

## SCHEDULE 1

## DEFINITIONS AND INTERPRETATION

1. **Definitions.** In the Project Agreement, unless the context otherwise requires:
- 1.1 “**6-Month Works Schedule**” means the schedule to be prepared and submitted by Project Co in accordance with Section 22.2 of the Project Agreement and in accordance with Article 19 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.2 “**Account Trustee**” has the meaning given in Schedule 30 – Insurance Trust Agreement.
- 1.3 “**Actual Relevant Insurance Cost**” has the meaning given in Section 7.1(a) of Schedule 25 – Insurance and Performance Security Requirements.
- 1.4 “**Additional Contractor**” means any independent contractor (not being, for the avoidance of doubt, any of the Contractors, Project Co or any Operator, but including, for clarity, the Vehicle Supplier) or the Region’s own forces, engaged by the Region to carry out the Additional Works.
- 1.5 “**Additional Works**” means those works or services in relation to the System and the Public Infrastructure which are not Design and Construction Works, Public Infrastructure Works, Maintenance and Rehabilitation Services, Operations Services or, for clarity, Operations Services performed by an Operator, and which are to be carried out by an Additional Contractor, including works or services to be performed either before or after Substantial Completion, including the Early Works.
- 1.6 “**Adjacent Developments**” means any development works or like activity carried out during the Project Term by or on behalf of any third party adjacent to the Lands, the System or the Public Infrastructure or which otherwise affects or may potentially affect any part of the Design and Construction Works, the Public Infrastructure Works, the Maintenance and Rehabilitation Services, the Operations Services, the Lands, the System or the Public Infrastructure.
- 1.7 “**Adjusted Estimated Fair Value**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.8 “**Adjusted Highest Qualifying Tender Price**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.9 “**Adjusted Service Payment**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.10 “**Aecon Inc.**” means Aecon GrandLinq GP Inc., a corporation incorporated under the federal laws of Canada.
- 1.11 “**Affiliate**” means an “**affiliate**” as that term is used in the *Business Corporations Act* (Ontario) and any successor legislation thereto, and, in the case of Project Co, shall include each of its

TORONTO: 294578/8

unitholders, shareholders, partners or owners as the case may be.

- 1.12 “**After-Acquired Lands**” means those parts of the Lands identified in the table entitled “Region of Waterloo – LRT Project Lands” forming part of Part A to Appendix 2 to this Schedule 1 – Definitions and Interpretation to be acquired by the Region after Financial Close and on or before the Targeted Possession Dates identified in such table.
- 1.13 “**Ancillary Documents**” means the Construction Contract, OM&R Contract (or, as applicable, any Maintenance and Rehabilitation Contract and any Operations Contract), the Performance Security, the Partnership Agreement, the Interface Agreement, the Equity Commitment Agreement and the Operator Interface Protocol.
- 1.14 “**Anticipated OMSF/Test Track Date**” has the meaning given in Section 25.3(c) of the Project Agreement.
- 1.15 “**Anticipated Public Infrastructure Component Acceptance Date**” has the meaning given in Section 20.11(d) of the Project Agreement.
- 1.16 “**Anticipated Substantial Completion Date**” has the meaning given in Section 25.7(a) of the Project Agreement.
- 1.17 “**Applicable Law**” means:
- (a) any statute or proclamation or any delegated or subordinate legislation including regulations and by-laws;
  - (b) any Authority Requirement; and
  - (c) any judgment of a relevant court of law, board, arbitrator or administrative agency which is a binding precedent in the Province of Ontario,
- in each case, in force in the Province of Ontario, or otherwise binding on Project Co, any Project Co Party, the Region or any Region Party.
- 1.18 “**Appointed Representative**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.19 “**Appointed Representative Notice**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.20 “**Archaeological Reports**” means the Stage 2 Archaeological Assessment Report prepared by Archeoworks Inc., dated December 2011.
- 1.21 “**Asset Management Plan**” has the meaning given in Schedule 15-1 – Definitions and Interpretation.
- 1.22 “**Associated Liabilities**” has the meaning given in Section 35.6(b) of the Project Agreement.
- 1.23 “**Authority Requirements**” means any by-law, order, direction, directive, request for information, policy, administrative interpretation, guideline or rule of or by any Governmental Authority.

- 1.24 “**Availability Failure**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.25 “**Availability Failure Deduction**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.26 “**Background Information**” means any and all drawings, reports (including the Environmental Reports, the Archaeological Reports, the Geotechnical Reports and the Environmental Project Report), studies, data, documents, or other information, given or made available to Project Co or any Project Co Party by the Region or any Region Party, or which was obtained from or through any other sources prior to Commercial Close.
- 1.27 “**Bank**” has the meaning given in Schedule 30 – Insurance Trust Agreement.
- 1.28 **MFIPPA Section 10(1)(a) and 11(a)**
- 1.29 “**Base Date**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.30 “**Base Relevant Insurance Cost**” has the meaning given in Section 7.1(b) of Schedule 25 – Insurance and Performance Security Requirements.
- 1.31 “**Baseline Service Plan**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.32 “**Beneficiary**” has the meaning given in Section 56.3(a) of the Project Agreement.
- 1.33 “**Bond Indenture**” means the bond indenture in respect of the Project between Project Co and BNY Trust Company of Canada, as indenture trustee and dated on or about the date of Financial Close.
- 1.34 “**Business Day**” means any day other than Saturday, Sunday, a statutory holiday in the Province of Ontario or any day on which banks are not open for business in the City of Toronto, Ontario.
- 1.35 “**Business Opportunities**” has the meaning given in Section 4.1(a) of the Project Agreement.
- 1.36 “**CaGBC**” means the Canada Green Building Council.
- 1.37 “**Canadian and Industry Standards**” means, at the applicable time, those standards, practices, methods and procedures applicable to Good Industry Practice.
- 1.38 “**Canadian GAAP**” shall be deemed to be the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles, as such principles may be amended or varied by International Financial Reporting Standards then in effect in Canada, in any case consistently applied from one period to the next.
- 1.39 “**Capital Expenditure**” means capital expenditure as interpreted in accordance with Canadian GAAP.
- 1.40 “**Certification Services**” has the meaning given in Schedule 6 – Independent Certifier Agreement.

- 1.41 “**Certification Services Variation**” has the meaning given in Schedule 6 – Independent Certifier Agreement.
- 1.42 “**Change in Control**” means, with respect to a person:
- (a) any Change in Ownership, where the effect of such change is to result in control of the decisions made by or on behalf of such person subsequently being with a different entity or entities than prior to such change;
  - (b) any other change in respect of the power to elect a majority of the directors of the person or otherwise control the decisions made on behalf of such person; or
  - (c) any other change of direct or indirect power or authority through any contractual right or other power or interest with or over a person to influence, direct, cause to change or prevent from changing the approval of a decision, direction of the management or actions or policies of such person.
- 1.43 “**Change in Law**” means the coming into effect or repeal (without re-enactment or consolidation) in Ontario of any Applicable Law, or any amendment or variation of any Applicable Law, including any judgment of a relevant court of law which changes binding precedent in Ontario in each case after Commercial Close.
- 1.44 “**Change in Ownership**” means, with respect to a person, any change in ownership, whether beneficial or otherwise, of any of the shares or units of ownership of such person, or in the direct or indirect power to vote or transfer any of the shares or units of ownership of such person.
- 1.45 “**Change of Authorization Event**” has the meaning given in Schedule 30 – Insurance Trust Agreement.
- 1.46 “**Change of Authorization Notice**” has the meaning given in Schedule 30 – Insurance Trust Agreement.
- 1.47 “**CLA**” means the *Construction Lien Act* (Ontario).
- 1.48 “**Commercial Close**” means the date of the Project Agreement.
- 1.49 “**Commissioning Tests**” means all commissioning tests:
- (a) described in Schedule 14 – Commissioning;
  - (b) described in Article 13 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications as it relates to the OMSF/Test Track Works required to be completed in order to achieve OMSF/Test Track Readiness Completion;
  - (c) required by Applicable Law, Canadian and Industry Standards or CSA Standards;
  - (d) recommended by the manufacturer of any part of the System; and
  - (e) required to be included in the OMSF and Test Track Commissioning Program and the Final Commissioning Program, as the case may be, by the Independent Certifier, the

Region Commissioning Agent or the Region Representative pursuant to Section 25.2 of the Project Agreement.

- 1.50 “**Common Terms Agreement**” means the common terms, intercreditor and collateral trust agreement entered into in respect of the Project by, *inter alia*, Project Co, as borrower, each General Partner (in its own capacity), BNY Trust Company of Canada, in its capacity as collateral trustee and indenture trustee, Alberta Treasury Branches, as lender and the lenders from time to time parties thereto and dated on or about the date of Financial Close.
- 1.51 “**Compensation Date**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.52 “**Compensation Event**” has the meaning given in Section 41.1(a) of the Project Agreement.
- 1.53 “**Confidant**” has the meaning given in Section 52.6(a)(i) of the Project Agreement.
- 1.54 “**Confidential Information**” means all confidential and proprietary information which is supplied by or on behalf of a Party, whether before or after Commercial Close.
- 1.55 “**Construction Activities**” means construction, rehabilitation, Reinstatement Work, rectification work, and any other aspect of the Design and Construction Works and the Public Infrastructure Works that:
- (a) comprises the alteration, augmenting, upgrading, construction, completion, testing or commissioning of any part of the System Infrastructure;
  - (b) comprises the assessment of any System Infrastructure;
  - (c) may affect the structural integrity of any System Infrastructure, and including any such aspect of the Design and Construction Works or Public Infrastructure Works carried out as part of any Force Majeure event, Relief Event, Variation, or Innovation Proposal accepted by the Region; or
  - (d) comprises Construction Clearing and Grubbing.
- 1.56 “**Construction Clearing and Grubbing**” means the stages of the Design and Construction Works and the Public Infrastructure Works in which vegetation and debris is cleared from the Lands (clearing) and a root rake or similar device is employed to remove roots remaining in the soil (grubbing).
- 1.57 “**Construction Contract**” means the construction contract between Project Co and the Construction Contractor dated on or about the date hereof.
- 1.58 “**Construction Contractor**” means GrandLinq Contractors, a general partnership of Aecon Construction and Materials Limited and Peter Kiewit Infrastructure Co., existing under the laws of Ontario, each engaged by Project Co to perform the Design and Construction Works and the Public Infrastructure Works and any substitute construction contractor engaged by Project Co as may be permitted by the Project Agreement.

- 1.59 “**Construction Contractor’s Direct Agreement**” means the direct agreement between the Region, Project Co, the Construction Contractor and each Construction Guarantor in the form set out in Schedule 5-1 – Construction Contractor’s Direct Agreement.
- 1.60 “**Construction Contractor’s Lenders’ Direct Agreement**” means the direct agreement dated on or about the date of Financial Close between Project Co, the Construction Contractor, each Construction Guarantor and the Lenders’ Agent with respect to the rights of the Lenders’ Agent with respect to the Construction Contract.
- 1.61 “**Construction Costs**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.62 “**Construction Guarantor**” means, collectively, Aecon Group Inc. and Kiewit Infrastructure Group Inc., and individually, any one of them.
- 1.63 “**Construction Period**” means the period of time commencing on Financial Close to and including the Final Completion.
- 1.64 “**Construction Period Emergency Preparedness Plan**” means the plan to be prepared, submitted and implemented by Project Co in accordance with Article 18 of Schedule 15-2 – Output Specifications – Design and Construction Requirements.
- 1.65 “**Construction Period Lands**” means the Region’s Real Property Interests in those lands described in Part A of Appendix 2 – Lands to this Schedule 1 – Definitions and Interpretation, including the Lands upon which the OMSF is to be developed, provided that the After-Acquired Lands shall not constitute part of the Construction Period Lands until after the Region has acquired possession of such After-Acquired Lands and Notice thereof has been delivered to Project Co.
- 1.66 “**Construction Programme Scheduling Requirements**” means the summaries and timing of Early Works, Utility Infrastructure relocations, Site availabilities, completion milestone dates, intersecting projects, proposed dates of street closures and activities, events and other work windows and considerations to be taken into account by Project Co in developing the Works Schedule and in performing and completing the Design and Construction Works and Public Infrastructure Works, all as set out in Article 18 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications, Exhibit 3.5-1 of Article 3 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications, and Exhibits 18.8-1, 18.8-2, 18.8-3 and 18.8-4 of Article 18 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.67 “**Contractor’s Direct Agreement**” means the direct agreements amongst the Region, Project Co and each of the Construction Contractor and the OM&R Contractor (or, as applicable, any Maintenance and Rehabilitation Contractor and any Operations Contractor), and the applicable Guarantors in the form set out in Schedule 5 – Contractor’s Direct Agreement.
- 1.68 “**Contamination**” means the presence of any Hazardous Substance in the environment, except Hazardous Substances present in the environment in concentrations below applicable Standards as set by Applicable Laws. If Contamination is present in soil, surface water or groundwater, then the soil, surface water or groundwater, as applicable, containing the Contamination shall also be deemed to be Contamination for the purposes of the Project Agreement.

