

Highways England Company Limited

Area 12

Asset Delivery (AD)

Annex 1

Defined Terms

CONTENTS AMENDMENT SHEET

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1 SCOPE DEFINED TERMS

1.1 Introduction

- 1.1.1 In the Scope, terms identified in the Contract Data are in italics and defined terms have capital initials. Other terms used with capital letters are defined in the conditions of contract or have the meaning given to them elsewhere.
- 1.1.2 The defined terms used in the Scope and elsewhere in the contract are defined in Table 1.

Table 1: Scope Defined Terms

#	Term	Definition
AD – All Asset Delivery contracts		
1.	Affiliate	Is in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.
2.	Appointed Actuary	Is the actuary appointed to the Contractor's Pension Plan from time to time in accordance with Section 47 of the Pensions Act 1995 and the regulations made under it.
3.	Black Friday	An annual retail event usually held at the end of November which results in a large increase in traffic.
4.	Business Information Gateway	The gateway as defined in Annex 6 .
5.	Central Government Body	is a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: <ul style="list-style-type: none"> • Government Department, • Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal), • Non-Ministerial Department or • an Executive Agency of one of the above

		and anybody corporate that is a wholly owned subsidiary of one of the above.
6.	CDM Regulations	The Construction (Design and Management) Regulations 2015.
7.	<i>Client</i> Background IPR	is IPR owned by the <i>Client</i> before the Contract Date, or created by the <i>Client</i> independently of the contract, and Crown Copyright which is not available to the Contractor otherwise than under the contract, but excluding IPRs owned by the <i>Client</i> subsisting in the Client Software.
8.	<i>Client</i> Software	is software which is owned by or licensed to the <i>Client</i> (other than under or pursuant to the contract) and which is or will be used by the Contractor in order to Provide the Service.
9.	<i>Client</i> System	is the <i>Client's</i> computing environment (consisting of hardware, software and telecommunications networks or equipment) used by the <i>Client</i> or the <i>Contractor</i> in connection with the contract which is owned by the <i>Client</i> or licensed to it by some third party and which interfaces with the Contractor System or which is necessary for the <i>Client</i> to receive the <i>service</i> .
10.	Collaborative Custodian	Is a responsible custodian of the strategic road network, acting in the long term national interest and as detailed in Annex 11 .
11.	Collaborative Performance Framework (CPF)	The performance framework used in all asset delivery contracts to monitor and report on the Contractor's performance.
12.	Commitments Register	Commitments Register is the statement of that name set out in Annex A to the Form of Agreement detailing the commitments made by the Contractor as part of its tender in respect of how it is to Provide the Service.
13.	Community	A collaborative group (the Partners) comprising representatives from the <i>Client</i> , the Contractor's organisations and possibly other related non-asset delivery framework contractors as determined by the <i>Client</i> as detailed in Annex 11 .

14.	Community Charter	Is the written document defining the rights, obligations, terms of reference, partner composition of the Community developed by all the Community partners as detailed in Annex 11 and will be modified during the contract to reflect changes in the Community.
15.	Community Council	A forum comprising all Community partners with responsibility and accountability for managing all matters and affairs of the Community, which may elect a Community Committee to act on its behalf, as detailed in Annex 11 .
16.	Community Committee	A committee of Community partners elected by the Community Council to manage Community matters and affairs and make key decisions on behalf of the Community Council as detailed in Annex 11 .
17.	Community Working Groups	A group of Community partners selected from the Community that may be established as required to address matters raised by either the Community Council or the Community Committee as detailed in Annex 11 .
18.	Confidential Information	<p>is</p> <ul style="list-style-type: none"> • information, including all Personal Data, which (however it is conveyed) is provided by the disclosing Party in connection with the contract that relates to <ul style="list-style-type: none"> • the Disclosing Party Group or • the operations, business, affairs, developments, Intellectual Property Rights, trade secrets, know-how and personnel of the Disclosing Party Group, • other information provided by the disclosing Party in accordance the contract that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Recipient's attention or into the Recipient's possession in connection with the contract, • discussions, negotiations, and correspondence between the disclosing Party or any of its directors, officers, employees, consultants or professional advisers and the Recipient or any of its directors, officers, employees,

