to Service Provider's employees or supply chain, as referred to in the Method Statements including Method Statement 1.10;

"Environmental champions" means members of the Service Provider's team who act as points of contact on specific environmental issues, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Impact Assessment" means the Service Provider's assessment of a given site to determine the ecology and biodiversity, as referred to in the Method Statements including Method Statements 1.10 and 6;

"Environmental Impacts" means any change to the environment, whether adverse or beneficial, wholly or partially resulting from the organisation's activities, products or services, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Information Regulations" means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations;

"Environmental Legal Register" means a list of all relevant Legislation and approved codes of practice relating to the Project, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Management System" means a structured framework to help the Service Provider to understand and manage their impacts on the environment, to continually improve environmental

performance (managing negative impacts and helping to increase resource efficiency) and to provide a process through which the Service Provider can engage with employees, customers, clients and other stakeholders;

"Environmental Permits" means a document prepared by the Environment Agency which allows waste to be managed by operators, as referred to in the Method Statements including Method Statement 1.10, as amended or replaced from time to time;

"Environmental Review" means a process wherein the Service Provider reviews the EMS performance against the requirements set out in ISO 14001:2004 section 4.6 Management Review, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Scoping Assessment" means a process which the Service Provider will use to gauge the level of flora and fauna in an area of the Project Network in which the Service Provider is working, as referred to in the Method Statements including Method Statement 1.10;

"Environmental Statement" means a statement produced by the Service Provider which aims to provide environmental information to the public and other interested parties regarding the environmental impact and performance of the Service Provider during the Project, as referred to in the Method Statements including Method Statement 1.10;

"environmental supply chain partnership" means the Service Provider working with its supply chain to assist in achieving cost savings by reducing both waste and the inefficient use of raw materials, packaging, water and energy, as referred to in the Method Statements including Method Statement 1.10;

"Epicormic Growth" means shoots along tree branches, tree trunks, tree buttress roots and from tree roots within 0.5 metres of the trunk or planting pit (whichever is the greater distance) of the relevant Highway Tree;

"Equal Pay Claim" means any claim under the provisions of the Equal Pay Act 1970 or any directly applicable law of the European Union including, for the avoidance of doubt, the Treaty of the European Union;

"Equality and Human Rights Commission" means the public body established by the Equality Act 2006;

"Escrow Account" means the account where the Capital Contribution proceeds will be paid and drawn as required by the project funding requirement;

"ESDAL Management System" means the national Electronic Service Delivery for Abnormal Loads Management System developed by the Highways Agency for the management of Abnormal Loads;

"Estimated Change in Project Costs" means in relation to Clause 47 (*Compensation Events*), Clause 53 (*Change in Law*) and Schedule 18 (*Change Protocol*) the aggregate of any estimated increased construction costs, installation costs, operating costs and financing costs less the aggregate of any estimated reduction in construction costs, installation costs, operating costs and financing costs;

"Estimated Fair Value of the Contract" means the amount determined in accordance with Clause 80.5.3 (*Retendering Procedure*) that a third party would pay to the Authority as the market value of the Deemed New Contract;

"Estimated Latent Defect Direct Costs" means those Latent Defect Direct Costs expected to be reasonably and properly incurred by the Service Provider which arise directly from the occurrence of a Latent Defect pursuant to Clause 8 (*Latent Defects*);

"Estimated Latent Defect Direct Costs Increase Date" shall have the meaning given in Clause 8.5.1.3(a) (*Estimating Costs*);

"euro" or **"€"** means the single or unified European currency (whether known as the "euro" or otherwise) adopted as their lawful currency by certain member states of the European Union in accordance with:

- (a) the Treaty of the European Union; and
- (b) any legislative measures for the introduction of, changeover to or operation of such currency,

being in part the implementation of the third stage of Economic and Monetary Union as contemplated in the Treaty of the European Union;

"Euro 5" means the Euro 5 emissions standard for light duty vehicles as defined within Directive 98/69/EC of the European Parliament and of the Council of 13 October 1998 relating to measures to be taken against air pollution by emissions from motor vehicles and amending Council Directive 70/220/EEC, as amended or replaced from time to time;

"European Eco-Management and Audit Scheme (EMAS)" has the meaning given to it in Council Regulation 761/01;

"European Economic Area" means the area established by the Agreement on the European Economic Area (3.1.1994);

"European Waste Catalogue" means the document issued pursuant to European Legislation pursuant to which a six-figure code which is assigned to all controlled waste, as referred to in the Method Statements including Method Statement 1.10, as amended or replaced from time to time;

"Evaluated Supplier Database" means the Service Provider's database of companies which have been evaluated and accepted as meeting the Service Provider's selection criteria, as referred to in the Method Statements including Method Statements 2, 3 and 4;

"Event Storm" means precipitation with rainwater intensity equal or greater than twenty five (25) millimetres per hour;

"Excess Contribution Rate" shall have the meaning given to it in Clause 70.2A (*Excess Contribution Rate*);

"Excusing Cause" shall mean any of the following events:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

"Executive Director (Place)" means the officer of the Authority holding such title;

"Exempt Refinancing" means:

- (a) any Refinancing that was fully taken into account in the calculation of the Unitary Charge calculated in the Base Case;
- (b) a change in taxation or change in accounting treatment;
- (c) the exercise of rights, waivers, consents and similar actions which relate to day to day administrative and supervisory matters, and which are in respect of:

- (i) breach of representations and warranties or undertakings;
 - (ii) movement of monies between the Project Accounts in accordance with the terms of the Senior Financing Agreements;
 - (iii) late or non-provision of information, consents or licences;
 - (iv) amendments to Sub-Contracts;
 - (v) approval of revised technical and economic assumptions for financial model runs (to the extent required for forecasts under the Financing Agreements);
 - (vi) restrictions imposed by the Senior Lenders on the dates at which the Senior Debt can be advanced to the Service Provider under the Senior Financing Agreements and/or amounts released from the Escrow Account during the Initial Availability Period, each as defined in the Senior Financing Agreements and which are given as a result of any failure by the Service Provider to ensure that work is performed in accordance with the Core Investment Period Programme and which are notified in writing by the Service Provider or the Senior Lenders to the Authority prior to being given;
 - (vii) changes to milestones for drawdown and/or amounts released from the Escrow Account during the Initial Availability Period set out in the Senior Financing Agreements and which are given as a result of any failure by the Service Provider to ensure that work is performed in accordance with the Core Investment Period Programme and which are notified in writing by the Service Provider or the Senior Lenders to the Authority prior to being given;
 - (viii) failure by the Service Provider to obtain any consent by statutory bodies required by the Senior Financing Agreements; or
 - (ix) voting by the Senior Lenders and the voting arrangements between the Senior Lenders in respect of the levels of approval required by them under the Senior Financing Agreements;
- (d) any amendment, variation or supplement of any agreement approved by the Authority as part of any Qualifying Variation under this Agreement;
- (e) any sale of shares in the Service Provider or Holdco by the shareholders or securitisation of the existing rights and/or interests attaching to shares in the Service Provider or Holdco

provided that this paragraph (e) shall, in respect of shares in Holdco, only apply for so long as Holdco holds 100% of the issued share capital of the Service Provider;

- (f) any sale or transfer of the Subordinated Lenders' existing rights and/or interests under the Subordinated Financing Agreements or securitisation of the Subordinated Lenders' existing rights and/or interests under the Subordinated Financing Agreements; or
- (g) any Qualifying Bank Transaction;

"Existing Attachments" means Attachments which:

- (a) exist and are attached to Project Network Parts immediately prior to the Service Commencement Date; and
- (b) are Authority Attachments or Third Party Attachments and maintained by the Authority or the relevant Third Party (or, as applicable, its employees, subcontractors or agents) immediately prior to the Service Commencement Date;

including the Attachments identified in Schedule 20 (*Project Network Information*);

"Existing Attachments Survey" means the survey of Existing Attachments to be carried out by the Service Provider pursuant to Clause 28.9.1 (*Attachments Surveys*);

"Existing Project Network Parts" means the Project Network Parts on the Service Commencement Date;

"Expected Drawdown Figure" means the amount of Senior Debt scheduled in the Base Case (as at the date of Financial Close) to be drawn down by the Service Provider in respect of the relevant Milestone Year pursuant to the Senior Financing Agreements (as at the date of Financial Close) (excluding any amount drawn down for the purpose of funding cost overrun, increased expenses or lost revenue of the Service Provider not envisaged by the Base Case (at the date of Financial Close));

"Expiry Date" means the twenty-fifth (25th) anniversary of the Planned Service Commencement Date;

"External Auditor" means any external auditor of the Authority from time to time;

"Fair Value" means the amount at which an asset or liability could be exchanged in an arms length transaction between informed and willing parties, other than a forced or liquidation sale;

"**FCI_{high}**" means the Footway Condition Index as calculated within the Sheffield Performance Model, for the whole High Usage Footway Network or the High Usage Footway Network within a Community Assembly Area, as defined within the Network Model;

"**FCI_{low}**" means the Footway Condition Index as calculated within the Sheffield Performance Model, for the whole Low Pedestrian Usage Footway Network or the Low Pedestrian Usage Footway Network within a Community Assembly Area, as defined within the Network Model;

"**Fees Regulations**" means The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004;

"**Fellow of the Institute of Actuaries**" shall mean an actuary who has been awarded fellowship status by the Institute of Actuaries;

"**Festive Decorations**" means decorative lighting used or intended for the celebration or enjoyment of religious festivities; or annual or regular displays;

"**Final Employee List**" shall have the meaning given to it in Clause 69.6 (*Final Employee List*) and as set out in Part 3 of Schedule 31 (*Employee Information*);

"**Final Service Inspection**" means the Service Inspection carried out in the twenty fifth (25th) Contract Year;

"**Final Warning Notice**" shall have the meaning given to it in Clause 73.5 (*Persistent Breach*);

"**Financial Close**" means the date the Service Provider notified the Authority that it has received confirmation from the Agent that the initial conditions precedent to the Credit Agreement have been satisfied or waived and the Service Provider draws down its first Utilisation (as defined in the Credit Agreement);

"**Financial Panel**" shall have the meaning given to it in Clause 82.2.1.1 (*Adjudication*);

"**Financial Terms**" means the financial terms set out in the Financing Agreements;

"**Financing Agreements**" means all or any of the agreements or instruments listed in Part 3 of Annexure 2 (*Project Documents, Ancillary Documents and Financing Agreements*) entered into or to be entered into by the Service Provider or any of its Associated Companies relating to the financing of the Project (including the Initial Financing Agreements and any agreements or instruments to be entered into by the Service Provider or any of its Associated Companies relating to the rescheduling of their indebtedness or any Refinancing);

"Financing Default" shall have the meaning given to it in the Senior Financing Agreements;

"Finds" means all fossils, articles of value or antiquity, unexploded ordnance, and structures or other remains (including human remains) or things of significant geological, historical or archaeological interest;

"First Employee List" shall have the meaning given to it in Clause 69.5 (*First Employee List*) and as set out in Part 2 of Schedule 31 (*Employee Information*);

"First Tier Sub-Contract(s)" means the contract(s) entered into between the Service Provider and a First Tier Sub-Contractor to perform part or all of the Service;

"First Tier Sub-Contractor" means Amey LG Limited (registered number 03612746) or such other First Tier Sub-Contractor as the Service Provider may, subject to Clause 85.4.2 (*Exceptions*) appoint to provide all or any of the Service;

"First Tier Sub-Contractor Direct Agreement" means each and any agreement entered into between the Authority, the Service Provider and a First Tier Sub-Contractor in the Agreed Form set out in Annexure 6 (*Form of First Tier Sub-Contractor Direct Agreement*) or substantially in that form or such other form as is agreed between the Parties;

"Five Year Grounds Maintenance Strategy" means the Service Provider's five year landscape management strategy, prepared by the Service Provider in accordance with Annexure 2 to Service Standard 6 of Schedule 2 (*Output Specification*);

"Five Year Tree Management Strategy" means the Service Provider's five year tree management strategy, prepared by the Service Provider in accordance with Annexure 3 to Service Standard 6 of Schedule 2 (*Output Specification*);

"Fixing" means the mechanism by which the Fixture is attached, including clips, clamps, fastenings or ties and, where relevant, may include a Mechanical Fixing;

"Fixture" means an item to be attached to the Project Network Part or other structure by way of a Fixing and which includes where relevant, any electronic cabling and electrical equipment required to operate it (and which may where relevant also comprise Apparatus);

"Fleet Sustainability Plan" means a documented plan which will be used by the Service Provider to reduce the greenhouse gas emissions associated with the Service Provider's fleet, as referred to in the Method Statements including Method Statement 1.10;

"Flight of Steps" means a series of steps forming part of a Footway or Footpath or that link two sections of Footway or Footpath separated by a level difference;

"Flycapture Database" means the national web-based database for England and Wales on which incidences of Flytipping are recorded and which is managed on behalf of the Department for the Environment Food and Rural Affairs by the Environment Agency;

"Flyposting" means the display of advertising material on Project Network Parts without the consent of the Authority;

"Flytipping" means illegally dumped waste, other than Debris or Litter, on the Project Network and Other Designated Land;

"Flytipping Hotspots" means any location on the Project Network or on Other Designated Land prone to regular occurrences of Flytipping as set out in Schedule 20 (*Project Network Information*);

"FOIA" means the Freedom of Information Act 2000 and any subordinate legislation (as defined in Section 84 of the Freedom of Information Act 2000) made under the Freedom of Information Act 2000 from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such Act;

"FOIA Code" shall have the meaning given to it in Clause 90.8 (*FOIA Code*);

"Footbridge (Type 1)" means

- (a) a bridge identified as a Footbridge (Type 1) in Schedule 20 (*Project Network Information*);
and
- (b) shall include any additional footbridges identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Footbridge (Type 2)" means:

- (a) a bridge identified as a Footbridge (Type 2) in Schedule 20 (*Project Network Information*);
and
- (b) shall include any additional footbridges identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to

Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Footbridge (Type 3)" means

- (a) a bridge identified as a Footbridge (Type 3) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional footbridges identified as "(Type 3)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Footpath" means a segregated facility within the Project Network laid out for use by pedestrians that is remote from the Carriageway and does not form part of a Road Section Length;

"Footway" means a segregated facility within the Project Network laid out for use by pedestrians that immediately adjoins a Carriageway and which forms part of a Road Section Length;

"Footway 10m Structural Sub-Section Condition Index" means the average Footway Structural Sub-Section Condition Index over a minimum of 10m, as calculated within the Sheffield Performance Model;

"Footway 50m Overall Sub-Section Condition Index" means the Footway sub-section condition index calculated over 50m or 40% of FSL (whichever is the lesser) within the Sheffield Performance Model, reflecting the overall condition of the Footway;

"Footway Aesthetic Sub-Section Condition Index" means the Footway sub-section condition index, as calculated within the Sheffield Performance Model, reflecting the aesthetic appearance of the Footway;

"Footway Condition Index (FCI)" means the Footway Condition Index as calculated within the Sheffield Performance Model, reflecting the overall condition of the Footway at Footway Hierarchical Type level by Community Assembly Area;

"Footway Condition Indices" means the FCI_{high} , the FCI_{low} , the Footway Overall Sub-Section Condition Index, the Footway Surface Sub-Section Condition Index, the Footway Aesthetic Sub-Section Condition Index, the Footway Structural Sub-Section Condition Index, the Footway 10m Structural Sub-Section Condition Index, the Footway 50m Overall Sub-Section Condition Index; ;

"Footway Hierarchical Type" means a High Usage Footway or Low Usage Footway;

"Footway Network" means the footway network as defined within the Network Model and which is generally referenced by FSL or by the XSP within the RSL and includes Footpaths, Cycle Paths and Cycle Tracks;

"Footway Overall Sub-Section Condition Index" means the Footway sub-section condition index, as calculated within the Sheffield Performance Model, reflecting the overall condition of the Footway;

"Footway Structural Sub-Section Condition Index" means the Footway sub-section condition index, as calculated within the Sheffield Performance Model, reflecting the structural integrity of the Footway;

"Footway Surface Sub-Section Condition Index" means the Footway sub-section condition index, as calculated within the Sheffield Performance Model, reflecting the surface condition of the Footway;

"Footway Re-Survey" shall have the meaning given to it in Clause 27.15.8.1 (*Footway Surveys*);

"Footway Re-Survey Audit" shall have the meaning given to it in Clause 27.15.8.2 (*Footway Surveys*);

"Footway Sampling Data" shall have the meaning given to it in Clause 27.15.6.2 (*Footway Surveys*);

"Footway Sampling Report" shall have the meaning given to it in Clause 27.15.7 (*Footway Surveys*);

"Footway Sampling Week" shall have the meaning given to it in Clause 27.15.6 (*Footway Surveys*);

"Footway Section Length (FSL)" means the length of the Footway by XSP within a RSL and Footpath, Cycle Path or Cycle Way section as defined within the Sheffield Performance Model;

"Footway Survey" means the survey of the Footways within the Project Network carried out in accordance with Clause 27.15 (*Footway Surveys*);

"Footway Survey Data" shall have the meaning given to it in Clause 27.15.5.2 (*Footway Surveys*);

"Footway Survey Programme" means the annual programme prepared by the Service Provider in accordance with Clause 27.15 (*Footway Surveys*) as set out in Schedule 25 (*Investment Programmes*)

in respect of the first Contract Year and as submitted thereafter for each Contract Year in accordance with Clause 27.15.1 in respect of each Contract Year following the first Contract Year;

"Footway Surveyed Footway" shall have the meaning given to it in Clause 27.15.4 (*Footway Surveys*);

"Footway Surveying Week" shall have the meaning given to it in Clause 27.15.5 (*Footway Surveys*);

"Force Majeure Event" means the occurrence after the date of Contract of:

- (a) war, civil war, armed conflict or terrorism; or
- (b) nuclear, chemical or biological contamination unless the source or cause of the contamination is the result of the actions of or breach by the Service Provider or the Service Provider's Sub-contractors; or
- (c) pressure waves caused by devices travelling at supersonic speeds,

which directly causes either Party (the **"Affected Party"**) to be unable to comply with all or a material part of its obligations under this Contract;

"Force Majeure Termination Sum" shall have the meaning given to it in Clause 80.3 (*Compensation following a Force Majeure Event or Uninsurability*);

"Framework for Highway Asset Management" means the document with such title issued by the CSS, as amended or replaced by ADEPT from time to time;

"Free From Any Breakdown In The Paint Or Protective System" means that within any one (1) square metre area, or within the whole Project Network Part where the surface area is less than one (1) square metre, the aggregate area where the paint or protective system has broken down does not exceed ten thousand (10,000) square millimetres;

"Free From Any Breakdown Of The Deck Waterproofing" means there is no breakdown in the continuity of the waterproof membrane of the Project Network Part;

"Free From Any Discolouration Of Materials" means there is no loss of natural hue or intensity which would detract from the Visual Appearance of the Project Network Part;

"Free From Any Lack Of Function" means that the drainage elements of any Structure are fully functional, operational and capable of performing according to its designed function or use;

"Free From Any Leakage" means that all connections and sealants are watertight such that there is no water leakage or seepage;

"Free From Bird, Animal And Human Waste Products" means the level of bird, animal and human waste products does not exceed that which would Detract From The Visual Appearance of the Structure (Type 1) or Structure (Type 2) and/or constitute a risk to the health or safety of any person or property;

"Free From Corrosion" means that within any one (1) square metre area, or within the whole Project Network Part where the surface area is less than one (1) square metre the aggregate area of corrosion does not exceed ten thousand (10,000) square millimetres;

"Free From Cracks Other Than Hairline Joints" means that there are no cracks that Detract From The Visual Appearance and/or which are Detrimental to the structural integrity of the Project Network Part and, which are, in any event, longer than one hundred and fifty (150) millimetres;

"Free From Damage" means there is no damage, accidental or otherwise, which is Detrimental to the structural integrity and/or which Detract From The Visual Appearance of the Project Network Part;

"Free From Damage Caused By Ground Settlement" means there are no surface defects which Detract From The Visual Appearance and/or no structural defects which are Detrimental to the structural integrity of the Structure (Type 1) or Structure (Type 2), as a result of or caused by ground settlement;

"Free From Defects" means that there are no surface defects on a Structure (Type 1), Structure (Type 2) or Culvert (Type 3) which Detract From The Visual Appearance, no structural defects which are Detrimental to the structural integrity of the Structure (Type 1), Structure (Type 2) or Culvert (Type 3) and/or no defects that are Detrimental to the functionality of the Structure;

"Free From Defects In Movement Joint Sealants" means there is no cracking, chalking or crazing present in or on a Movement Joint Sealant and there is no loss of sealant material, bond durability or elasticity of such sealant material;

"Free From Defects In Pedestrian Protection Measures" means there are no defects which Detract From The Visual Appearance and/or would reduce the level of protection afforded to users of the Project Network Part;

"Free From Defects In Sealants" means there is no cracking, chalking or crazing present in or on a Movement Joint Sealant and there is no loss of sealant material, bond durability or elasticity of such sealant material;

"Free From Deformation Of Structural Members, Welds Or Fixings" means there is no deformation of Structural Members, welds or fixings which are Detrimental to the structural integrity of the Project Network Part;

"Free From Deterioration Of Fixings Or Embedded Parts" means that there is no deterioration of fixings or embedded parts of a Project Network Part which Detract From The Visual Appearance and/or is Detrimental to the structural integrity of the Project Network Part;

"Free From Detritus, Algae And Tree Sap" means the level of detritus, algae and tree sap on the Project Network Part does not exceed a level which would Detract From The Visual Appearance and/or which would reduce visibility and legibility of the Project Network Part;

"Free From Flowing Water" means there is no water running across a Carriageway or Footway where the presence of such running water may (on the balance of probabilities) compromise the safety of any users of the Project Network or would Detract From The Visual Appearance of the Project Network, other than where specific provision has been made for it to take place or where such running water is present due to a fault in any apparatus belonging to any Third Party Authority;

"Free From Leaks" means there are no leaks which Detract from the Visual Appearance and/or is Detrimental to the structural integrity of the Project Network Part;

"Free From Litter And Debris" means free from Debris and predominantly free from Litter such that it would achieve Grade B Standard or better;

"Free From Misalignment" means that the alignment does not Detract From The Visual Appearance and/or is Detrimental to the structural integrity of the Project Network Part;

"Free From Mortar Erosion And/Or Loose Or Missing Mortar" means that there is no sign of mortar erosion, cracks, loose material or missing mortar that Detract From The Visual Appearance and/or which is Detrimental to the structural integrity of the Project Network Part;

"Free From Rot" means there is no visible decay which is Detrimental to the structural integrity and/or Detract From The Visual Appearance of the Project Network Part;

"Free From Scour Damage" means there is no removal/loss of sediment, no erosion of streambed or bank material due to flowing water and no creation of underwater scour holes that are Detrimental to the Structure (Type 1) or Structure (Type 2),;

"Free From Slippage, Subsidence Or Signs Of Distress" means that there are no visible material settlements, signs of movement, erosion, soil slips and cracks that are Detrimental to the Project Network Part, the Project Network or Third Party property;

"Free From Spalling" means there is no loss of concrete or chipping of the concrete which is Detrimental to the structural integrity of the Project Network Part and which in any event is greater than twenty five (25) millimetres wide or twenty (20) millimetres deep and/or which would Detract From The Visual Appearance of the Project Network Part;

"Free From Standing Water" means

- (a) in relation to RSLs forming part of the Primary Road Network or Secondary Road Network and in relation to the Prestige Areas, no ponding, puddling or accumulation of water covering an area exceeding one (1) square metre with any point within such ponding, puddling or accumulation of water having a depth greater than ten (10) millimetres; and
- (b) in relation to the remainder of the Project Network, no ponding, puddling or accumulation of water covering an area exceeding two (2) square metres with any point within such ponding, puddling or accumulation of water having a depth greater than fifteen (15) millimetres,

where such ponding, puddling or accumulation of water is due to:

- (c) a failure by the Service Provider to carry out the Services; or
- (d) the alignment of any Project Network Part;

"Free From Vegetation" means that there is no plant life present (except that which is there by design) which is Detrimental to the structural integrity of the Project Network Part and/or which Detract From The Visual Appearance;

"Free From Visible Signs Of Disease And Decay" means that there is no visible sign of disease and decay on a Highway Tree which is Detrimental to the future safety and health of the Highway Tree;

"Free From Visible Surface Corrosion" means that within any one (1) square metre area of exposed Gabion face, no more than five per cent (5%) of the wire (by length) in aggregate forming the Gabion mesh exhibits signs of corrosion on all or part of the circumference of the wire;

"Free From Weed Growth" means that the weed coverage does not exceed five per cent (5%) of the area of the Project Network Part available for planting and/or there is no weed taller than one hundred (100) millimetres within any one (1) square metre area, or within the whole Project Network Part where the surface area is less than one (1) square metre;

"French Drain" means a stone filled ditch that may have a porous pipe laid along the bottom;

"Full Spectrum Light Source" means a light source with a Colour Rendering Index of Ra60 or greater;

"Full XSP Level" shall have the meaning given to it in the UKPMS Visual Survey Manual 2009;

"Fully Respond" means the Service Provider provides a response which fully addresses all points raised in a communication and in a format which matches the format of the communication received unless the sender has specifically requested a response in an alternative format, and the words "Full Response" shall be construed accordingly;

"Further Acknowledgement" means a further acknowledgement of a communication issued by the Service Provider pursuant to the Output Specification following the initial Acknowledgement, and used only in those circumstances where the Service Provider is unable (acting reasonably) to Fully Respond to the communication, because of its complexity and/or scale, within the timescales anticipated in the Acknowledgement;

"Future Service Provider" means any third party engaged by the Authority to perform any service equivalent to the Service after expiry or earlier termination of this Contract;

"Gabion" means a wire mesh basket filled with graded stone or other suitable fill and is used to retain earth and provide erosion protection;

"Gantry" means:

- (a) a framework of steel members to bridge over or around part of the Project Network as identified in Schedule 20 (*Project Network Information*); and

- (b) shall include any additional gantries installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional gantries installed by the Service Provider as a result of compliance with the Output Specification;

"Gateway" means high profile routes around or radiating from the City Centre, as detailed in Schedule 20 (*Project Network Information*) and for the purpose of the Performance Requirements in respect of the Street Cleaning Service covers the full width of the Highway;

"General Change in Law" means a Change in Law which is not a Discriminatory Change in Law or a Specific Change in Law;

"General Inspection Data" shall have the meaning given to it in Clause 27.18.7.2 (*General Inspections*);

"General Inspection Programmes" means the rolling two (2) year programme prepared by the Service Provider in accordance with Clause 27.18 (*Independent Surveys and Inspections*) as set out in Schedule 25 (*Investment Programmes*) in respect of the first Contract Year and as submitted thereafter for each Contract Year in accordance with Clause 27.18 (*Independent Surveys and Inspections*);

"General Inspection Report" shall have the meaning given in Clause 27.24.1.1 (*Qualitative Review of Structure Inspection reports*);

"General Inspection Sampling Data" shall have the meaning given to it in Clause 27.18.7.1 (*General Inspections*);

"General Inspection Structures" shall have the meaning given to it in Clause 27.18.5 (*General Inspections*);

"General Inspections" has the meaning given in paragraph 6.4.7 of the Highway Structures Code provided that in relation to Third Party Structures the extent of such General Inspection is limited to those parts of the Third Party Structure accessible without the need for specialist access equipment, specialist safety provision or access to Third Party Land;

"General Order Vehicles" means vehicles that belong to one of the following categories:

- (a) Category 1 – vehicles of not more than forty six (46) tonnes gross vehicle weight which are outside the Road Vehicles (Construction and Use) Regulations 1986 and which have a total of five (5) or more axles;
- (b) Category 2 – vehicles of not more than eighty (80) tonnes gross vehicle weight which are outside the Road Vehicles (Construction and Use) Regulations 1986 and which have a total of five (5) or more axles and a maximum axle weight of twelve and a half (12.5) tonnes; or
- (c) Category 3 – vehicles of not more than one hundred and fifty (150) tonnes gross vehicle weight which have a total of six (6) or more axles and a maximum axle weight of sixteen and a half (16.5) tonnes;

"General Power of Competence" means the statutory power granted to local authorities pursuant to section 1 of the Localism Act 2011;

"Gennel" means an alleyway or narrow cut-way on the Project Network between two buildings or pieces of land;

"Geographical Information System" or **"GIS"** means an accurate electronic system which can be used to view and analyse data from a geographical perspective and which can be used to display the location of all Project Network Parts which shall comply with all the relevant obligations in Service Standard 1;

"GI Inspecting Month" shall have the meaning given to it in Clause 27.18.5.2 (*General Inspections*);

"GI Sampling Month" shall have the meaning given to it in Clause 27.18.6 (*General Inspections*);

"Global Reporting Initiative" ("**GRI**") means the body with such title, or any replacement or successor body operating as a non-profit organization that works towards a sustainable global economy by providing sustainability reporting guidance;

"Good Industry Practice" means using standards, practices, methods and procedures (as practised in the United Kingdom) and conforming to Legislation and exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced service provider, manager, operator or other person (as the case may be) engaged in a similar type of undertaking as under this Contract under the same or similar circumstances;

"Government Actuary Department" means such body or any replacement or successor body which provides actuarial advice to all parts of the United Kingdom Government and other relevant United Kingdom public bodies, on policy related to pensions, social security and other actuarial matters;

"Grade A Standard" shall have the meaning given to it in Section 7.0 of the Code of Practice on Litter and Refuse;

"Grade B Standard" shall have the meaning given to it in Section 7.0 of the Code of Practice on Litter and Refuse;

"Graffiti" means images or lettering scratched, scrawled, painted or marked in any manner on a Project Network Part which have not been approved by the Authority;

"Grass Cutting Programme" ("GCP") means the Service Provider's grass cutting programme, as referred to in the Method Statements including Method Statement 6. And AGMP;

"Grassed Areas" means, a plot of grass on the Project Network or Other Designated Land bounded by a Kerb and/or Edging and /or paved area and/or hard landscape feature and/or the Project Network boundary and which shall also comprise either a Herbage (A) Standard Grassed Area, Herbage (B) Standard Grassed Area or Herbage (C) Standard Grassed Area;

"Grassed Area Reinstatement Programme" ("GARP") means the Service Provider's Grassed Area reinstatement programme, as referred to in the Method Statements including Method Statement 6;

"Green Fleet Day" means a day set out by Service Provider which provides information on low carbon travel options to employees and other interested parties, as referred to in the Method Statements including Method Statement 1.10;

"Greener Travel Roadshow" means a mechanism which the Service Provider will use to promote the Service Provider's Corporate Travel Plan as referred to in the Method Statements including Method Statement 1.10;

"Grillage" means a device, usually a grille of steel bars, located such as to prevent debris entering a Drainage Structure or part of the Drainage System;

"Grit Bin" means the grit bins on the Project Network owned by the Authority used for the storage of any anti-icing product to be used by the public, including the Grit Bins identified in Schedule 20 (*Project Network Information*);

"Ground Anchor" means any soil or rock anchor embedded in soil or rock that limits lateral movement of either the natural ground or supporting structure;

"Grounds Maintenance Development Plan" means the Service Provider's plan for the development and enhancement of the Grounds Maintenance Service, to be produced by the Service Provider in accordance with the requirements specified in Annexure 1 to Service Standard 6 of Schedule 2 (*Output Specification*);

"Grounds Maintenance Guidance Documents" means the following documents:

- (a) British Standard 5837 (2005) entitled "Trees In Relation To Construction Regulations"
- (b) British Standard 3998 (1989) entitled "Recommendations For Tree Work"; and
- (c) Volume 4 of the National Joint Utilities Group publications entitled "Guidelines For The Planning, Installation & Maintenance Of Utility Apparatus In Proximity To Trees"

as amended or replaced from time to time;

"Grounds Maintenance Inventory" means an electronic record of the information set out in Annexure 1 to Service Standard 6 of Schedule 2 (*Output Specification*);

"Grounds Maintenance Plan" means the Service Provider's plan for the execution of the Grounds Maintenance Service to be produced in accordance with the requirements specified in Annexure 1 to Service Standard 6 of Schedule 2 (*Output Specification*);

"Grounds Maintenance Service" means the Service provided in accordance with the provisions of Service Standard 6 of Schedule 2 (*Output Specification*);

"Group 1 Stakeholder Letter" means the Service Provider's written communication to inform Group 1 Stakeholders of Programmed Maintenance arrangements, as outlined in MS 1.8 and 1.9;

"Group 1 Stakeholders" means the members of the public and businesses with properties facing, adjoining or accessed by a Carriageway, Footway or Footpath to which Services are to be carried out by the Service Provider who maybe potentially affected by Services carried out by the Service Provider on the Project Network, including those affected in respect of access arrangements or accommodation works;

"Group 2 Stakeholders" means representative groups including tenants and residents associations;

"Growth Retardant" means a chemical applied to Vegetation to reduce its size or its growth rate;

"GS6" means the document entitled "Guidance Note GS6: Avoidance of danger from overhead electric power lines (Third edition)", published by the Health and Safety Executive as amended or replaced from time to time;

"Guaranteed Standards" has the meaning given to it in the Electricity (Standards of Performance) Regulations 2010 (SI 2010/698);

"Guidance" means any applicable guidance or directions with which the Service Provider is bound to comply;

"Guidance Notes For The Reduction Of Obtrusive Light" means the document with such title issued by the Institution of Lighting Engineers, as amended or replaced from time to time;

"Gully" means a small chamber covered by a metal grating on the Project Network, (usually found in the Carriageway channel or a Footway) which collects surface water including Standard Gullies and Sub-Standard Gullies;

"H&S Conviction" shall have the meaning given to it in the definition of Service Provider Default;

"Handrail" means a rail, including posts where applicable and any brackets and fixings, positioned on or immediately adjacent to the Project Network to provide a means of support for pedestrians;

"Hanging Baskets" means a hanging basket, usually containing floral decorations, weighing not more than twenty (20) kilograms when fully laden and watered;

"HAPAS" means the Highways Authority Product Approval Scheme, operated by the Highways Agency, CSS and BBA;

"Hardened Verge" means a paved part of any Highway on the Project Network behind the channel line (including reinforced grass verge) which does not form part of the Footway or Cycleway, and includes steps, lay-bys and parking bays;

"HAUC (UK) Codes of Practice" means the Highway Authorities and Utilities Committee UK's Codes of Practice, as amended or replaced from time to time;

"Haulier Indemnities"; means indemnities provided by a haulier in relation to the movement of an Abnormal Load which may be valid for a year or for a specific Abnormal Load movement;

"Hazardous Consignment Note" means a special form of transfer note specifically for hazardous waste containing information about the waste so that it can be handled safely and disposed of or recovered legally, as referred to in the Method Statements including Method Statement 1.10;

"HD 19/03" means the Highway Design Note from DMRB Volume 5 Section 2 Part 2 relating to Road Safety Audits, as amended or replaced from time to time;

"HD 28/04" means the Highway Design Note from DMRB Volume 7 Section 3 Part 1 relating to Skid Resistance, as amended or replaced from time to time;

"Health and Safety Executive" ("HSE") means the body with such title, responsible for regulatory activity relating to work-related health, safety and illness, or any replacement or successor body;

"Health and Safety File" shall have the meaning given to it in Clause 38 (*CDM Regulations*);

"Health and Safety Regime" means the Health & Safety at Work etc Act 1974 (and associated regulations), the Fire Precautions Act 1971, the Environmental Protection Act 1990, the Water Industry Act 1991, the Water Resources Act 1991 and any similar or analogous health, safety or environmental legislation in force from time to time;

"Heavy Snow" means the weather conditions which have resulted in one hundred (100) millimetres or more of lying snow on any of the Agreed Measurement Points which triggers the deployment of the Heavy Snow Resources by the Service Provider pursuant to Performance Requirement 7.28 (b);

"Heavy Snow Clearing Operations" means the treatment to be undertaken by the Service Provider in the event of Heavy Snow, pursuant to Performance Requirements 7.28(c) to (d), 7.29 - 7.31, and 7.38 (a) – (e);

"Heavy Snow Clearing Treatment Commencement Time" means the time at which Heavy Snow Clearing Operations on the Priority Carriageway Routes shall Commence, as set out by the Service Provider in the Daily Proposed Actions List or an Updated Daily Proposed Actions List (as the case may be) pursuant to Service Standard 7 of Schedule 2 (*Output Specification*) and as reset by the Service Provider (acting reasonably), following inclusion in a Daily Proposed Actions List or an Updated Daily Proposed Actions List (as the case may be), when a further fifty (50) millimetres depth of snow has fallen by the completion of the current treatment;

"Heavy Snow Resources" means the resources to be deployed by the Service Provider during Heavy Snow conditions and as set out by the Service Provider in the Annual Winter Maintenance Service Operational Plan pursuant to Annexure 1 to Service Standard 7;

"Hedgerow Maintenance Programme" means the Service Provider's programme setting out hedgerow maintenance requirements and timescales, as referred to in the Method Statements including Method Statement 6;

"Height Criteria" means the criteria for the headroom of structures set out in Chapter 6 of TD 27/05;

"Height Restrictions" means any height restriction which has been put in place as a result of a Traffic Regulation Order or an advisory or mandatory Traffic Sign;

"Help Desk" means the customer interface facility provided or procured by the Service Provider pursuant to Performance Requirement 1.51a of the Service Standard 1 of Schedule 2 (*Output Specification*) which will receive communications for the Service Provider including information passed on by the Customer First Service;

"Herbage (A) Standard Grass" means grass growing in an Herbage (A) Standard Grassed Area;

"Herbage (A) Standard Grassed Area" means:

- (a) a Grassed Area designated as a 'herbage A standard grassed area' as set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such Grassed Areas installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Herbage (B) Standard Grass" means grass growing in an Herbage (B) Standard Grassed Area;

"Herbage (B) Standard Grassed Area" means:

- (a) a Grassed Area on the Project Network which is not a Herbage (A) Standard Grassed Area or a Herbage (C) Standard Grassed Area; or
- (b) a grassed area categorised as a "Herbage (B) Standard Grassed Area" within the areas marked as Other Designated Land as set out in Schedule 20 (*Project Network Information*);

"Herbage (C) Standard Grass" means grass growing in an Herbage (C) Standard Grassed Area;

"Herbage (C) Standard Grassed Area" means:

- (a) a Grassed Area designated as a 'herbage C standard grassed area' as set out in Schedule 20 (*Project Network Information*); and

(b) shall include any additional such Grassed Areas installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Herbicide and Pesticide Reduction Plan" means the Service Provider's proposals for the reduction of herbicides and pesticides, as referred to in the Method Statements including Method Statement 6;

"Heritage Traffic Sign" means:

(a) a Traffic Sign which is existing on the Project Network at the Service Commencement Date and which is of a special design in terms of aesthetic appearance as set out in Schedule 20 (*Project Network Information*); and

(b) shall include any additional such heritage traffic signs installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"High Mast Lighting" means Street Lighting which illuminates by means of Luminaires mounted on masts that are more than fifteen (15) metres in height;

"High Usage Footway" means a highly used Footway on the High Usage Footway Network which has been designated as a 'High Usage Footway' within the Network Model;

"High Usage Footway Network" means the network of High Usage Footways;

"Higher Risk Inadequacy" has the meaning given to it in the NRSWA Code of Practice for Inspections;

"Highest Compliant Tender Price" means the price offered by the Compliant Tenderer (if any) with the highest tender price and, if no Compliant Tenders are received, zero;

"Highway" means a highway maintainable at public expense, as the same is defined in the Highways Act, on the Project Network;

"Highway Artefact" means a man made object on the Project Network which has historical significance, including horse troughs and milestones, including the Highway Artefacts identified in Schedule 20 (*Project Network Information*);

"Highway Artwork" means a man made object on the Project Network which is of artistic significance, including pieces of art, sculptures and ornamental railings, including the Highway Artwork identified in Schedule 20 (*Project Network Information*);

"Highway Authorities and Utilities Committee UK" means such body or any successor body;

"Highway Authority" means the authority responsible for the highway under the provisions of Section 1(2) of the Highways Act;

"Highway Claim" shall include all public liability claims for injury and/or damage caused by the alleged breach of statutory duty and/or negligence of the Authority and/or the Service Provider, or any claim made in nuisance, in relation to those matters indemnified by the Service Provider under Clause 66.1 (*Matters Indemnified by the Service Provider*) (disregarding, for these purposes, Clause 66.2);

"Highway Culvert" means any enclosed conduit under the Project Network or Other Designated Land to convey water across the Project Network or Other Designated Land (which, for the avoidance of doubt includes Culverts (Type 1), Culverts (Type 2) and Culverts (Type 3)), including the Highway Culverts identified in Schedule 20 (*Project Network Information*);

"Highway Drainage Priority Feature" means:

- (a) a Highway Culvert together with the related water course to a point ten (10) metres upstream of the Highway Culvert, or another item of the Drainage System on the Project Network which is described as a "Highway Drainage Priority Feature" in Schedule 20 (*Project Network Information*);
- (b) shall include any additional such culverts together with associated watercourses, or other items of a drainage system installed by the Authority and classed as a "Highway Drainage Priority Feature" pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);
- (c) shall include any additional gullies or items of a drainage system installed by the Service Provider and classed as a "Highway Drainage Priority Feature" as a result of compliance with the Output Specification;

"Highway Emergency" means an Emergency (including where such is due to a road traffic accident) on the Project Network which is not a Category 1 Defect, an Urgent Defect, an Urgent Fault, a Third Party Urgent Defect, a Major Emergency or part of the Winter Maintenance Service;

"Highway Fence" means a metal or wooden fence on the Project Network demarking the boundary of the Highway, including the Highway Fences identified in Schedule 20 (*Project Network Information*);

"Highway Hedge" means:

- (a) a hedge on the Project Network as contained within a list set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional hedges installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional hedges installed by the Service Provider as a result of compliance with the Output Specification;

"Highway Inspections Manual" means the Service Provider's document detailing the practical implementation of the Service Provider's Safety Inspection Strategy and Service Inspection Strategy, as referred to in the Method Statements including Method Statements 1.2 and 1.3, 1.10 and 1.13;

"Highway Record" means the Authority's electronic record of land in its ownership as a Highway Authority, showing the boundaries of the Project Network and Other Designated Land mapped on a geographical information system layer, as set out in Schedule 20 (*Project Network Information*);

"Highway Standards" means (save to the extent that the same are inconsistent with the provisions of the Output Specification, in which case the provisions of the Output Specification shall take precedence) all standards, specifications, codes of practice, all department technical advice notice, technical design notes, supplements, bulletins and any other documents of a similar nature as amended or re-issued from time to time by the Secretary of State for Transport and/or the Department for Transport (or a successor body) and/or Department for the Environment, Food and Rural Affairs or other Relevant Authority and/or ADEPT (or other Relevant Authority) in respect of the design, construction, operation or maintenance of highways or items which may constitute Project Network Parts (save to the extent that such constitutes Guidance) which are prevailing at the time at which Services are carried out, including the following:

- (a) the DMRB;
- (b) the Manual of Contract Documents for Highway Works;
- (c) the Roads Codes and Complementary Guidance including the Highways Maintenance Code, Highways Lighting Code, Highways Signals Code and Highways Structures Code;
- (d) Roads Circulars, Traffic Advisory Leaflets and Local Transport Notes;
- (e) the Traffic Signs Manual;
- (f) the Relevant British Standards;
- (g) the Code of Practice on Litter and Refuse;
- (h) Transport in the Urban Environment;
- (i) HAUC (UK) Codes of Practice;
- (j) the Relevant Lighting Standards;
- (k) Safety at Street Works and Road Works;
- (l) the Grounds Maintenance Guidance Documents; and
- (m) the Disability and Mobility Guidance Documents;

"Highway Surfacing Works Services" means those services provided pursuant to any Highways Surfacing Works Sub-Contract;

"Highway Surfacing Works Sub-Contract" means the contract(s) entered into between the Service Provider or the First Tier Sub-Contractor (as the case may be) for the provision of highway surfacing works in respect of the Project;

"Highway Surfacing Works Sub-Contractor" means Aggregate Industries UK Limited (Company No. 245717) or such other sub-contractor as the Service Provider or the First Tier Sub-Contractor (as the case may be) may appoint to provide highway surfacing works in respect of the Project;

"Highway Tree" means:

- (a) a tree on the Project Network (including Highway Tree Clusters) including those contained within a list set out in Schedule 20 (*Project Network Information*) or on the data set entitled "GM_P@T_Highways_Land" forming part of the Highway Record; and
- (b) a tree on or adjacent to a Footpath that is within the boundary of the Project Network; and
- (c) shall include any additional trees installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (d) shall include any additional trees installed by the Service Provider as a result of compliance with the Output Specification;

"Highway Tree Cluster" means:

- (a) a group of closely spaced trees on the Project Network including those contained within a list set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional trees installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional trees installed by the Service Provider as a result of compliance with the Output Specification;

"Highway Tree Replacement Policy" means the Authority's policy in relation to the replacement of Highway Trees and includes the Appropriate Species List for tree replacements as set out in Schedule 29 (*Authority Policies*);

"Highway Works Authority" means the Authority when undertaking works in any of the following capacities:

- (a) as a Highway Authority;
- (b) as a Street Authority;
- (c) as a Bridge Authority; or
- (d) as a Traffic Authority;

"Highways Act" means the Highways Act 1980;

"Highways Agency" means the body with such title responsible for maintaining, operating and improving the strategic road network in England on behalf of the DfT, or any replacement or successor body;

"Highways Agency Standard BD2" means the document with such title issued by the Highways Agency, as updated or replaced from time to time;

"Highways Lighting Code" means the Well-Lit Highways Code of Practice for Highways Lighting Management, as amended or replaced from time to time;

"Highways Maintenance Code" means the Well-Maintained Highways Code of Practice for Highway Maintenance Management as amended or replaced from time to time;

"Highways Maintenance Efficiency Programme (HMEP) Work Package 1-5-4 – To provide guidance on the most cost effective approach to managing and maintaining drainage assets" means the document with such title published by HMEP (or any replacement or successor body) as updated or replaced from time to time;

"Highways Signals Code" means the Management of Electronic Traffic Equipment – A Code of Practice as amended or replaced from time to time;

"Highways Structures Code" means the Management of Highway Structures - A Code of Practice as amended or replaced from time to time;

"HMDIF" means the Highways Maintenance Data Interchange Format, in which all data for pavement management systems is to be provided by the Independent Surveyor and is capable of being uploaded into the Sheffield Performance Model, as defined by UKPMS for condition data and their file structure within UKPMS Technical Note 3 as amended or replaced from time to time;

"Holdco" means Amey Hallam Highways Holdings Limited (Company Number 8121070) whose registered office is at the Sherard Building, Edmund Halley Road, Oxford, OX4 4DQ;

"Holding Company" has the meaning given to it in section 1159 of the Companies Act 2006, save that for the purposes of determining whether one entity is a Holding Company of another any transfer of shares by way of security or to a nominee of the transferor shall be disregarded;

"Hourly Rates" means the hourly rates for the Personnel carrying out the Inspection Services and/or Non-Core Scheme Services as set out in Appendix 2 to Schedule 7 (*Non-Core Services*);

"HSEQ quarterly meetings" means the meetings which health, safety, environment and quality matters are discussed by the Service Provider at quarterly intervals, as referred to in the Method Statements including Method Statement 1.10;

"Human Resources Policy" means the policy produced by the Service Provider under the provisions of Clause 36.11 (*Human Resources Policy*) and as set out at Schedule 22 (*Workforce Policies, Health and Safety Manual and Quality Plans*);

"HWA Works" means Standard HWA Works, Small HWA Works and Major HWA Works;

"IAN 49/03" means the document entitled "Interim Advice Notice 49/03, Use of Warning Signs for new Asphalt Road Surfaces" published by the Department of Transport, as amended or replaced from time to time;

"IAN 98/07" means the document entitled "Interim Advice Note 98/07, Guidance for HA Services Providers on implementing the Skid Resistance Policy" published by the Department of Transport, as amended or replaced from time to time;

"Ice Early Warning System" means an electronic system which can detect, as a minimum, dew points, wind speed, wind direction, road surface temperature, air temperature, deep surface temperature, surface condition and residual levels of anti-icing products;

"IEE Code of Practice" means the code of practice for the in-service inspection and testing of electrical equipment with such name, as amended or replaced from time to time;

"IEE Wiring Regulations" means the British Standard (BS7671:2008) to which all domestic and industrial electrical wiring installations must conform;

"Illuminated Bollards" means bollards lit by base mounted lighting units, carrying one or more diagrams from the Traffic Signs Regulations & General Directions (2002), or occasionally the same type of unit with all plain aspect including base, flexible body shell, lighting units, Luminaires, Lamps, electrical circuits and component, control devices, wiring and components, cut-out electricity connection and numbering on the Project Network;

"Illuminated Traffic Signs" means:

- (a) illuminated signs (whether externally or internally illuminated) (including direction signs, any sign required by the Traffic Signs Regulations & General Directions 2002 and, for the avoidance of doubt, including Illuminated Bollards) including plates, faces, Straight

Posts/mounting, brackets, Luminaires, Lamps, electrical circuits, control devices, wiring, components, cut out and electricity connection and numbering including those contained within a list set out in Schedule 20 (*Project Network Information*); and

- (b) shall include any additional Illuminated Traffic Signs installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional Illuminated Traffic Signs installed by the Service Provider as a result of compliance with the Output Specification;

"In Bloom" means the Royal Horticultural Society's (RHS) (or any replacement or successor body) In Bloom campaign and awards, based on horticultural excellence, environmental responsibility and community participation; and activities (Service Provider or other) based on this campaign and awards, as such scheme is amended or replaced from time to time;

"In Bloom Coordinator" means the member of the Grounds Maintenance Service staff with responsibility for the delivery of In Bloom operations, as referred to in the Method Statements including Method Statement 11 and 6;

"In Light" means, in respect of any illuminated item of Powered Apparatus, such Powered Apparatus is:

- (a) fully illuminated (which in the case of a Luminaire comprising LEDs means that no more than 10% of the LEDs are not working) without flickering;
- (b) at the required lighting output in accordance with Specific Lighting Design Standards;
- (c) at the correct colour rendering properties in accordance with Specific Lighting Design Standards;
- (d) operating at the correct time in accordance with Lighting Activation Levels; and
- (e) operating in accordance with the correct Power Variation Requirements;

"Increased Estimated Latent Defect Direct Costs" shall have the meaning given to it in Clause 8.5.1.3(a)(ii) (*Estimating Costs*);

"Increased Estimated Latent Defect Direct Costs Notice" shall have the meaning given to it in Clause 8.5.1.3(a) (*Estimating Costs*);

"Indemnified Liabilities" means actions, claims (including Third Party claims), demands, proceedings, losses, damages, liabilities, costs, expenses (including legal and other professional charges and expenses) and charges;

"Indemnifier" shall have the meaning given to it in Clause 66.4 (*Conduct of proceedings for matters covered by Service Provider's and Authority's indemnities*);

"Indemnity Payment" shall have the meaning given to it in Clause 60.1.2 (*Tax*);

"Independent Bridge Inspector" means URS Infrastructure & Environment UK Limited (Company No. 00880328) of Scott House, Alencon Link, Basingstoke, Hampshire, RG21 7PP or any replacement appointed by the Parties pursuant to this Contract;

"Independent Bridge Inspector's Appointment" means the form of Independent Bridge Inspector's Appointment attached to this Contract at Annexure 3 (*Form of Independent Certifier's Appointment, Independent Surveyor's Appointment, Independent Machine Surveyor's Appointment and Independent Bridge Inspector's Appointment*);