- 1.69 “**Contract Material**” has the meaning given in Schedule 6 – Independent Certifier Agreement.
- 1.70 “**Contract Month**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.71 “**Contract Year**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.72 “**Contractors**” means the Construction Contractor and the OM&R Contractor (or, as applicable, any Maintenance and Rehabilitation Contractor and any Operations Contractor).
- 1.73 “**Contracts**” means (i) the Construction Contract; and (ii) the OM&R Contract (or, as applicable, any Maintenance and Rehabilitation Contract and any Operations Contract).
- 1.74 “**Countdown Notice**” has the meaning given in Section 25.7(a) of the Project Agreement.
- 1.75 “**CPI**” has the same meaning as CPI-XFET.
- 1.76 “**CPI<sub>n</sub>**” has the meaning ascribed to it in Section 4.1 of Part B of Schedule 20 – Payment Mechanism.
- 1.77 “**CPI<sub>o</sub>**” has the meaning ascribed to it in Section 4.1 of Part B of Schedule 20 – Payment Mechanism.
- 1.78 “**CPI-XFET**” has the meaning ascribed to it in Part A of Schedule 20 – Payment Mechanism.
- 1.79 “**Credit Agreement**” means the credit agreement in respect of the Project between, *inter alia*, Project Co, as borrower and the Alberta Treasury Branches and the other lenders from time to time party thereto, as lenders and dated on or about the date of Financial Close.
- 1.80 “**Critical Path**” has the meaning given in Article 19 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.81 “**CSA**” means the Canadian Standards Association.
- 1.82 “**CSA Standards**” means, at the applicable time, the Canadian Standards Association standards.
- 1.83 “**Custodian**” means the person appointed as Custodian pursuant to the Custody Agreement and as may be permitted pursuant to the Project Agreement.
- 1.84 “**Custody Agreement**” means the custody agreement between Project Co, the Region, the Custodian and the Lenders’ Agent in the form set out in Schedule 3 – Custody Agreement.
- 1.85 “**Deduction**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.86 “**Default Notice**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.87 “**Default Period**” has the meaning given in Schedule 30 – Insurance Trust Agreement.
- 1.88 “**Defect**” means any defect, deficiency, error or fault in the Other Existing Infrastructure.

- 1.89 “**Definitive Design Submittals**” has the meaning given in Section 20.3(e) of the Project Agreement.
- 1.90 “**Delay Events**” has the meaning given in Section 40.1(a) of the Project Agreement.
- 1.91 “**Delay Liquidated Damages**” has the meaning given in Section 56.5(a) of the Project Agreement.
- 1.92 “**Demobilization Plan**” has the meaning given in Schedule 34 – Transition Out Requirements – Operations Services.
- 1.93 “**Design and Bid Fee**” has the meaning given in the Request for Proposals.
- 1.94 “**Design and Certification Procedure**” means the procedure for design and certification of the System and the Public Infrastructure set forth in the Design and Construction Specifications and Section 20 of the Project Agreement.
- 1.95 “**Design and Construction Requirements**” means the relevant specifications, standards, procedures and other requirements for the design and construction of the System and the Public Infrastructure as set out in Schedule 15-2 – Output Specifications – Design and Construction Requirements.
- 1.96 “**Design and Construction Specifications**” means Schedule 15-2 – Output Specifications – Design and Construction Requirements.
- 1.97 “**Design and Construction Works**” means the design, construction, installation, testing, commissioning and completion of the System, which includes, for clarity, the OMSF/Test Track Work, including rectification of any Minor Deficiencies, Snow Removal, Salting and Maintenance Services, and any other activities required to enable or facilitate the commencement of the Maintenance and Rehabilitation Services and Operations Services, and all other work under the Permits, Licences, Approvals and Agreements relating to or in connection with the foregoing work, as such work and services may be varied in accordance with the Project Agreement, but specifically excluding Vehicle Acceptance Testing, Governmental Activities and Public Infrastructure Works.
- 1.98 “**Design Data**” means all drawings, reports, documents, plans, formulae, calculations, and other data prepared by Project Co relating to the Design and Construction Works and the Public Infrastructure Works, but excluding Intellectual Property rights of third parties, such as CAD software, that is used only in the process of design and construction.
- 1.99 “**Design Development Stage**” means each stage of the Design Development Submittals.
- 1.100 “**Design Development Submittals**” means, collectively, the Definitive Design Submittals, the Readiness for Construction or Interim Design Submittals, the Final Design Submittals, the Working Plan Submittals and the Record Drawing Submittals.
- 1.101 “**Design Quality Management Plan**” or “**DQMP**” has the meaning given in Schedule 11 – Quality Management.

- 1.102 “**Design Review Meetings**” has the meaning given in Section 20.5(a) of the Project Agreement.
- 1.103 “**Design Team**” means AECOM Canada Ltd., LVM Inc., and STV Canada Consulting Inc., each engaged by Project Co to design the System and the Public Infrastructure and any substitute design team engaged by Project Co as may be permitted by the Project Agreement.
- 1.104 “**Development Approval**” means development permits, building permits, zoning approvals and any other planning or development permit, consent or applicable Permits, Licences, Approvals and Agreements required from time to time for construction of the System and the Public Infrastructure.
- 1.105 “**Direct Agreements**” means the Construction Contractor’s Direct Agreement and the OM&R Direct Agreement (or, as applicable, any Maintenance and Rehabilitation Contractor’s Direct Agreement and any Operations Contractor’s Direct Agreement).
- 1.106 “**Direct Cost**” has the meaning given in Schedule 22 – Variation Procedure.
- 1.107 “**Direct Losses**” means all damage, losses, liabilities, penalties, fines, assessments, claims, actions, costs, expenses (including the cost of legal or professional services, legal costs being on a substantial indemnity basis), proceedings, demands and charges whether arising under statute, contract or at common law, except Indirect Losses.
- 1.108 “**Direct or Indirect Power or Control**” means the direct or indirect power or control over the decisions, management, actions or policies of a person, including through the direct or indirect power or control over the decisions, management, actions or policies of any persons having direct or indirect power or control over the decisions, management, actions or policies of any other person, whether through:
- (a) ownership, beneficial or otherwise, of greater than five (5%) percent of any of the shares, units or equity interests of a person;
  - (b) the direct or indirect power to vote any of the shares, units or equity interests of a person where an individual’s ownership, beneficial or otherwise, is equal to or exceeds five (5%) percent of the voting securities, units or equity interests of such person; or
  - (c) the direct or indirect power of authority to influence or direct the approval of a decision, the management, actions or policies of a person or to prevent the approval of a decision, the management, actions or policies of a person through any contractual right or other power or interest with or over a person.
- 1.109 “**Discount Rate**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.110 “**Discriminatory Change in Law**” means any Change in Law the effect of which is to discriminate directly against or impose additional Taxes which apply specifically to:
- (a) transit systems, including light rail transit systems whose design, construction, financing, operations, maintenance and rehabilitation and facilities management are procured by a contract similar to the Project Agreement in relation to other similar transit systems;

- (b) the System and/or the Public Infrastructure in relation to other transit systems, including light rail transit systems;
- (c) Project Co in relation to other persons; or
- (d) Persons undertaking projects for design, construction, financing, operations, maintenance and rehabilitation and facilities management that are procured by a contract similar to the Project Agreement in relation to other persons undertaking similar projects procured on a different basis,

except that such Change in Law shall not be a Discriminatory Change in Law:

- (e) where it is in response to any act or omission on the part of Project Co which contravenes Applicable Law (other than an act or omission rendered illegal by virtue of the Discriminatory Change in Law itself);
- (f) solely on the basis that its effect on Project Co is greater than its effect on other persons; or
- (g) where such Change in Law is a change in Taxes that affects persons generally.

1.111 “**Dispute**” has the meaning given in Schedule 27 – Dispute Resolution Procedure.

1.112 “**Dispute Resolution Procedure**” means the procedure set out in Schedule 27 – Dispute Resolution Procedure.

1.113 “**Distribution**” has the meaning given in Schedule 28 – Refinancing.

1.114 “**Early Works**” means the projects initiated by the Region prior to Commercial Close described in the Summary of Utility Relocation Work set forth in Exhibit 3.5.1 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.

1.115 “**Economic Interest**” means any right to receive, directly or indirectly and whether in cash or in kind, a payment, repayment, fee, interest, dividend, distribution, redemption or any other consideration of benefit or value to the recipient of any nature whatsoever, but excluding wages, salaries or other employment-related benefits.

1.116 “**Emergency**” means any situation, event, occurrence, multiple occurrences or circumstances:

- (a) that:
  - (i) constitutes or may constitute a hazard to or jeopardizes or may jeopardize or pose a threat to health and safety of any persons (including System Users and Region Parties) or any part of or the whole of the System or the Public Infrastructure;
  - (ii) causes or may cause damage or harm to property, buildings and/or equipment;
  - (iii) constitutes a hostage situation or state of emergency declared as such by the Region Representative or the Region (acting reasonably);

(iv) materially interferes with or prejudices or may materially interfere with or prejudice the safe operation of the System, any of the Public Infrastructure, any part of the Lands, the conduct of Project Operations, the conduct of Governmental Activities or the conduct of Region Services; or

(v) constitutes a period of transition to or from war;

and which, in the opinion of the Region, requires immediate action to prevent and/or mitigate the occurrence (or risk of the occurrence) of the foregoing; or

(b) which gives rise to an emergency, as determined by any statutory body including (notwithstanding the generality of the foregoing) an Emergency Service Provider.

1.117 **“Emergency Service Providers”** means any Police Service, fire fighting service, ambulance service, armed forces or other authority with emergency service authority pursuant to Applicable Law which may require access to the System or the Public Infrastructure from time to time.

1.118 **“Employee Termination Payments”** has the meaning given in Schedule 23 – Compensation on Termination.

1.119 **“Encumbrance”** means, with respect to the Lands, the System and the Public Infrastructure, any mortgage, lien, pledge, judgment, execution, charge, security interest, restriction, claim or encumbrance of any nature whatsoever, including claims under the CLA, or claims of the Workplace Safety and Insurance Board, Canada Revenue Agency, and other Governmental Authorities.

1.120 **“Enforcement Event”** has the meaning given in Schedule 4 – Lenders’ Direct Agreement.

1.121 **“Environmental Approvals”** means:

(a) the Environmental Project Report;

(b) the Fisheries Act Authorizations; and

(c) any Permits, Licences, Approvals and Agreements relating to environmental matters.

1.122 **“Environmental Laws”** means all Applicable Laws relating to public health or the protection of the environment or Species-at-Risk.

1.123 **“Environmental Project Report”** means the Rapid Transit Project Environmental Project Report dated March 2012, prepared by AECOM, Hatch Mott McDonald and MMM Group.

1.124 **“Environmental Quality Management Plan”** or **“EQMP”** has the meaning given in Schedule 11 – Quality Management.

1.125 **“Environmental Reports”** means the: (i) Phase I and Phase II Environmental Site Assessment reports prepared by Peritus Environmental Consultants Inc., dated September 27, 2011 re Lands at 518 Dutton Drive, Waterloo Ontario; and (ii) Phase II Environmental Site Assessment Report prepared by Conestoga-Rovers & Associates dated November, 2012 re Hydro Corridor; and (iii) Screening Level Phase I Environmental Site Assessment Report Region of Waterloo LRT

Waterloo to Kitchener, Ontario prepared by SPL Consultants Limited dated January 7, 2013; (iv) the Phase II Environmental Site Assessment Report(s) undertaken or to be undertaken by the Region and provided to Project Co; and (v) the Environmental Project Report.

- 1.126 “**Equity Capital**” means the aggregate (without double counting) of all subscribed share capital, shareholder loans and other contributed capital of Project Co, excluding, for greater certainty, any amounts advanced to Project Co under the Lending Agreements which has a fixed return without equity participation, step-up rights or rights to share in Project Co’s excess cash flow and a coupon equal to or less than 150% of the coupon payable to the Senior Lenders.
- 1.127 “**Equity Commitment Agreement**” means the equity commitment agreement between Project Co, and each Equity Provider, and dated on or about the date of Financial Close.
- 1.128 “**Equity IRR**” has the meaning given in Schedule 28 – Refinancing.
- 1.129 “**Equity Provider**” means, collectively, Aecon Inc., Meridiam ULC, Plenary Inc., Keolis Inc. and Kiewit Corp., and individually, any one of them.
- 1.130 “**Equity Sale IRR**” means the Equity IRR calculated to the date of any sale of Equity Capital and calculated by taking into account the full Implied Equity Value, together with all Distributions paid in respect of the Equity Capital, and the actual timing of payment of all such amounts.
- 1.120 “**ESA**” means the *Endangered Species Act, 2007* (Ontario).
- 1.131 “**Escalation Factor**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.132 “**Escrow Account**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.133 “**Estimate**” has the meaning given in Schedule 22 – Variation Procedure.
- 1.134 “**Estimated Fair Value**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.135 “**Event of Vandalism**” has the meaning given to it in Article 1 of Exhibit K of Schedule 15-3 – Maintenance and Rehabilitation Requirements of the Output Specifications.
- 1.136 “**Excess Equity Gain**” means an amount equal to the greater of zero and the difference between:
- (a) the amount paid in consideration of the percentage of Equity Capital (as at Financial Close) sold in a particular sale of Equity Capital; and
  - (b) the Threshold Equity Sale Amount.
- 1.137 “**Excusing Cause**” has the meaning given in Section 42.1(a) of the Project Agreement.
- 1.138 “**Exempt Refinancing**” has the meaning given in Schedule 28 – Refinancing.
- 1.139 “**Exercise Date**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.140 “**Existing System Infrastructure**” means Infrastructure, including the Early Works situated in, on, over or under any part of the Lands at Commercial Close that in accordance with the Output

Specifications is to form part of the completed System and the Public Infrastructure, but excluding Third Party Facilities and Infrastructure and other property of Railway Companies and Utility Companies.