		<p>consultants and professional advisers in connection with the contract and all matters arising therefrom; and</p> <ul style="list-style-type: none"> information derived from any of the above, <p>but not including any information which</p> <ul style="list-style-type: none"> was in the possession of the Recipient without obligation of confidentiality prior to its disclosure by the disclosing Party, the Recipient obtained on a non-confidential basis from a third party who is not, to the Recipient's knowledge or belief, bound by a confidentiality agreement with the disclosing Party or otherwise prohibited from disclosing the information to the Recipient, was already generally available and in the public domain at the time of disclosure otherwise than by a breach of the contract or breach of a duty of confidentiality or <p>was independently developed without access to the Confidential Information.</p>
19.	Contract Finder	Is the government's website for information about contracts worth over £10,000 with the government and its agencies.
20.	Contractor Background IPR	<p>IPR owned by the <i>Contractor</i> or a third party before the Contract Date or created by the Contractor or a third party independently of the contract, which in each case is or will be used to</p> <ul style="list-style-type: none"> before the <i>defects date</i> to Provide the Service and for the maintenance, operation and modification of the <i>service</i>.
21.	Contractor Equipment	is the hardware, computer and telecoms devices and equipment used by the Contractor or its subcontractors (or any subcontractor of any tier to the Contractor) (but not hired, leased or loaned from the <i>Client</i>) for the Providing the Service.
22.	Contractor Software	<p>is software which is proprietary to the Contractor (or an Affiliate of the Contractor) and</p> <ul style="list-style-type: none"> which is or will be used by the Contractor for the purposes of Providing the Service,

		<ul style="list-style-type: none"> which is or will be used by the <i>Client</i> for the purposes, maintaining, operating or improving the <i>services</i> and including the software specified as such in the Software Schedule.
23.	Contractor System	is the information and communications technology system used by the Contractor in implementing and performing the <i>service</i> including the Software, the Contractor Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Client System).
24.	Contracts Finder	Contracts Finder is the government website for information about contracts worth over £10,000 with the government and its agencies.
25.	Control	is the possession by person, directly or indirectly, of the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and Controls and Controlled are to be interpreted accordingly.
26.	Construction Compliance Certificate	As per the meaning in BD2/12 Technical Approval of Highways Structure (Volume 1, Section 1 of the Design Manual for Roads and Bridges).
27.	Current System	The system that is authorised for use by the <i>Client</i> at the Contract Date and includes all the systems defined in Table 3 of Annex 6 .
28.	Customer	Any person or organisation as defined in Annex 26 .
29.	Cyber Monday	An annual online retail event usually held at the end of November or early December which results in an increase in traffic due to large volumes of goods being delivered.
30.	Data	Is all Personal Data collected, generated or otherwise processed by the Contractor in the course of Providing the Service.
31.	Data Loss Event	Is any event that results, or may result, in unauthorised access to Personal Data held by the Processor for the purposes of this contract, and/or actual or potential and/or

		destruction of Personal Data in breach of this Agreement, including any Personal Data breach.
32.	Data Protection Impact Assessment	Is an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
33.	Data Protection Legislation	<p>The Data Protection Legislation is:</p> <ul style="list-style-type: none"> • The General Data Protection Regulation (EU 2016/679); • The Law Enforcement Directive (LED) (Directive EU 2016/680); • The Data Protection Act 2018; and <p>Any other data protection laws and regulations applicable in England.</p>
34.	Data Subject	Is an individual who is the subject of Personal Data.
35.	Data Subject Request	Is a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
36.	Deposited Software	is the Software the Source Code of which is to be placed in escrow as required by the <i>Service Manager</i> and notified to the Contractor from time to time including as identified in the Software Schedule.
37.	Disclosing Party Group	<p>is where the disclosing Party is</p> <ul style="list-style-type: none"> • the Contractor and any Affiliates of the <i>Contractor</i>; and the <i>Client</i>, the <i>Client</i> and any Central Government Body with which the <i>Client</i> or the Contractor interacts in connection with the contract.
38.	Disclosure Request	A Disclosure Request is a request for information relating to the contract a received by the Client pursuant to the Freedom of Information Act 2000 and Environmental Information Regulations 2004 or otherwise.
39.	Discrimination Acts	The Discrimination Acts are the Equality Act 2010 and any predecessor statutes.