"Independent Certifier" means URS Infrastructure & Environment UK Limited (Company No. 00880328) of Scott House, Alencon Link, Basingstoke, Hampshire, RG21 7PP or any replacement appointed by the Parties pursuant to this Contract;

"Independent Certifier's Appointment" means the form of Independent Certifier's Appointment attached to this Contract at Annexure 3 (*Form of Independent Certifier's Appointment, Independent Surveyor's Appointment, Independent Machine Surveyor's Appointment and Independent Bridge Inspector's Appointment*);

"Independent Machine Surveyor" means Suffolk Pavement Evaluation Limited (Company No. 07241857) of Wandering Weed Cottage Lime Kilns, Coddendam, Ipswich, Suffolk, England IP6 9UB or any replacement appointed by the parties pursuant to this Contract;

"Independent Machine Surveyor's Appointment" means the form of Independent Machine Surveyor's Appointment attached to this Contract at Annexure 3 (*Form of Independent Certifier's Appointment, Independent Surveyor's Appointment, Independent Machine Surveyor's Appointment and Independent Bridge Inspector's Appointment*);

"Independent Surveyor" means URS Infrastructure & Environment UK Limited (Company No. 00880328) of Scott House, Alencon Link, Basingstoke, Hampshire, RG21 7PP or any replacement appointed by the parties pursuant to this Contract;

"Independent Surveyor's Appointment" means the form of Independent Surveyor's Appointment attached to this Contract at Annexure 3 (*Form of Independent Certifier's Appointment, Independent Surveyor's Appointment, Independent Machine Surveyor's Appointment and Independent Bridge Inspector's Appointment*);

"Indexation Review Date" shall have the meaning given to it in Paragraph 3.2.1 of Schedule 4 (*Payment Mechanism*);

"Indexed" means that such amounts referred to be indexed are to be multiplied by:

$\text{Index}_1/\text{Index}_2$

where Index_1 is the value of RPIX most recently published for the month of January immediately preceding the Indexation Review Date, Index_2 is the value of RPIX three months prior to the Base Date;

"Individual Latent Defect Cap" shall have the meaning given to it in Clause 8.2.1 (*Cap on liability for Latent Defects*);

"Industry Standard Contract" means a JCT, NEC or other such standard contract used widely in the civil engineering or highways maintenance industry;

"Information" has the meaning given under Section 84 of the Freedom of Information Act 2000 or the meaning given to environmental information under Section 2 of the Environmental Information Regulations as may be appropriate to the circumstances;

"Initial Availability Period" means in the case of the Term Facility, the period commencing on Financial Close and ending on 31 December 2017 or, in any case, the date if earlier on which the total Commitments under the relevant Facility are fully borrowed, cancelled or terminated;

"Initial Financing Agreements" means the Financing Agreements put in place upon signature of this Contract as listed in Part 3 of Annexure 2 (*Project Documents, Ancillary Documents and Financing Agreements*), copies of which have been initialled by the Parties for the purposes of identification;

"Initial Price" shall have the meaning given to it in Paragraph 4.8.2 of Schedule 7 (*Non-Core Services*);

"Injurious Weeds" means those species of weeds designated as such within section 1 of the Weeds Act 1959;

"Innovations Group" means the group of Service Provider staff who meet examine the Stewardship Forms and identify improvements to required or new ideas/products to be considered for adoption, as referred to in the Method Statements including Method Statement 11;

"Inspection Manual for Highways Structures" means the Inspection Manual for Highways Structures (2007) published by the Highways Agency;

"Inspection Notice" shall have the meaning given in Clause 29.7.3 (*Certification of Removal*);

"Inspection Programmes" means the General Inspection Programme and the Principal Inspection Programme or either of them;

"Inspection Sample" means the number of Sample Inspections to be carried out in any Contract Year as described in the NRSWA Code of Practice for Inspections;

"Inspection Services" means the inspection by the Service Provider of certain aspects of new schemes on a highway, on behalf of the Authority, which may be or have been carried out pursuant to a Section 38 Agreement, a Section 278 Agreement or a Section 106 Agreement which may include carrying out a design check of a proposed scheme or inspection on the site of a scheme under construction or after construction;

"Inspection Strategies" means any or all of the Special Inspection Strategy, Risk Assessment Strategy and Structural Review and Assessment Strategy, as set out in Annexure 14 (*Inspection Strategies*);

"Instalment Dates" shall bear the meaning given to it in Clause 80.7.7 (*Method of Payment*);

"Institute of Actuaries" shall mean such body or replacement body which provides regulatory standards for actuaries in England and Wales;

"Institute of Environmental Management and Assessment" ("IEMA") means the body with such title responsible for promoting best practice standards in environmental management, auditing and assessment for all industry sectors, as referred to in the Method Statements including Method Statement 1.10, or any replacement or successor body;

"Institute of Transportation Engineers" means the international educational and scientific association of transportation professionals with such name, or any successor body;

"Institution of Lighting Engineers" means the licensed body of the Engineering Council with such name, or any successor body;

"Insurance Term" means any terms and/or conditions required to be included in a policy of insurance by Clause 67.1 (*Insurance*) and/or Schedule 6 (*Insurance*) but excluding any risk;

"Integration Hub" means the application utilised by the Authority to allow business to business connectivity between diverse applications, either between the Authority's applications or the Authority's application and those of a third party, and which allows the creation, execution, and monitoring of process logic that uses those applications to exchange information with each other;

"Intellectual Property Rights" means all intellectual property rights of whatever nature subsisting in any part of the world at any time including patents, registered designs and trade marks (whether registered or not) and applications for any of the foregoing, copyright, database rights, design right, rights in and information to confidential and protection similar to any of the foregoing subsisting in any part of the world at any time;

"Intelligent Transport Systems (ITS)" means the information technology applied to transport operations in order to reduce operating costs, improve safety and maximise the capacity of existing transport infrastructure;

"Intelligent Transport Systems (ITS) Infrastructure" means

- (a) all equipment used in or relating to the operation of Intelligent Transport Systems equipment, including those items of equipment listed under the following headings in Schedule 20 (*Project Network Information*): "ITS Matrix and Car Park Variable Message Signs", "ITS Count Loop Sites", "ITS Car Park Counters", "ITS ANPR Cameras", "Speed Indication Display Signs" and "Vehicle Activated Signs" and all associated equipment such as GPRS routers, Wi-Fi equipment and associated wiring and cabling;
- (b) shall include any additional such equipment installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional such equipment installed by the Service Provider as a result of compliance with the Output Specification;

"Intended Service Commencement Date" shall mean the Planned Service Commencement Date or such other later date as the Service Provider may notify the Authority pursuant to Clause 5.1.2 (*Mobilisation*);

"Interim Project Report" means the report prepared by the Service Provider pursuant to Clause 104.2 (*Interim Project Report*) of this Contract including:

- (a) the nature of any Potential Financing Default or Financing Default; and
- (b) all circumstances surrounding or leading up to the Potential Financing Default or Financing Default and relevant to its occurrence; and
- (c) any proposed or actual action taken or to be taken by the Senior Lenders in respect of the Potential Financing Default or Financing Default, including acceleration of any or all outstanding Senior Debt or the exercise of any enforcement or similar rights under the Senior Financing Agreements; and
- (d) any cure period or remedial plan proposed by the Service Provider or the Senior Lenders, and whether such cure period or remedial plan has been agreed by the Senior Lenders; and
- (e) any other action that the Senior Lenders require the Service Provider to take in respect of the Potential Financing Default or Financing Default; and
- (f) the Base Senior Debt Termination Amount (assuming that the Termination Date was the date of the Interim Project Report); and
- (g) any other information as may be notified by the Authority to the Service Provider at the time of such request;

"International Organisation for Standardisation" means the body with such title responsible for developing and publishing international standards, or any replacement or successor body;

"Intervention" shall have the meaning given to it in Paragraph 5.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Introduction of the euro" means the introduction into the United Kingdom of the euro as a substitute for Sterling, the economic and/or commercial consequences thereof and any event or matter associated or connected therewith;

"invasive Weeds" means either native species that grow well in disturbed or nutrient-enriched conditions, to the detriment of other plant and animal species, or non-native plants that have been introduced to this country by accident or as a consequence of trade or collection, as referred to in the Method Statements including Method Statement 1.10;

"Inventories" shall mean the:

- (a) Powered Apparatus Inventory;
- (b) Underground Apparatus Inventory; and
- (c) Project Network Inventory;

"Inventory" means any of the Inventories;

"Investigatory Incident" means a fatal accident or an incident where the police have notified the Service Provider and/or the Authority that an accident involved a Project Network Part;

"Investigatory Level" means the level at which investigation is required in relation to SCRIM and as set out in the Sheffield Performance Model;

"Investment Programmes" means any or all of the Core Investment Period Programme, the Annual Investment Programme, the Three Year Investment Programme and the Lifecycle Investment Programme;

"Investors in People" means the Investors in People management standard, which is developed and maintained by the UK Commission for Employment and Skills (or any replacement or successor body) as amended or replaced from time to time;

"Ironwork" means metal drains, gratings, access and inspection covers and the like within the Project Network but excludes Gully grates and frames within the Carriageway;

"Irrecoverable VAT" means input VAT incurred by the Service Provider on any supply which is made to it which is used or to be used exclusively in performing the Services or any of the obligations or provisions under this Contract (together with input VAT incurred as part of its overheads in relation to such activities) to the extent that the Service Provider is not entitled to repayment or credit from Revenue & Customs in respect of such input VAT;

"ISO 9000" means the family of standards for quality management systems maintained by the International Organisation for Standardisation, as amended or replaced from time to time;

"ISO 9001:2000" means BS EN ISO 9001:2000 framework requirements for Environmental Management Systems, issued by the British Standards Institution, as amended or replaced from time to time;

"ISO 9001:2008" means BS EN ISO 9001:2008 framework requirements for Environmental Management Systems, issued by the British Standards Institution, as amended or replaced from time to time;

"ISO 14001:2004" means BS EN ISO 14001:2004 framework requirements for Environmental Management Systems, issued by the British Standards Institution, as amended or replaced from time to time;

"ISO 14001:2007" means BS EN ISO 14001:2007 framework requirements for Environmental Management Systems, issued by the British Standards Institution, as amended or replaced from time to time;

"IT Incidents, Problems and Changes" shall have the meaning given to it in ITIL;

"IT Service Desk" shall have the meaning given to it in ITIL;

"ITIL" means the Information Technology Infrastructure Library, being the set of concepts and practices applicable to information technology systems management, development and operations, as published by the Office of Government Commerce and as amended or replaced from time to time;

"ITSM" means Information Technology Systems Management, as the same is defined in ITIL;

"ITSMF" means the Information Technology Service Management Forum, being the body with such name established to promote the ITIL, ISO/IEC 20000 standard and best practice in ITSM;

"Jobcentre Plus" shall mean the government agency which is part of the Department for Work and Pensions that supports people of working age from welfare into work, and helps employers to fill their vacancies;

"Junior Debt" means all amounts outstanding at the Termination Date under the Subordinated Financing Agreements;

"Kerb" means an edge delineation comprising precast concrete or natural stone kerbstones usually located between the Carriageway and the Footway or the Verge and the Carriageway within the Project Network;

"Kerb Face" means the difference in level between the top of a Kerb and the adjoining Carriageway surface;

"Key Financial Indicators" means:

- (a) the level of the forecast Debt Service Cover Ratio (as defined in the Credit Agreement at the date of Financial Close);
- (b) the level of the historic Debt Service Cover Ratio (as defined in the Credit Agreement at the date of Financial Close);
- (c) the level of the Loan Life Cover Ratio (as defined in the Credit Agreement at the date of Financial Close); and
- (d) the Real Post Tax Blended Equity IRR (as defined in this Schedule 1 at the date of Financial Close),

as further set out at Schedule 34 (*Key Financial Indicators*);

"Key Ratios" means the ratios set out in limbs (a) to (c) of the definition of Key Financial Indicators;

"Key Sub-Contract" means any or all of the following contracts:

- (a) the First Tier Sub-Contract(s); and
- (b) any Sub-contract where such Sub-contract is not in the form of an Industry Standard Contract or where the Service Provider or First Tier Sub-Contractor requires another party under the Sub-contract to bear the majority of risk and liability borne by the Service Provider under the Contract or the First Tier Sub-Contractor under the First Tier Sub-Contract in relation to the following services:
 - (i) Carriageways and Footways Service (other than Highways Surfacing Works Services);
 - (ii) Street Lighting Service;
 - (iii) Winter Maintenance Service; and
 - (iv) Structures Service;

"Key Sub-Contract Dispute" shall have the meaning given to it in Clause 82.4.1 (*Related Disputes*);

"Key Sub-Contractor" means the First Tier Sub-Contractor(s) and any other Sub-contractor who enters into a Key Sub-Contract;

"Key Sub-Contractor Collateral Warranty" means a collateral warranty entered into between the Authority and a Key Sub-Contractor or a Highways Surfacing Works Sub-Contractor in the agreed form as set out in Annexure 7 (*Form of Key Sub-Contractor Collateral Warranty*) or substantially in that form or such other form as is agreed between the Parties;

"Lamp" means any light emitting component of the Luminaire (and/or group of light emitting components where LEDs are used);

"Land Right" means any right or matter whether public, private or statutory over or in respect of or otherwise relating in any way to land, whether temporary, revocable, legal, equitable or otherwise or whatever nature;

"Landscape and nature conservation" means conservation and enhancement of natural habitats helps to create a more attractive and varied environment, as referred to in the Method Statements including Method Statement 1.10;

"Landscape Areas" means all areas within the Project Network, together with Other Designated Land, which do not form part of the surface of the Carriageway or the surface of a Footway, Footpath, Cycle Way or Cycle Path including all Shrub Areas, Rose Areas, Boxes and Planters, Planted Areas, verges, open areas, central reserves, visibility splay, embankments and cuttings;

"Land Use Class" shall have the meaning given to it in NI195;

"Latent Defect" means a defect [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
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"Latent Defect Cap" shall have the meaning given to it in Clause 8.2 (*Cap on Liability for Latent Defects*);

"Latent Defect Direct Costs" means all costs reasonably and properly incurred by the Service Provider arising directly from the rectification, management and/or mitigation (as appropriate) of a Latent Defect [Redacted text block]

[Redacted text block]

[Redacted text block]

█ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

"Latent Defect Log" shall have the meaning given to it in Clause 8.8 (*Latent Defect Log*);

"Latent Defect Notice" shall have the meaning given to it in Clause 8.3.1 (*Latent Defect Notification and Notice*);

"Latent Defect Notification" shall have the meaning given to it in Clause 8.3.1 (*Latent Defect Notification and Notice*);

"Latent Defect Report" shall have the meaning given to it in Clause 8.4.1 (*Latent Defect Report*);

"Law" means:

- (a) any applicable Legislation;
- (b) any applicable Guidance;
- (c) any applicable judgement of a relevant court of law which is a binding precedent;

in each case in force in England;

"Lead OCR Operative" means Service Provider's OCR Operative who takes responsibility for other OCR Operatives in the absence of the OCR Manager, as referred to in Method Statements 1.8 and 1.9;

"Legislation" means:

- (a) any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978;
- (b) any exercise of the Royal Prerogative; and
- (c) any enforceable community right within the meaning of Section 2 of the European Communities Act 1972,

in each case in the United Kingdom;

"Letter of Acknowledgment" shall have the meaning given to it in Paragraph 2.3 of Schedule 26 (*Administration of Third Party Claims*);

"Licence" means the licence granted to the Service Provider in accordance with Clause 15.5 (*Terms of the Licence*);

"Licence Holder" means an organisation holding a street works licence pursuant to section 50 of NRSWA;

"lifecycle assessment" ("**LCA**") means a technique to assess environmental impacts associated with all the stages of a product's life from-cradle-to-grave, as referred to in the Method Statements including Method Statement 1.10;

"Lifecycle Investment Period" means remainder of the Term following the Core Investment Period;

"Lifecycle Investment Programme" means the programme as prepared by the Service Provider in accordance with Clause 20.5 (*Lifecycle Investment Programme*) as amended from time to time in accordance with Clause 22.1 (*Amendment of Investment Programmes*) and the Review Procedure;

"Lighting" means the deliberate application of light to achieve aesthetic or practical effect;

"Lighting Activation Levels" means light levels at which Lighting Units and Illuminated Traffic Signs switch on and off;

"Lighting Class" has the meaning given to it in BS 5489-1: 2003 Annex B for S Lighting Classes and BS 5489-1:2013 Annex A for M and C Lighting Classes;

"Lighting Columns" means all Lighting Units which have a column and including the Luminaires, Lamps, electrical circuits and components, control devices, wiring and components, brackets, cut out and electricity connection and numbering of such Lighting Columns;

"Lighting Scheme" has the meaning given to it in Clause 29.7.1 (*Certification of Removal*);

"Lighting Unit" means:

- (a) a Lighting Column, High Mast Lighting or other composite lighting source providing directional illumination to the Project Network or uplighter located on the Project Network, as contained within a list set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional lighting units installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and

- (c) shall include any additional lighting units installed by the Service Provider as a result of compliance with the Output Specification;

"Like For Like Basis" means that in replacing a Project Network Part, replacement materials or units used by the Service Provider shall match the existing materials or units as closely as possible and, without limitation:

- (a) where a flexible surfacing is replaced with a flexible surfacing of the appropriate colour to match the existing surfacing, Authority Approval will not need to be sought; and
- (b) in relation to paved areas, where localised repairs are undertaken by the Service Provider, such repairs will need to match the existing paved areas; and where more extensive replacements are undertaken as part of the scheme, the Service Provider must obtain Authority Approval for use of a product which does not match the existing product in accordance with the relevant Performance Requirement;

"Link Road" means a Carriageway on the Link Road Network;

"Link Road Network" means the "Link Road Network" as defined within the Network Model;

"Liquid Market" means that there are sufficient willing parties (being at least two (2) parties each of whom is capable of being a Suitable Substitute Contractor) in the market for PFI contracts or similar contracts for the provision of services (in each case the same as or similar to the Contract) for the price that is likely to be achieved through a tender to be a reliable indicator of Fair Value provided always that any vehicle controlled and established by the Senior Lenders specifically for the purposes of this Project and to which this Contract may be novated shall be discounted in assessing whether there are sufficient willing parties in the market for such purposes;

"Litter" shall have the meaning given to it in paragraph 5.2 of the Code of Practice on Litter and Refuse;

"Litter Bin (Type 1)" means:

- (a) a receptacle to be used by the public for the disposal of litter including those identified as a Litter Bin (Type 1) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional litter bins identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to

Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and

- (c) shall include any additional litter bins installed by the Service Provider as a result of compliance with the Output Specification;

"Litter Bin (Type 2)" means:

- (a) a receptacle to be used by the public for the disposal of litter identified as a Litter Bin (Type 2) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional litter bins identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Loan Life Cover Ratio" has the meaning given to it in the Senior Financing Agreements;

"Local Biodiversity Action Plan" ("LBAP") means the Service Provider's report that outlines how the Service Provider will protect and enhance the characteristic wildlife and landscapes of the Project Network, as referred to in the Method Statements including Method Statements 1.10 and 6;

"Local Climate Impacts Profile" ("LCIP") means the methodology developed by the UK Climate Impacts Programme (UKCIP) which enables a scenarios approach to be matched with a vulnerability approach to create a robust climate change adaptation programme, as referred to in the Method Statements including Method Statement 1.10, as amended or replaced from time to time;

"Local Government Ombudsman" means the body established under the Local Government Act 1974 to investigate complaints of injustice in consequence of maladministration against the Authority, or any successor body;

"Local Government Pension Scheme" or "LGPS" means the Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under sections 7 and 12 Superannuation Act 1972 as amended from time to time;

"Local Performance Indicators" or "LPis" means those performance indicators relating to local performance targets as notified to the Service Provider by the Authority from time to time;

"Local Road" means a Carriageway on the Project Network which is not a Primary Road, Secondary Road or Link Road;

"Local Road Network" means the network of Local Roads;

"Local Transport Notes" means any documents with such title issued by the DfT from time to time, and as updated or replaced from time to time;

"Local Transport Plan" means the plan produced by the Integrated Transport Authority as required under the Transport Act 2000 (as amended);

"Local Transport Schemes" means those transport schemes which the Authority wishes to implement in order to meet the aims of its Local Transport Plan;

"Long Stop Date" means the date falling three (3) Months after the Planned Service Commencement Date;

"Loop Detector" means a sensor located within the surface of the Carriageway to detect the presence of vehicles;

"Loss" means all damages, losses, liabilities, costs, expenses (including legal and other professional charges and expenses) and charges whether arising under statute, contract or at common law or in connection with judgements, proceedings, internal costs or demands;

"Lower Contribution Rate" shall have the meaning given to it in Clause 70.2C (*Lower Contribution Rate*);

"Low Usage Footway" means a Footway, Cycle Way, Cycle Path or Footpath on the Project Network which is not a High Usage Footway;

"Low Usage Footway Network" means the network of Low Usage Footways;

"Lower Risk Inadequacy" has the meaning given to it in the NRSWA Code of Practice for Inspections'

"LTN 2/08, Cycle Infrastructure Design" means Local Transport Note 2/08, Cycle Infrastructure Design, published by the Department for Transport, as amended or replaced from time to time;

"Luminaires" means the lantern, electrical component, control devices consisting of a Lamp or Lamps together with the housing designed to distribute the light, position and protect the Lamps and connect the Lamps to the power supply;

"Main Body" means the recitals, Clauses (1 to 112) (inclusive) and the attestation and testimonium provisions to this Contract;

"Maintainability Assessment" has the meaning given to it in Paragraph 2.6.5 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Maintainability Assessment Notice" shall have the meaning given to it in Paragraph 2.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Maintenance Manuals" means any manuals which identify specific or special maintenance requirements for a Structure;

"Major Emergency" means:

- (a) any event (happening with or without warning) causing or threatening an Emergency or disaster situation, and which has resulted or may result in death or injury, damage to property or to the environment or disruption to the community; or
- (b) hostile attack by a foreign power or threat of such attack,

which because of the scale of its effects cannot be dealt with by the Emergency Services and the Authority as part of their day to day activities, as notified to the Service Provider by the Authority pursuant to Schedule 11 (*Emergency Planning and Response*);

"Major HWA Works" means the major highway works as defined in Section 86(3) of NRSWA, major bridge works as defined in Section 88(2) of NRSWA, any other works undertaken by the Authority (not including Non-Core Services) where such works are likely to have a duration of more than ten (10) days and major works as defined in the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 as amended from time to time;

"Major Surfacing Works" means any Treatment Type on a Carriageway (other than thin surfacing or surface dressing) which extends over a Road Section Length XSP of fifty (50) metres or more;

"Management Board" means the board convened and operated in accordance with Schedule 12 (*Monitoring and Reporting*);

"Management Board Meeting" shall have the meaning given to it in Paragraph 4.1 of Schedule 12 (*Monitoring and Reporting*);

"Management Information System" and **"MIS"** means the electronic system to be maintained by the Service Provider and comprising, as a minimum, the sub-systems set out in Annexure 4 to Service Standard 1 of Schedule 2 (*Output Specification*) and to be utilised for collecting, maintaining and reporting all data in connection with the provision of the Service and including all related sub systems;

"Management Levels" shall have the meaning given to it in Clause 83.3 (*Informal Resolution of Disputes*);

"Manhole" means a chamber that provides a means of access to underground systems such as drainage, usually at a joint in a piped system;

"Manual for Sewer Condition Classification" means the national standard defect coding system for sewer condition clarification, as amended or replaced from time to time;

"Manual of Contract Documents for Highways Work" means the publication by the Office for Public Sector Information (OPSI), available through the Stationery Office entitled "Manual of Contract Documents for Highways Work" as updated or replaced from time to time;

"Manual Traffic Control Systems" means the use of "stop/go" boards to control the movement of vehicular traffic past a restriction in the Carriageway;

"Market Test Programme" shall have the meaning given to in Paragraph 2.2(a) of Schedule 9 (*Electricity Market Test*);

"Market Test Report" shall have the meaning given to in Paragraph 2.2(b) of Schedule 9 (*Electricity Market Test*);

"Market Tested Services" means the [REDACTED];

"Market Testing Date" means a date to be agreed by the Parties in accordance with Clause 42.13 and every five (5) years thereafter (save where such dates are amended in accordance with Clause 42.9 (*Market Testing*)) which shall not be subject to Schedule 18 (*Change Protocol*);

"Market Value Availability Deduction Amount" means for any Month or part of a Month, an amount equal to the Availability Adjustment that was made to the Unitary Charge in the Month immediately preceding the Termination Date, less an amount equal to any Availability Adjustment that was made for an Unavailable RSL or FSL which was Unavailable at the Termination Date but

which has subsequently become available whether as a result of the Authority incurring Rectification Costs or otherwise;

"Masonry Arch Bridge" means:

- (a) a bridge indicated as a masonry arch bridge on the Project Network as set out in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional masonry arch bridges installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Masternaut" means the Service Provider's vehicle tracking system as referred to in the Method Statements including Method Statements 1.1, 1.2 and 1.3;

"Material Damage Limit" shall have the meaning given to it in Clause 67.2.2 (*Reinstatement*);

"Mayrise Database" means the electronic management information system which currently holds the records of the inventory of Apparatus (including fault history and GIS mapping) for the Authority as set out in Schedule 20 (*Project Network Information*);

"Mayrise MapNow GIS" means the pictorial record on a GIS layer held in the Mayrise Database that captures, stores, analyzes, manages, and presents data that is linked to location;

"ME Lighting Class" means Lighting Class ME1 to ME6 as defined in BS 5489-1:2003 Annex B;

"Mechanical Fixing" means a Fixing which requires the use of a tool for the Fixing to be attached in a method in which it is intended by the manufacturers' instructions and in a secure fashion;

"Media Enquiry" means any request for an interview and/or for information either written or verbally received from any media organisation including, Television, Radio and Press;