- 1.141 “**Expert**” has the meaning given in Schedule 27 – Dispute Resolution Procedure.
- 1.142 “**Expiry Date**” means the 30<sup>th</sup> anniversary of the Scheduled Substantial Completion Date without taking into account any extensions to such date pursuant to Section 40 of the Project Agreement.
- 1.143 “**Expiry Rehabilitation Costs**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.144 “**Expiry Transition Amount**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.145 “**Expiry Transition Procedure**” means the procedure for Expiry Transition described in Schedule 24 – Expiry Transition Procedure.
- 1.146 “**Expiry Transition Requirements**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.147 “**Expiry Transition Security**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.148 “**Expiry Transition Works**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.149 “**Expiry Transition Works Costs**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.150 “**Extension Contractor**” has the meaning given in Schedule 37 – System Extension.
- 1.151 “**Failure Points**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.152 “**Fast Track Process**” means the dispute resolution process described in Section 12 of Schedule 27 – Dispute Resolution Procedure.
- 1.153 “**Final Commissioning Program**” means the program to be jointly developed and agreed by the Region and Project Co in accordance with Section 25.2 of the Project Agreement.
- 1.154 “**Final Completion**” means the completion of the Design and Construction Works in accordance with the Project Agreement, including rectification of all Minor Deficiencies other than Minor Deficiencies which consist of minor work which is seasonal in nature which cannot be completed by the Final Completion Date.
- 1.155 “**Final Completion Certificate**” means the certificate to be issued by the Independent Certifier in accordance with Section 25.11 of the Project Agreement.
- 1.156 “**Final Completion Date**” means the date on which Final Completion is achieved as evidenced by the Final Completion Certificate, as such date shall be stated therein.

- 1.157 “**Final Completion Notice**” has the meaning given in Section 25.11(b) of the Project Agreement.
- 1.158 “**Final Design Submittals**” has the meaning given in Section 20.3(e) of the Project Agreement.
- 1.159 “**Final Public Infrastructure Works Acceptance Certificate**” means, in respect of all Public Infrastructure, the certificate issued by the Region Engineer to Project Co confirming that (i) a Public Infrastructure Component Acceptance Certificate has been issued in respect of each Public Infrastructure Component in respect of all of the Public Infrastructure; (ii) the Public Infrastructure Works Requirements have been satisfied; and (iii) Project Co has satisfied all requirements set forth in Section 20.11(e) and (g) of the Project Agreement.
- 1.160 “**Final Public Infrastructure Works Acceptance Date**” means, in respect of all Public Infrastructure Works, the date on which the Region Engineer has issued the Final Public Infrastructure Works Acceptance Certificate in respect of the Public Infrastructure Works.
- 1.161 “**Final Public Infrastructure Works Requirements**” has the meaning given in Section 20.11(k) of the Project Agreement.
- 1.162 “**Final System Condition Report**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.163 “**Financial Close**” means the first date that funding is available under the Lending Agreements.
- 1.164 “**Financial Close Target Date**” means May 9, 2014, as such date may be extended in accordance with the provisions of the Project Agreement.
- 1.165 “**Financial Model**” means the computer spreadsheet model for the Project incorporating statements of Project Co’s cashflows including all expenditure, revenues, financing and taxation of the Project Operations together with the profit and loss accounts and balance sheets for Project Co throughout the Project Term accompanied by details of all assumptions, calculations and methodology used in their compilation and any other documentation necessary or desirable to operate the model.
- 1.166 “**Financial Obligations**” means the obligation to pay any application fees, third party fees, costs or charges (including all applicable taxes thereon), the provision of any letters of credit, instruments of guarantee, bonds or security deposits, or any other financial security obligations.
- 1.167 “**FIPPA**” means the *Freedom of Information and Protection of Privacy Act* (Ontario).
- 1.168 “**Fisheries Act Authorizations**” means the authorization(s) issued by Fisheries and Oceans Canada in connection with the Project, and any amendment or supplement to the authorization(s) as may be issued after Commercial Close or required in connection with the Project from time to time during the Project Term.
- 1.169 “**Force Majeure**” has the meaning given in Section 44.1(a) of the Project Agreement.
- 1.170 “**Freight Liquidated Damages**” means those liquidated damages set out in Sections 18.10(c) and 18.10(d) of Article 18 of Schedule 15-2 – Construction Requirements of the Output Specifications.

- 1.171 “**Funding Agreement Parties**” means HMQ, represented by the Minister of Transportation for the Province of Ontario and its authorized agents and Her Majesty the Queen in right of Canada, represented by the Minister of Transport, Infrastructure and Communities and its authorized agents.
- 1.172 “**General Partners**” means, collectively, Aecon Inc., Meridiam ULC, Plenary Inc., Keolis Inc. and Kiewit Corp., and individually, any one of them.
- 1.173 “**Geotechnical Reports**” means (i) the Geotechnical Report on Subsurface Conditions – Waterloo LRT Project prepared by Genivar dated April 12, 2013; and (ii) the King Street Grade Separation Report – Waterloo LRT Project prepared by Genivar dated May 30, 2013.
- 1.174 “**Good Industry Practice**” means using standards, practices, methods and procedures to a good commercial standard, conforming to Applicable Law and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a qualified, skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances.
- 1.175 “**Governmental Activities**” means the provision of all governmental services and the conduct of all activities provided in connection or otherwise associated with the Lands and the System and the Public Infrastructure by any Governmental Authority or Emergency Service Provider, and includes the Region Activities.
- 1.176 “**Governmental Authority**” means any federal, provincial, territorial, regional, municipal or local governmental authority, quasi-governmental authority, court, government or self-regulatory organization, commission, board, tribunal, organization, or any regulatory, administrative or other agency, or any political or other subdivision, department, or branch of any of the foregoing, having legal jurisdiction in any way over the Region, any aspect of the performance of the Project Agreement, the operation of the System, the Public Infrastructure or the Governmental Activities, in each case to the extent it has or performs legislative, judicial, regulatory, administrative or other functions within its jurisdiction.
- 1.177 “**Government Sensitive Information**” means any information which is designated as such by the Region from time to time, or which a reasonable person, having regard to the circumstances, would regard as sensitive, including (i) all confidential information that is designated as such by Applicable Law, and (ii) any record, the disclosure of which could be injurious to the interests of the Region.
- 1.178 “**Guarantors**” means each Construction Guarantor and the OM&R Guarantor (or, as applicable, any replacement guarantor(s) providing security in respect of any Maintenance and Rehabilitation Contractor and any Operations Contractor).
- 1.179 “**Guideway**” means the bed for Tracks, whether elevated, at grade or below grade, included in the System.
- 1.180 “**H&S Conviction**” has the meaning given in Section 45.1(a)(xxii) of the Project Agreement.

- 1.181 “**Hazardous Substances**” means any contaminant, pollutant, dangerous substance, toxic substance, liquid waste, industrial waste, gaseous waste, hauled liquid waste, hazardous material, or hazardous substance as defined or identified pursuant to any Applicable Law.
- 1.182 “**Health and Safety Requirements**” means the requirement to initiate, maintain, coordinate and supervise all safety precautions and programs in connection with the Design and Construction Works, the Public Infrastructure Works, the Additional Works and the Third Party Works, in compliance with all Applicable Law, including access to the Site in connection therewith.
- 1.183 “**Hedge Provider**” means a person that has entered into a Hedging Agreement with Project Co pursuant to the Lending Agreements, together with their successors and permitted assigns.
- 1.184 “**Hedging Agreement**” means an agreement relating to interest rate risk entered into by Project Co and the Hedge Provider(s) pursuant to the Lending Agreements, and includes, for clarity, the Structured Deposit Note.
- 1.185 “**Heritage Guidelines and Protocols**” means the Government of Ontario’s Best Practice Guidelines for the Treatment of Human Skeletal Remains Discovered Outside a Licensed Cemetery and the Cultural Heritage Protocol Agreement between the Ministry of Government Services and the Ministry of Tourism and Culture.
- 1.186 “**HMQ**” means Her Majesty the Queen in Right of Ontario.
- 1.187 “**HST**” means the value-added tax imposed pursuant to Part IX of the *Excise Tax Act* (Canada), and any successor legislation thereto.
- 1.188 “**IC Construction Cost Confirmation Certificate**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.189 “**IFRS**” means, at any time, accounting principles generally accepted in the jurisdiction of the subject of the applicable financial statements as the International Financial Reporting Standards as recommended by the Canadian Accounting Standards Board.
- 1.190 “**Implied Equity Value**” means the amount paid in consideration of a percentage of Equity Capital divided by the percentage of Equity Capital (as at Financial Close) sold in a particular sale of Equity Capital.
- 1.191 “**Indebtedness Notice**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.192 “**Indemnifiable Taxes**” has the meaning given in Section 35.6(b) of the Project Agreement.
- 1.193 “**Indemnifier**” has the meaning given in Section 56.3(a) of the Project Agreement.
- 1.194 “**Independent Certifier**” means the person appointed as the Independent Certifier pursuant to the Independent Certifier Agreement and as may be permitted pursuant to the Project Agreement.
- 1.195 “**Independent Certifier Agreement**” means the contract entered into between Project Co, the Region and the Independent Certifier in substantially the form attached hereto as Schedule 6 – Independent Certifier Agreement.

- 1.196 “**Independent Inspector**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.197 “**Indirect Losses**” has the meaning given in Section 57.1(a) of the Project Agreement.
- 1.198 “**Infrastructure**” means all transit and landscape infrastructure including roadways, hard shoulders, slip roads, side roads, access roads, cul-de-sacs, pavement, bridges, water crossing structures, tunnels, transit stops (including Station Stops), sign structures, and other highway structures whether over or under the travelled surface, together with all related equipment, electrical infrastructure, mechanical infrastructure, supporting infrastructure, buildings, improvements and amenities, including all intelligent traffic systems and equipment, fences and barriers, curbs, culverts, drainage systems including outfalls and stormwater management ponds, grassed areas, sidewalks, cycling lanes, hedges and trees, planted areas, footways, recreational equipment and facilities, road markings, road traffic signs, road traffic signals, road lighting, communications installations, embankments, retaining walls, paved lots, truck lay-bys, maintenance yards, and signage, sculpture or decorative objects.
- 1.199 “**Infringing Material**” has the meaning given in Section 56.1(g) of the Project Agreement.
- 1.200 “**Initial Senior Bondholders**” means the registered holders of Senior Bonds as at Financial Close, together with their successors and permitted assigns.
- 1.201 “**Innovation Proposal**” has the meaning given in Section 39.2(b) of the Project Agreement.
- 1.202 “**Insurance Adjustment**” has the meaning given in Section 7.3 of Schedule 25 – Insurance and Performance Security Requirements.
- 1.203 “**Insurance Cost Differential**” has the meaning given in Section 7.1(c) of Schedule 25 – Insurance and Performance Security Requirements.
- 1.204 “**Insurance Policies**” has the meaning given in Schedule 30 – Insurance Trust Agreement.
- 1.205 “**Insurance Proceeds**” has the meaning given in Schedule 30 – Insurance Trust Agreement.
- 1.206 “**Insurance Review Date**” has the meaning given in Section 7.1(d) of Schedule 25 – Insurance and Performance Security Requirements.
- 1.207 “**Insurance Review Period**” has the meaning given in Section 7.1(e) of Schedule 25 – Insurance and Performance Security Requirements.
- 1.208 “**Insurance Trust Account**” has the meaning given in Schedule 25 – Insurance and Performance Security Requirements.
- 1.209 “**Insurance Trust Agreement**” means the insurance trust agreement to be entered into between the Region, the Lenders’ Agent, Project Co and the Account Trustee in the form set out in Schedule 30 – Insurance Trust Agreement.
- 1.210 “**Intellectual Property**” has the meaning given in Schedule 40 – Intellectual Property.
- 1.211 “**Interface Agreement**” means the interface agreement between Project Co, the Construction Contractor and the OM&R Contractor in respect of the co-ordination of their rights and

obligations in respect of the Project and dated on or about the date hereof, as may be amended or replaced from time to time.

- 1.212 “**Invoice Date**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.213 “**IO**” or “**Infrastructure Ontario**” means Ontario Infrastructure and Lands Corporation, a non-share capital corporation continued and amalgamated under the *Ontario Infrastructure and Lands Corporation Act, 2011*, S.O. 2011, c. 9, Schedule 32, as amended and includes any successors thereto or persons exercising delegated power and the Minister's authority, as agent for Her Majesty the Queen in Right of Ontario, as represented by the Minister of Infrastructure.
- 1.214 “**Irrecoverable Tax**” has the meaning given in Section 35.2(c) of the Project Agreement.
- 1.215 “**Joint Insurance Cost Report**” has the meaning given in Section 7.2 of Schedule 25 – Insurance and Performance Security Requirements.
- 1.216 “**Junior Debt Amount**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.217 “**Junior Debt Makewhole**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.218 “**Junior Debt Service Amount**” means, for any period, the principal and interest payable by Project Co or any Project Co Party to the Junior Lenders in the normal course under the Lending Agreements.
- 1.219 “**Junior Lenders**” [Not Used.] The definition is not applicable as of the date of the Project Agreement and, accordingly, any references to “Junior Lenders”, “Junior Debt Amount”, “Junior Debt Makewhole” and “Junior Debt Service Amount” throughout the Project Agreement and any Ancillary Documents is not applicable as of the date of the Project Agreement. In the event that the Lenders are intended to be introduced as “Junior lenders” in any refinancing and/or other financing, the Region’s consent is required. If the Region’s consent is obtained, appropriate amendments will be made to the Project Agreement and the applicable Ancillary Documents.
- 1.220 “**Key Individual**” means those Project Co Parties listed in Schedule 9 – Key Individuals.
- 1.221 “**Keolis Inc.**” means Keolis Waterloo General Partner Inc., a corporation incorporated under the laws of Quebec.
- 1.222 “**Kiewit Corp.**” means Kiewit Waterloo Investors Corp., a corporation incorporated under the laws of British Columbia.
- 1.223 “**Lands**” means at any time and from time to time, (i) from Commercial Close until Final Completion, the Construction Period Lands; (ii) from Final Completion until the Termination Date, the Service Period Lands; and (iii) until the expiry of the applicable warranty period in respect of any of the Public Infrastructure Components, the Construction Period Lands to which the Public Infrastructure Warranty extends.
- 1.224 “**Latent Defect**” means a Defect: (a) not described in or properly inferable, readily apparent or discoverable from the Background Information and not ascertainable upon the performance of

reasonable due diligence without intrusive testing; (b) that is not attributable to the failure by Project Co to perform the Project Operations in accordance with the Project Agreement; (c) that is not caused by Project Co or any Project Co Party; or (d) that is not attributable to Project Co's design or construction means and methods but only to the extent that Section 16.5(a)(i) of the Project Agreement also does not apply.