40.	Documentation	<p>is descriptions of the <i>service</i>, the <i>Contractor's service</i> solution, performance measures, details of the Contractor System (including (i) vendors and versions for off-the-shelf components and (ii) source code and build information for proprietary components), relevant design and development information, technical specifications of all functionality including those not included in standard manuals (such as those that modify system performance and access levels), configuration details, test scripts, user manuals, operating manuals, process definitions and procedures, and all such other documentation as</p> <ul style="list-style-type: none"> • is required to be supplied by the <i>Contractor</i> to the <i>Service Manager</i> under the contract, • would reasonably be required by a competent third party capable of Good Industry Practice contracted by the <i>Client</i> to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the <i>service</i> or make use of the <i>service</i>, • is required by the <i>Contractor</i> in order to Provide the Service and <p>has been or is generated in order to Provide the Service.</p>
41.	EEA	Is the European Economic Area.
42.	Employment and Skills Plan	The Employment and Skills Plan is the document described in the Scope.
43.	GAD Certificate	Is the certificate issued by the Government Actuary's Department in respect of the Contractor's Pension Plan (or any replacement pension scheme established or nominated by a Subcontractor) confirming the broad comparability of the Contractor's Pension Plan (or the replacement scheme) to the Original Scheme
44.	Good Industry Practice	is at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a skilled and experienced person or body engaged in services similar to the <i>services</i> to a customer like the <i>Client</i> , such supplier seeking to comply with its contractual obligations in full and complying with any applicable laws.

45.	Health and Safety File	As per the meaning given to it in the Construction (Design and Management) Regulations 2015.
46.	Inclusion Action Plan	The Inclusion Action Plan is the document described in Annex 27 of the Scope.
47.	Incident	Is any event which is not part of the standard operation of the <i>service</i> and which causes, or may cause, an interruption or a reduction of the quality of the <i>service</i> and is detailed in the Incident Response Plan.
48.	Indemnified Person	is the <i>Client</i> and each and every person to whom the <i>Client</i> (or any direct or indirect sub-licensee of the <i>Client</i>) sub-licenses, assigns or novates any Relevant IPRs or rights in Relevant IPRs in accordance with the contract.
49.	Information Systems	Can be a combination of hardware, software, infrastructure and trained personnel organised to facilitate planning, control, coordination and decision making in an organisation.
50.	Intellectual Property Rights or IPRs	are copyright and related rights, database rights, design rights, patents, inventions, trade marks (and goodwill attaching to those trade marks), domain names, applications for and the right to apply for any of the foregoing, moral rights, confidential information and any other intellectual or industrial property rights, whether or not registered or capable of registration, whether subsisting now or in future in any part of the world.
51.	IPRs Claim	is any claim against any Indemnified Person of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any Relevant IPRs save for any such claim to the extent that it is caused by any use by or on behalf of that Indemnified Person of any Relevant IPRs, or the use of the Client Software by or on behalf of the Contractor, in either case for a purpose not reasonably to be inferred from the Scope or the provisions of the contract.
52.	Joint Controllers	Means where two or more Controllers jointly determine the purposes and means of processing.

53.	List X	List X contractors are companies operating in the UK who are working on UK government contracts which require them to hold classified information. This information is at 'Secret' level or above or international partners information classified 'Confidential' or above, and is held in their own premises at a specific site. Classified information levels can be reviewed in the Gov website here (https://www.gov.uk/government/publications/security-requirements-for-list-x-contractors)
54.	Local Government Pension Scheme	Is the pension scheme governed by the Local Government Pension Scheme Regulations (SI 1997/1612) as amended from time to time.
55.	Mobilisation Period	Is the period between the <i>starting date</i> and the <i>access date</i> or <i>go live date</i> .
56.	New System	A revision to a Current System or a system development identified in Table 4 of Annex 6 for which the <i>Client</i> will specify the training and implementation programme and System requirements necessary for its implementation and operation by the Contractor.
57.	Nonconformity	Nonconformity has the meaning give in BS EN ISO 9000:2015 defined in Annex 16
58.	Object Code	is software and data in machine-readable, compiled object code form.
59.	Office of Rail and Road (ORR)	Is the regulatory body responsible for monitoring and enforcing the performance and efficiency of Highways England" which aligns with the ORR website https://orr.gov.uk/highways-monitor .
60.	Supplier Relationship Manager	The <i>Client's</i> appointed representative to act as chairperson and facilitator to the Community in an independent manner without bias or favour to any Community partner, within the terms of reference in the Community Charter as detailed in Annex 11 . The role may rotate during the contract
61.	The Official Secrets Act 1989	The Official Secrets Act is the Official Secrets Act 1989 and any predecessor statutes.