"Media Protocol" means the Service Provider's code of conduct in relation to interaction with the media defining the roles and responsibilities of all Service Provider staff, as referred to in the Method Statements including Method Statements 1.8 and 1.9;

"Meter Administrator" means the person(s) appointed by the Service Provider or the Authority (as applicable) and notified to the Authority or the Service Provider (as applicable) who is responsible for the PECU array(s) covering the Project Network;

"Meter Point Administration Number" ("MPAN") means the 21-digit reference only used by the DNO to uniquely identify electricity supply points;

"Method Statements" means the contractual documents prepared by the Service Provider, and which the Service Provider will comply with, detailing how the various elements of the Service will be delivered and as set out in Schedule 3 (*Method Statements*);

"Milestone" means a milestone as set out Schedule 35 (*Milestones*);

"Milestone Adjustment Factor" means the factor applied to the Monthly Unitary Charge as defined in Schedule 4 (*Payment Mechanism*);

"Milestone Default Termination Points" or **"MDTP"** means default termination points which may be awarded to the Service Provider by the Authority in accordance with Clause 26.3 (*Milestone Default Termination Points*);

"Milestone Determination Date" means a Planned Milestone Determination Date or any anniversary thereof;

"Milestone Rectification Determination Date" means, in respect of the Milestones relating to Street Lighting and items of Traffic Signal/Control Infrastructure which are the subject matter of Milestone Rectification Works, the date on which the aggregate numbers of Lighting Units and items of Traffic Signal/Control Infrastructure (as the case may be) Certified as having been Removed within Lighting Schemes and or Traffic Signal/Control Infrastructure Sites is equal to or greater than that required for the relevant Milestone as set out in Schedule 35 (*Milestone*), or, in respect of any other Milestones which are the subject matter of Milestone Rectification Works, the date of submission by the Independent Surveyor pursuant to Clause 27.17.1.3 or by the Independent Bridge Inspector pursuant to Clause 27.17.2 (as the case may be);

"Milestone Rectification Programme" means a rectification programme put forward by the Service Provider pursuant to Clause 73.2.2 to rectify a Service Provider Default referred to in limb (q) of the definition of Service Provider Default, demonstrating how all of the Milestones, the subject matter of the relevant Termination Notice, will be achieved by the Service Provider in accordance with the procedure set out at Clause 26.2 (*Completion of a Milestone*), including how such rectification works will be integrated with any Programmed Maintenance to be carried out under any applicable Investment Programmes;

"Milestone Rectification Works" means any works undertaken by the Service Provider pursuant to a Milestone Rectification Programme;

"Milestone Rectification Works CVI Survey" means the coarse visual inspection survey of the relevant parts of the Project Network carried out in accordance with Clause 27.10 as part of a Milestone Rectification Programme;

"Milestone Rectification Works CVI Survey Programme" means the programme prepared by the Service Provider in accordance with Clause 27.10 as part of a Milestone Rectification Programme;

"Milestone Rectification Works CVI Surveying Week" shall have the meaning given to it in Clause 27.10.5;

"Milestone Rectification Works Footway Survey" means a survey of relevant Footways within the Project Network carried out in accordance with Clause 27.15 as part of a Milestone Rectification Programme;

"Milestone Rectification Works Footway Survey Programme" means a programme prepared by the Service Provider in accordance with Clause 27.15;

"Milestone Rectification Works Footway Surveying Week" has the meaning given in Clause 27.15.5;

"Milestone Rectification Works General Inspection" means a general inspection (as such term is defined in paragraph 6.4.7 of the Highway Structures Code) in respect of any Structure or Third Party Structure that is the subject of the relevant Milestone Rectification Programme;

"Milestone Rectification Works GI Programme" means a programme prepared by the Service Provider in accordance with Clause 27.18;

"Milestone Rectification Works GI Sampling Week" has the meaning given in Clause 27.18.6;

"Milestone Rectification Works GI Week" has the meaning given in Clause 27.18.5.2(b)

"Milestone Rectification Works Patching Survey" means the survey of the relevant parts of the Project Network carried out in accordance with Clause 27.14 as part of a Milestone Rectification Programme;

"Milestone Rectification Works Patching Survey Programme" means a programme prepared by the Service Provider in accordance with Clause 27.14;

"Milestone Rectification Works Patching Surveying Week" has the meaning given in Clause 27.14.5;

"Milestone Rectification Works PI Programme" means a programme prepared by the Service Provider in accordance with Clause 27.19;

"Milestone Rectification Works PI Week" has the meaning given in Clause 27.19.5B;

"Milestone Rectification Works Principal Inspection" means an inspection which comprises a close examination (within touching distance) of all accessible parts of any Rectifiable Structure including, where relevant, underwater parts and adjacent earthworks and waterways carried out in accordance with Clause 27.19;

"Milestone Rectification Works Principal Inspection Report" has the meaning given in Clause 27.19.8;

"Milestone Rectification Works SCANNER Survey" means the Surface Condition Assessment for the National Network of Roads Survey of the relevant parts of the Project Network carried out in accordance with Clause 27.11 as part of a Milestone Rectification Programme;

"Milestone Rectification Works SCANNER Survey Programme" means a programme prepared by the Service Provider in accordance with Clause 27.11;

"Milestone Rectification Works Special Inspections" means an inspection which concentrates on the condition of a particular part of a Rectifiable Structure and required to be carried out as part of a Milestone Rectification Plan in accordance with Clause 27.20;

"Milestone Year" means a year commencing on the 1st January in each calendar year and expiring on 31st December in any calendar year providing that the first Milestone Year shall commence on the Service Commencement Date and shall expire on the 31st December of the following calendar year, and the last Milestone Year shall expire on the 31st December 2017;

"Minimal XSP Level" shall have the meaning given to it in the UKPMS Visual Survey Manual 2009;

"Miscellaneous Asset Service" means the Service provided by the Service Provider in accordance with the provisions of Service Standard 9 of the Output Specification;

"Miscellaneous Structure (Type 1)" means

- (a) a miscellaneous structure, including ramps, staircases and other miscellaneous structures identified as a Miscellaneous Structure (Type 1) in Schedule 20 (*Project Network Information*); and

- (b) shall include any additional miscellaneous structures identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Miscellaneous Structure (Type 2)" means

- (a) a miscellaneous structure, including ramps, staircases and other miscellaneous structures identified as a Miscellaneous Structure (Type 2) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional miscellaneous structures identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Miscellaneous Structure (Type 3)" means

- (a) a miscellaneous structure, including ramps, staircases and other miscellaneous structures identified as a Miscellaneous Structure (Type 3) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional miscellaneous structures identified as "(Type 3)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Mitigation Plan" shall have the meaning given to it in Clause 8.4.1.5(b) (*Latent Defect Report*);

"Mobilisation" means the activities required by the Authority to be undertaken by the Service Provider prior to the Service Commencement Date, as set out in Schedule 13 (*Mobilisation*), including the Mobilisation Requirements and the Mobilisation Plan;

"Mobilisation Period" means the period from the date of this Contract until the Service Commencement Date;

"Mobilisation Plan" means the Service Provider's plan to meet the Mobilisation Requirements as set out in Part 2 of Schedule 13 (*Mobilisation*);

"Mobilisation Requirements" means the requirements of the Authority to be carried out by the Service Provider prior to the Service Commencement Date, as set out in Section A of Schedule 13 (*Mobilisation*);

"Monitoring Officer" shall mean the officer of the Authority appointed pursuant to Section 5 of the Local Government and Housing Act 1989;

"Month" means any calendar month during the Term, save that the first Month shall start on the Service Commencement Date and end on the last day of the calendar month following the calendar month in which the Service Commencement Date falls and the final Month shall start on the first day of the Month in which this Contract expires or terminates and end on the earliest of the Expiry Date or Termination Date;

"Monthly Energy Return" has the same meaning given to it in Balancing and Settlement Code Procedure 520;

"Monthly Monitoring Report" shall have the meaning given in Paragraph 3.1 of Schedule 12 (*Monitoring and Reporting*);

"Monthly Payment" means the amount calculated in accordance with Clause 56 (*Payment and Financial Matters*) and Schedule 4 (*Payment Mechanism*);

"Monthly Unitary Charge" means the amount calculated in accordance with Paragraph 2.2 of Schedule 4 (*Payment Mechanism*);

"Mounting Height" means the nominal vertical distance between the geometric centre of a Luminaire and the surface of the Carriageway;

"Movement Joint" means a device on or a design of a Structure (Type 1) or Structure (Type 2) to permit the movement of such Structure (Type 1) or Structure (Type 2);

"Movement Joint Sealant" means the sealant used to prevent the ingress of water in a Movement Joint;

"Multiplier" means the multiple applied to the Performance Adjustment in accordance with Clause 5.1.3 of Schedule 4 (*Payment Mechanism*);

"National Call Centre" means the Service Provider's alternative call centre as referred to in the Method Statements including Method Statements 1.8 and 1.9;

"National Highway Sector Scheme" ("NHSS") means the bespoke integrated management schemes which supplement ISO 9001:2008, developed by the Highways Agency in partnership with key stakeholders of the highways industry to interpret ISO 9001 and its specific application to highways maintenance activities, as amended or replaced from time to time;

"National Highways Sector Scheme 12" means the National Highway Sector Scheme number 12 entitled "Traffic Management (12A, 12B, 12C and 12D)", as amended or replaced from time to time;

"National Highways Sector Scheme 14" means the National Highways Sector Scheme number 14 entitled "Quality Assurance of the Production of Asphalt Mixes", as amended or replaced from time to time;

"National Highways Sector Scheme 16" means the National Highways Sector Scheme number 16 entitled "Laying of Asphalt Mixes", as amended or replaced from time to time;

"National Highway Sector Scheme Plans" ("NHSS Plans") means the plans developed and utilised by the Service Provider to manage and demonstrate its compliance with the appropriate National Highway Sector Scheme for a particular activity;

"National Indicators" or "NI" means the national indicators which the Authority is required to report on from time to time including NI 168, NI 169, NI 195 limbs a to d inclusive, NI 185, NI 186 and NI 196, as set out in the Department for Communities and Local Government document entitled "The New Performance Framework for Local Authorities and Local Authority Partnerships: Single Set of National Indicators" (and any update to such indicators or the introduction of any new or replacement indicators);

"Natural England" means the independent public body whose purpose is to protect and improve England's natural environment. Natural England is the government's advisor on the natural environment;

"Necessary Consents" means all permissions, consents, approvals, certificates, permits, licences and authorisations, whether statutory or otherwise, (including, where appropriate, any licence or consent under NRSWA) required for the performance of any of the Service Provider's obligations under this Contract (and whether required in order to comply with Legislation or as a result of the rights of any third party);

"Neighbourhood Shop Sites (Type 1)" means:

- (a) shop sites identified as "NSS (Type 1)" as contained within a list in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such shop sites identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Neighbourhood Shop Sites (Type 2)" means:

- (a) shop sites identified as "NSS (Type 2)" as contained within a list in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such shop sites identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Neighbourhood Shop Sites (Type 3)" means:

- (a) shop sites identified as "NSS (Type 3)" as contained within a list / in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such shop sites identified as "(Type 3)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Net Present Value" means the aggregate of the discounted values, calculated as of the estimated date of the Refinancing, of each of the relevant projected Distributions, in each case discounted using the Threshold Equity IRR;

"Net Reinstatement Works Cost" shall have the meaning given to it in Clause 67.2.2 (*Reinstatement*);

"Network Integrity Inspection" means the annual inspection to be carried out by the Service Provider to identify situations where the operational efficiency of the Project Network could be improved in accordance with the Highway Maintenance Code;

"Network Integrity Report" means the report to be provided following the completion of the Network Integrity Inspection and shall comply with Annexure 2 to the Service Standard 10 of Schedule 2 (*Output Specification*);

"Network Model" means the referencing system for Carriageways and Footways contained within the Sheffield Performance Model comprising a spatially located and uniquely-labelled set of sections of Carriageway and Footway;

"New Build" means all works of a capital nature, carried out or procured to be carried out by the Authority in its capacity as Highways Authority;

"New Contract" means an agreement on the same terms and conditions as this Contract at the Termination Date, but with the following amendments:

- (a) if this Contract is terminated prior to the completion of the Core Investment Period Programme, then the Core Investment Period and the date for completion of any applicable Milestones shall be extended by a period to allow a New Service Provider to achieve completion of the Core Investment Period Programme and any applicable Milestones;
- (b) any accrued Milestone Default Termination Points and/or accrued Performance Adjustments pursuant to the provisions of Schedule 4 (*Payment Mechanism*) and/or any formal warning notices and/or final warning notices shall, for the purposes of termination only, and without prejudice to the rights of the Authority to make Adjustments, be cancelled;
- (c) the term of such agreement shall be equal to the term from the Termination Date until the Expiry Date; and
- (d) any other amendments which do not adversely affect the Service Provider;

"New Employees" means those new employees employed by the Service Provider or a Key Sub-Contractor (as the case may be) to provide the Service excluding, for the avoidance of doubt, any Relevant Employee;

"New Employer" shall have the meaning given to it in Clause 70.12 (*Transfer of Employment of Transferring Employees*);

"New Project Network Parts" means all Project Network Parts (including, for the avoidance of doubt, Replacement CIP Certified Apparatus) but excluding the Existing Project Network Parts;

"New Service Provider" means the person who has entered or who will enter into the New Contract with the Authority;

"New Works" means New Build and/or Third Party Works;

"New Works Manager" means [REDACTED] of the Authority or such other person as the Authority shall from time to time appoint and notify to the Service Provider in writing

"NI 195 Methodology" means the methodology for assessing the cleanliness of Land Use Classes across the City in relation to levels of Litter, Detritus, Graffiti and Flyposting as set out in the document issued by the Department for Environment, Food and Rural Affairs entitled "NI 195 Guidance Manual Version 6 – 17/06/09", as updated or replaced from time to time;

"NICEIC" means the body entitled the "National Inspection Council for Electrical Installation Contracting", the UK electrical contracting industry's independent voluntary body, or any replacement or successor body;

"Night Time Inspections" means inspections of Powered Apparatus undertaken during the hours of darkness to identify any dark lamps;

"Noise Action Plan for the Sheffield Agglomeration" means the document entitled "Noise Action Plan, Sheffield Agglomeration" produced pursuant to the Environmental Noise (England) Regulations 2006 by the Department for Environment, Food and Rural Affairs, as amended or replaced from time to time;

"Non Approved Flyposting" means the display of advertising material on Project Network Parts without the consent of the Authority;

"Non-Compliant Lighting Units" means Lighting Units that are not compliant with the Relevant Lighting Standards and the Specific Lighting Design Standards and as set out in Schedule 20 (*Project Network Information*);

"Non-Contestable Works" means any works upon or connections to the distribution system of a DNO, which are not Contestable Works;

"Non-Contestable Works Saving" shall mean fifty per cent (50%) of the amount of the reduction of the price of the Original Non-Contestable Works as set out in Table 1 in Paragraph 3 of Schedule 17 (*Original Non-Contestable Works*);

"Non-Core Scheme" means any non-core works or services which the Authority wishes to implement in respect of the Project Network or an identified area outside the Project Network, including Local Transport Schemes, pursuant to Parts 4 and 5 of Schedule 7 (*Non-Core Services*);

"Non-Core Scheme Construction Services" means any services required by the Authority in relation to the construction of Non-Core Schemes under Part 5 of Schedule 7 (*Non-Core Services*);

"Non-Core Scheme Design Services" means any services required by the Authority in relation to the design of Non-Core Schemes under Part 4 of Schedule 7 (*Non-Core Services*);

"Non-Core Scheme Services" means the Non-Core Scheme Design Services and the Non-Core Scheme Construction Services, or any of them;

"Non-Core Services" shall mean those works or services to be provided by the Service Provider under the provisions of Schedule 7 (*Non-Core Services*), as listed in Section 1 of that Schedule;

"Non-Core Services Indexation Calculation" shall have the meaning given to it in Paragraph 1.3 of Schedule 7 (*Non-Core Services*);

"Non-Dangerous Reinstatement Defect" has the meaning set out in the NRSWA Code of Practice for Inspections;

"Non-Highway Hedge" means a hedge which is not part of the Project Network which is to be maintained by the Service Provider in line with custom and practice arrangements;

"Non-Illuminated Traffic Sign" means a Traffic Sign which is not an Illuminated Traffic Sign;

"Non-Offensive Graffiti" means Graffiti which is not Offensive Graffiti;

"Non-Principal Statutory Undertaker" means a Statutory Undertaker that is not a Principal Statutory Undertaker;

"Non-Standard Lighting Unit" means a Lighting Unit that has alternative requirements regarding, fixings, operation, aesthetics and materials to that of a Standard Lighting Unit as set out in Schedule 20 (*Project Network Information*);

"Non-Structural Wall Panels, Fascia Panels and Other Finishes" means a panel on or a finish to a Structure, which does not serve any structural purpose and includes fascia panels, facings to abutments and Piers, paved side slopes and tiles in Subways (Type 1) and Subways (Type 2);

"Non-Urgent Faults" means any fault in relation to Traffic Signal / Control Infrastructure and Intelligent Transport Systems (ITS) Infrastructure which is not an Urgent Fault;

"Notice Date" means the later of the Termination Date and (if applicable) the date that the Adjusted Estimated Fair Value of the Contract is agreed between the Parties pursuant to Clause 80 (*Compensation on Termination*);

"Notice Scheme" means any notice scheme operated by the Authority pursuant to Sections 54 and 55 of NRSWA;

"Notice of Service Commencement" means the notice provided by the Service Provider to the Authority pursuant to Clause 5.1.2 (*Mobilisation*);

"Noticeable Work" means works in respect of which the Service Provider is required, pursuant to the provisions of the Permit Scheme or the Notice Scheme, to submit a notice or application to the Authority, or would be required to submit such notice or application but for the position of the Service Provider as the sub-contractor of the Authority;

"Notifiable Financing" means any Refinancing described in Paragraph (a) or (c) of the definition of Refinancing and any other arrangement which has or would have a similar effect or which has or would have the effect of limiting the Service Provider or any Service Provider's Associated Company's ability to carry out any such refinancing or other arrangements which would have a similar effect;

"NPV of Accrual Unit Cost of Intervention" shall have the meaning given to it in Paragraph 5.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"NPV of De-Accrual Unit Cost of Intervention" shall have the meaning given to it in Paragraph 5.2 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"NRSWA" means the New Roads and Street Works Act 1991;

"NRSWA Code of Practice for Inspections" means the document with such title and issued by the Secretary of State for Transport on behalf of the Highway Authorities and Utilities Committee UK, as updated or replaced from time to time;

"NRSWA Protocol" means the protocol developed by the Service Provider pursuant to Clause 11.4;

"Offensive Attachment" means an Attachment which contains or displays any one or more of the elements listed in limbs (a) to (e) of the definition of Offensive Graffiti;

"Offensive Graffiti" means the illegal or unauthorised defacement of Project Network Parts and which does or may reasonably be considered to contain some or all of the following elements:

- (a) offensive language;
- (b) language of a politically, racially, or religiously insulting or inciting nature;
- (c) a hate statement;
- (d) an image which is graphically explicit; and/or
- (e) an image which is visually offensive or textually offensive by the message that it contains;

"OHSAS 18001" means the document entitled "OHSAS 18001:2007 Occupational Health and Safety" issued by the British Standards Institution, as amended or replaced from time to time;

"Operational Maintenance Value" means the value set out in Part 2 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Operational Panel" shall have the meaning given to it in Clause 82.2.1.1 (*Adjudication*);

"Operational Support Crew" means the Service Provider's staff and associated plant and equipment that can be deployed nationally to support Service Provider contracts when required, as referred to in the Method Statements including Method Statements 1.1, 1.2 and 1.3;

"Option Period" shall have the meaning given to it in Clause 67.4.3 (*Uninsurable Risks*);

"Original Carbon Model Targets" means the Carbon Model Targets which are set out in the Original Populated Carbon Models;

"Original Non-Contestable Works" means Non-Contestable Works which the Base Case assumes will be undertaken pursuant to this Contract, the prices for which are set out in Table 1 of Paragraph 3 of Schedule 17 (*Original Non-Contestable Works*);

"Original Populated Carbon Models" means the Populated Carbon Models for each Contract Year of the Term as set out by the Service Provider at the date of the Contract in Schedule 25 (*Investment Programmes*);

"Original Senior Commitment" means the amount committed under the Senior Financing Agreements as at Financial Close (as adjusted to take into account any Qualifying Variation);

"Original Traffic Management Target" means the results of the Traffic Management Calculation for each Contract Year of the Term as set out by the Service Provider at the date of the Contract in Schedule 25 (*Investment Programmes*);

"OSI Model" means the ISO Open Systems Interconnection Reference Model, which is the product of the International Organisation of Standardisation (ISO), as amended or replaced from time to time;

"Other Designated Land" means land outside of the Project Network which the Service Provider is required to maintain pursuant to this Contract and comprising Other Designated Land Parcels, as identified in Schedule 20 (*Project Network Information*);

"Other Designated Land Parcel" means:

- (a) land parcels outside of the Project Network which the Service Provider is required to maintain pursuant to this Contract, as identified in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional land parcels added by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Out of Hours Emergency Liaison Officer" means that person appointed by the Service Provider to answer calls placed to the Out of Hours Emergency Service Contact Number, in accordance with Service Standard 1 of Schedule 2 (*Output Specification*);

"Out of Hours Emergency Service" means a service provided by the Service Provider outside of the period between 08.00 hours and 18.00 hours on a Business Day to receive telephone calls in accordance with Performance Requirement 1.55 and to have resources available where necessary to enable appropriate action to be taken to make the Project Network safe;

"Out of Hours Emergency Service Contact Number" means that telephone number which the Service Provider is obliged to operate and notify to persons making contact with the Service Provider outside the hours of 08.00 hours and 18.00 hours on a Business Day in accordance with Service Standard 1 of Schedule 2 (*Output Specification*) in order to operate the Out of Hours Emergency Service;

"Output Specification" means the specification prepared by the Authority for the provision of the Service as set out in Schedule 2 (*Output Specification*);

"Outstanding Principal" means the principal amount outstanding at the Termination Date of each borrowing (other than any borrowing under an equity bridge facility) under the Senior Financing Agreement;

"Owner" means the Service Provider employee nominated as being responsible for ensuring the appropriate monitoring methodology is undertaken for a Performance Requirement as referred to in the Method Statements including Method Statements 1.12, 2 and 3;

"Parapet" means a wall, rail and/or fence that runs along the outside edges of a Structure to prevent vehicles or pedestrians falling from such Structure;

"Parentco" means any one or more of Amey UK plc (company registration number 04736639) of The Sherard Building, Edmund Halley Road, Oxford OX4 4DQ, Aberdeen Infrastructure Partners LP of Bow Bells House, 1 Bread Street, London EC4M 9HH (company registration number LP015081) 10-11Charterhouse Square, London EC1M 6EH;

"Partially Compliant Street Lighting" means the list of Lighting Units which have been designated as such in Schedule 20 (*Project Network Information*);

"Parties" means the Authority and the Service Provider;

"PAS 99" means the document entitled "PAS 99 (Specification of common management system requirements as a framework for integration)", issued by the British Standards Institution, as amended or replaced from time to time;

"PAS 2050" means the document with such title issued by the British Standards Institution, as identified in the Method Statements including Method Statement 1.10, amended or replaced from time to time;

"Patching Re-Survey" shall have the meaning given to it in Clause 27.14.8.1 (*Patching Surveys*);

"Patching Re-Survey Audit" shall have the meaning given to it in Clause 27.14.8.2 (*Patching Surveys*);

"Patching Sampling Data" shall have the meaning given to it in Clause 27.14.6.2 (*Patching Surveys*);

"Patching Sampling Report" shall have the meaning given to it in Clause 27.14.7 (*Patching Surveys*);

"Patching Sampling Week" shall have the meaning given to it in Clause 27.14.6 (*Patching Surveys*);

"Patching Survey" means the survey of the Project Network carried out in accordance with Clause 27.14 (*Patching Surveys*);

"Patching Survey Data" shall have the meaning given to it in Clause 27.14.5.2 (*Patching Surveys*);

"Patching Survey Programme" means the annual programme prepared by the Service Provider in accordance with Clause 27.14 (*Patching Surveys*) as set out in Schedule 25 (*Investment Programmes*) in respect of the first Contract Year and as submitted thereafter for each Contract Year in accordance with Clause 27.14.1 in respect of each Contract Year following the first Contract Year;

"Patching Surveyed Carriageway" shall have the meaning given to it in Clause 27.14.4 (*Patching Surveys*);

"Patching Surveying Week" shall have the meaning given to it in Clause 27.14.5 (*Patching Surveys*);

"Paving Unit" means a natural stone or pre cast unit used to form the surface of a Carriageway or Footway;

"PAYE" means the mechanism prescribed by tax legislation for the collection of income tax and national insurance contributions, sums to which Part 11 of the Income Tax (Earnings and Pensions) Act 2003 and regulations made under section 684 of the Income Tax (Earnings and Pensions) Act 2003 apply and Class 1, Class 1A and Class 1B contributions referred to in section 1(2) of the Social Security Contributions and Benefits Act 1992;

"Payment Mechanism" means the requirements of Schedule 4 (*Payment Mechanism*);

"PD 6689" means the document entitled "PD 6689:2009 Surface treatments: Guidance on the use of BS EN 12271 and BS EN 12273" issued by the British Standards Institution, as amended or replaced from time to time;

"PD 6691" means the document entitled "Guidance on the use of BS EN 13108 Bituminous mixtures", issued by the British Standards Institution, as amended or replaced from time to time;

"Peak Traffic Hours" means the hours in a day between 06:30 and 10:00 and between 15:00 and 19:00, as referred to in the Method Statements including Method Statement 7;

"PECU" or "Photo-Electronic Control Unit" means a device used for the control of Lighting Activation Levels by the Authority to confirm to the DNO the timing of switching on and off for various light sources throughout the Project Network;