- 1.225 “**LEED**” means Leadership in Energy & Environmental Design.
- 1.226 “**LEED Rating System**” means the CaGBC’s Leadership in Energy & Environmental Design (LEED) Green Building Rating System for New Construction and Major Renovations, LEED®-NC Version 1.0.
- 1.227 “**LEED Silver Rating**” means the achievement of a “Silver” rating from the CaGBC, with respect to the CaGBC’s Leadership in Energy & Environmental Design (LEED) Green Building Rating System For New Construction And Major Renovations, LEED® Canada-NC Version 1.0 (December 2004) and LEED Rating System Addendum to LEED® Canada-NC Version 1.0 (March 2007).
- 1.228 “**Lender Advance Confirmations**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.229 “**Lender Representative**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.230 “**Lenders**” means all or any of the persons acting at all times at arm’s length to Project Co and each Project Co Party who provide financing to Project Co in respect of the Project Operations under the Lending Agreements and, where the context so permits, prospective financiers or lenders, and for greater clarity, excludes any Affiliate of Project Co or a Project Co Party.
- 1.231 “**Lenders’ Agent**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.232 “**Lenders’ Direct Agreement**” means the direct agreement to be entered into between the Region, the Lenders’ Agent and Project Co in the form set out in Schedule 4 – Lenders’ Direct Agreement.
- 1.233 “**Lenders’ Funding Documentation**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.234 “**Lenders’ Technical Advisor**” means any consultant appointed from time to time by the Lenders in respect of the Project.
- 1.235 “**Lending Agreements**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.236 “**Liquid Market**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.237 “**Longstop Date**” has the meaning given in Section 45.1(a)(ii) of the Project Agreement.
- 1.238 “**Maintenance and Rehabilitation Contract**” means any agreement between Project Co and any Maintenance and Rehabilitation Contractor for the provision of Maintenance and Rehabilitation Services following the full or partial termination of the OM&R Contract in respect of such services.

- 1.239 “**Maintenance and Rehabilitation Contractor**” means any party as shall be approved by the Region to perform the Maintenance and Rehabilitation Services with respect to the System following the full or partial termination of the OM&R Contract in respect of such services.
- 1.240 “**Maintenance and Rehabilitation Contractor’s Direct Agreement**” means any direct agreement to be entered into amongst, *inter alia*, the Region and any Maintenance and Rehabilitation Contractor and the applicable Guarantor (if any) in the form set out in Schedule 5 – Contractor’s Direct Agreement following the full or partial termination of the OM&R Contract in respect of the Maintenance and Rehabilitation Services.
- 1.241 “**Maintenance and Rehabilitation Plan**” means the maintenance and rehabilitation plan to be prepared and submitted by Project Co in accordance with Section 26.5 of the Project Agreement and the requirements set forth in Schedule 15-3 – Maintenance and Rehabilitation Services of the Output Specifications and Schedule 10 – Review Procedure.
- 1.242 “**Maintenance and Rehabilitation Requirements**” means the Maintenance and Rehabilitation Requirements contained in Schedule 15-3 – Output Specifications – Maintenance and Rehabilitation Requirements.
- 1.243 “**Maintenance and Rehabilitation Services**” means all of the maintenance, rehabilitation and other work to be performed and provided by Project Co as described in Schedule 15-3 – Output Specifications – Maintenance and Rehabilitation Requirements and all other work and services under the Permits, Licences, Approvals and Agreements relating to or in connection with the foregoing services, as such work and services may from time to time be varied in accordance with the Project Agreement, but specifically excluding Governmental Activities and Region Services.
- 1.244 “**Maintenance and Rehabilitation Specifications**” means Schedule 15-3 – Maintenance and Rehabilitation Requirements.
- 1.245 “**Maintenance and Rehabilitation Submittals**” has the meaning given in Section 11.1 of Schedule 10 – Review Procedure.
- 1.246 “**Maintenance Availability Failure**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.247 “**Maintenance Period Emergency Preparedness Plan**” means the emergency preparedness plan to be prepared, submitted and implemented by Project Co in accordance with Article 2 of Schedule 15-3 – Output Specifications – Maintenance and Rehabilitation Requirements.
- 1.248 “**Maintenance Term**” means the period from the Substantial Completion Date and expiring at midnight on the Termination Date.
- 1.249 “**Make Good**” means reporting, restoring, refurbishing, rehabilitating, or performing filling operation on the Design and Construction Works and the Public Infrastructure Works as required under the Project Agreement or any existing components disturbed due to the Design and Construction Works and/or Public Infrastructure Works, to at least the condition existing at the day of commencement of the Design and Construction Works and Public Infrastructure Works, in terms of construction integrity, finishes, alignment with existing adjoining surfaces, compatibility

of materials, sound attenuation criteria, exfiltration/infiltration requirements, air/vapour barrier and thermal continuity and fitness for use.

- 1.250 “**Make Good (Public Infrastructure Works)**” means repairing, restoring, refurbishing, rehabilitating, or performing filling operation on the Public Infrastructure Works as required under the Project Agreement or any existing components disturbed due to the Public Infrastructure Works, to at least the condition existing at the Public Infrastructure Works Acceptance Date in respect of the applicable Public Infrastructure Works Component, in terms of construction integrity, finishes, alignment with existing adjoining surfaces, compatibility of materials, sound attenuation criteria, exfiltration/infiltration requirements, air/vapour barrier and thermal continuity and fitness for use.
- 1.251 “**Mandatory Refinancing**” has the meaning given in Schedule 28 – Refinancing.
- 1.252 “**Market Value Availability Deduction Amount**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.253 “**Maximum Service Payment**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.254 “**Meridiam ULC**” means Meridiam Infrastructure Waterloo LRT ULC, an unlimited liability company incorporated under the laws of British Columbia.
- 1.255 “**Metrolinx**” means Metrolinx, a corporation created pursuant to the *Metrolinx Act*, 2006, S.O. 2006, c. 16.
- 1.256 “**MFIPPA**” means the *Municipal Freedom of Information and Protection of Privacy Act*, C.M.56, as amended from time to time.
- 1.257 “**Milestone Payment Applications**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.258 “**Milestone Payment Eligibility Requirements**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.259 “**Milestone Payment Eligibility Threshold**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.260 “**Milestone Payments**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.261 “**Minor Deficiencies**” means any defects, deficiencies and items of outstanding Design and Construction Work (including in relation to seasonal work) arising from or related to the Design and Construction Work required to achieve Substantial Completion, and which would not materially impair:
- (a) the public’s or the Region’s use and enjoyment of the System;
  - (b) the performance of the Governmental Activities or Region Activities;
  - (c) the performance of the Region Services;

- (d) the performance of the Maintenance and Rehabilitation Services by Project Co;
  - (e) the performance of the Operations Services by Project Co.;
  - (f) safety or traffic flow on the System in any relevant respect.
- 1.262 “**Minor Deficiencies List**” has the meaning given in Section 25.8(a) of the Project Agreement.
- 1.263 “**Mobility Matters Deduction**” has the meaning given in Schedule 7 – Mobility Matters.
- 1.264 “**Monitoring Notice**” has the meaning given in Section 31.4(a) of the Project Agreement.
- 1.265 “**Monthly Previously Paid HST Amount**” means a monthly HST amount to be determined as provided for below which in the aggregate is equal to the amount of the Section 35.1(c) Payment. The amount of each Monthly Previously Paid HST Amount shall be:
- (a) the amount of the Section 35.1(c) Payment amortized on a straight line basis over the Monthly Service Payments due over the remainder of the Maintenance Term following the payment of the Section 35.1(c) Payment subject to an alternative basis on which to amortize the remaining unapplied Section 35.1(c) Payment as provided for by Applicable Law in which case the Region shall determine the Monthly Previously Paid HST Amount in accordance with such Applicable Law, provided that the Region may, at any time, proceed to obtain an advance ruling under the *Excise Tax Act* (Canada) (or rely upon an existing advance ruling under the *Excise Tax Act* (Canada)) in respect to some other basis for amortizing the remaining unapplied Section 35.1(c) Payment over the Monthly Service Payments due over the remainder of the Maintenance Term, and in such event, the remaining unapplied Section 35.1(c) Payment may be amortized over the Monthly Service Payments in a manner provided for in the advance ruling if the Region so determines in its sole discretion;
  - (b) communicated by the Region to Project Co in writing at the same time that the Region pays Project Co the Section 35.1(c) Payment; and
  - (c) credited to the Region in each Monthly Service Payment invoice sent by Project Co to the Region following the payment of the Section 35.1(c) Payment.
- 1.266 “**Monthly Service Payment**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.267 “**MSDS**” means the material safety data sheets prescribed by the applicable WHMIS legislation.
- 1.268 “**Negative Slack Recovery Plan**” has the meaning given in Article 19.1(b) of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.269 “**New Agreement**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.270 “**New Operating Contract**” means any contract entered into directly between the Region and an Operator in accordance with Section 27.2 of the Project Agreement.
- 1.271 “**New System Infrastructure**” at any time means Infrastructure constructed in, on, over or under any part of the Lands as part of the Design and Construction Works and Public Infrastructure

Works (including any Existing System Infrastructure that has been altered, upgraded or augmented at that time by the carrying out of the Design and Construction Works), but excluding Third Party Facilities and Infrastructure and other property of Railway Companies and Utility Companies.

- 1.272 “**New Project Co**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.273 “**No Default Payment Compensation Amount**” means, with respect to an amount and a specified period of time, such amount multiplied by (i) such period of time in days divided by the actual number of days in the current year multiplied by (ii) the rate of interest per annum in effect on each such day quoted by Toronto Dominion Bank time to time as its reference rate for Canadian Dollar demand loans made to its commercial customers in Canada and which it refers to as its “prime rate”, as such rate may be changed by it from time to time.
- 1.274 “**Non-Construction Costs**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.275 “**Non-Default Termination Sum**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.276 “**Non-Region Owned Lands**” means those lands described in Part C of Appendix 2 – Lands to this Schedule 1 – Definitions and Interpretation.
- 1.277 “**Non-Resident**” means a person that is, at the relevant time, a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- 1.278 “**Notice**” has the meaning given in Section 61.1(a) of the Project Agreement.
- 1.279 “**Notice of Dispute**” has the meaning given in Schedule 27 – Dispute Resolution Procedure.
- 1.280 “**Notice Period**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.281 “**Novation Date**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.282 “**Novation Notice**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.283 “**Occupancy Permit**” means the occupancy permit issued for the OMSF by the applicable Governmental Authority.
- 1.284 “**OM&R Contract**” means the agreement between Project Co and the OM&R Contractor or such other party as shall be approved by the Region to perform the Maintenance and Rehabilitation Services and the Operations Services with respect to the System dated on or about the date of Financial Close.
- 1.285 “**OM&R Contractor**” means Keolis Grand River LP, a limited partnership comprised of 3695158 Canada Inc., as general partner and Keolis Ontario LP, as limited partner and existing under the laws of Ontario, engaged by Project Co to perform the Maintenance and Rehabilitation Services and the Operations Services and any substitute person engaged by Project Co to perform such work as may be permitted by the Project Agreement, but specifically excluding the Governmental Activities and the Region Services.

- 1.286 “**OM&R Direct Agreement**” means the direct agreement to be entered into amongst the Region, the OM&R Contractor and the OM&R Contractor Guarantor in the form set out in Schedule 5 – Contractor’s Direct Agreement.
- 1.287 “**OM&R Contractor Guarantor**” means Keolis SA.
- 1.288 “**OM&R Contractor’s Lenders’ Direct Agreement**” means the direct agreement dated on or about the date of Financial Close between Project Co, the OM&R Contractor, the OM&R Guarantor and the Lenders’ Agent with respect to the rights of the Lenders’ Agent with respect to the OM&R Contract.
- 1.289 “**OMSF**” or “**Operations, Maintenance and Storage Facility**” has the meaning given to such term in Article 16 Schedule 15-2 – Output Specifications – Design and Construction Requirements.
- 1.290 “**OMSF and Test Track Commissioning Program**” means the program to be jointly developed and agreed to by the Region and Project Co in accordance with Section 25.2 of the Project Agreement.
- 1.291 “**OMSF/Test Track Readiness Certificate**” means the certificate to be issued by the Independent Certifier in accordance with Section 25.3(e) of the Project Agreement.
- 1.292 “**OMSF/Test Track Readiness Commissioning**” means the commissioning program and activities to be carried out by Project Co in order to achieve OMSF/Test Track Readiness Completion in accordance with the OMSF/Test Track Commissioning Program and Article 13 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.293 “**OMSF/Test Track Readiness Completion**” means the point at which the requirements for OMSF/Test Track Readiness Completion described in Article 18 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications and as described in the OMSF and Test Track Commissioning Program have been satisfied and completed; the Occupancy Permit has been issued in respect of the OMSF; and the OMSF/Test Track Readiness Certificate has been issued.
- 1.294 “**OMSF/Test Track Readiness Completion Notice**” has the meaning given in Section 25.3(e).
- 1.295 “**OMSF/Test Track Readiness Countdown Notice**” has the meaning given in Section 25.3(c).
- 1.296 “**OMSF/Test Track Readiness Date**” means the date in which OMSF/Test Track Readiness Completion is achieved as evidenced by the OMSF/Test Track Readiness Certificate, as such date shall be stated therein.
- 1.297 “**OMSF/Test Track Works**” means the design, construction, installation, testing, commissioning and completion of the OMSF and the Test Track, as set forth in Article 18 of Schedule 15-2 – Design and Construction Requirements and Schedule 14 – Commissioning, as such work may be varied in accordance with the Project Agreement, but specifically excluding Vehicle Acceptance Testing and Governmental Activities.