62.	Open Source Software	is software that has its source code made available subject to an open-source licence under which the owner of the copyright and other IPRs in such software provides the rights to use, study, change and distribute the software to any and all persons and for any and all purposes free of charge.
63.	OSS	Is the Open Source Software listed in the Software Schedule.
64.	Outgoing Contractor's Pension Scheme	Is the registered pension scheme or schemes operated by an Outgoing Contractor immediately prior to the access date or the Technology access date which has been certified by the Government Actuary's Department as providing benefits which are broadly comparable to those provided by the Original Scheme.
65.	Pensions	All Pension related definitions are detailed in the Scope
66.	Performance Level	Performance Level is the performance level of the Collaborative Performance Framework stated in the Scope.
67.	Personal Data	Is any data relating to an identified or identifiable individual that is within the scope of protection as "personal data" under the Data Protection Legislation.
68.	Procedure	The meaning is defined in ISO 9000 unless superseded by a definition in Annex 16
69.	Process	The meaning is defined in ISO 9000 unless superseded by a definition in Annex 16
70.	Project Control Framework	The Project Control Framework has the meaning given to it in the Project Control Framework Handbook.

71.	Protective Measures	Are appropriate, technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an Incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it including those outlined in PPN 02/18.
72.	The Public Interest Test	The Public Interest Test requires a public authority, or oversight body, weigh the harm that disclosure would cause to the protected interest against the public interest saved by disclosure of the information.
73.	Quality Management Points	Quality Management Point are point accrued by the Contractor in accordance with the Scope.
74.	Quality Plan	Has the meaning given in ISO 9001:2015.
75.	Quality Statement	Is the document submitted by the <i>Contractor</i> at time of tender.
76.	Recipient	is the Party which receives or obtains directly or indirectly Confidential Information.
77.	Regional Operations Centre (ROC)	The <i>Client's</i> 24-hour emergency and Incident contact facility.
78.	Relevant IPR	is IPRs used to Provide the Service or as otherwise provided and licensed by the Contractor (or to which the Contractor has provided access) to the Client or a third party in the fulfilment of the Contractor's obligations under the contract including IPRs in the Specially Written Software, the Contractor Software, the Contractor Background IPRs and the Third-Party Software but excluding any IPRs in the Client Software and the Client Background IPRs.
79.	Risk	Is an uncertain event or set of circumstances that should it occur will affect (positively or negatively) the service, works or project objectives."

80.	Roads Investment Strategy (RIS)	Highways England's long-term policy and strategy for the development of the Strategic Road Network (SRN).
81.	Security Incident	Is a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Data.
82.	Service Provider System	Are the Contractor's (service provider/supplier) IT systems/applications which they use to provide services to Highways England.
83.	SME	SME means an enterprise within the category of Small, Medium or Micro Enterprises defined by the European Commission Recommendation of 6 May 2003 concerning the definition of Small, Medium or Micro Enterprises. A SME is a Subcontractor or a subcontractor to a Subcontractor and is autonomous and is a European Union enterprise not owned or controlled by a non-European Union parent company.
84.	Software	is Specially Written Software, Contractor Software and Third Party Software.
85.	Software Supporting Materials	are <ul style="list-style-type: none"> the Documentation, Source Code and the Object Code of the Specially Written Software and all build instructions, test instructions, test scripts, test data, operating instructions and other documents and tools necessary for maintaining and supporting the Specially Written Software.
86.	Source Code	is computer programs and data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all related design comments, flow charts, technical information and documentation necessary for the use, reproduction, maintenance, modification and enhancement of such software.