"Pedestrian Barrier" means any barrier on the Project Network designed to separate pedestrians from vehicular areas or other hazards and includes, for the avoidance of doubt, pedestrian guardrails and Handrails, including the Pedestrian Barriers identified in Schedule 20 (*Project Network Information*) but excluding such measures on a Structure;

"Pedestrian Protection Measures" means any measures designed to separate pedestrians from vehicular areas or other hazards on a Structure;

"Pedestrian Routes" means the Priority Pedestrian Routes and any other Footways which require Winter Maintenance Services in accordance with Service Standard 7 of Schedule 2 (*Output Specification*);

"Pedestrian Routes Heavy Snow Treatment Commencement Time" means the time at which Heavy Snow Clearing Operations on the Priority Pedestrian Routes shall Commence, as set out by the Service Provider in the Daily Proposed Actions List or an Updated Daily Proposed Actions List pursuant to Service Standard 7 of Schedule 2 (*Output Specification*) and as reset by the Service Provider (acting reasonably), following inclusion in an Updated Daily Proposed Actions List, when a further fifty (50) millimetres depth of snow has fallen since the Pedestrian Routes Snow Clearing Commencement Time;

"Pedestrian Routes Snow Clearing Treatment Commencement Time" means the time at which Snow Clearing Operations on the Priority Pedestrian Routes shall Commence, as set out by the Service Provider in the Daily Proposed Actions List or an Updated Daily Proposed Actions List pursuant to Service Standard 7 of Schedule 2 (*Output Specification*) and as reset by the Service Provider (acting reasonably), following inclusion in an Updated Daily Proposed Actions List, when a further fifty (50) millimetres depth of snow has fallen since the Pedestrian Routes Snow Clearing Commencement Time;

"Pedestrian Routes Treatment Commencement Time" means the time at which precautionary or reactive gritting treatments of the Priority Pedestrian Routes shall Commence, as set out by the Service Provider in the Daily Proposed Actions List pursuant to Service Standard 7 of Schedule 2 (*Output Specification*);

"Pelican Crossing Controllers" has the meaning ascribed to it in BS EN 12675:2001;

"Pension Regulations" means the Local Government Pension Scheme (Administration) Regulations 2008, the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and the Local Government Pension Scheme (Transitional Provisions) Regulations 2008;

"Pension Scheme" shall have the meaning given to it in Clause 70.4 (*Alternative Pension Scheme*);

"Percentage Adjustments" means the adjustments to be made to the Schedule of Rates as agreed between the Parties and set out in Appendix 1 Part C to Schedule 7 (*Non-Core Services*);

"Percentage Fees" means the fees for those Work Stages to be calculated by reference to such percentage of the overall construction cost of a Non-Core Scheme as is set out in Appendix 1 Part C to Schedule 7 (*Non-Core Services*), in accordance with Paragraph 4.6.2 of Schedule 7;

"Performance Adjustment" means the Performance Adjustment as defined in Schedule 4 (*Payment Mechanism*);

"Performance Improvement Plan" means the Service Provider's plan to address failures to comply with the Performance Requirements, as referred to in the Method Statements including Method Statements 10 and 11;

"Performance Requirement" means minimum standards of service provision relating to each Service Standard as set out in Schedule 2 (*Output Specification*);

"Performance Requirement Benchmarking Exercise" shall mean to undertake an objective comparison at a date to be notified by the Authority to the Service Provider of the relevant National Indicators in relation to the Services against achievement of the National Indicators in relation to the same or similar Services by the Core Cities;

"Performance Requirement Quality Plan" shall have the meaning given to it in Paragraph 4.4 of Schedule 33 (*Best Value*);

"Permit Scheme" means any permit scheme operated by the Authority pursuant to Part 3 of the Traffic Management Act;

"Permitted Borrowing" means, without double-counting, any:

- (a) advance to the Service Provider under the Senior Financing Agreements (disregarding any amendments that have not been approved for the purposes of Clause 87.2.1.1);
- (b) Additional Permitted Borrowing; and

(c) interest on the above amounts and (disregarding any amendments that have not been approved for the purposes of Clause 87.2.1.1) other amounts accrued or payable under the terms of such Senior Financing Agreements,

except where the amount referred to in Paragraphs (a) to (c) above is or is being used to fund a payment of Default Interest on any Additional Permitted Borrowing;

"Permitted Purposes" shall have the meaning given to it in Clause 84.9 (*Licence to use Trade Marks and Data*);

"Pernicious Weeds" means those plants that are or ought reasonably to be considered to be destructive to other plants in their midst;

"Persistent Breach" means a breach for which a Final Warning Notice has been issued, which has continued [REDACTED] [REDACTED] after the date on which such Final Warning Notice is served on the Service Provider;

"Personal Data" means personal data as defined in the DPA which is supplied to the Service Provider by the Authority or obtained by the Service Provider in the course of performing the Service;

"Personnel" means the employees, servants, agents, Sub-contractors or other representatives, of the Service Provider, or of any Key Sub-Contractor involved directly, or indirectly, in the provision of the Service;

"PFI" means the Government's Private Finance Initiative or any similar or replacement initiative;

"PFI Contractor" means a person that has contracted with the Government, a local authority or other public or statutory body to provide services under the PFI;

"Physically Aligned Correctly" means in relation to items of Traffic Signal / Control Infrastructure and Intelligent Transport Systems (ITS) Infrastructure, that such equipment is positioned and directed in accordance with the relevant guidance contained in the Highway Standards;

"PI Inspecting Month" shall have the meaning given to it in Clause 27.19.5 (*Principal Inspections*);

"Piers" shall have the meaning ascribed to it in the Executive Summary and Glossary of the Highway Structures Code;

"Planned CIP Completion Date" shall be the end of the fifth (5th) Milestone Year, being 31st December 2017;

"Planned Milestone Determination Date" means the date falling on the last day of each Milestone Year in relation to each Milestone;

"Planned Road Closure" means a closure of a Carriageway that is set out in the relevant Annual Investment Programme and agreed and accepted by Authority;

"Planned Service Commencement Date" means 20 August 2012 (or such other date as the Parties may agree);

"Planted Areas" means area(s) designated for planting, including those Planted Areas set out in Schedule 20 (*Project Network Information*);

"Planting Season" means the period from the 1st November to 31st March unless Authority Approval has been obtained for an extension to the Planting Season;

"Planting Season Days" means any consecutive days during a Planting Season or, where relevant, during two consecutive Planting Seasons;

"Pollution Prevention Guidance" means the documents on the law and good environmental practice issued by the Environment Agency, to help reduce environmental risks from business activities, as referred to in the Method Statements including Method Statement 1.10;

"Populated Carbon Model" means a Carbon Model which has been populated with the relevant figures and has produced the level of carbon that will be produced by the Service Provider in the delivery of the Services;

"Post Tensioned Bridge or Subway" means any of Handsworth Interchange East Bridge (Ref No. 3.048), Handsworth Interchange West Bridge (Ref no. 3.048A), Woodburn Road Bridge (ref No. 3.039), Shirland Lane Rail Bridge (Ref No. 6.361), Staniforth Road Railway Bridge (Ref No. 4.132), Bernard Road bridge (Ref No. 3.038), Bernard Road Canal Bridge (Ref No. 4.047) or Blackstock Road Bridge (Ref No. 5.264);

"Post Tensioning Defect" [REDACTED]
[REDACTED]
[REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

"Post Termination Service Amount" means for the purposes of Clause 80.5.3 (*Retendering Procedure*), for the whole or any part of a Month for the period from the Termination Date to the Compensation Date, an amount equal to the Monthly Unitary Charge which would have been payable in that Month under the Contract had the Contract not been terminated, less an amount equal to the aggregate of:

- (a) the Market Value Availability Deduction Amount for that Month;
- (b) the Rectification Costs incurred by the Authority in that Month; and
- (c) (where relevant), the amount by which the Post Termination Service Amount for the previous Month was less than zero;

"Potential Financing Default" shall have the meaning given to it in the Senior Financing Agreements;

"Power Variation" means the variation of the light output from a Luminaire by the reduction or increase in electrical power consumed by the Luminaire;

"Power Variation Capability" means the capability of a Luminaire to operate with Power Variation when used with an additional control device;

"Power Variation Requirements" means the requirement in respect of a particular Luminaire to have definitive Power Variation as detailed in the Specific Lighting Design Standards;

"Powered Apparatus" means all Apparatus which requires an electrical supply for its operation, including Lighting Units, Illuminated Traffic Signs, Traffic Signal/Control Infrastructure, Intelligent Transport Systems (ITS) Infrastructure, and all materials and equipment used in or relating to the operation thereof;

"Powered Apparatus Energy Carbon Model Target" means the forecast target in relation to carbon production in the delivery of the Services in relation to Powered Apparatus energy as set out by the Service Provider in the Original Populated Carbon Model or the Updated Populated Carbon Model (as applicable) for each Contract Year;

"Powered Apparatus Inventory" means an electronic record of the information set out in Annexure 4 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Powered Apparatus Management System" means an electronic records system which records the information set out in Annexure 4 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Pre-Action Protocol" means the pre-action protocols applying from time to time to the administration of Highway Claims;

"Preamble to Schedule of Rates" means the document with such name set out in Appendix 1 Part F of Schedule 7 (*Non-Core Services*);

"Precautionary Treatment" means a treatment using anti-icing products used to prevent the formation of ice and frost or snow settling on the Priority Network;

"Pre-Commencement Survey Date" means 31st January 2012;

"Preferred Bidder Mobilisation Period" means the period commencing prior to the date of the Contract on the announcement of the Service Provider as the preferred bidder for the Project and ending on the Service Commencement Date;

"Preliminaries" means, in relation to Non-Core Scheme Construction Services, any items which are not covered within the Schedule of Rates, and which are:

- (a) as listed within Series 100 of the Manual of Contract Documents for Highway Works – Volume 1 Specification for Highway Works; and/or
- (b) any other consequential costs arising from the Service Provider's chosen method of working and (subject to Paragraph 4.8 of Schedule 7 (Non-Core Services)) site specific circumstances for each Non-Core Scheme;

"Prescribed Rate" means two per cent (2%) above the base rate from time to time of the Co-operative Bank plc;

"Presentation Layer" means is Layer 6 of the seven-layer OSI Model, which is responsible for the delivery and formatting of information to an application for further processing or display;

"Prestige Area" means

- (a) any high quality area of any Footway Hierarchical Type or Carriageway Hierarchical Type, shown as Prestige on the "Maps of Prestige Areas" set out in Schedule 20 (*Project Network Information*);
- (b) shall include any additional such areas identified as "Prestige Areas" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

Pre-Refinancing Equity IRR means the post-Service Provider tax, pre Shareholder tax nominal shareholders IRR as contained in the Base Case immediately prior to the Refinancing;

"Price Adjustment Formulae Indices" or **"PAFI"** means the monthly indices published by Building Cost Information Service;

"Primary Data Link" shall have the meaning given to it in Performance Requirement 1.34(g) of Service Standard 1 of the Output Specification;

"Primary Road" means a Carriageway on the Primary Road Network;

"Primary Road Network" means the "Primary Road Network" as defined within the Network Model;

"Principal Contractor" has the meaning given to it in the CDM Regulations;

“Principal Designer” shall have the meaning given to in Clause 38 (CDM Regulations);

"Principal Inspection" means an inspection which comprises a close examination (within touching distance) of all accessible parts of a Structure (Type 1), including, where relevant, underwater parts and adjacent earthworks and waterways carried out in accordance with Clause 27.19 (*Principal Inspections*);

"Principal Inspection Data" shall have the meaning given to it in Clause 27.19.6.2 (*Principal Inspections*);

"Principal Inspection Programme" means the rolling six (6) year programme prepared by the Service Provider in accordance with Clause 27.19 (*Principal Inspections*) as set out in Schedule 25 (*Investment Programmes*) in respect of the first Contract Year and as submitted thereafter each Contract Year in accordance with Clause 27.19 (*Principal Inspections*);

"Principal Inspection Report" shall have the meaning given in Clause 27.24.1.2 (*Qualitative Review of Structure Inspection reports*);

"Principal Inspection Sampling Data" shall have the meaning given to it in Clause 27.19.6.1 (*General Inspections*);

"Principal Inspection Strategy" means the rolling six (6) year strategy prepared by the Service Provider in accordance with Clause 27.19 (*Principal Inspections*), as set out in Annexure 14 (*Inspection Strategies*) in respect of the first Contract Year and as submitted thereafter each Contract Year in accordance with Clause 27.19 (*Principal Inspections*);

"Principal Inspection Structures" shall have the meaning given to it in Clause 27.19.5.1 (*Principal Inspections*);

"Principal Shop Sites" means a major well used shopping area outside of the City Centre and as set out in Schedule 20 (*Project Network Information*) and:

- (a) for the purpose of the Performance Requirements in respect of the Street Cleaning relates to the areas identified on the relevant plans in Schedule 20 (*Project Network Information*); and
- (b) for the purpose of the Performance Requirements in respect of the Winter Maintenance Service covers the Footways only within the areas identified on the relevant plans in Schedule 20 (*Project Network Information*);

"Principal Statutory Undertaker" means a Statutory Undertaker that regularly carries out a significant amount of work on the Project Network;

"Priority 1 Carriageway Routes" means those Carriageways designated as such by the Authority in Schedule 20 (*Project Network Information*), as amended by the Service Provider during the Term pursuant to any Annual Winter Maintenance Service Review Report;

"Priority 1 Pedestrian Routes" means the Priority 1a Pedestrian Routes and the Priority 1b Pedestrian Routes;

"Priority 1a Pedestrian Routes" those Footways designated as such by the Authority in Schedule 20 (*Project Network Information*), as amended by the Service Provider during the Term pursuant to any Annual Winter Maintenance Service Review Report;

"Priority 1b Pedestrian Routes" those Footways designated as such by the Authority in Schedule 20 (*Project Network Information*), as amended by the Service Provider during the Term pursuant to any Annual Winter Maintenance Service Review Report;

"Priority 2 Carriageway Routes" means those Carriageways designated as such by the Authority in Schedule 20 (*Project Network Information*), as amended by the Service Provider during the Term pursuant to any Annual Winter Maintenance Service Review Report;

"Priority 2 Pedestrian Routes" means those Footways designated as such by the Authority in Schedule 20 (*Project Network Information*), as amended by the Service Provider during the Term pursuant to any Annual Winter Maintenance Service Review Report;

"Priority 3 Pedestrian Routes" means those Footways designated as such by the Authority in Schedule 20 (*Project Network Information*), as amended by the Service Provider during the Term pursuant to any Annual Winter Maintenance Service Review Report;

"Priority Carriageway Routes" means both the Priority 1 Carriageway Routes and the Priority 2 Carriageway Routes;

"Priority Habitats" means habitats that are conservation priorities which are under threat because of their rarity and rate of decline;

"Priority Network" means both the Priority Carriageway Routes and the Priority Pedestrian Routes;

"Priority Pedestrian Routes" means the Priority 1 Pedestrian Routes, the Priority 2 Pedestrian Routes and the Priority 3 Pedestrian Routes;

"Priority Sites" means those Traffic Signal/Control Infrastructure Sites as listed in Annexure 1 to Service Standard 5 of Schedule 2 (*Output Specification*);

"Private Cable Installations" means cables on the Project Network not owned by the DNO and which provide electrical supplies to Powered Apparatus;

"Private Roads" shall mean a road that is not within the Project Network;

"PRMS" means the Service Provider's Performance Requirement monitoring system, as referred to in the Method Statements including Method Statements 1.6, 1.11 and 1.12;

"Programmed Maintenance" means the planned and pre-emptive refurbishment and life cycle replacement of Project Network Parts so that they meet the requirements of the Output Specification and other relevant provisions of this Contract;

"Programmed Maintenance Accrual Value" means the value for the programmed maintenance element of a Project Network Part which is to be Accrued, as calculated pursuant to Paragraph 5.1.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Programmed Maintenance De-Accrual Value" means the value for the programmed maintenance element of a Project Network Part which is to be De-Accrued, as calculated pursuant to Paragraph 5.1.2 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Programmed Populated Carbon Model" means the Populated Carbon Model for the relevant Contract Year setting out the anticipated level of carbon that will be produced by the Service Provider in the delivery of the Services per Contract Year;

"Programmed Traffic Management Calculation" means the Traffic Management Calculation submitted by the Service Provider in the Investment Programmes following the first Contract Year, based on the Programmed Maintenance set out in the Investment Programmes;

"Programmed Works Protocol" means the protocol set out at Annexure 13 (*Programmed Works Protocol*);

"Prohibited Act" means:

- (a) offering giving or agreeing to give to any servant of the Authority any gift or consideration of any kind as an inducement or reward:

- (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Contract or any other contract with the Authority; or
 - (ii) for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the Authority;
- (b) entering into this Contract or any other contract with the Authority in connection with which commission has been paid or has been agreed to be paid by the Service Provider or on its behalf, or to its knowledge, unless, before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Authority;
- (c) committing any offence:
- (i) under the Bribery Act 2010;
 - (ii) under Legislation creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts in relation to this Contract or any other contract with the Authority; or
- (d) defrauding or attempting to defraud or conspiring to defraud the Authority;

"Prohibitory Road Marking" means any road marking which serves to prohibit a manoeuvre;

"Project" means the rehabilitation and maintenance of the Project Network and all Project Network Parts and the carrying out of various Services in connection with the Project Network as contemplated by this Contract (including the carrying out of the Service) for a period of twenty five (25) years;

"Project Accounts" means accounts referred to in and required to be established under the Senior Financing Agreements;

"Project Documents" means the documents entered into by the Authority listed in Part 1 of Annexure 2 (*Project Documents, Ancillary Documents and Finance Agreements*);

"Project IRR" means the nominal project return, [REDACTED]

"Project Network" means the land shown on the data sets "Adopted_as_of_27th September_11" and "GM_P&T_Highways_Land", forming part of the Highway Record, as varied in accordance with this Contract;

"Project Network Classification System" has the meaning given to it in Performance Requirement 1.85 of Service Standard 1 of Schedule 2 (*Output Specification*);

"Project Network Classification System Review" has the meaning given to it in Annexure 5 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Project Network Inventory" means an electronic inventory of Project Network Parts as described in Annexure 4 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Project Network Materials" shall have the meaning given to it in Clause 18.5.1 (*Disposal of Materials*);

"Project Network Part" means a Structure or an item of Apparatus, or a Highway Tree, or a Carriageway, Cuttings, Embankment, Footway, Footpath, Cycle Way, Cycle Path, or Other Designated Land or Other Designated Land Parcel, or any part thereof, including all aspects of that item but excluding all items owned by Third Parties, on the Project Network, or which is not on the Project Network but is identified in Schedule 20 (*Project Network Information*) (or, where applicable, is visible from or adjacent to the Project Network), or any other part of the Project Network to which the Services shall be carried out or any part thereof from time to time in accordance with the provisions of this Contract;

"Project Network Part Compliance Notice" shall have the meaning given to it in Paragraph 3.1.3 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Property Documents" means the agreements between the Authority and the Service Provider dealing with the lease of those Authority Depots which the Service Provider requires from the Authority to the Service Provider, the form of which is attached as Annexure 4 (*Form of Property Documents*);

"Proposed Implementation Date" shall have the meaning given in Clause 54.1.4 (*Change in Highway Standards*);

"Proposed Project Network Part" means a Project Network Part which the Authority intends to Accrue or De-Accrue (as applicable);

"Proposed Workforce" shall have the meaning given to it in Clause 69.7 (*Workforce Information*);

"Protected Species" means species highlighted as priorities for conservation action under the UK BAP, as referred to in the Method Statements including Method Statement 1.10;

"Protestor" means any person engaged in a public organised demonstration of objection upon the Project Network;

"Qualifying Bank Transaction" means:

- (a) the syndication by a Senior Lender, in the ordinary course of its business, of any of its rights or interests in the Senior Financing Agreements;
- (b) the grant by a Senior Lender of any rights of participation, or the disposition by a Senior Lender of any of its rights or interests (other than as specified in Paragraph (a) above), in respect of the Senior Financing Agreements in favour of:
 - (i) any other Senior Lender;
 - (ii) any institution which is recognised or permitted under the law of any member state of the EEA to carry on the business of a credit institution pursuant to Council Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions or which is otherwise permitted to accept deposits in the United Kingdom or any other EEA member state;
 - (iii) a local authority or public authority;
 - (iv) a trustee of a charitable trust which has (or has had at any time during the previous two years) assets of at least £10 million (Indexed) (or its equivalent in any other currency at the relevant time);
 - (v) a trustee of an occupational pension scheme or stakeholder pension scheme where the trust has (or has had at any time during the previous two years) at least 50 members and assets under management of at least £10 million (Indexed) (or its equivalent in any other currency at the relevant time);
 - (vi) an EEA or Swiss Insurance Undertaking;
 - (vii) a Regulated Collective Investment Scheme;

- (viii) any Qualifying Institution; or
- (ix) any other institution in respect of which the prior written consent of the Authority has been given; and/or
- (c) the grant by a Senior Lender of any other form of benefit or interest in either the Senior Financing Agreements or the revenues or assets of the Service Provider or Holdco, whether by way of security or otherwise, in favour of:
 - (i) any other Senior Lender
 - (ii) any institution specified in paragraphs (b)(ii) to (vii) above; or
 - (iii) any other institution in respect of which the prior written consent of the Authority has been given;

"Qualifying Change in Law" means:

- (a) a Discriminatory Change in Law;
- (b) a Specific Change in Law;
- (c) a General Change in Law which comes into effect following the CIP and which involves Capital Expenditure;

which was not foreseeable at the date of this Contract; and/or

- (d) a change to the Balancing and Settling Code Procedure (BSCP 520) or any successor procedure which specifically relates to the re-rating of electricity consumption of any item of Powered Apparatus;

"Qualifying Refinancing" means any Refinancing that will give rise to a Refinancing Gain greater than zero that is not an Exempt Refinancing;

"Qualifying Variation" means, either:

- (a) a Change in respect of which either an Authority Change Notice or a Service Provider Change Notice has been served and, in the case of:
 - (i) an Authority Change Notice, the Authority issued a Confirmation Notice and, where the Service Provider is not funding all or part of the required Capital Expenditure, the

Authority has agreed to meet all or the remaining part (as appropriate) of such Capital Expenditure; and

(ii) a Service Provider Change Notice, the Change has been accepted by the Authority; or

(b) a Qualifying Change in Law,

and in respect of which any documents or amendments to this Contract or any Project Document or any Ancillary Document which are required to give effect to such Change or Qualifying Change in Law have become unconditional in all respects;

"Qualitative Assessment Report" shall have the meaning given in Clause 27.24.2 (*Qualitative Review of Structure Inspection reports*);

"Quality Manager" means [REDACTED] or such person appointed by the Service Provider pursuant to Clause 35.6 (*Quality Manager*);

"Quality Plans" means the Design Quality Plan and the Service Quality Plan;

"Quick wins" means a process, procedure, product or material that offers the opportunity to go beyond current practice, as referred to in the Method Statements including Method Statement 1.10;

"Reactive Gritting Operations" means treatments using anti-icing products used to remove ice and frost that has formed or snow that has settled on the Priority Network;

"Reactive Maintenance" means maintenance of the Project Network required to rectify an Urgent Defect, Category 1 Defect, an Urgent Fault or a Third Party Urgent Defect;

"Reactive Treatments" means Reactive Gritting Operations, Snow Clearing Operations, Heavy Snow Clearing Operations and Residual Snow Clearing Operations and any other similar treatments;

"Real Post Tax Blended Equity IRR" has the meaning given to that term in Schedule 34;

"Recipient" shall have the meaning given to it in Clause 62.2 (*Value Added Tax*);

"Recruitment and Selection Policy" means the policy produced by the Service Provider under the provisions of Clause 36.9 (*Recruitment and Selection Policy*) and as set out at Schedule 22 (*Workforce Policies, Health and Safety Manual and Quality Plans*);

"Rectifiable CVI Surveyed Carriageway" has the meaning given in Clause 27.10.2;

"Rectifiable Patching Surveyed Carriageway" means all Carriageways within the Project Network which are the subject matter of the relevant Milestone Rectification Programme;

"Rectifiable Structure" means any Structure or Third Party Structure (as the case may be) that is the subject of a Milestone Rectification Programme;

"Rectifiable Surveyed Footway" has the meaning given in Clause 27.15.2;

"Rectification Costs" means, for the purposes of any Termination Date that occurs during the Term, an amount equal to the reasonable and proper costs incurred by the Authority in a particular Month or part of a Month in ensuring that the Services are available;

"Rectification Plan" shall have the meaning given to it in Clause 8.4.1.5(a) (*Latent Defect Report*);

"Reduced Obligation Agreements" shall have the meaning given to it in Clause 40.7 (*Authority passing on benefits of Third Party Agreements*);

"Reduced Obligation Project Network Parts" shall have the meaning given to it in Clause 40.7 (*Authority passing on benefits of Third Party Agreements*);

"Reduced Obligations" means the obligations owed to the Authority pursuant to this Contract which are reduced because of a reduction in such liability due to the provisions of those agreements which are listed as being assigned or assignable to the Service Provider under the terms of Part 2 of Schedule 23 (*Third Party Agreements*);

"Refinancing" means:

- (a) any amendment, variation, novation, supplement or replacement of any Financing Agreement (other than any Subordinated Financing Agreement);
- (b) the exercise of any right, or the grant of any waiver or consent, under any Financing Agreement (other than any Subordinated Financing Agreement);
- (c) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, the Financing Agreements (other than the Subordinated Financing Agreements) or the creation or granting of any other form of benefit or interest in either the Financing Agreements (other than the Subordinated Financing Agreements) or the contracts, revenues or assets of the Service Provider whether by way of security or otherwise; or

- (d) any other arrangement put in place by the Service Provider or another person which has an effect which is similar to any of Paragraphs (a) to (c) above or which has the effect of limiting the Service Provider's or any Associated Company's ability to carry out any of Paragraphs (a) to (c) above;