- 1.298 “**Operational Response**” means the initial response to a failure of, damage to, danger or other incident, occurring on the System (including an Emergency) which actually or, in the Region's or Project Co's reasonable opinion, may potentially interrupt or delay the Passenger Services or adversely affects safety in performance of the Operations Services.
- 1.299 “**Operations Availability Failure**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.300 “**Operations Contract**” means any agreement between Project Co and any Operations Contractor for the provision of Operations Services following the full or partial termination of the OM&R Contract in respect of such services.
- 1.301 “**Operations Contractor**” means any party as shall be approved by the Region to perform the Operations Services with respect to the System following the full or partial termination of the OM&R Contract in respect of such services.
- 1.302 “**Operations Contractor's Direct Agreement**” means any direct agreement to be entered into amongst, *inter alia*, the Region and any Operations Contractor and the applicable Guarantor, if any, in the form set out in Schedule 5 – Contractor's Direct Agreement following the full or partial termination of the OM&R Contract in respect of the Operations Services.
- 1.303 “**Operations Plan**” means the document or documents prepared by Project Co in accordance with the Section 27.3 and Schedule 10 – Review Procedure.
- 1.304 “**Operations Requirements**” means the relevant specifications, standards, procedures and other requirements for the operation of the System as set out in Schedule 15-4 – Output Specifications – Operations Requirements.
- 1.305 “**Operations Services**” means all of the services, works or other activities to be performed and provided, by Project Co as described in Schedule 15-4 – Output Specifications – Operations Requirements and all work and services under the Permits, Licences, Approvals and Agreements and the Region Permits, Licences, Approvals and Agreements relating to or in connection with the foregoing services, as such work and services may from time to time be varied in accordance with the Project Agreement, but specifically excluding Governmental Activities and Region Services.
- 1.306 “**Operations Specifications**” means Schedule 15-4 – Output Specifications – Operations Requirements.
- 1.307 “**Operations Submittal**” has the meaning given in Section 20.1 of Schedule 10 – Submission Procedure.
- 1.308 “**Operations Term**” means the period commencing on the Substantial Completion Date to and including the date that is the earlier of 10 years after the Scheduled Substantial Completion Date and the Termination Date, unless such term is otherwise extended in accordance with Section 27.2 of the Project Agreement.

- 1.309 “**Operations Term Expiry Date**” means the 10<sup>th</sup> anniversary of the Scheduled Substantial Completion Date, unless the Operations Term is extended in accordance with Section 27.2 of the Project Agreement.
- 1.310 “**Operator**” means any person directly engaged by the Region to provide the Operations Services (as such services may be adjusted) following the Operations Term Expiry Date.
- 1.311 “**Operator Interface Protocol**” means the interface protocol to be implemented by the Region, Project Co and the Operator following the expiry of the Operations Term, as set out in Section 1.9 of Schedule 15-3 – Maintenance and Rehabilitation Requirements of the Output Specifications and of Section 1.9 of Schedule 15-4 – Operations Requirements of the Output Specifications, as such protocol may be amended from time to time.
- 1.312 “**Order**” has the meaning given in Schedule 30 – Insurance Trust Agreement.
- 1.313 “**Other Contractor**” means an Additional Contractor or a Third Party Contractor.
- 1.314 “**Other Existing Infrastructure**” means all existing works and Infrastructure on, over or under the Lands at Commercial Close.
- 1.315 “**Other Works**” means the Additional Works and the Third Party Works.
- 1.316 “**Outline Commissioning Program**” means the schedule setting out the standards, specifications and other requirements for the performance and completion of the commissioning activities of the Parties outlined in Schedule 14 – Commissioning.
- 1.317 “**Output Specifications**” means Schedule 15 – Output Specifications, and includes Schedule 15-1 – Definitions, Schedule 15-2 – Design and Construction Requirements, Schedule 15-3 – Maintenance and Rehabilitation Specifications and Schedule 15-4 – Operations Requirements.
- 1.318 “**Owners of Non-Region Owned Lands**” means the owners of the Non-Region Owned Lands described in Part C of Appendix A – Lands to this Schedule 1 – Definitions and Interpretation.
- 1.319 “**PA Parties**” or “**PA Party**” has the meaning given in Schedule 6 – Independent Certifier Agreement.
- 1.320 “**Partnership Agreement**” means the amended and restated partnership agreement in respect of the Project between Project Co and each General Partner and dated as of May 5, 2014.
- 1.321 “**Party**” means either the Region or Project Co, and “**Parties**” means both the Region and Project Co.
- 1.322 “**Party Representative**” and “**Party Representatives**” have the meanings given in Schedule 27 – Dispute Resolution Procedure.
- 1.323 “**Pass-Through Costs**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.324 “**Passenger Services**” means the operation of the Vehicles for the carriage of fare paying System Users on the System.

- 1.325 “**Payment Adjustment Report**” has the meaning given in Section 34.6(i)(ii) of the Project Agreement.
- 1.326 “**Payment Commencement Date**” means the date that is two (2) Business Days after the Substantial Completion Date.
- 1.327 “**Payment Compensation Amount**” means, with respect to an amount and a specified period of time, such amount multiplied by (i) such period of time in days divided by the actual number of days in the current year multiplied by (ii) the rate of interest per annum in effect on each such day equal to 2% over the rate of interest per annum quoted by The Toronto-Dominion Bank from time to time as its reference rate for Canadian Dollar demand loans made to its commercial customers in Canada and which it refers to as its “prime rate”, as such rate may be changed by it from time to time.
- 1.328 “**Payment Mechanism**” means the payment mechanism set out in Schedule 20 – Payment Mechanism.
- 1.329 “**Payment Periods**” means the payment periods of one calendar month (as adjusted in this definition) established by the Region for each Contract Year, provided that the first Payment Period in the first Contract Year and the last Payment Period in the last Contract Year may be a shorter period as a result of the timing of the Payment Commencement Date and the Expiry Date within the Payment Periods otherwise established in accordance with the foregoing.
- 1.330 “**Performance Audit**” has the meaning given in Section 31.5(a) of the Project Agreement.
- 1.331 “**Performance Guarantees**” means the guarantees to Project Co in respect of the Construction Contract and the OM&R Contract provided by each Construction Guarantor and the OM&R Guarantor, respectively (or, as applicable, any replacement guarantee provided by any replacement guarantor in respect of any Maintenance and Rehabilitation Contract or any Operations Contract, as the case may be).
- 1.332 “**Performance Monitoring Program**” means the monitoring of performance of (i) the Maintenance and Rehabilitation Services by Project Co through the Nonconformity reporting process detailed in Part 15 of Schedule 11 – Quality Management and (ii) the Performance Monitoring Reports prepared and submitted in accordance with Part 9 of Schedule 11 – Quality Management.
- 1.333 “**Performance Monitoring Report**” has the meaning given in Part 9 of Schedule 11 – Quality Management.
- 1.334 “**Performance Security**” means the performance security required pursuant to Article 19 of Schedule 25 – Insurance and Performance Security Requirements.
- 1.335 “**Permits, Licences, Approvals and Agreements**” means the Region Permits, Licences, Approvals and Agreements and the Project Co Permits, Licences, Approvals and Agreements.
- 1.336 “**Permitted Borrowing**” means:
- (a) any advance to Project Co under the Lending Agreements;

- (b) any additional financing approved by the Region in accordance with Section 1.9 of Schedule 22 – Variation Procedure to the Project Agreement; and
  - (c) any amendment, waiver or exercise of a right under the Lending Agreements made during the Step-In Period that does not increase the Region’s liabilities under the Project Agreement whether actual or contingent, present or future, known or unknown.
- 1.337 “**Personal Information**” means all personal information (as the term “personal information” is defined in the *Personal Information Protection and Electronic Documents Act* (Canada)) in the custody or control of Project Co or any Project Co Party other than personal information of the employees of Project Co or the Project Co Parties and other than personal information that is wholly unrelated to the Project Operations and not derived directly or indirectly from the Region in respect of the Project.
- 1.338 “**PIW Payment Certificates**” means the payment authorizations issued by the Region Engineer in respect of Public Infrastructure Works in accordance with Section 20.11(b).
- 1.339 “**Planned Closure Events**” has the meaning given in Section 4.2(a) of the Project Agreement.
- 1.340 “**Plant**” means all buildings, building services, Infrastructure, building fabric, and mechanical and electrical services, which are required to fulfill the requirements of the Output Specifications.
- 1.341 “**Plenary Inc.**” means Plenary GrandLinq GP Inc., a corporation incorporated under the laws of British Columbia.
- 1.342 “**Police Service**” means the Royal Canadian Mounted Police, the Ontario Provincial Police, the Waterloo Regional Police Service and any other law enforcement agency with jurisdiction pursuant to Applicable Law, as applicable.
- 1.343 “**Post Termination Service Amount**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.344 “**Pre-Existing Environmental Site Conditions**” means the environmental condition of the Lands as set out in the Environmental Reports.
- 1.345 “**Professional Engineer**” means a professional engineer licensed by Professional Engineers Ontario to practice in the Province of Ontario.
- 1.346 “**Prohibited Act**” has the meaning given in Section 60.1(a) of the Project Agreement.
- 1.347 “**Prohibited Acts Termination Sum**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.348 “**Project**” has the meaning given in the recitals to the Project Agreement.
- 1.349 “**Project Agreement**” has the meaning given in the recitals to the Project Agreement.
- 1.350 “**Project Agreement Arbitration**” has the meaning given in Schedule 27 – Dispute Resolution Procedure.

- 1.351 “**Project Co**” means GrandLinq GP, a general partnership of Plenary GrandLinq GP Inc., Meridiam Infrastructure Waterloo LRT ULC, Aecon GrandLinq GP Inc., Kiewit Waterloo Investors Corp. and Keolis Waterloo General Partner Inc., existing under the laws of Alberta.
- 1.352 “**Project Co Commissioning**” means the commissioning activities to be carried out by Project Co in order to achieve OMSF/Test Track Readiness Completion and Substantial Completion in accordance with the OMSF and Test Track Commissioning Program and the Final Commissioning Program, as applicable.
- 1.353 “**Project Co Commissioning Coordinator**” means the person appointed by Project Co as its commissioning agent.
- 1.354 “**Project Co Commissioning Tests**” means all Commissioning Tests required to be performed by Project Co pursuant to the OMSF and Test Track Commissioning Program and the Final Commissioning Program.
- 1.355 “**Project Co Event of Default**” has the meaning given in Section 45.1(a) of the Project Agreement.
- 1.356 “**Project Co Group**” means Project Co together with any person or group of persons, who, either individually or collectively, have Direct or Indirect Power or Control of Project Co.
- 1.357 “**Project Co Party**” means:
- (a) the Construction Contractor;
  - (b) the OM&R Contractor (or, as applicable, any Maintenance and Rehabilitation Contractor and any Operations Contractor) ;
  - (c) any person engaged by Project Co, and/or any of the Contractors from time to time as may be permitted by the Project Agreement to procure or manage the provision of the Project Operations (or any of them); and
  - (d) in respect of each of the above, their subcontractors of any tier, agents, employees, officers and directors,
- and “**Project Co Parties**” shall be construed accordingly.
- 1.358 “**Project Co Permits, Licences, Approvals and Agreements**” means all permissions, consents, approvals, certificates, permits, registrations, licences, agreements and authorizations required to perform the Project Operations in accordance with the Project Agreement and as required by Applicable Law, and including, without limitation, those permissions, consents, approvals, certificates, permits, licences, agreements and authorizations which are the responsibility of Project Co to obtain as set out in Part B of Appendix 1 – Permits, Licences, Approvals and Agreements to this Schedule 1 – Definitions and Interpretation, and all necessary consents, approvals, certificates, permits, licences, agreements and authorizations from and with any third parties (including, to the extent applicable, all Development Approvals, Railway Approvals and Utility Agreements, and the approval of the Fire Marshal of Ontario), needed to perform the Project Operations in accordance with the Project Agreement and as required by Applicable Law,

and including those Project Co Permits, Licences, Approvals and Agreements which are Project Co's responsibility to obtain as set out in the Output Specifications and in Schedule 17 – Environmental Obligations, but other than the Region Permits, Licences, Approvals and Agreements.