87.	Specially Written Software	<p>is any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Contractor (or by a Subcontractor (or any subcontractor of any tier to the Contractor) or other third party on behalf of the Contractor) specifically for the purposes of the contract, including</p> <ul style="list-style-type: none"> any Contractor Background IPRs that are embedded in or which are an integral part of such software; and <p>any modifications or enhancements to Contractor Software or Third Party Software created specifically for the purposes of the contract.</p>
88.	Specification	Has the meaning given to it as per the Scope.
89.	Sub-Processor	Is a third party (including Associated Company) engaged by the Contractor to process Data.
90.	Supervisory Authority	Is any regulatory, supervisory, governmental or other competent authority with jurisdiction or oversight over the Data Protection Legislation.
91.	Staff	Staff are employees employed by the <i>Contractor</i> or an Associated Company or any Subcontractor to Provide the Service at any time.
92.	System	Arrangement including processing equipment, application programs, digital data or digital reference information
93.	Third Party Software	is software which is proprietary to any third party (other than an Affiliate of the Contractor) which in any case is, will be or is proposed to be used by the Contractor for the purposes of Providing the Service, including the software specified as such in the Software Schedule and including OSS.
M&R – Maintenance and Response contract		
94.	Client's Stocks	Are items of Equipment, Plant and Materials defined in Annex 21 and listed in the Network Information (including Client's Stocks for Roadside Technology) provided free of charge by the <i>Client</i> for use by the <i>Contractor</i> to Provide the Service.

95.	Control Centre Technology	Are the in-station control centre operational technology assets, not part of the Affected Property, that are maintained by the Control Centre Technology contractor
96.	Control Centre Technology services	Is the service of maintaining the Control Centre Technology provided by the Control Centre Technology contractor through the Application, Integration and Maintenance Services (AIMS) contract.
97.	Control Centre Technology Contractor.	Is the contractor that is providing the Control Centre Technology services.
98.	Green Claims	Claims by the <i>Client</i> against third parties for damage to <i>Client's</i> property including the Affected Property
99.	HALOGEN	Highways Agency Logging Environment. Operational system register. Microsoft Access database format to be operated on <i>Contractor's</i> equipment.
100.	Maintenance and Response Review	Has the meaning defined in the Scope.
101.	NRTS Interface Arrangement	Is a mandatory service level working arrangement formed between the <i>Contractor</i> and the National Roads Telecommunications Services (NRTS) contractor during the Mobilisation Period.
102.	Control Centre Interface Arrangement	Is an optional service level working arrangement formed between the <i>Contractor</i> and the Control Centre (AIMS) contractor, if requested by the <i>Service Manager</i> .
103.	National Roads Telecommunications Technology	Are the operational technology assets, not part of the Affected Property that are maintained by the National Roads Telecommunications Services (NRTS) contractor.
104.	National Roads Telecommunications Services (NRTS)	Is the service of maintaining the National Roads Telecommunications Technology.
105.	National Roads Telecommunications Services (NRTS) Contractor	Is the contractor that is providing the National Roads Telecommunications Services

106.	National Technology and Logistics Centre (NTLC)	<i>Clients</i> national depot for storage of Roadside Technology Spares.
107.	National Technology Relationship Manager (NTRM)	<i>Clients</i> regional operational technology fault escalation manager. It provides a 24/7/365 service, managing the lifecycle of faults and change within Operations.
108.	Red Claims	Claims by third parties against the <i>Client</i> for damage to third party property or persons arising out of the condition of the Affected Property or the performance of the <i>works or services</i> .
109.	Regional Technology Maintenance Contract (RTMC)	Is the existing contract with Others that has responsibility for both Roadside Technology services and Control Centre Technology services, prior to the <i>Technology access date</i> .
110.	Roadside Technology	Are the operational technology assets in the Technology Affected Property detailed in the Network Information that are maintained by the <i>Contractor</i> .
111.	Roadside Technology services	Is the service of maintaining the Roadside Technology which forms part of the services.
112.	Roadside Technology Contractor	Is the Maintenance and Response Contractor that is providing the Roadside Technology services.
113.	Roadside Technology Spares List	Is the <i>Clients</i> Consolidated Oracle Spares List for the use by the <i>Contractor</i> to maintain Roadside Technology assets.
114.	Roadside Technology Spares Centres	Are the <i>Clients</i> regional depots for storage of Roadside Technology Spares as listed in the Roadside Technology Spares List.
115.	Roadside Technology Client's Stocks	Are the Roadside Technology spares and parts provided by the Roadside Technology Spares contractor as defined in Annex 21 .
116.	ServiceNow	Existing system that captures and manages faults in the Roadside Technology network.
117.	Specification	Is the specification listed in Table 2 of Annex 3 .

118.	Technology Operations Capability Centre (TOCC)	The <i>Clients</i> service that will provide first and second line support for all operational technology services, acting as a single point of contact and interfacing with the Regional Operations Centre to resolve technology Incidents.
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