"Refinancing Gain" means an amount equal to the greater of zero and $((A - B) - C)$, where:

- A** = the Net Present Value of the Distributions projected immediately prior to the Refinancing (taking into account the effect of the Refinancing and using the Base Case as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing) to be made to each Relevant Person (without double counting) over the remaining term of the Contract following the Refinancing;
- B** = the Net Present Value of the Distributions projected immediately prior to the Refinancing (but without taking into account the effect of the Refinancing and using the Base Case as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing) to be made to each Relevant Person (without double counting) over the remaining term of the Contract following the Refinancing; and
- C** = any adjustment required to raise the Pre-Refinancing Equity IRR to the Threshold Equity IRR;

"Refinancing Notice" shall have the meaning given to it in Clause 105.9.1 (*Authority Right to Request Refinancing*);

"Regulations" means regulations issued pursuant to Part III of NRSWA;

"Reinforced Earth Structure" means

- (a) any mass of earth to which reinforcing measures have been added in order to strengthen or stabilise the earth thereby supporting a Highway on the Project Network identified as a Reinforced Earth Structure in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional reinforced earth structures installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and

- (c) shall include any additional reinforced earth structures installed by the Service Provider as a result of compliance with the Output Specification;

"Reinstatement Defect Causing Danger" means has the meaning set out in the NRSWA Code of Practice for Inspections;

"Reinstatement Plan" shall have the meaning given to it in Clause 67.2.1.1 (*Reinstatement*);

"Reinstatement Works" shall have the meaning given to it in Clause 67.2.1.1 (*Reinstatement*);

"Reinstatement Works Direct Costs" means the costs reasonably and properly to be incurred by the Service Provider as a direct consequence of implementing the Reinstatement Works, as agreed pursuant to Clause 67.2.1.2 and/or Clause 67.2.1.3 and/or Clause 67.2.1.6 and/or Clause 67.2.1.7 or as determined pursuant to Clause 67.2.1.3 and/or Clause 67.2.1.7, and after deducting (without double counting);

- (a) any savings achieved, or to be achieved, by the Service Provider in the costs of any Service which the Service Provider would have been required to carry out in respect of the affected Project Network Parts but which the Service Provider is now unable to carry out due to the occurrence of the Relevant Incident; and
- (b) any savings achieved, or to be achieved, by the Service Provider to the extent that the carrying out of the Reinstatement Works will replace the carrying out of any planned Services or Services that should have been planned had the Service Provider been complying with the provisions of this Contract;

"Relevant Assumptions" means the assumptions that the sale of the Service Provider is on the basis that there is no default by the Authority, that the sale is on a going concern basis, that no restrictions exist on the transfer of the share capital, that no Additional Permitted Borrowing has taken place and therefore that the effect of the Additional Permitted Borrowing on the calculation of such amount is disregarded but that otherwise the actual state of affairs of the Service Provider and the Project is taken into account;

"Relevant Authority" means any court with the relevant jurisdiction and any local, national or supra-national agency, authority, inspectorate, minister, ministry, official or public or statutory person of the government of the United Kingdom or of the European Union;

"Relevant British Standards" means the national standards that meet the requirements of the BSI British Standards Organisation;

"Relevant Employees" means the employees who are the subject of a Relevant Transfer;

"Relevant Event" means an Authority Change, a Qualifying Change in Law, a Compensation Event or other matter as a result of which an adjustment to the Unitary Charge is required in accordance with the provisions of this Contract;

"Relevant Incident" shall have the meaning given to it in Clause 67.2.1 (*Reinstatement*);

"Relevant Legislation" shall have the meaning given to it in Clause 63.4 (*Sub-Contractors in the Construction Industry Scheme*);

"Relevant Lighting Standards" means:

- (a) Highway Standards, to the extent that they relate to Powered Apparatus;
- (b) all relevant European and British Standards (or updates to those standards) for road lighting issued from time to time including:
 - (i) BS EN 13201;
 - (ii) BS 5489;
 - (iii) BS EN 14001 for Environmental Management;
 - (iv) BS EN 40 for Lighting Columns;
 - (vi) BS EN 60598 for Luminaires;
 - (vii) BS EN 12899-1 for traffic signs;
 - (viii) prEN 12899-2 for illuminated traffic bollards;
 - (ix) BS 873 for Belisha Beacons, centre island beacons and flashing school warning signs;
- (c) IEE Wiring Regulations (BS 7671 requirements for electrical installations);
- (d) IEE Codes of Practice;
- (e) Institution of Lighting Engineers Guidance Notes for the Reduction of Lighting Pollution;
- (f) Institution of Lighting Engineers Technical Reports and Guidance Notes;
- (g) Institution of Lighting Engineers Lasers, Festival and Entertainment Lighting Code;

- (h) CSS, Road Lighting Maintenance Code of Good Practice; and
- (i) Highways Lighting Code;

and all other relevant standards, codes of practice, government and national policies, industry guidelines and Good Industry Practice relating to any Powered Apparatus and all successor standards, publications of or amendments to the above mentioned Relevant Lighting Standards;

"Relevant Payment" shall have the meaning given to it in Clause 67.4.3 (*Uninsurable Risks*);

"Relevant Person" means a Shareholder and any of its Affiliates;

"Relevant Project Network Part" means all Project Network Parts indicated in the Mayrise Database as being Project Network Parts to which Paragraph 2.2 of Schedule 8 (*Attachments and Advertising*) shall apply (and where such are CIP Certified Apparatus, shall include the Replacement CIP Certified Apparatus installed by the Service Provider);

"Relevant Relief" is a Relief which arises in connection with the Project, this Contract or any other Project Document or anything done in relation to the Project, or any other Project Document or anything done thereunder and includes any Relief arising as a consequence of:

- (a) the distribution or disbursement of any amount obtained or in relation to anything done under this Contract by the receiving Party (whether by way of interest, dividend or other distribution, repayment, reduction or redemption of capital or indebtedness or return of assets or otherwise) including any payment made or to be made as a result of the event or events giving rise to the amount payable under Clause 60 (*Tax*); or
- (b) the Relevant Tax Liability or the payment or discharge of it;

"Relevant Tax Liability" means in respect of a Termination Payment or, where applicable, an Indemnity Payment to the extent that it has an Actual Liability or a Deemed Liability;

"Relevant Transfer" means a relevant transfer for the purposes of the Transfer Regulations;

"Relief" shall mean any relief, allowance or deduction in computing profits or Tax or a credit against, or right to repayment of, Tax granted by or pursuant to any legislation for Tax purposes;

"Relief Event" means:

- █ [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

- [REDACTED]

- █ [REDACTED]

- █ [REDACTED]

"Required Insurances" means those insurances set out in Part 1 of Schedule 6 (*Insurance*);

"Required Outcomes" means the outcomes set out in the preamble to each Service Standard;

"Residual Life" means that without any replacement components being required, the period of time that a Project Network Part will continue to comply with all of the relevant requirements within the Output Specification except Performance Requirement 5.2 relating to Traffic Signal/Control Infrastructure;

"Residual Snow Clearing Operations" means those treatments to be undertaken by the Service Provider to remove snow furrows formed as a result of Snow Clearing Operations or Heavy Snow Clearing Operations or to remove other snow causing restrictions to traffic flow in order to comply with Section 41(A) of the Highways Act and the Required Outcomes of Service Standard 7 of the Output Specification;

"Resources" means any of the resources (e.g. vehicles, plant, equipment, Stock and premises) used by the Service Provider in the normal course of providing the Services which are required in the Response to a Major Emergency;

"Response" means any activity requested by the Authority in order to respond to a Major Emergency, including the deployment of any required Resources and Personnel, to mitigate and manage the effects of the Major Emergency and to recover the normal operations of the Authority and the Emergency Services for the period of time identified by the Authority, which shall be available immediately, three hundred and sixty five (365) days a year (three hundred and sixty six (366) in a leap year), twenty four (24) hours a day, seven (7) days a week;

"Retained Obligations" means

- (a) the obligations of the Authority under the Third Party Agreements which are listed as being expressly excluded from being transferred or novated or from becoming the responsibility of the Service Provider under the terms of Part 1 of Schedule 23 (*Third Party Agreements*); and
- (b) any obligation under the Third Party Agreements or any other agreement undertaking or commitment between the Authority and any Third Party, to acquire or not acquire, any estate or interest in land, or to pay compensation for the acquisition of such land;

"Retained Rights" means the rights and powers of the Authority under the Third Party Agreements which:

- (a) are not Delegated Rights; or
- (b) are listed as being expressly excluded from being transferred or novated to, or from becoming the responsibility of, the Service Provider under the terms of Part 1 of Schedule 23 (*Third Party Agreements*); or
- (c) confer any right to acquire land or an estate or interest in land;

"Retaining Wall" means a structure constructed to support the Project Network or in certain cases land adjacent to the Project Network;

"Retaining Wall (Type 1)" means:

- (a) a retaining wall supporting or above a Highway on the Project Network identified as a Retaining Wall (Type 1) in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional retaining walls identified as "(Type 1)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional retaining walls identified as "(Type 1)" installed by the Service Provider as a result of compliance with the Output Specification;

"Retaining Wall (Type 2)" means:

- (a) a retaining wall supporting or above a Highway on the Project Network including those identified as a Retaining Wall (Type 2) in Schedule 20 (*Project Network Information*);
- (b) shall include any additional retaining walls identified as "(Type 2)" installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional retaining walls identified as "(Type 2)" installed by the Service Provider as a result of compliance with the Output Specification;

"Retaining Wall Condition Index" means the numerical value of a the condition of a Retaining Wall (Type 1), as evaluated in accordance with the CSS Bridge Condition Indicators - Commission Report, on a scale of 100 (best condition) to 0 (worst condition);

"Retaining Wall Condition Indices" means the RWCI_{AV}, the RWCI_{CRIT}, the RWSCI_{AV}, and the RWSCI_{CRIT};

"Retendering Information" shall have the meaning given to it in Clause 69.15.1 (*Returning Employees Information Provision*);

"Retention Fund Account" shall mean the joint account to be established by the Parties pursuant to Clause 79.4 (*Retention Fund Account*);

"Rethinking Construction" means the document with such title issued by the Construction Task Force to the Deputy Prime Minister in 1998, on the scope for improving the quality and efficiency of UK construction, published by the Department of Trade and Industry, as amended or replaced from time to time;

"Retroreflectivity" means the ability to reflect light back to its source with a minimum scattering of light in respect of all classes of Traffic Sign faces, Road Studs and Road Markings;

"Return Date" shall have the meaning given in Clause 69.16.3 (*Termination of Contract*);

"Returning Employees" shall mean those employees assigned to the provision of the Service immediately before the expiry or termination of this Contract whose employment transfers to the Authority or a Future Service Provider pursuant to the Transfer Regulations;

"Revenue and Customs" or **"HMRC"** means HM Revenue and Customs (or any other successor body);

"Revenue Sharing Equity IRR" means the nominal post Service Provider tax pre shareholder tax blended rate of return to a shareholder or any of its Affiliates from the Service Commencement Date to the final day of the previous Contract Year having regard to Distributions made;

"Review Procedure" means the procedure set out in Schedule 21 (*Review Procedure*);

"Reviewable Design Data" means data to be submitted by the Service Provider setting out the designs for the Works to be carried out, in the event of any Programmed Maintenance which will comprise any of the following:

- (a) any major works, including restructuring or significant alteration, to any Structure;
- (b) any works to a Carriageway or Footway which would alter the vertical or horizontal alignment of such Carriageway or Footway; or

- (c) the Removal and/or installation of any Traffic Signal/Control Infrastructure Sites or ITS Infrastructure;

"Revised Senior Debt Termination Amount" means, subject to Clause 87.2.1 (*Changes to Project Documents, Ancillary Documents and Financing Agreements*):

- (a) all amounts outstanding at the Termination Date, including interest and (other than in respect of Additional Permitted Borrowing) Default Interest accrued as at that date, from the Service Provider to the Senior Lenders in respect of Permitted Borrowing; and
- (b) all amounts including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Service Provider to the Senior Lenders as a result of a prepayment in respect of Permitted Borrowing, or, in the case of early termination or interest rate hedging arrangements only, as a result of termination of this Contract, subject to the Service Provider and the Senior Lenders mitigating all such costs to the extent reasonably possible,

less, to the extent it is a positive amount, the aggregate of (without double counting in relation to the calculation of the Revised Senior Debt Termination Amount or the amounts below):

- (c) all credit balances on any bank accounts held by or on behalf of the Service Provider on the Termination Date;
- (d) any amounts claimable on or after the Termination Date in respect of Contingent Funding Liabilities;
- (e) all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Senior Lenders to the Service Provider as a result of prepayment of amounts outstanding in respect of Permitted Borrowing, or, in the case of early termination of interest rate hedging arrangements only, as a result of termination of this Contract;
- (f) all other amounts received by the Senior Lenders on or after the Termination Date and before the date on which any compensation is payable by the Authority to the Service Provider as a result of enforcing any other rights they may have; and
- (g) all APB Distributions;

"RIDDER" means the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995;

"Risk and Opportunities Register" means the list of risks and opportunities identified by the Service Provider associated with an individual Non-Core Scheme, as referred to in the Method Statements including Method Statement 11;

"Risk Assessment Strategy" means the strategy of the Service Provider set out at Annexure 14 for the assessment of Structures in accordance with Clause 27.21 (*Risk Assessments*) for the first Contract Year and as submitted thereafter in accordance with Clause 27.21 (*Risk Assessments*);

"Road Circulars" means guidance and advice notes with such name issued from time to time by the Department for Transport, as amended or replaced from time to time;

"Road Codes and Complementary Guidance" means those codes maintained and endorsed from time to time by the UK Roads Board;

"Road Marking" means any thermoplastic or paint marking on the Project Network;

"Road Note 39 (6th Edition)" means the document entitled "Road Note 39 (6th Edition): Design guide for road surface dressing" published by TRL Limited, as amended or replaced from time to time;

"Road Note 41" means the document entitled "Road Note 41: Best Practice Guide for Overlaying Concrete" published by TRL Limited, as amended or replaced from time to time;

"Road Safety Audit" shall have the meaning given to it in HD 19/03;

"Road Safety Duty Manager" means the Service Provider employee role supporting the accident investigation inspection Services, as referred to in the Method Statements including Method Statement 10;

"Road Section Length" or "RSL" means the length of the road section as defined within the Sheffield Performance Model;

"Road Space Coordinator" means the officer with such title appointed by the Service Provider pursuant to Service Standard 1 for the purposes of liaising with the Authority's Traffic Manager in relation to the coordination of activities on the Project Network;

"Road Studs" means all road studs on the Project Network, as defined in Regulation 4(1) of the Traffic Signs Regulations and General Directions 2002;

"Road Weather Information System" ("RWIS") means the out station data that shall assist the Service Provider in the prediction of ice and monitoring weather data at given locations, as referred to in the Method Statements including Method Statements 1.10 and 7;

"Route optimisation" means a process used to optimise fleet movement on the network to minimise fuel use, as referred to in the Method Statements including Method Statement 1.10;

"Routine Maintenance" means maintenance of the Project Network other than Programmed Maintenance or Reactive Maintenance;

"Routine Maintenance Management System" means an electronic database which records the information in relation to Routine Maintenance as described in Annexure 4 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Routine Maintenance Protocol" means the Authority's protocol dealing with how the Authority identifies and carries out reactive and planned maintenance on the Project Network, attached as Annexure 12 (*Routine Maintenance Protocol*);

"Routine Maintenance Schedule" means a schedule of cyclic maintenance operations for a particular Structure to be undertaken Service Provider's structures routine maintenance gangs as referred to in the Method Statements including Method Statement 3;

"RPIX" means the retail price index excluding mortgage interest payments as published by the Office for National Statistics on a monthly basis and identified as such index, failing such publication or in the event of a fundamental change to the index, such other index as the parties may agree, or such adjustments to the index as the parties may agree (in each case with the intention of putting the parties in no better nor worse position than they would have been had the index not ceased to be published or the relevant fundamental change not been made) or in the event that no such agreement is reached, as may be determined in accordance with the Dispute Resolution Procedure;

"RSTA Code of Practice" means the document with such title produced by the Road Surface Treatments Association (or any replacement or successor body) relating to slurry surfacing incorporating microsurfacing, as amended or replaced from time to time;

"Rural Rights of Way Network" means the network identified as such on the Highway Record, as varied in accordance with this Contract;

"RWCI_{AV}" means the average Retaining Wall Condition Index for a Retaining Wall (Type 1) evaluated taking into account the condition of all structural elements of a Retaining Wall as described in the CSS Bridge Condition Indicators - Commission Report;

"RWCI_{CRIT}" means the critical Retaining Wall Condition Index for a Retaining Wall (Type 1) evaluated taking into account the condition of those elements of a Retaining Wall deemed to be of very high importance as described in the CSS Bridge Condition Indicators - Commission Report;

"RWSCI_{AV}" means the average Retaining Wall Condition Index for the stock of Retaining Walls (Type 1) evaluated taking into account the condition of all structural elements of a Retaining Wall as described in the CSS Bridge Condition Indicators - Commission Report;

"RWSCI_{CRIT}" means the critical Retaining Wall Condition Index for the stock of Retaining Walls (Type 1) evaluated taking into account the condition of those elements of a Retaining Wall deemed to be of very high importance as described in the CSS Bridge Condition Indicators - Commission Report;

"S Lighting Class" means Lighting Class S1 to S7 as defined in BS 5489-1:2003 Annex B;

"S3 Lighting Class" means a specific S Lighting Class as defined in BS EN 13201-2 as S3;

"Safe For Use" means safe for highway users in the context of the intended use of the Project Network Part;

"Safer Roads Officer" means a Police representative dedicated to road safety as referred to in the Method Statements including Method Statement 10;

"Safety Assessment" means an assessment of the road safety implications of a scheme for which a Road Safety Audit is not being undertaken, as referred to in the Method Statements including Method Statement 10;

"Safety at Street Works and Road Works" means the document with such title issued by the DfT, as updated or replaced from time to time;

"Safety Defect Risk Register" means the Service Provider's document which lists typical defects (and degrees of defectiveness) for Project Network Parts, assessing the risk and categorising the defects to prioritise rectification works;

"Safety Fences and Vehicle Barriers" means a metal or concrete barrier on the Project Network designed to contain vehicles on the Highway, including the Safety Fences and Vehicle Barriers identified in Schedule 20 (*Project Network Information*) but excluding such measures on a Structure;

"Safety Inspection Strategy" means the Service Provider's strategy for ensuring that Safety Inspections are carried out on all Project Network Parts in accordance with Clause 28.1 (*Safety Inspection Strategy and Safety Inspections*), as set out in Annexure 14 (*Inspection Strategies*) and as submitted thereafter for each Contract Year in accordance with Clause 28.1.2 (*Safety Inspection Strategy and Safety Inspections*);

"Safety Inspections" means inspections of the Project Network (or a part thereof) to identify all defects likely to create danger or serious inconvenience to users of the Project Network required to be carried out by the Service Provider in accordance with Clause 28.1 (*Safety Inspection Strategy and Safety Inspections*);

"Same Structure Type" means, in relation to a Clause 8 Structure, a structure in the same or an analogous climate and environment which has the same or an analogous overall design or constituent design features, workmanship and/or materials;

"Sample Inspection" means an inspection of a site selected from the Inspection Sample at one of the stages as set out in paragraph 2.3.1 of the NRSWA Code of Practice for Inspections;

"Sample Results" shall have the meaning given in Clause 29.7.9.2 (*Certification*);

"SCANNER Specification 2005" means the document with such title endorsed by the UK Roads Board, as amended or replaced from time to time;

"SCANNER Survey" means the Surface Condition Assessment for the National Network of Roads survey of the Project Network carried out in accordance with Clause 27.11 (*SCANNER Surveys*);

"SCANNER Survey Data" shall have the meaning given to it in Clause 27.11.6 (*SCANNER Surveys*);

"SCANNER Survey Programme" means the annual programme prepared by the Service Provider in accordance with Clause 27.11 (*Scanner Surveys*) as set out in Schedule 25 (*Investment Programmes*) in respect of the first Contract Year and as submitted thereafter for each Contract Year in accordance with Clause 27.11.1 in respect of each Contract Year following the first Contract Year;

"Schedule" means a Schedule to this Contract referred to in the Main Body and numbered 1 to 43 (inclusive) together with all relevant Appendices to such Schedules;

"Schedule of Rates" means the Schedule of Rates attached as Appendix 1 Part B to Schedule 7 (*Non-Core Services*);

"Scheduled Installation Date" shall have the meaning given to it in Paragraph 7.2.2 of Schedule 8 (*Attachments and Advertising*);

"Scheme" means multiple Proposed Project Network Parts;

"Scheme Feedback Survey" means the Service Provider's customer satisfaction survey distributed to Group 1 Stakeholders following the completion of a scheme, as referred to in Method Statements 1.8 and 1.9, to gather feedback on service delivery;

"Scheme Manager" means the Service Provider employee with overall internal responsibility for delivery of a Non-Core Scheme as referred to in the Method Statements including Method Statement 11;

"Scheme Owner" means the Service Provider employee with overall responsibility for a works site, as referred to in the Method Statements including Method Statements 1.8, 1.9 and 1.15;

"Scour Damage" means damage caused by the scouring effect of water either to a structure itself or the approach apron, or the creation of underwater holes or other defects that may lead to structural damage;

"SCRIM Survey" means the survey of the Project Network carried out using a sideway-force coefficient routine investigation machine or where not practicable to be used, a Grip-tester machine, in accordance with Clause 27.12 (*SCRIM Surveys*);

"SCRIM Survey Data" shall have the meaning given to it in Clause 27.12.6 (*SCRIM Surveys*);

"SCRIM Survey Programme" means the annual programme prepared by the Service Provider in accordance with Clause 27.12 (*SCRIM Surveys*) as set out in Schedule 25 (*Investment Programmes*) in respect of the first Contract Year and as submitted thereafter for each Contract Year in accordance with Clause 27.12.1 in respect of each Contract Year following the first Contract Year;

"seasonal watch-lists" means a document which provides information on key dates associated with fauna and flora as referred to in the Method Statements including Method Statement 1.10;

"Seat" means any structure designed for sitting on, on or adjacent to the Project Network, including the Seats identified in Schedule 20 (*Project Network Information*);

"Second Management Level" shall have the meaning given to it in Clause 83.3 (*Informal Resolution of Disputes*);

"Secondary Data Centre" means the data centre of the Authority's IT Partner, which at the date of Financial Close is based at Ark Data Centres, Building A101, Farnborough Cody Technology Park, Old Ively Road, Farnborough Hampshire GU14 0LX;

"Secondary Data Link" shall have the meaning given to it in Performance Requirement 1.34(i) of Service Standard 1 of the Output Specification;

"Secondary Road" means a Carriageway on the Secondary Road Network;

"Secondary Road Network" means the "Secondary Road Network" as defined within the Network Model;

"Section 38 Agreement" means a contract between a developer and the Authority under which the Authority agrees, pursuant to Section 38 of the Highways Act, to adopt highways which are maintainable at public expense;

"Section 106 Agreement" means a contract between a developer and the Authority pursuant to Section 106 of the Town and Country Planning Act 1990;

"Section 278 Agreement" means a contract between a developer and the Authority under which the Authority agrees, pursuant to Section 278 of the Highways Act, to the execution of highways works;

"Senior Debt" means the financing provided by the Senior Lenders under the Senior Financing Agreements;

"Senior Debt Rate" means

[REDACTED]

"Senior Financing Agreements" means those of the Financing Agreements listed in Part 4 of Annexure 2 (*Financing Agreements*) as at the date of Financial Close, without prejudice to Clause 87.2.1, as the same may be amended as allowed by Clause 87.3 (*Changes to Project Documents, Ancillary Documents and Financing Agreements*);

"Senior Lender" means a person providing finance to the Service Provider under the Senior Financing Agreements;

"Senior Lender's Financial Model" shall have the meaning given to it in the Senior Financing Agreements;

"Senior Lenders' Direct Agreement" means the direct agreement dated on or about the date of Financial Close, made between the Authority, the Service Provider and the Agent (in the form set out in Annexure 1 (*Form of Senior Lenders' Direct Agreement*));

"Service" or **"Services"** means the services which are necessary for the Service Provider to undertake in order to comply with the Output Specification, the Method Statements and the other provisions of this Contract;

"Service Action Plan" means the Service Provider's plan to address any shortcomings in Service delivery as referred to in the Method Statements including Method Statement 10;

"Service Area" means those elements of the Service as contained within a Service Standard of Schedule 2 (*Output Specification*);

"Service Commencement" means the commencement of the Services;

"Service Commencement Date" means the date on which the Service Provider will commence the Service as determined in accordance with the procedure in Clause 5.1 (*Mobilisation*);

"Service Contact Officer" means a person of appropriate seniority appointed by the Service Provider to liaise with the Community Assemblies pursuant to Service Standard 1 of Schedule 2 (*Output Specification*);

"Service Improvement Forms" ("**SIF**") means the Service Provider's form for recording improvements regarding the Service and proposals for implementing such improvements, as referred to in the Method Statements including Method Statements 4, 5 and 10;

"Service Improvement Plan" means the Service Provider's annual plan for the improvement of the Service and which shall comply with the requirements of Annexure 3 of Service Standard 10 of Schedule 2 (*Output Specification*);

"Service Inspection Strategy" means the Service Provider's strategy for ensuring that Service Inspections are carried out on all Project Network Parts in accordance with Clause 28.2 (*Service Inspections*), as set out in Annexure 14 (*Inspection Strategies*) and as submitted thereafter for each Contract Year in accordance with Clause 28.2.2 (*Service Inspections*);

"Service Inspections" means those visual inspections of all Project Network Parts required to be carried out by a qualified inspector in accordance with Clause 28.2 (*Service Inspections*);

"Service Operations Board" means the board convened and operated in accordance with Schedule 12 (*Monitoring and Reporting*);