- 1.359 “**Project Co Proposal Extracts**” means the documents attached as Schedule 13 – Project Co Proposal Extracts.
- 1.360 “**Project Co Representative**” means the person designated as such by Project Co on or prior to Commercial Close and any permitted replacement.
- 1.361 “**Project Co Variation Notice**” has the meaning given in Schedule 22 – Variation Procedure.
- 1.362 “**Project Data**” has the meaning given in Schedule 40 – Intellectual Property.
- 1.363 “**Project Documents**” means the Ancillary Documents and the Lending Agreements.
- 1.364 “**Project Insurance Change**” has the meaning given in Section 7.1(f) of Schedule 25 – Insurance and Performance Security Requirements.
- 1.365 “**Project Operations**” means:
- (a) the performance of the Design and Construction Works;
  - (b) the performance of the Public Infrastructure Works;
  - (c) the performance of the Maintenance and Rehabilitation Services;
  - (d) the performance of the Operations Services; and
  - (e) the performance of all other obligations of Project Co under the Project Agreement.
- 1.366 “**Project Term**” means the period commencing on Commercial Close and expiring at midnight on the Termination Date.
- 1.367 “**Proponent Team Member**” has the meaning given in the Request for Proposals.
- 1.368 “**Proprietor**” has the meaning given in Section 52.6(a) of the Project Agreement.
- 1.369 “**Protester**” has the meaning given in Section 9.6(a) of the Project Agreement.
- 1.370 “**Public Infrastructure**” means the municipal roads, sewers and water mains more particularly described in Article 2 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.371 “**Public Infrastructure Component**” means a component or element of the Public Infrastructure, as set out in the Works Schedule.
- 1.372 “**Public Infrastructure Component Acceptance**” means the point in time at which the Region Engineer determines that an individual Public Infrastructure Component has been completed in

accordance with the Project Agreement and all requirements for Public Infrastructure Component Acceptance described in Articles 13 and 18 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications in respect of Public Infrastructure Works have been satisfied; the Public Infrastructure Component Works Requirements have been satisfied; and the issuance by the Region Engineer of a Public Infrastructure Component Acceptance Certificate.

- 1.373 “**Public Infrastructure Component Acceptance Certificate**” means, in respect of an individual Public Infrastructure Component, the certificate issued by the Region Engineer to Project Co confirming acceptance of the applicable Public Infrastructure Component.
- 1.374 “**Public Infrastructure Component Acceptance Date**” means, in respect of an individual Public Infrastructure Component, the date on which the Region Engineer has issued a Public Infrastructure Component Acceptance Certificate in respect of such Public Infrastructure Component.
- 1.375 “**Public Infrastructure Component Works Requirements**” has the meaning given in Section 20.11(e) of this Project Agreement.
- 1.376 “**Public Infrastructure Products**” means the material, machinery, equipment, and fixtures forming the Public Infrastructure Works, but does not include machinery and equipment used to prepare, fabricate, convey or erect the Public Infrastructure Works.
- 1.377 “**Public Infrastructure Works**” means the design, construction, installation, testing and completion of the municipal works, as more particularly described in Article 2 of Schedule 15-2 – Design and Construction Works of the Output Specifications.
- 1.378 “**Public Infrastructure Works Acceptance**” means the point at which all of the Public Infrastructure has been completed in accordance with the Project Agreement; all requirements for Public Infrastructure Works Acceptance described in Articles 13 and 18 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications have been satisfied; the Final Public Infrastructure Works Requirements have been satisfied; the Public Infrastructure Works Component Requirements for each Public Infrastructure Component has been satisfied; and the Region Engineer has issued the Final Public Infrastructure Works Acceptance Certificate.
- 1.379 “**Public Infrastructure Works Acceptance Date**” means the date in which Public Infrastructure Works Acceptance is achieved.
- 1.380 “**Public Infrastructure Works Acceptance Notice**” has the meaning given in Section 20.11(e).
- 1.381 “**Public Infrastructure Works Component Countdown Notice**” has the meaning given in Section 20.11(d).
- 1.382 “**Public Infrastructure Works Warranty**” means the warranty in respect of Public Infrastructure described in Section 20.12 of the Project Agreement.
- 1.383 “**Public Roads**” has the meaning given in Section 20.11(c) of the Project Agreement.
- 1.384 “**Public Roads Work Permit**” has the meaning given in Section 20.11(c) of the Project Agreement.

- 1.385 “**PVSC**” has the meaning given in Section 28.6(a) of the Project Agreement.
- 1.386 “**Qualification Criteria**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.387 “**Qualifying Bank**” has the meaning given in Schedule 28 – Refinancing.
- 1.388 “**Qualifying Bank Transaction**” has the meaning given in Schedule 28 – Refinancing.
- 1.389 “**Qualifying Refinancing**” has the meaning given in Schedule 28 – Refinancing.
- 1.390 “**Qualifying Tender**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.391 “**Qualifying Tenderer**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.392 “**Quality Documentation**” means all documentation to be prepared, submitted (where applicable) and implemented by Project Co in accordance with Schedule 11 – Quality Management.
- 1.393 “**Quality Failures**” means, collectively, Maintenance Quality Failures and Operations Quality Failures.
- 1.394 “**Quality Management Plans**” has the meaning given in Schedule 11 – Quality Management.
- 1.395 “**Quality Management System**” has the meaning given in Schedule 11 – Quality Management.
- 1.396 “**Quality Plans**” means the Quality Manual, Quality Management Plans and Quality Audit Plan (all as defined in Schedule 11 – Quality Management) to be prepared, submitted and implemented by Project Co in accordance with Schedule 11 – Quality Management.
- 1.397 “**Railway Approvals**” means all consents, approvals, permissions and agreements, and amendments thereto, required to be obtained from a Railway Company pursuant to a Railway Order or Applicable Laws, for the carrying out of Design and Construction Works and the Public Infrastructure Works on land or improvements of a Railway Company, but does not include any Railway Orders.
- 1.398 “**Railway Company**” means the Canadian National Railway, the Canadian Pacific Railway, Go Transit and any other railway company that owns a railway any part of which is on any part of the Lands during the Project Term.
- 1.399 “**Railway Order**” means any order of the Canadian Transportation Agency:
- (a) granted in favour of the Region allowing or providing for:
    - (i) Infrastructure comprising or to comprise System Infrastructure to be located upon and across land or improvements of a Railway Company; and
    - (ii) the construction, maintenance and use of such Infrastructure upon and across such land or improvements; or

- (b) for the carrying out of any Design and Construction Works on land or improvements of a Railway Company;
- and all amendments thereto.
- 1.400 “**Real Property Interest**” means any fee simple interest, lease, licence, right of way, easement, restriction or other right, title, interest or benefit in real property.
- 1.401 “**Record Drawings**” a revised set of drawings consistent with ‘record drawings’ as defined by the Professional Engineers of Ontario, which are to be prepared and sealed by Project Co’s reviewing engineer after verifying in detail the actual conditions of the completed Construction, including the exact dimensions, geometry, and location of all elements of the System completed in accordance with the Project Agreement.
- 1.402 “**Record Drawing Submittals**” has the meaning given in Section 20.3(e) of the Project Agreement.
- 1.403 “**Recoverable Tax**” has the meaning given in Section 35.2(d) of the Project Agreement.
- 1.404 “**Recovery Amount**” has the meaning given in Section 56.3(g) of the Project Agreement.
- 1.405 “**Readiness for Construction or Interim Design Submittals**” has the meaning given in Section 20.3(e) of the Project Agreement.
- 1.406 “**Rectification Costs**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.407 “**Refinancing**” has the meaning given in Schedule 28 – Refinancing.
- 1.408 “**Refinancing Financial Model**” has the meaning given in Schedule 28 – Refinancing.
- 1.409 “**Refinancing Gain**” has the meaning given in Schedule 28 – Refinancing.
- 1.410 “**Region**” means The Regional Municipality of Waterloo.
- 1.411 “**Region Activities**” means the provision of all governmental services and the conduct of all activities provided in connection or otherwise associated with light rail transit and other similar services.
- 1.412 “**Region Commissioning Agent**” means the person appointed by the Region as its commissioning agent.
- 1.413 “**Region Default Termination Sum**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.414 “**Region Engineer**” means the engineer appointed by the Region in connection with, among other things, acceptance of the Public Infrastructure Works, and determination of the matters set forth in Schedule 7 – Mobility Matters.
- 1.415 “**Region Engineer Determination Matters**” has the meaning given in Section 20.11(j) of the Project Agreement.

- 1.416 “**Region Event of Default**” has the meaning given in Section 46.1(a) of the Project Agreement.
- 1.417 “**Region Infringing Material**” has the meaning given in Section 56.2(e) of the Project Agreement.
- 1.418 “**Region Party**” means any of the Region’s agents, contractors and subcontractors of any tier engaged with respect to the Project and acting in the course of his or her office of appointment or employment, and its or their directors, officers and employees, together with any person visiting the Site at the invitation, whether express or implied, of the Region, including the Vehicle Supplier, Metrolinx, any Operator, any Extension Contractor, any freight operator operating its vehicles on the Guideway, and each of the following: the City of Waterloo and the City of Kitchener, together with their respective officers, directors and employees, but excluding Project Co and any Project Co Party, and the “Region Parties” shall be construed accordingly.
- 1.419 “**Region Permits, Licences, Approvals and Agreements**” means those permissions, consents, approvals, certificates, permits, registrations, licences, agreements and authorizations which are the responsibility of the Region to obtain as set out in Part A of Appendix 1 – Permits, Licences, Approvals and Agreements to this Schedule 1 – Definitions and Interpretation but for greater certainty shall not include any permission, consent, approval, certificate, permit, licence, agreement or authorization not set out in such appendix but required by the terms of any such item set out in such appendix.
- 1.420 “**Region Project Documents**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.421 “**Region Representative**” means the Region Rapid Transit Director or any other person designated as such by the Region on or after Commercial Close and any permitted replacement.
- 1.422 “**Region Review Team**” means any of the Region, its agents, contractors and subcontractors of any tier and its or their directors, officers and employees, and other persons engaged in respect of design reviews, design evaluation, or design consultation processes with respect to the System, the Public Infrastructure, the Region Activities or the Region Services, but excluding Project Co and any Project Co Party.
- 1.423 “**Region Services**” means the following services to be performed by the Region at the System after Substantial Completion: (i) fare enforcement; and (ii) security services, in each case, as more particularly described in Schedule 15-3 – Maintenance and Rehabilitation Requirements of the Output Specifications.
- 1.424 “**Region Taxes**” means taxes, or payments in lieu of taxes, imposed on the Region and HST and property taxes for which the Region is responsible pursuant to Section 35.1 of the Project Agreement.
- 1.425 “**Region Third Party Beneficiaries**” has the meaning given in Section 63.17(a)(i) of the Project Agreement.
- 1.426 “**Region Trade-Marks**” means any and all Trade-Marks used by the Region in any manner whatsoever.

- 1.427 “**Region Work**” has the meaning given in Schedule 22 – Variation Procedure.
- 1.428 “**Regional Council**” means council of the Region.
- 1.429 “**Reimbursement Event**” has the meaning given in Section 32.5(a) of the Project Agreement.
- 1.430 “**Reinstatement Plan**” has the meaning given in Section 30.2(a) of the Project Agreement.
- 1.431 “**Reinstatement Work**” has the meaning given in Section 30.1(a) of the Project Agreement.
- 1.432 “**Relevant Change in Law**” means a Discriminatory Change in Law or a System Specific Change in Law.
- 1.433 “**Relevant Conviction**” means a charge or conviction, at any time within the previous 6 years, of any offense: (i) of moral turpitude in Canada or elsewhere; (ii) for which records exist under the *Criminal Records Act*; or (iii) otherwise designated as a Relevant Conviction by the Region from time to time, and that conviction remains in effect at that time and is one for which a pardon has not been granted.
- 1.434 “**Relevant Insurance**” has the meaning given in Section 7.1(g) of Schedule 25 – Insurance and Performance Security Requirements.
- 1.435 “**Relevant Insurance Inception Date**” has the meaning given in Section 7.1(h) of Schedule 25 – Insurance and Performance Security Requirements.
- 1.436 “**Relief Event**” has the meaning given in Section 43.1(a) of the Project Agreement.
- 1.437 “**Request for Payment**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.438 “**Request for Proposals**” or “**RFP**” means the request for proposals issued in respect of the Project on June 6, 2013, as updated from time to time.
- 1.439 “**Rescue Refinancing**” has the meaning given in Schedule 28 – Refinancing.
- 1.440 “**Restricted Person**” means any person who, or any member of a group of persons acting together, any one of which:
- (a) has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by Canada or Ontario;
  - (b) has as its primary business the illegal manufacture, sale, distribution or promotion of narcotics substances or arms, or is or has been involved in terrorism;
  - (c) in the case of an individual, he or she (or in the case of a legal entity, any of the members of its board of directors or its senior executive managers) has been sentenced to imprisonment or otherwise given a custodial sentence, other than a suspended sentence, for any criminal offence or for any offence under any Provincial statute, other than offences under the *Highway Traffic Act* or corresponding legislation in any other jurisdiction, or under any municipal laws, less than five years prior to the date at which the consideration of whether such individual is a “**Restricted Person**” is made hereunder;

- (d) has as its primary business the acquisition of distressed assets or investments in companies or organizations which are or are believed to be insolvent or in a financial standstill situation or potentially insolvent;
  - (e) is subject to a material claim of the Region under any proceedings (including regulatory proceedings) which have been concluded or are pending at the time at which the consideration of whether such person is a “**Restricted Person**” is made hereunder, and which (in respect of any such pending claim, if it were to be successful) would, in the Region’s view, in either case, be reasonably likely materially to affect the ability of Project Co to perform its obligations under the Project Agreement; or
  - (f) has a material interest in the production of tobacco products.
- 1.441 “**Review Procedure**” means the procedure set out in Schedule 10 – Review Procedure.
- 1.442 “**Revised System Condition Report**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.443 “**Safety and Security Management Plan**” has the meaning given in Schedule 15-3 – Maintenance and Rehabilitation Requirements.
- 1.444 “**Schedule**” means a schedule to the Project Agreement.
- 1.445 “**Scheduled Final Completion Date**” means December 22, 2017.
- 1.446 “**Scheduled Milestone Date**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.447 “**Scheduled OMSF/Test Track Readiness Completion Date**” means June 1, 2016, as such date may be amended pursuant to Section 40 of the Project Agreement.
- 1.448 “**Scheduled Public Infrastructure Component Acceptance Date**” means, in respect of each Public Infrastructure Component, the date set forth in the Works Schedule as the scheduled date in which each Public Infrastructure Component will achieve Public Infrastructure Component Acceptance, as such date may be amended pursuant to Section 40 of the Project Agreement.
- 1.449 “**Section 35.1(c) Payment**” means the payment of HST payable by Region to Project Co under Section 35.1(c) of the Project Agreement (pursuant to Section 168(3)(c) of the *Excise Tax Act* (Canada)).
- 1.450 “**Scheduled Service Plan**” has the meaning given in Article 3 of Schedule 15-3 – Maintenance and Rehabilitation Requirements of the Output Specifications.
- 1.451 “**Scheduled Substantial Completion Date**” means July 28, 2017, as such date may be amended pursuant to Section 40 of the Project Agreement.
- 1.452 “**Security**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.453 “**Security Documents**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.