"Service Operations Board Meeting" shall have the meaning given in Paragraph 3.2 of Schedule 12 (*Monitoring and Reporting*);

"Service Point" means a point accrued for a failure relating to a Performance Requirement as defined in the Output Specification;

"Service Provider Assumptions" shall mean the Service Provider assumptions set out as Part 3 to Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Service Provider Breach Rectification Plan" shall have the meaning given to it in Clause 12.7.8.1;

"Service Provider Change Notice" means a notice served by the Service Provider in accordance with Part 4 of Schedule 18 (*Change Protocol*);

"Service Provider Default" means one of the following events:

- [REDACTED]
- [REDACTED]
- [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

"Service Provider Depots" shall have the meaning given to it in Clause 5.3.1 (*Depot Strategy*);

"Service Provider Emergency Plan" means the plan prepared by the Service Provider pursuant to Paragraph 2.1 of Schedule 11 (*Emergency Planning and Response*);

"Service Provider Equipment" shall mean all equipment, plant and other things owned by or leased to the Service Provider and used exclusively for the purposes of providing the Service whether in relation to the installation or maintenance of Project Network Parts or otherwise;

"Service Provider Health and Safety Manual" means the manual produced by the Service Provider under the provisions of Clause 37.1 (*Health and Safety*) and as set out at Schedule 22 (*Workforce Policies, Health and Safety Manual and Quality Plans*);

"Service Provider Inspections" means the inspections to be carried out by the Service Provider under the provisions of Clause 28 (*Service Provider Inspections and Surveys*);

"Service Provider Materials" means all or any programmes, software, code, databases, data, materials, works (whether literary, artistic or otherwise), know how and/or information, including any Intellectual Property Rights, which are used from time to time by the Service Provider and/or any Service Provider Party, or are otherwise relevant to the maintenance, management, provision, replacement, carrying out and operation of the Project Network and/or the Service;

"Service Provider Party" means any officer, employee or agent of the Service Provider, any Sub-contractor or person employed or engaged by any of them in relation to the Service other than the Authority or any Authority Party;

"Service Provider Party Equipment" shall mean all equipment, plant and other things owned by or leased to the Service Provider Party and used exclusively for the purposes of assisting the Service Provider to provide the Service whether in relation to the installation or maintenance of Project Network Parts or otherwise;

"Service Provider Representative" means [REDACTED] or such other person as the Service Provider shall from time to time appoint and notify to the Authority in writing, subject to the approval of the Authority as set out in Clause 33 (*Representatives*);

"Service Quality Plan" means a quality plan to be submitted by the Service Provider pursuant to Clause 35 (*Quality Management*) in relation to the provision of the Services including the Service Provider's Project Quality and Environmental Plans and Health and Safety Manual, in line with PAS99 as identified in Method Statements 1 and 2;

"Service Standard" means the description of a Service Area and the standard and requirement of such Service Area set out in an individual section of Schedule 2 (*Output Specification*);

"Service Provider's First Alternate Representative" shall have the meaning given to it in Clause 33.4.1 (*Service Provider's Alternate Representatives*);

"Service Provider's Head Office" means the main operational base of the Service Provider for the delivery of the Service situated at Olive Grove Depot, Olive Grove Road, Sheffield, or such other address as is notified from time to time (subject to Clause 5.3 (*Depot Strategy*));

"Service Provider's Second Alternate Representative" shall have the meaning given to it in Clause 33.4.1 (*Service Provider's Alternate Representatives*);

"Service Provider's Share" means the percentage figure corresponding to that part of the Cumulative Capital Expenditure at the relevant time, shown in the first column of the table set out in Clause 53.6 (*Cost Sharing Schedule*);

"Shareholders" means any person from time to time holding share capital in the Service Provider or its Holding Company;

"Shareholders Agreement" means the shareholders' agreement made between Amey Ventures Asset Holdings Limited, Aberdeen Infrastructure Investments (No 5) Limited, Equitix Highways 2 Limited, the Service Provider and Holdco;

"Sheffield Performance Model" means the performance model which calculates the Carriageway Condition Indices and Footway Condition Indices;

"Sheffield UKPMS Rules and Parameters" means the rating curves and defect combinations as set out within the Technical Specification Document;

"Shrub Area And Rose Area" means:

- (a) an area identified for shrubs and roses on the Project Network including the Shrub Areas and Rose Areas identified in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such areas installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Significant Scheme" means a scheme on the Primary Road Network and Secondary Road Network to be undertaken by the Service Provider that is likely to cause major disruption or be of significant interest to the public and/or stakeholders;

"Single Annual Survey Method" means the method described in Annex 3 of DMRB HD 28/04 for measuring the skid resistance of Carriageways;

"Single Data List" means the document with such title issued by the Department for Communities and Local Government, as referred to in the Method Statements including Method Statement 10, as amended or replaced from time to time;

"Site Investigation Report" means a report of a site investigation into Skid Resistance deficiency with the content and recommendations of the report based on the criteria contained in the Technical Specification Document;

"Site Waste Management Plan" ("SWMP") means the Service Provider's document which is required for construction projects over £300,000 in accordance with the Site Waste Management Plans Regulations 2008 (SI 2008/314) and as referred to in the Method Statements including Method Statement 1.10;

"Skid Resistance" means the frictional properties of the road surface measured using a nationally recognised device under standardised conditions;

"Skid Risk Score" means the value calculated by the Sheffield Performance Model, in accordance with the Technical Specification Document, which gives a risk rating in relation to skid resistance for any given length along a Road Section Length XSP;

"Small HWA Works" means those works undertaken by the Authority acting in its capacity as Highway Works Authority (not including Non-Core Services) that do not constitute either Major HWA Works or Standard HWA Works and have a planned duration which does not exceed three (3) days;

"Snagging Items" means the following minor defects affecting the relevant Replacement CIP Certified Apparatus pursuant to Clause 29.7 (*Certification of Removal*):

- (a) final painting required (where weather permits) or paintwork is not free from damage, streaks or runs or has not been applied uniformly;
- (b) grass seed reinstatement required where non-seasonal;
- (c) site has not been left in a clean and tidy condition;
- (d) lock to Lighting Column doors has not been greased;

- (e) damage to Lighting Column attachments;
- (f) holes in Lighting Columns for wiring have not been adequately sealed;
- (g) lantern canopy has installation blemishes; and/or
- (h) lantern bowl has installation blemishes;

"Snagging List" means a list of Snagging Items provided by the Service Provider or the Independent Certifier pursuant to Clause 29.7 (*Certification of Removal*), including a date for the rectification of such Snagging Items;

"Snow Clearing Operations" means the treatment to be undertaken by the Service Provider in the event of snow, pursuant to Performance Requirements 7.24 -7.27, 7.37 (a) – (e);

"Snow Clearing Treatment Commencement Time" means the time at which Snow Clearing Operations on the Priority Carriageway Routes shall Commence, as set out by the Service Provider in the Daily Proposed Actions List or an Updated Daily Proposed Actions List (as the case may be) pursuant to Service Standard 7 of Schedule 2 (*Output Specification*) and as reset by the Service Provider (acting reasonably), following inclusion in a Daily Proposed Actions List or an Updated Daily Proposed Actions List (as the case may be), when a further fifty (50) millimetres depth of snow has fallen by the completion of the current treatment;

"Social Media Protocol" means the Service Provider's code of conduct in relation to communicating via social media channels as referred to in Method Statement 1.8 and 1.9;

"Soffits" means the exposed undersides of a structural element in any Structure;

"South Yorkshire Climate Change Risk Assessment" means an LCIP generated for the South Yorkshire area as referred to in the Method Statements including Method Statement 1.10, as updated or replaced from time to time;

"Special Event" means an event organised by, participated in or authorised by the Authority (save where such authorisation is given by the Authority pursuant to the Authority's statutory powers or functions) which will or is likely to cause disruption to part or all of the Project Network;

"Special Inspection" means an inspection which concentrates on the condition of a particular part of a Structure required to be carried out in accordance with Clause 27.20 (*Special Inspections*);

"Special Inspection Report" shall have the meaning given in Clause 27.24.1.3 (*Qualitative Review of Structure Inspection reports*);

"Special Inspection Strategy" means a strategy for identifying the need for Special Inspections and setting out the manner in which they are to be executed in accordance with Clause 27 (*Independent Surveys and Inspections*), as set out in Annexure 14 (*Inspection Strategies*) for the first Contract Year and as submitted thereafter in accordance with Clause 27.20 (*Special Inspections*);

"Special Order Vehicle" means any indivisible load vehicle which exceeds the specifications of a General Order Vehicle and for which authorisation for movement must be granted pursuant to section 44 of the Road Traffic Act 1988;

"Specific Change in Law" means any Change in Law which specifically refers to the provision, in relation to highways, of services the same as or similar to the Service or to the holding of shares in companies whose main business is providing, in relation to highways services the same as or similar to the Service;

"Specific Sample Inspection" means a sample inspection of Project Network Parts specifically required by the Output Specification;

"Specified Licence" means any one or more of the following:

- (a) a licence to plant and maintain trees, shrubs, plants and grass in the Highway under Section 142 Highways Act;
- (b) a licence to construct a building over the Highway under Section 177 Highways Act (including oversailing licences);
- (c) consent to fix or place an overhead beam, rail, pipe, cable, wire or other similar apparatus over the Highway under Section 178 Highways Act;
- (d) permission to operate facilities for recreation or refreshment or both on a Highway under Sections 115C and 115E Highways Act;
- (e) permission to enhance amenity of Highways and its immediate surroundings under Sections 115B and 115E Highways Act;
- (f) a licence for scaffolding and other structures under Section 169 Highways Act;
- (g) a permit to deposit materials under Section 171 Highways Act;

- (h) a street works licence as defined in Section 50 NRSWA;
- (i) a licence under Section 139 Highways Act for the placing of a builder's skip on the Highway;
- (j) a licence to construct a bridge over the Highway under Section 176 Highways Act; and
- (k) a vehicular crossing permission under Section 184 Highways Act;

"Specified Licence Item" means an item which is or which ought to be the subject of a Specified Licence;

"Specific Lighting Design Standards" means those standards set out in Annexure 1 to Service Standard 4 of Schedule 2 (*Output Specification*);

"Specification for Highway Works" or **"SHW"** means the Specification for Highway Works, published by the Highways Agency as Volume 1 of the Manual of Contract Documents for Highway Works as amended or replaced from time to time;

"ST1" means Standardized Prescribed Concrete standard mix ST1, as specified in BS EN 206-1 and/or BS 8500;

"ST4" means Standardized Prescribed Concrete standard mix ST4, as specified in BS EN 206-1 and/or BS 8500;

"Stakeholder Relationship Management Tool" means the Service Provider's database for recording all interaction with stakeholders for the Project referred to in the Method Statements including Method Statements 1.8 and 1.9;

"Standard Detail" means the standard details as listed in Appendix 1 Part F of Schedule 7 (*Non-Core Services*);

"Standard Gully" means a Gully that has a silt trap which is not less than 300mm deep and has a volume not less than 0.025m³ and has a Gully outlet with rodding capability from within the gully chamber;

"Standard HWA Works" means those works undertaken by the Authority acting in its capacity as Highways Works Authority (not including Non-Core Services), where such works are street works other than Major HWA Works, the planned duration of which exceeds three (3) days but does not exceed ten (10) days;

"Standard Lighting Unit" means a Lighting Unit that the Service Provider intends to use in all situations other than where a Non-Standard Lighting Unit is required;

"Standard Rate" means the interest payable in accordance with Clause 8 of the Credit Agreement (*Interest*);

"Standard Specification" means the standard specification for the design and construction of non-core schemes as listed in Appendix 1 Part F of Schedule 7 (*Non-Core Services*);

"Statutory Undertakers" shall have the meaning given to it in NRSWA;

"Statutory Undertakers Emergency Works" shall have the meaning given to it in Section 52, NRSWA;

"Step-In" means the action taken by the Authority to remedy or secure the remedy of a Step-In Event;

"Step-In Event" means those events referred to in Clause 81.1 (*Step-In Events*);

"Stewardship Form" means the Service Provider's form for recording feedback from Personnel regarding the Service, network integrity, potential Service improvements, ideas, efficiencies or innovations as referred to in the Method Statements including Method Statement 10;

"Stock" means any materials used or held by the Service Provider in the normal course of providing the Services, and any other materials as required by the Authority to be held by the Service Provider in order to respond to Major Emergencies, including the stock set out by the Service Provider at paragraph 1.1.119 of Method Statement 1, plus the fuel to be held by the Service Provider as set out in the Depot Strategy;

"Straight Posts" means a tubular steel painted post of the same diameter throughout its height (which may vary from time to time as required) from ground level;

"Strategic Assistance" means assistance provided by the Service Provider to help the Authority fulfil its responsibilities and undertake its duties and as set out in Service Standard 10 of Schedule 2 (*Output Specification*);

"Strategic Board" means the board convened and operated in accordance with Schedule 32 (*Strategic Board*);

"Street Authority" has the meaning given in Section 49(1) of NRSWA;

"Street Cleaning Service" means the Service provided in accordance with the provisions of Service Standard 8 of Schedule 2 (*Output Specification*);

"Street Lighting" means the infrastructure and equipment installed solely for the purpose of providing light on the Project Network including all Lighting Units;

"Street Lighting Carbon Model Target" means the forecast target in relation to carbon production in the delivery of the Services in relation to Street Lighting, as set out by the Service Provider in the Original Populated Carbon Model or the Updated Populated Carbon Model (as applicable) for each Contract Year;

"Street Lighting Service" means the Service provided in accordance with the provisions of Service Standard 4 of Schedule 2 (*Output Specification*);

"Street Maintenance Policy, Standards and Strategy Statement" means the document to be prepared by the Service Provider pursuant to Service Standard 10 of the Output Specification, to be substantially in the form of the Authority's Routine Maintenance Protocol, but which also includes a Skid Resistance Policy;

"Street Name Plates" means plates on or adjacent to (but visible from) the Project Network that identify the street or Footpath name on or next to which it is mounted/placed/allocated;

"Street Works" means works carried out on Highway as defined in NRSWA;

"Street Works Inspections" means the inspections carried out by the Service Provider in accordance with the NRSWA Code of Practice for Inspections in order to monitor the performance of Statutory Undertakers;

"Street Works Management System" means an electronic database designed to record and store information relating to NRSWA including notices, records of inspection, and so forth;

"Street Works Register" means the register referred to in Section 53(1) of NRSWA;

"Structural Assessment Comparison Report" shall have the meaning given to it in Clause 27.23.8 (*Assessment of Structures*);

"Structural Assessment Report" shall have the meaning given in Clause 27.23 (*Assessment of Structures*);

"Structural Assessment Structures" shall have the meaning given to it in Clause 27.23.7.1 (*Assessment of Structures*);

"Structural Assessments" means a process of confirming the adequacy of any Structure (Type 1) to support specified loads and determining appropriate remedial actions to be carried out in accordance with Clause 27.23 (*Assessment of Structures*);

"Structural Members" means any element of a Structure (Type 1) or Structure (Type 2) upon which the structural integrity of the Structure is dependent;

"Structural Review" means the structural review of Structures (Type 1) carried out pursuant to Clause 27.23 (*Assessment of Structures*);

"Structural Review and Assessment Strategy" means the strategy for establishing the need for and prioritising Structural Assessments, submitted by the Service Provider to the Authority pursuant to Clause 27.23 (*Assessment of Structures*) and contained at Annexure 14 (*Inspection Strategies*) for the first Contract Year and as submitted thereafter in accordance with Clause 27.23 (*Assessment of Structures*);

"Structural Review Comparison Report" shall have the meaning given to it in Clause 27.23.5 (*Assessment of Structures*);

"Structural Review Structures" shall have the meaning given to it in Clause 27.23.4.1 (*Assessment of Structures*);

"Structurally Sound" means:

- (a) there is no perforation of a side wall greater than twenty five (25) square millimetres in area;
- (b) there is no weld failure longer than twenty five (25) millimetres;
- (c) there is no strain crack longer than twenty five (25) millimetres;
- (d) High Mast Lighting, Gantry bases, Lighting Columns, Straight Posts and Drainage Structures are capable of carrying designed loads;
- (e) there are no other defects, including loose or missing components, which are Detrimental to the structural integrity of the Project Network Part.; and

- (f) there will be five (5) years of Residual Life remaining for the Project Network Part at the Expiry Date except in relation to Traffic Signal / Control Infrastructure and Lighting Units not required to be replaced in accordance with this Contract where only two (2) years Residual Life remaining at the Expiry Date is required as a minimum;

"Structure" means a Structure (Type 1), a Structure (Type 2) or a Structure (Type 3);

"Structure File" means a file for each Structure or Third Party Structure or group of Structures or Third Party Structures or similar which contains all the information relating to each Structure or Third Party Structure including data relating to surveys and inspections, findings of risk assessments, design and maintenance in respect thereof;

"Structure Health and Safety File" has the same meaning as given in the Construction (Design and Management) Regulations 2007 and relates to an individual Structure or Third Party Structure;

"Structure Inspection" means all or any of the General Inspections, Principal Inspections or Special Inspections, or any of the other inspections of Structures or Third Party Structures carried out pursuant to Clauses 27.18, 27.19, 27.20, 27.21, 27.22 and 27.23;

"Structure (Type 1)" means any temporary or permanent structure within the Project Network including all substructures, superstructures, Non-Structural Wall Panels, Fascia Panels and Other Finishes thereof as applicable and comprising any:

- (a) Bridge (Type 1), Footbridge (Type 1), or Viaduct;
- (b) Masonry Arch Bridge, Culvert (Type 1), Reinforced Earth Structure, Drainage Structure, Gantry, Miscellaneous Structure (Type 1), or Subway (Type 1); or
- (c) Retaining Wall (Type 1),

provided always that such structure is owned by the Authority;

"Structure (Type 2)" means any temporary or permanent structure within the Project Network including all substructures, superstructures, Non-Structural Wall Panels, Fascia Panels and Other Finishes thereof as applicable and comprising any:

- (a) Bridge (Type 2), Footbridge (Type 2), Culvert (Type 2), Subway (Type 2) or Miscellaneous Structure (Type 2); or
- (b) Retaining Wall (Type 2),

provided always that such structure is owned by the Authority;

"Structure (Type 3)" means any temporary or permanent structure within the Project Network including all substructures, superstructures, Non-Structural Wall Panels, Fascia Panels and Other Finishes thereof as applicable and comprising any Bridge (Type 3), Footbridge (Type 3), Culvert (Type 3) or Miscellaneous Structure (Type 3), provided always that such structure is owned by the Authority;

"Structures Advisor" means the officer with such title appointed by the Service Provider pursuant to Service Standard 1 for the purposes of approving the passage of Abnormal Loads over Structures and Third Party Structures;

"Structures Service" means the Service provided in accordance with the provisions of Service Standard 3 of the Output Specification;

"Stump" means the remainder of an Illuminated Traffic Sign pole or Lighting Unit column left on the Project Network following partial removal, as contained within a list in Schedule 20 (*Project Network Information*);

"Sub Standard Gully" means a Gully that has a silt trap which is less than 300mm deep and/or has a volume less than 0.025m³ and/or has a Gully outlet without rodding capability from within the gully chamber;

"Sub-contractors" means sub-contractors (of any tier) who have entered into the Sub-contracts;

"Sub-contracts" means any contracts entered into by any Service Provider Party for the provision of the Services;

"Sub-contractor Breakage Costs" means Losses that have been or will be reasonably and properly incurred by the Service Provider as a direct result of the termination of this Contract, but only to the extent that:

- (a) the Losses are incurred in connection with the Project and in respect of the provision of Services or the completion of works, including:
 - (i) any materials or goods ordered or First Tier Sub-Contracts placed that cannot be cancelled without such Losses being incurred;
 - (ii) any expenditure incurred in anticipation of the provision of services or the completion of works in the future;

- (iii) the cost of demobilisation including the cost of any relocation of equipment used in connection with the Project; and
 - (iv) redundancy payments;
- (b) the Losses are incurred under arrangements and/or agreements that are consistent with terms that have been entered into in the ordinary course of business and on reasonable commercial terms; and
- (c) the Service Provider and the relevant First Tier Sub-Contractor has each used its reasonable endeavours to mitigate the Losses;

"Submitted Item" means an item submitted pursuant to Schedule 21 (*Review Procedure*);

"Subordinated Financing Agreements" means the documents listed in Part 5 of Annexure 2 (*Project Documents, Ancillary Documents and Financing Agreements*) as at the date of this Contract or as amended with the prior written approval of the Authority;

"Subordinated Lender" means a person providing finance under a Subordinated Financing Agreement;

"Substantive Works" means any works after completion of the original construction of a Clause 8 Structure in order to, or the effect of which was to:

- (a) amend the load bearing capacity of a Clause 8 Structure;
- (b) realign, widen or reduce the width of a Clause 8 Structure;
- (c) amend the impact resistance of any Piers of a Clause 8 Structure,

in all cases excluding where such works or the design of such works were undertaken by, or on behalf of, the Service Provider or any Service Provider Party;

"Subway (Type 1)" means

- (a) a Subway (Type 1) as contained within a list in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional Subways (Type 1) installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Subway (Type 2)" means

- (a) a Subway (Type 2) as contained within a list in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional Subways (Type 2) installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Successful Tenderer" shall mean the tenderer selected by the Authority following the completion of an Electricity Market Test;

"Suitable Substitute Contractor" means a person approved by the Authority (such approval not to be unreasonably withheld or delayed) as:

- (a) having the legal capacity, power and authority to become a party to and perform the obligations of the Service Provider under the Contract; and
- (b) employing persons having the appropriate qualifications, experience and technical competence and having the resources available to it (including committed financial resources and sub-contracts) which are sufficient to enable it to perform the obligations of the Service Provider under the Contract;

"Sundry Adjustments" means the Sundry Adjustments has the meaning given to them in Schedule 4 (*Payment Mechanism*);

"Supplier" shall have the meaning given to it in Clause 62.2 (*Value Added Tax*);

"Supply End Date" shall mean:

- (a) 31 October 2014 in respect of the first Electricity Contract; and
- (b) the date on which the supply of electricity shall end in respect of each subsequent Electricity Contract,

as may be amended in accordance with Paragraph 2.3 of Schedule 9 (*Electricity Market Test*);

"Survey Programmes" means the CVI Survey Programme, the SCANNER Survey Programme, the SCRIM Survey Programme, the Deflectograph Survey Programme, the Patching Survey Programme and the Footway Survey Programme, or any of them;

"**Surveys**" means the CVI Surveys, SCANNER Surveys, SCRIM Surveys, Deflectograph Surveys, Patching Surveys, Footway Surveys, or any of them;

"**TA 87/04**" means DMRB Volume 6 Road Geometry Section 3 (Highway Features) Part 5, as amended or replaced from time to time;

"**Target Milestone Adjustment Factor**" means the factor to be applied to the Monthly Unitary Charge upon the achievement of each Milestone as defined in the table in section 3.1.4 of Schedule 4;

"**Target Number of Sample Inspections**" means the anticipated size of the annual sample of inspections of street works agreed with each Statutory Undertaker estimated in accordance with paragraph 2.3.3 of the NRSWA Code of Practice for Inspections;

"**Tax**" means any kind of tax, duty, levy or other charge (other than VAT) whether or not similar to any in force at the date of this Contract and imposed by a Relevant Authority;

"**TC 1990**" means the Town and Country Planning Act 1990;

"**TD 27/05**" means DMRB Volume 6 Road Geometry Section 1 (Links) Part 2, as amended or replaced from time to time;

"**Technical Approval**" has the same meaning given to in the Highways Agency Standard BD2, as referred to in the Method Statements including Method Statement 3;

"**Technical Approval Authority**" has the same meaning given to in the Highways Agency Standard BD2, as referred to in the Method Statements including Method Statement 3;

"**Technical Director for Road Safety**" means the Service Provider's technical Personnel with an overseeing role for road safety as referred to in the Method Statements including Method Statement 10;

"**Technical Manager**" means [REDACTED] of the Authority or such other person as the Authority shall from time to time appoint and notify to the Service Provider in writing

"**Technical Specification Document**" means the document attached as Schedule 15 (*Technical Specification Document*);

"**Temporary Traffic Signals**" means any traffic signal which is not permanent;

"**Temporary Traffic Signs**" means any traffic sign which is not permanent;

"Temporary Works Coordinator" means the person nominated by the Service Provider to coordinate temporary Works as referred to in the Method Statements including Method Statement 11;

"Tender Costs" means the reasonable and proper costs of the Authority incurred in carrying out the Tender Process and/or in connection with any calculation of the Estimated Fair Value of the Contract;

"Tender Documents" shall mean the tender documents (approved by the Authority) to be sent to pre-qualified tenderers in accordance with Paragraph 2.10 of Schedule 9 (*Electricity Market Test*), for the purposes of the conduct of and participation of the Electricity Market Test;

"Tender Process" means the process by which the Authority requests tenders from any parties interested in entering into a New Contract, evaluates the responses from those interested parties and enters into a New Contract with a New Service Provider, in accordance with Clause 80.5.3 (*Retendering Procedure*);

"Tender Process Monitor" has the meaning given to it in Clause 80.5.3 (*Retendering Procedure*);

"Term" means the term of this Contract as defined in Clause 2.2 (*Term of this Contract*);

"Termination Date" means any date of early termination of this Contract in accordance with Clause 71 (*Termination*);

"Termination Date Discount Rate" means a discount rate expressed as $((1 + \text{real base case project IRR} + \text{Gilt B} - \text{Gilt A}) * (1 + i) - 1)$ where:

"real base case project IRR" is the real pre-tax Project IRR as set out in the Base Case;

"i" is the agreed assumed forecast rate of increase in the Inflation Index set out in the Contract for the remaining term of the Contract;

"Gilt A" is the real yield to maturity as at Financial Close on a benchmark government Gilt instrument of the same maturity as the average life as determined from the Base Case as at Financial Close of the Senior Debt; and