- 1.454 “**Senior Bonds**” means, the 4.771% fully amortizing Series A Senior Bonds due March 31, 2047 issued from time to time by Project Co to the Initial Senior Bondholders under the Bond Indenture in an aggregate principal amount of up to \$103,027,000.
- 1.455 “**Senior Debt Amount**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.456 “**Senior Debt Makewhole**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.457 “**Senior Debt Service Amount**” means, for any period, the scheduled payments of principal and interest payable by Project Co or any Project Co Party to the Senior Lenders with respect to the Senior Debt Amount under the Lending Agreements, provided that at any time where any portion of the interest payable to the Senior Lenders under the Lending Agreements is subject to the Hedging Agreement(s), interest payable on account of such portion of interest shall be calculated based on the fixed rate payable by Project Co as specified under the Hedging Agreement(s), whether the fixed amounts with respect to such fixed rate are payable directly to a Senior Lender or the Hedge Provider(s) and all references to interest payable to the Senior Lenders under this Agreement shall be construed accordingly.
- 1.458 “**Senior Lenders**” means (i) the “Lenders” (as defined in the Credit Agreement), and (ii) the Initial Senior Bondholders, together with their respective successors and permitted assigns, and, for greater clarity, excludes (i) the Hedge Provider(s) or any other hedge providers and their respective permitted successors and assigns; and (ii) any Affiliate of Project Co or of a Project Co Party.
- 1.459 “**Sensitive Information**” means financial or commercial information which would, if disclosed to a competitor of Project Co or any Project Co Party, give that competitor a competitive advantage over Project Co or such Project Co Party and thereby prejudice the business of Project Co or such Project Co Party.
- 1.460 “**Service Failure**” has the meaning given in Schedule 20 – Payment Mechanism.
- 1.461 “**Service Period Lands**” means the Region’s Real Property Interests in those lands described in Part B of Appendix 2 – Lands to this Schedule 1 – Definitions and Interpretation.
- 1.462 “**Severe Market Disruption**” means any occurrence of exceptional circumstances in financial markets in Europe, the United States of America and/or Canada which:
- (a) results in the suspension or cessation of all or substantially all lending activity in national or relevant international capital or interbank markets; and
  - (b) adversely affect access by Project Co to such markets.
- 1.463 “**Site**” means, at any time and from time to time, that portion of the Lands on which Project Co or any Project Co Party is or has been engaged in any construction or demolition activities or is or has otherwise been engaged in completing the Design and Construction Works or the Public Infrastructure Works, or on which any of the Design and Construction Works or the Public Infrastructure Works have been commenced but not completed in their entirety or that is

- otherwise within the active construction footprint of the Design and Construction Works and/or the Public Infrastructure Works.
- 1.464 “**Site Conditions**” means the condition of the Lands, including the physical, geophysical, climatic, ecological, environmental, geotechnical and archaeological conditions.
- 1.465 “**Small Works**” means any works, including facilities and equipment, of a minor nature that are requested by the Region to be performed having an individual cost or aggregate cost with other linked works, including facilities and equipment, of a minor nature, not exceeding \$100,000 (index linked), or as otherwise agreed from time to time, but excluding any works, including facilities and equipment, which will increase the likelihood of an Availability Failure or a Service Failure, will increase the cost to Project Co of performing the Project Operations or will materially hinder Project Co in the performance of the Maintenance and Rehabilitation Services or the Operations Services.
- 1.466 “**Snow Removal and Salting Reimbursement Event**” has the meaning given in Section 33.4 of the Project Agreement.
- 1.467 “**Snow Removal, Salting and Maintenance Services**” means the services to be performed during the Construction Period as more particularly described in Article 18 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.468 “**Species-at-Risk**” means any member of a species, subspecies, variety or genetically or geographically distinct population of animal, plant or other organism that is listed in the Species at Risk in Ontario List maintained pursuant to the ESA and any analogous federal list under the *Species at Risk Act* (Canada), and any other species that has been classified as being threatened or endangered under Applicable Law.
- 1.469 “**Species-at-Risk Permits**” means those permissions, consents, approvals, certificates, permits, licences, agreements and authorizations relating to Species-at-Risk.
- 1.470 “**Stakeholders**” means individuals and organizations with an interest in the Project, including, without limitation, those listed in Section 4.1(b) of Schedule 17 – Environmental Obligations, but excluding the Region.
- 1.471 “**Standards**” has the meaning given in Schedule 17 – Environmental Obligations.
- 1.472 “**Standby Letter of Credit**” has the meaning given in Section 2.2(a) of the Project Agreement.
- 1.473 “**Start-Up Meeting**” has the meaning given in Section 20.4(a) of the Project Agreement.
- 1.474 “**Station Stop**” has the meaning given in Schedule 15-1 – Definitions of the Output Specifications.
- 1.475 “**Step-In Period**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.476 “**Structured Deposit Note**” means the structured deposit note issued by Alberta Treasury Branches on or about the date of Financial Close in the aggregate amount of \$64,134,387.04 and at a fixed rate of interest of 1.6028%.

- 1.477 “**Subcontractor**” means any subcontractor of Project Co engaged by or through Project Co to perform any of the Project Operations, including any of the Contractors, any Supplier or any consultant, and any subcontractor of any other subcontractor at any tier.
- 1.478 “**Subcontractor Losses**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.479 “**Subcontracts**” means the contracts entered into by or between Project Co and any Subcontractor or between any Subcontractor at any tier, including any of the Contractors, and any other Subcontractor at any tier in relation to any aspect of the Project Operations.
- 1.480 “**Submittal**” means either a Works Submittal, a Maintenance and Rehabilitation Submittal or an Operations Submittal.
- 1.481 “**Subsequent Indebtedness Notice**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.482 “**Substantial Completion**” means the point at which (i) the System has been completed in accordance with the Project Agreement; a certificate of substantial performance of the Design and Construction Works is published pursuant to Section 32(1) of the CLA; and all requirements for Substantial Completion described in the Final Commissioning Program, other than in respect of Minor Deficiencies, have been satisfied in respect of the System as a whole; a Statutory Declaration CCDC 9A (2001) has been delivered; (iii) all reports and submission requirements listed in Table 3.4 of Schedule 17 – Environmental Obligations have been delivered to the Region (but only to the extent such reports and other submission requirements are required to be delivered prior to Substantial Completion); and (iv) Public Infrastructure Works Acceptance has been achieved.
- 1.483 “**Substantial Completion Certificate**” means the certificate to be issued by the Independent Certifier in accordance with Section 25.5 of the Project Agreement.
- 1.484 “**Substantial Completion Date**” means the date on which Substantial Completion is achieved as evidenced by the Substantial Completion Certificate and the Final Public Infrastructure Works Acceptance Certificate, as such date shall be stated in each such certificate, provided that the later of the two dates set forth in such certificates (if such dates are different) shall be the date on which Substantial Completion is achieved.
- 1.485 “**Substantial Completion Notice**” has the meaning given in Section 25.5(b) of the Project Agreement.
- 1.486 “**Substantial Completion Payment**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.487 “**Substantial Completion Payment Application**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.488 “**Substitute**” has the meaning given in the applicable Contractors’ Direct Agreement.
- 1.489 “**Successor Project Co**” means any person appointed to maintain the System and the Public Infrastructure upon termination or expiry of the Project Agreement or any part of it.

- 1.490 “**Suitable Substitute**” has the meaning given in Schedule 4 – Lenders’ Direct Agreement.
- 1.491 “**Supplier**” means a person who supplies to Project Co, or to any Subcontractor, any equipment, materials, supplies or services as part of, or for, the Project Operations.
- 1.492 “**System**” means the light rail rapid transit system to be designed, constructed, supplied, tested, commissioned and operated by Project Co in accordance with the Project Agreement, and includes, without limitation:
- (a) all Infrastructure;
  - (b) the Plant;
  - (c) all site services, utilities, roadways and parking areas required to support such Infrastructure and Plant;
  - (d) all supporting systems and improvements;
  - (e) the Vehicles, the OMSF and other facilities and items to be provided in accordance with the Output Specifications.
- in each case required to meet the Output Specifications and the requirements under the Permits, Licenses and Approvals and whether or not in the course of construction, installation or completion, and excluding, for clarity, the Public Infrastructure; provided that the Vehicles are not designed, constructed or supplied by Project Co.
- 1.493 “**System Condition Report**” has the meaning given in Schedule 24 – Expiry Transition Procedure.
- 1.494 “**System Extension**” has the meaning given in Schedule 37 – System Extension.
- 1.495 “**System Infrastructure**” at any time means the Infrastructure and the New System Infrastructure at that time.
- 1.496 “**System Management Committee**” has the meaning given in Section 12.1(a) of the Project Agreement.
- 1.497 “**System Specific Change in Law**” means any Change in Law which principally affects or principally relates only to the design, construction, operation, maintenance or rehabilitation of rail transit systems.
- 1.498 “**System User**” means any member of the public, the Region, any Region Party and any other person that is on or about the System or is otherwise making use of the System Infrastructure for any purpose.
- 1.499 “**Systems Work**” has the meaning given in Schedule 15-1 – Definitions of the Output Specifications.
- 1.500 “**Taxes**” means any and all taxes, levies, imposts, duties, fees, withholdings, assessments, deductions or charges whatsoever, imposed, assessed, levied or collected by any Governmental

Authority, together with interest thereon and penalties with respect thereto, and includes all HST except where stated to the contrary, provided however that “Taxes” shall not include the Region Taxes.

- 1.501 “**Technical Reports**” means the Environmental Reports, the Geotechnical Reports and the Archaeological Reports.
- 1.502 “**Tender Costs**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.503 “**Tender Process**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.504 “**Tender Process Monitor**” has the meaning given in Schedule 23 – Compensation on Termination.
- 1.505 “**Termination Date**” means the earlier of the Expiry Date and such other date, if any, on which termination of the Project Agreement takes effect in accordance with its terms.
- 1.506 “**Test Track**” has the meaning ascribed thereto in Schedule 15-1 – Definitions of the Output Specifications.
- 1.507 “**Third Party Arbitration**” has the meaning given in Schedule 27 – Dispute Resolution Procedure.
- 1.508 “**Third Party Contractors**” means any person (not being, for the avoidance of doubt, Project Co or any Project Co Party or Additional Contractors) that carries out any Third Party Works.
- 1.509 “**Third Party Facilities**” means transit shelters, telephone facilities, Infrastructure and other property of Utility Companies and Railway Companies and other public facilities and associated equipment, plant, materials and apparatus installed and operated or to be installed and operated on the Lands by any transit authority, communications provider, Utility Company, Railway Company or other third party (not including, for the avoidance of doubt, Project Co or any Project Co Party).
- 1.510 “**Third Party Litigation**” has the meaning given in Schedule 27 – Dispute Resolution Procedure.
- 1.511 “**Third Party Works**” means works in relation to the Third Party Facilities and includes Utility Work and work pursuant to a Utility Agreement, Railway Order or other permits or authorizations of any Governmental Authority under Applicable Law.
- 1.512 “**Threshold Equity Sale Amount**” means the amount which, if paid in consideration of the percentage of Equity Capital (as at Financial Close) sold in a particular sale of Equity Capital, would result in an Implied Equity Value that, if received in full on the day of the sale of Equity Capital, taken together with all Distributions paid in respect of the Equity Capital, and taking account of the actual timing of payment of all such amounts, would result in an Equity Sale IRR equal to the Threshold Equity Sale IRR.
- 1.513 “**Threshold Equity Sale IRR**” means 19.50%.

- 1.514 “**Title Encumbrances**” means the Encumbrances listed in Schedule 16 – Title Encumbrances and any other Encumbrance consented to by the Region and reasonably required in connection with the development of the System, the Public Infrastructure and the Project Operations.
- 1.515 “**Total Capitalized Cost of Construction**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.516 “**Tracks**” means the track supported by the Guideway on which Vehicles are to operate.
- 1.517 “**Trade-Marks**” means any registered or unregistered mark, trade-mark, service mark, distinguishing guise, logo, insignia, seal, design or symbol.
- 1.518 “**Traffic Management Plan**” has the meaning given in Article 18 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.519 “**Trespasser**” has the meaning given in Section 9.6(a) of the Project Agreement.
- 1.520 “**Undisclosed Utilities**” means any Utilities located under the Site, the existence or location of which:
- (a) was not described in, properly inferable, readily apparent or readily discoverable to Project Co in the Background Information before Commercial Close; and
  - (b) Project Co does not otherwise have knowledge of as at the date of Commercial Close.
- 1.521 “**Uninsurable Event**” means any event which arises directly and solely from an Uninsurable Risk.
- 1.522 “**Uninsurable Risk**” has the meaning given in Section 8.1 of Schedule 25 – Insurance and Performance Security Requirements to the Project Agreement.
- 1.523 “**Unplanned Closure Events**” means any closures or partial closures of the System or the areas where Public Infrastructure Works are being performed which is not a Planned Closure Event.
- 1.524 “**Unscheduled Maintenance Work**” has the meaning given in Section 26.7(a) of the Project Agreement.
- 1.525 “**Utilities**” means energy/power supplies and waste recovery, including electricity, natural gas/fuel oil, water, sanitary waste and storm water.
- 1.526 “**Utility Agreements**” means any agreement entered into by Project Co with a Utility Company in connection with the construction, installation, operation, repair, preservation, relocation or maintenance of Utility Infrastructure in, on, under, over or adjacent to the Lands, and includes any site or other permits issued thereunder or pursuant thereto, all as amended, supplemented or replaced from time to time.
- 1.527 “**Utility Company**” means the owner or operator of any Utility Infrastructure.
- 1.528 “**Utility Infrastructure**” means privately, publicly or cooperatively owned lines, facilities or systems for transmitting or distributing electricity, data, communications (including telephone),

gas, oil and petroleum products, water, storm water or sewage or other similar commodity or substance which serve the public directly or indirectly, including underground, surface and overhead facilities as well as facilities which use common poles, ducts or conduits on a shared basis, and all related Infrastructure.