"Gilt B" is the real yield to maturity as at the Termination Date on a benchmark government Gilt instrument of the same maturity as the average life as determined from the Base Case as at the Termination Date, of the Senior Debt outstanding on that date;

"Termination Notice" means a notice terminating this Contract served by either Party under Clause 67.4.2.1 (*Uninsurable Risks*), Clause 72.1 (*Voluntary Termination by the Authority*), Clause

73.1.1 (*Service Provider Default*), Clause 73.4 or (as relevant) Clause 73.6, Clause 74 (*Termination by the Service Provider*), Clause 75 (*Termination for Corrupt Gifts and Fraud*), or Clause 76 (*Termination following a Force Majeure Event*);

"Termination Payment" shall bear the meaning given to it in Clause 60.1.1 (*Tax*);

"Termination Sum" means any compensation payable by the Authority to the Service Provider on an early termination of the Contract under Clause 80 (*Compensation on Termination*) excluding the Adjusted Highest Compliant Tender Price;

"Terms of Reference" means the document described as the terms of reference policy of the Authority set out in Schedule 29 (*Authority Policies*);

"Third Management Level" shall have the meaning given to it in Clause 83.3 (*Informal Resolution of Disputes*);

"Third Party" means a person who is not:

- (a) a Party to this Contract;
- (b) an Authority Party; or
- (c) a Service Provider Party;

"Third Party Agreements" means the undertakings, letters, deeds, and agreements listed in Part 1 of Schedule 23 (*Third Party Agreements*);

"Third Party Attachment" means an Attachment which belongs to a Third Party, which may be an Authorised Attachment or an Unauthorised Attachment in accordance with the provisions of Schedule 8 (*Attachments and Advertising*);

"Third Party Authority" means a third party statutory authority, a Statutory Undertaker or other persons specified by the Authority;

"Third Party Claim" means a Claim brought or threatened against the Authority or the Service Provider or a Service Provider Party by any Third Party arising from or as a consequence of the Project and/or the Project Network including without limitation a Highway Claim, employer's liability claim, and motor vehicle claim and "Third Party Claims" shall be construed accordingly;

"Third Party Claims Estimate" shall have the meaning given to it in Clause 67.2.1.1(d) (*Reinstatement*);

"Third Party Claims Proceeds" shall have the meaning given to it in Clause 67.2.5.4 (*Reinstatement*);

"Third Party Developer" means any Third Party carrying out or procuring the carrying out of Third Party Works;

"Third Party Insurance Claim" shall have the meaning given to it in Clause 67.2.1.1(d) (*Reinstatement*);

"Third Party Land" shall have the meaning given to it in Clause 16.2 (*Necessary Consents for accessing Project Network Parts on Third Party Land*);

"Third Party Land Owner" means the party with legal title to the relevant Third Party Land or where relevant shall have the meaning as defined in Section 45(4) of the Public Health Act 1961 or such other applicable Legislation;

"Third Party Structures" means:

- (a) any structures which carry Highway or pass over Highway but which are not owned by the Authority and are contained within a list in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such structures installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Third Party Urgent Defect" means any fault or defect to a Third Party Structure, apparatus or property, including trees within falling distance of the Project Network, that requires prompt attention because it represents an immediate or imminent hazard to the Project Network or users thereof;

"Third Party Works" means any works carried out by a Third Party which involves development as defined under Section 55 of the TC 1990;

"Three Year Investment Programme" means the programme as prepared by the Service Provider in accordance with Clause 20.4 (*Three Year Investment Programme*) as amended from time to time pursuant to Clause 22.1 (*Amendment of Investment Programmes*) and the Review Procedure;

"Threshold Equity IRR" [REDACTED]

"Threshold Increment (TI)" means the % measure of the loss of visibility caused by the Disability Glare of a Luminaire;

"Timber station" means a central location for storage and collection of timber generated from the Service Provider's landscaping activities as referred to in the Method Statements including Method Statement 1.10;

"Trade Marks" means the trade marks belonging to the Authority contained in Schedule 28 (*Trade Marks*) (whether unregistered or registered and including any applications for registration) and other Intellectual Property Rights subsisting in such trade marks from time to time;

"Traffic Advisory Leaflets" means the leaflets with such title as produced by the Department for Transport and amended or replaced from time to time;

"Traffic Authority" has the meaning given in Section 121A of the Road Traffic Regulation Act 1984;

"Traffic Calming Measures" means modifications made to the highway to reduce the number and severity of accidents by either diverting traffic to streets better able to handle it, or by addressing speeding problems by changing vertical or horizontal alignment, or narrowing the roadway, or any combination of the those;

"Traffic Management Act" means the Traffic Management Act 2004;

"Traffic Management Adjustment" means the Traffic Management Adjustment as defined in Schedule 4 (*Payment Mechanism*);

"Traffic Management Calculation" means the period of occupation of each Carriageway in respect of each individual element of the Works to be carried out for the purposes of Programmed Maintenance and requiring occupation of any continuous length of any Carriageway, summated for each Contract Year and also for each Carriageway Hierarchical Type;

"Traffic Management Sector Scheme Plan" means traffic management sector scheme plans which are a subset of the National Highway Sector Scheme Plan;

"Traffic Management Target" means the target in relation to occupation of the Project Network in each Contract Year (for all Carriageway Hierarchical Types) calculated by the Service Provider in accordance with the Traffic Management Calculation and as set out in the Original Traffic

Management Target or the Updated Traffic Management Target (as applicable) for each Contract Year;

"Traffic Manager" means the person appointed by the Authority under Section 17 of the Traffic Management Act 2004;

"Traffic Regulation Order" means an order pursuant to Road Traffic Regulation Act 1984, which allows the Highways Authority to regulate the speed, movement and parking of vehicles or regulate pedestrian movement, applicable to the Project Network;

"Traffic Sign" means all traffic signs (as defined under Section 64 of the Road Traffic Regulation Act 1984) which are on or visible from the Project Network;

"Traffic Signal" shall have the meaning ascribed to it in BS EN 12675:2001;

"Traffic Signal / Control Infrastructure" means:

- (a) all equipment used in or relating to the operation of traffic signal and traffic control systems, including those items of equipment listed under the following headings in Schedule 20 (*Project Network Information*): "Traffic Signal Junctions", "Pelican, Toucans and Puffins", "Wig Wags", "Miscellaneous Traffic Signal/Control Infrastructure", "OTU Cabinets", "Strategic Count Sites", "Car Park and Bus Gate Variable Message Signs" and "UTC CCTV Cameras", and including where appropriate Traffic Signals; pedestrian controllers and associated poles, cabinets, housings, antennae, and equipment; GPRS routers; Wi-Fi equipment and associated wiring and cabling; count logic units; DFM units; speed assessment and discrimination units; lamp monitoring units; integral lamp monitoring facilities; integral and local MOVA; Traffic Signal poles, pole caps and terminal blocks; Traffic Signal and pedestrian controller heads; Traffic Signal brackets; push button units; audible and tactile indicators; photo electric cells; local request control panels; inductive Loop Detectors; above ground detection units; detector units; remote monitoring equipment including outstation monitoring units (OMCUs); UTC traffic camera poles, cabinets, housings and equipment; variable message signs; miscellaneous equipment cases (MEC's); SCOOT detectors; dedicated count sites; dedicated queue sites; and Traffic Signal optical equipment including lamps, lamp holders, transformers, lenses, reflectors, fibre optic units, fluorescent tubes and control gear for box signs and associated wiring and cabling and all other associated equipment; and

- (b) shall include any additional such equipment installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and
- (c) shall include any additional such equipment installed by the Service Provider as a result of compliance with the Output Specification;

"Traffic Signal / Control Infrastructure and Intelligent Transport Systems (ITS) Infrastructure Service" means the Service provided in accordance with the provisions of Service Standard 5 of the Output Specification;

"Traffic Signal / Control Infrastructure Site" means:

- (a) a site containing multiple items of Traffic Signal / Control Infrastructure as contained within a list in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional such sites installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Traffic Signal Controllers" has the meaning ascribed to it in BS EN 12675:2001;

"Traffic Signs Manual" means the manual of that name and any associated advice (including all local transport notes) issued from time to time by the Department for Transport, as amended or replaced from time to time;

"Training and Development Policy" means the policy produced by the Service Provider under the provisions of Clause 36.10 (*Training and Development Policy*) and as set out at Schedule 22 (*Workforce Policies, Health and Safety Manual and Quality Plans*);

"Transfer" means a transfer of the electricity supply from Powered Apparatus which has been Removed to New Project Network Parts;

"Transfer Date" shall have the meaning given to it in Clause 70.4.1 (*Alternative Pension Scheme*);

"Transfer Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006;

"Transferee Admission Body" means the status of the Service Provider as a transferee admission body under Regulation 6 of the Local Government Pension Scheme (Administration) Regulations 2008;

"Transferring Employee" means an employee of the Authority (excluding, for the avoidance of doubt, any person engaged by the Authority as an independent contractor or persons employed by any sub-contractor engaged by the Authority) whose contract of employment becomes, by virtue of the application of the Regulations in relation to what is done for the purposes of carrying out this Contract between the Authority and the Service Provider, a contract of employment with someone other than the Authority;

"Transport in the Urban Environment" means the document with such title issued by the Institute of Transportation Engineers, as updated or replaced from time to time;

"Travel Survey" means the Service Provider's survey to gauge individuals' commuting habits to work as referred to in the Method Statements including Method Statement 1.10;

"Treatment Commencement Time" means the time at which precautionary or reactive gritting treatments of the Priority Carriageways Routes shall Commence, as set out by the Service Provider in the Daily Proposed Actions List pursuant to Service Standard 7 of Schedule 2 (*Output Specification*);

"Treatment Types" means:

- (a) in respect of Carriageways:
 - (i) surface dressing;
 - (ii) thin surfacing;
 - (iii) surface course replacement;
 - (iv) surface and binder course replacement;
 - (v) surface course, binder course and base replacement;
 - (vi) full reconstruction including sub base replacement;
 - (vii) in situ recycling; and/or
 - (viii) overlays comprising, as a minimum, a surface course; and

- (b) in respect of Footways:
 - (i) slurry seal;
 - (ii) thin surfacing;
 - (iii) blacktop replacement;
 - (iv) full reconstruction including sub base replacement; and/or
 - (v) in situ recycling;

"Tree Condition Survey" means the Service Provider's assessment of the Highway Tree population's health, including recommendations as referred to in the Method Statements including Method Statement 6;

"Tree Grilles" means any tree grilles on the Project Network positioned around the base of a Highway Tree and designed to allow water ingress to the Highway Tree's root system, including the Tree Grilles identified in Schedule 20 (*Project Network Information*);

"Tree Management Strategy" means the Service Provider's tree management strategy as referred to in the Method Statements including Method Statements 1.10 and 6;

"Tree Preservation Orders" ("**TPO**") means a legislative control order issued pursuant to Part 8 of the Town and Country Planning Act 1990 and the Town and Country (Planning) Regulations 1999 designed to protect trees and as referred to in the Method Statements including Method Statements 1.10 and 6;

"Tree Replacement Policy" means the Service Provider's tree replacement policy outlining its proposals for replacement of Highway Trees on the network as referred to in the Method Statements including Method Statements 1.10 and 6;

"Trespasser" means any person present on the Project Network otherwise than in exercise of his or her powers or rights conferred upon him or her by the Highways Act, or other relevant Legislation;

"TRL176 Appendix R: Procedure for visual assessment of trial sites" means the document with such title published by TRL Limited, as the same is updated or replaced from time to time;

"TRL535" means the document entitled "Footway maintenance management", prepared by TRL Limited for the Pavement Engineering Group and Highways Agency, as updated or replaced from time to time;

"TRL Limited" means the body with such title providing support and advice to the transport sector, or any replacement or successor body;

"TRL PPR060" means the document entitled "TRL Published Project Report PPR060 – Early Life Skid Resistance of Asphalt Surfaces" published by TRL Limited, as updated or replaced from time to time;

"True and Plumb" means that the vertical inclination of a Project Network Part when measured in two planes ninety (90) degrees apart around the perimeter of the Project Network Part does not exceed:

- (a) three (3) degrees in the case of Project Network Parts greater than two (2) metres high; or
- (b) five (5) degrees in the case of Project Network Parts less than or equal to two (2) metres high;

"TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) and, so far as applicable, the Equal Rights Directive 2001/23 (as amended) and the Transfer of Employment (Pension Protection) Regulations 2005;

"Type 1 MOT" means a term that is widely used within the highway construction industry to describe the crushed concrete variation of the Department of Transport approved granular sub-base material;

"Type C Inspections" means inspections carried out by a Type C Inspector;

"Type C Inspector" means an inspector as defined by ISO 17020: General criteria for the operation of various types of bodies performing inspection, as amended or replaced from time to time;

"United Kingdom Pavement Management System" or "UKPMS" means the system for the assessment of the condition of the United Kingdom local road network and for planning investment and maintenance on paved carriageways, kerbs, footways and cycle-tracks within the United Kingdom, and for producing national performance indicators for local roads, as endorsed by the UK Roads Board;

"UKPMS Audit Accreditation Scheme" means the UKPMS document number 113 with such title endorsed by the DfT, as amended or replaced from time to time;

"UKPMS Rules and Parameters" means the document with such title endorsed by the UK Roads Board, as amended or replaced from time to time;

"UKPMS Visual Survey Manual 2009" means the document with such title endorsed by the UK Roads Board, including any updates due to changes to UKPMS Rules and Parameters, as amended or replaced from time to time;

"UK Biodiversity Action Plan" means the document with such title as referred to in the Method Statements including Method Statement 1.10, as updated or replaced from time to time;

"UK Climate Impacts Programme" ("**UKCIP**") means the body with such title responsible for assisting organisations to adapt the way they work in order to deal with the impacts of a changing climate as referred to in the Method Statements including Method Statement 1.10, or any replacement or successor body;

"UK Roads Board" means the body comprising representatives from national and local government from across the UK established to consider carriageway and footway engineering matters, or any successor body;

"Unascertained Land Right" means any Land Right which is not an Ascertained Land Right;

"Unauthorised Attachment" means an Attachment which has not been Authorised pursuant to the procedure detailed in Appendix 1 to Schedule 8 (*Attachments and Advertising*) and as defined pursuant to Paragraph 1 of Appendix 2 to Schedule 8 (*Attachments and Advertising*);

"Unauthorised Attachments Register" shall have the meaning given to it in Paragraph 7 of Appendix 2 to Schedule 8 (*Attachments and Advertising*);

"Unavailable" means

- (a) in respect of each RSL (or part thereof), any partial or total closure or other restrictions of a lane of traffic (in one direction of travel); or
- (b) in respect of each FSL (or part thereof), any partial or total closure or restrictions to the passage of pedestrians;

unless the cause of such partial or total closure or other restriction of a lane of traffic (in one direction of travel) or to the passage of pedestrians or such partial or total closure or other restriction of passage:

- (c) is expressly stated in this Contract as being an Excusing Cause; or
- (d) forms the whole or part of a Planned Road Closure or other occupancy of the Carriageway as notified to the Authority in the Annual Investment Programme and/or otherwise notified as Noticeable Works; or
- (e) is otherwise caused by the activities of Third Parties on the RSL or FSL; or
- (f) is otherwise caused by or on behalf of the activities of the Authority or an Authority Party,

and "**Unavailability**" shall be construed accordingly;

"Uncontrolled Tactile Crossing" means a dropped kerb and footway crossing point on the Project Network designed in accordance with the Uncontrolled Tactile Crossing Standard Detail;

"Uncontrolled Tactile Crossing Standard Detail" means the document described as the uncontrolled tactile crossing standard detail of the Authority set out in Schedule 29 (*Authority Policies*);

"Underground Apparatus" means the Authority's electrical distribution network and Drainage System;

"Underground Apparatus Inventory" means an electronic record of the information in relation to the Underground Apparatus as described in Annexure 4 to Service Standard 1 of Schedule 2 (*Output Specification*);

"Undue Deviation" means no deviation in any plane exceeding fifty (50) millimetres in any one (1) metre length or which Detracts From The Visual Appearance of the Project Network Part;

"Uninsurable" means, in relation to a risk, either that:

- (a) insurance is not available to the Service Provider in respect of the Project in the worldwide insurance market with reputable insurers of good standing in respect of that risk; or
- (b) the insurance premium payable for insuring that risk is at such a level that the risk is not generally being insured against in the worldwide insurance market with reputable insurers of good standing by contractors in the United Kingdom;

"Uninsured Losses" means losses arising from any risks against which the Service Provider or any Service Provider Party does not maintain insurance (where not required to maintain insurance for such risk under this Contract or by Law) provided that:

- [REDACTED]
- [REDACTED]

shall not be treated as Uninsured Losses;

"Unitary Charge" means the payment calculated in accordance with Schedule 4 (*Payment Mechanism*);

"Unmetered Supplies" means any electronic equipment that draws a current and is connected to the distribution network without a meter recording its energy consumption;

"Unsuitable Person" means any person who:

- (a) has any Conviction; or
- (b) in the opinion of the Authority:
 - (i) is or is likely to cause damage to the reputation of the Authority; or
 - (ii) persistently fails or would fail to comply with the health and safety or other material obligations of the Service Provider under this Contract; or
 - (iii) is not a fit and proper person to be engaged, or employed in or in connection with the provisions or performance of any part of the Service; or
 - (iv) may present an actual or potential risk to the health, safety or welfare or any Authority Party or member of the public;

"Updated Daily Proposed Actions List" means an update of the Daily Proposed Actions List to reflect any changes to such Winter Maintenance Service Operations that are necessary as a result of changes in weather conditions to ensure that the Service Provider meets the required outcomes of the Winter Maintenance Service;

"Updated Latent Defect Report" shall have the meaning given to it in Clause 8.4.2 (*Latent Defect Report*);

"Updated Populated Carbon Model" shall have the meaning given to it in Clause 20.6.1;

"Updated Traffic Management Target" shall have the meaning given in Clause 20.6.1;

"Urban Traffic Control System" or "UTC" means the Authority's traffic control system and associated infrastructure equipment, including communications networks and DSL / ADSL routers that provides dynamic network management of the Project Network excluding Traffic Signal/Control Infrastructure or Intelligent Transport System Infrastructure;

"Urban Traffic Management and Control System" or "UTMC" means the Authority's system and associated infrastructure equipment, including communications networks and DSL / ADSL routers that controls and integrates the Urban Traffic Control System with the Intelligent Transport System Infrastructure and including all associated equipment on the Project Network, excluding Traffic Signal/Control Infrastructure or Intelligent Transport System Infrastructure;

"Urgent Defect" means any fault or defect in or on the Project Network (other than an Urgent Fault) that requires prompt attention because it represents an immediate or imminent hazard;

"Urgent Fault" means a fault to Traffic Signal/Control Infrastructure and/or Intelligent Transport Systems (ITS) Infrastructure that requires prompt attention because it represents an immediate or imminent hazard, a risk of short term structural deterioration or a risk of congestion;

"Validated and Audited Data" means condition data which has been validated by means of manual audit by a trained engineer;

"Validated and Processed Data" means condition data which has passed the audit regime and has been processed within the UKPMS;

"VAT" means any value added taxes;

"Vegetation" means all plant life including grass, hedges, trees, shrubs, weeds, Injurious Weeds, Pernicious Weeds, bedding plants and roses;

"Viaduct" means

- (a) a viaduct identified as a Viaduct in Schedule 20 (*Project Network Information*); and
- (b) shall include any additional Viaducts installed by the Authority pursuant to Clause 49 (*Highway Works Authority*) or Accrued into the Contract pursuant to Schedule 18 (*Change Protocol*) or Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Vitiating Act" shall have the meaning given to it in Part 2 of Schedule 6 (*Insurance*);

"Walk and Build" means the Service Provider's methodology for on-site evaluation of Works necessary as referred to in the Method Statements including Method Statement 2;

"Warm Transfer" means during the hours of 8.00 to 18.00, a verbal transfer of a customer together with details of their name and a description of his/her request or enquiry from the Service Provider to the Authority or Third Party (as applicable) or from the Authority to the Service Provider or, during the hours of 18.00 to 8.00, means the electronic transfer of a customer's name and a description of his/her request or enquiry only, to the Authority or Third Party (as applicable), such that the customer does not have to repeat information they have already provided;

"Waste and Resources Action Programme" ("**WRAP**") means the body with such title which works with businesses and individuals to make better use of resources by wasting less and recycling more, or any replacement or successor body;

"Waste audit" means a formal, structured process used by the Service Provider to quantify the amount and types of waste being generated by an organisation, to identify current waste practices and how they can be improved as referred to in the Method Statements including Method Statement 1.10;

"Waste exemptions"

means a very specific type of low risk waste handling operation that does not require a permit from the Environment Agency pursuant to the Environmental Permitting (England and Wales) (Amendment) Regulations 2012 (SI 2012/630), as referred to in the Method Statements including Method Statement 1.10;

"Waste hierarchy" means the hierarchy for dealing with waste as set out in the EU Waste Framework Directive (Directive 2008/98/EC) and as referred to in the Method Statements including Method Statement 1.10;

"Waste Management Industry Training and Advisory Board" ("WAMITAB") means the body with such title responsible for determining and advising on policy and standards of education, qualifications and training for all employees in the waste management industry, or any replacement or successor body;

"Waste Management Plan" means the Service Provider's document which sets out waste management process and procedures as referred to in the Method Statements including Method Statement 1.10;

"Waste stream register" means the Service Provider's document which lists the waste generated from the Project as referred to in the Method Statements including Method Statement 1.10;

"Waste Transfer Notes" ("WTN") means the Service Provider's document that details the transfer of waste from one person to another as referred to in the Method Statements including Method Statement 1.10;

"Weather Forecasting Service" means a specialist electronic weather forecasting service and electronic road condition forecasting service;

"Weed Control Programme" means the Service Provider's programme setting out weed control, including requirements and timescales as referred to in the Method Statements including Method Statement 6;

"Weed Control Service" means that service to be provided in accordance with the provisions of Service Standard 6 of Schedule 2 (*Output Specification*);

"Weedon Street Structure" means such structure as such is defined in Schedule 20 (*Project Network Information*);

"Week" means a period of five (5) consecutive Business Days commencing on a Monday and ending on a Friday, or any period of fewer Business Days as applicable within such period;

"Weight Restriction" means any weight restriction which has been put in place as a result of a Traffic Regulation Order;

"Wheel Path" means the area within the Carriageway where vehicle wheels travel;

"Wheel Track Rutting" means transverse deformation within any Wheel Paths;

"Width Restriction" means any width restriction which has been put in place as a result of a Traffic Regulation Order;

"Winter Maintenance Manager" ("WMM") means the Service Provider's winter maintenance manager as referred to in the Method Statements including Method Statements 1.11 and 7;

"Winter Maintenance Media Update" means the Service Provider's Winter Maintenance Media Update required to be prepared by the Service Provider, in accordance with Annexure 4 to Service Standard 7 of Schedule 2 (*Output Specification*);

"Winter Maintenance Period" means the period over which Winter Maintenance Service Operations shall take place in each Contract Year;

"Winter Maintenance Policy" means the Authority's Winter Maintenance Policy as set out in Schedule 29 (*Authority Policies*);

"Winter Maintenance Service" means the service provided in accordance with the provisions of Service Standard 7 of Schedule 2 (*Output Specification*);

"Winter Maintenance Service Operations" means those operations undertaken by the Service Provider in accordance with Service Standard 7 of Schedule 2 (*Output Specification*);

"Winter Treatment Decision Maker" ("WTDM") means the Service Provider Personnel who, with training, mentoring and shadowing, are responsible for making the decisions to treat or not treat the Project Network with de-icing agent as referred to in the Method Statements including Method Statement 7;

"Winter Maintenance Treatment Matrix" means the Service Provider's table of reference designed to assist the Duty Winter Maintenance Manager and Assistant Duty Winter Maintenance Manager in their general decision making as to whether or not Winter Maintenance Services are required as referred to in the Method Statements including Method Statement 7;

"Wipe-Clean Notice" means a notice given by the Service Provider in accordance with Clause 73.7.1;

"Work Sites" means any property used by the Service Provider or any Service Provider Party for the preparation, management or delivery of the Service or any land on which the Service is being provided, any property used by the Service Provider or any Service Party as training or workshop facilities and any places where work is being prepared or materials obtained for the Project;

"Work Stages" means the stages of work that may be required by the Authority as set out in Appendix 3 to Schedule 7 (*Non-Core Services*);

"Workforce Policies" shall mean the policies submitted by the Service Provider pursuant to Schedule 22 (*Workforce Policies, Health and Safety Manual and Quality Plans*);

"Working Day" means the period of time between the hours of 7am to 7pm (inclusive) on a Monday to Friday (excluding Bank Holidays);

"Works" means any works which comprise the Service of the type specified in the Output Specification;

"Works Conditions" shall have the meaning given to it in Paragraph 5.5.2 of Schedule 7 (*Non-Core Services*);

"Works Inspection Report" means a report of a Sample Inspection, a routine inspection or investigatory works resulting in the identification of a defect, or an inspection following a third party report, carried out in accordance with and in the format of Appendix B of the NRSWA Code of Practice for Inspections;

"Works Instruction" shall have the meaning given to it in Paragraph 5.5.5 of Schedule 7 (*Non-Core Services*);

"Works Scope" shall have the meaning given to it in Paragraph 5.5.1 of Schedule 7 (*Non-Core Services*);

"XSP" means cross sectional position as defined within the UKPMS Visual Survey Manual 2009 Volume 2 Chapter 4;

"Year 19" shall have the meaning given to it in Clause 27.18.5 (*General Inspections*);

"Year of Accrual Intervention" shall have the meaning given to it in Paragraph 5.1 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*);

"Year of De-Accrual Intervention" shall have the meaning given to it in Paragraph 5.2 of Schedule 19 (*Accrual and De-Accrual of Project Network Parts*); and

"Zone Communications Schedule" means the Service Provider's schedule for communications in relation to a Significant Scheme as referred to in the Method Statements including Method Statements 1.8 and 1.9.