- 1.529 “**Utility Work**” means temporary and permanent installation, protection, removal and relocation works relating to Utility Infrastructure carried out in connection with or as part of the Project Operations, including installation, protection, removal and relocation of poles, pole lines, conduits, gas pipes, oil pipes, sewers and tile lines, and related and ancillary works.
- 1.530 “**Variation**” has the meaning given in Schedule 22 – Variation Procedure.
- 1.531 “**Variation Confirmation**” has the meaning given in Schedule 22 – Variation Procedure.
- 1.532 “**Variation Directive**” has the meaning given in Schedule 22 – Variation Procedure.
- 1.533 “**Variation Enquiry**” has the meaning given in Schedule 22 – Variation Procedure.
- 1.534 “**Variation Procedure**” means the procedure set out in Schedule 22 – Variation Procedure.
- 1.535 “**Vehicle Acceptance Testing**” has the meaning given in Schedule 35 – Vehicles.
- 1.536 “**Vehicle Final Acceptance Certificate**” has the meaning given in Schedule 35 – Vehicles.
- 1.537 “**Vehicle Handover Date**” has the meaning given in Schedule 35 – Vehicles.
- 1.538 “**Vehicle Supplier**” means Bombardier Transportation Canada Inc.
- 1.539 “**Vehicles**” means all light rail transit vehicles used to carry System Users on the System, including all machinery, equipment, computer hardware and systems included or contained within the Vehicles, and “**Vehicle**” has a corresponding meaning.
- 1.540 “**Vehicle Warranties**” has the meaning given in Schedule 35 – Vehicles.
- 1.541 “**Verification, Test, Acceptance and Commissioning Plan**” or “**VTAC Plan**” has the meaning given in Schedule 14- Commissioning.
- 1.542 “**Vulnerable Persons**” means those who, because of their age, disability, or other circumstances, are in a position of dependence on others or are otherwise at a greater risk than the general population of being harmed by persons in a position of authority or trust relative to them.
- 1.543 “**Warning Notice**” has the meaning given in Section 31.4(a) of the Project Agreement.
- 1.544 “**Waterloo Region**” means The Regional Municipality of Waterloo.
- 1.545 “**WHMIS**” means the system for labelling, warning and worker education of Hazardous Substances used in the workplace, commonly referred to as workplace hazardous materials information system, prescribed by Applicable Law over the delivery, storage and use of Hazardous Substances in the Province of Ontario.

- 1.546 “**WLRT Fleet Contract**” has the meaning given in Schedule 35 – Vehicles.
- 1.547 “**Working Plan Submittals**” has the meaning given in Section 20.3(e) of the Project Agreement.
- 1.548 “**Works Change in Law**” means any Change in Law that:
- (a) is not a Relevant Change in Law;
  - (b) occurs after Commercial Close;
  - (c) requires Project Co to perform any work of alteration, addition, demolition, extension or variation in the quality or function of the System and/or the Public Infrastructure which is similar in nature to the Design and Construction Work and the Public Infrastructure Work but is not Design and Construction Work, Public Infrastructure Work or capital replacement work which Project Co would otherwise be required to perform in order to comply with its obligations under the Project Agreement; and
  - (d) was not reasonably foreseeable at Commercial Close by an experienced contractor carrying out activities and/or performing design and/or other operations similar to those to be carried out and/or performed by any Project Co Party in relation to the Project.
- 1.549 “**Works Committee**” has the meaning given in Section 11.1(a) of the Project Agreement.
- 1.550 “**Works Report**” has the meaning given in Section 22.5(a) of the Project Agreement.
- 1.551 “**Works Schedule**” means the schedule to be prepared and submitted by Project Co in accordance with Section 22.2 of the Project Agreement and in accordance with Article 19 of Schedule 15-2 – Design and Construction Requirements of the Output Specifications.
- 1.552 “**Works Schedule and Earned Value Requirements**” has the meaning given in Schedule 21 – Construction Period Payments.
- 1.553 “**Works Submittal**” has the meaning given in Section 1.1 of Schedule 10 – Review Procedure.
- 1.554 “**WSIB**” means the Ontario Workplace Safety and Insurance Board that is responsible for administering the *Workplace Safety and Insurance Act, 1997* (Ontario).
- 2. Interpretation.** The Project Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning:
- 2.1 The tables of contents, headings, marginal notes and references to them in the Project Agreement are for convenience of reference only, shall not constitute a part of the Project Agreement, and shall not be taken into consideration in the interpretation of, or affect the meaning of, the Project Agreement.
- 2.2 Except where the context requires otherwise (irrespective of whether some, but not all, references in a Schedule specifically refer to that Schedule or to other portions of the Project Agreement) references to specific Sections, Clauses, Paragraphs, Subparagraphs, Schedules, and other divisions of the Project Agreement are references to such Sections, Clauses, Paragraphs, or

Subparagraphs of, Schedules to, or divisions of the Project Agreement and the terms “Section” and “Clause” are used interchangeably and are synonymous.

- 2.3 Except where the context requires otherwise, references to specific Sections, Clauses, Paragraphs, Subparagraphs, Schedules, and other divisions of the Project Agreement followed by a number are references to the whole of the Section, Clause, Paragraph, Subparagraphs, Schedule or other division of the Project Agreement as applicable, bearing that number, including all subsidiary provisions containing that same number as a prefix.
- 2.4 Except where the context requires otherwise, references in the Output Specifications to specific Parts, Sections, Clauses, Paragraphs, Subparagraphs, Schedules, and other divisions of the Output Specifications shall be construed such that each such reference on a page of the Output Specifications will be read to be preceded by and to include the prefix Section number or other reference at the top of the applicable page, and all cross-references to any Section in Schedule 15 – Output Specifications shall be interpreted to include the applicable prefix Section number or other reference.
- 2.5 The Schedules to the Project Agreement are an integral part of the Project Agreement and a reference to the Project Agreement includes a reference to the Schedules.
- 2.6 All references in the Project Agreement to a Schedule shall be to a Schedule of the Project Agreement.
- 2.7 All capitalized terms used in a Schedule shall have the meanings given to such terms in Schedule 1 – Definitions and Interpretation, unless stated otherwise in a particular Schedule in which case such definition shall have the meaning given to it in that Schedule solely for the purposes of that Schedule.
- 2.8 The language of the Output Specifications and other documents comprising the Project Agreement is in many cases written in the imperative for brevity. Clauses containing instructions, directions or obligations are directed to Project Co and shall be construed and interpreted as if the words “Project Co shall” immediately preceded the instructions, directions or obligations.
- 2.9 Words importing persons or parties are to be broadly interpreted and include an individual, corporation, limited liability company, joint stock company, firm, partnership, joint venture, trust, unincorporated organization, Governmental Authority, unincorporated body of persons or association and any other entity having legal capacity, and the heirs, beneficiaries, executors, administrators or other legal representatives of a person in such capacity.
- 2.10 Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine, feminine and neuter genders include all other genders.
- 2.11 Unless otherwise provided in the Project Agreement, all accounting and financial terms used in the Project Agreement shall be interpreted and applied in accordance with Canadian GAAP.
- 2.12 References to any standard, principle, agreement or document include (subject to all relevant approvals and any other provisions of the Project Agreement concerning amendments) a

- reference to that standard, principle, agreement or document as amended, supplemented, restated, substituted, replaced, novated or assigned.
- 2.13 References to any Applicable Law, including any statutes or other Applicable Law specifically referred to herein, whether or not amendments or successors to such Applicable Law are referred to herein, are to be construed as references to that Applicable Law as from time to time amended or to any Applicable Law covering the same or similar subject matter from time to time replacing, extending, consolidating or amending the same.
- 2.14 References to a statute shall include all regulations, by-laws, ordinances and orders made under or pursuant to the statute.
- 2.15 References to persons shall include their successors and assigns. References to a public organization shall include their successors and assigns, and if a public organization ceases to exist or ceases to perform its functions without a successor or assign, references to such public organization shall be deemed to include a reference to any public organization or any organization or entity which has taken over either or both the functions and responsibilities of such public organization.
- 2.16 A reference in the Project Agreement or in any Project Document to any right, power, obligation or responsibility of any Governmental Authority shall be deemed to be a reference to the Governmental Authority that, pursuant to Applicable Laws has such right, power, obligation or responsibility at the relevant time.
- 2.17 References to a deliberate act or omission or deliberate or negligent act or omission of the Region or any Region Party shall be construed having regard to the interactive nature of the activities of the Region or the Region Party and Project Co and further having regard to:
- (a) acts contemplated by the Output Specifications;
  - (b) acts or omissions in the ordinary course of the Governmental Activities and the Region Services and expressly or reasonably inferred from the Output Specifications to be taken into account by Project Co in the performance of the Maintenance and Rehabilitation Services and the Operations Services; or
  - (c) acts otherwise provided for in the Project Agreement.
- 2.18 The words in the Project Agreement shall bear their natural meaning.
- 2.19 Each of Project Co's and the Region's respective obligations shall be construed as separate obligations owed to the other.
- 2.20 References containing terms such as:
- (a) "hereof", "herein", "hereto", "hereinafter", and other terms of like import are not limited in applicability to the specific provision within which such references are set forth but instead refer to the Project Agreement taken as a whole; and

- (b) “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.
- 2.21 In construing the Project Agreement, the rule known as the *ejusdem generis* rule shall not apply nor shall any similar rule or approach apply to the construction of the Project Agreement and, accordingly, general words introduced or followed by the word “other” or “including” or “such as” or “in particular” shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- 2.22 Where the Project Agreement states that an obligation shall be performed “no later than” or “within” or “by” a stipulated date or event which is a prescribed number of days after a stipulated date or event the latest time for performance shall be 5:00 p.m. on the last day for performance of the obligation concerned, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- 2.23 Where the Project Agreement states that an obligation shall be performed “no later than” or “by” a prescribed number of days before a stipulated date or event or “by” a date which is a prescribed number of days before a stipulated date or event, the latest time for performance shall be 5:00 p.m. on the last day for performance of the obligation concerned, or if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- 2.24 Where the Project Agreement states that an obligation shall be performed “on” a stipulated date, the latest time for performance shall be 5:00 p.m. on that day, or, if that day is not a Business Day, 5:00 p.m. on the next Business Day.
- 2.25 Any reference to time of day or date means the local time or date in Toronto, Ontario.
- 2.26 Unless otherwise indicated, time periods will be strictly construed.
- 2.27 Whenever the terms “will” or “shall” are used in the Project Agreement in relation to Project Co or the Region they shall be construed and interpreted as synonymous and to read “Project Co shall” or the Region shall” as the case may be.
- 2.28 Any reference to currency is to Canadian currency and any amount advanced, paid or calculated is to be advanced, paid or calculated in Canadian currency.
- 2.29 Unless otherwise identified in the Project Agreement, all units of measurement in any documents submitted by Project Co to the Region shall be in accordance with the SI system of units.
- 2.30 Terms not defined herein and used in the Project Agreement which have a technical meaning commonly understood by the transit system construction and maintenance industry in Ontario will be construed as having that meaning unless the context otherwise requires.
- 2.31 Save where expressly stated otherwise, references to amounts or sums expressed to be “indexed” or “index linked” are references to amounts or sums which require adjustment to reflect the

effects of inflation. Such adjustment shall be calculated in accordance with the following formula:

$$\text{Adjusted amount or sum} = \text{Amount or sum} \times \frac{\text{CPI}_n}{\text{CPI}_o}$$

Notwithstanding anything to the contrary set forth herein, the principles and provisions of this Section 2.31 shall not apply to Schedule 20 – Payment Mechanism.

- 2.32 The terms “properly inferable”, “readily apparent” and “readily discoverable” as used in this Project Agreement, shall be interpreted by taking into consideration Project Co’s and any Project Co Party’s experience and the investigations, inspections and examinations of the Background Information and in respect of the Lands carried out by Project Co or by any Project Co Party during the Request for Proposals process or other due diligence; and by taking into consideration reasonable, normal course and industry standard investigations, inspections or other due diligence; in each case in accordance with Good Industry Practice.

**APPENDIX 1**  
**PERMITS, LICENCES, APPROVALS AND AGREEMENTS (PLAA)**

**PART A – Region Permits, Licences, Approvals and Agreements**

**NOTE 1:** The Permits, Licences, Approvals and Agreements may include, but are not limited to, those included in the tables below.

**NOTE 2:** The following table will be updated by addendum, if applicable, upon receipt of further information.

**NOTE 3:** The following table is for the purpose of the performance of all work to be completed in connection with the Project.

Permit/ Licence/ Approval/ Agreement	Issuing Agency	Status	Notes
Temporary Construction Easements	Region of Waterloo		
Approval from MOE under <i>Ontario Environmental Assessment Act</i> O. Reg. 231/08	Ontario Ministry of the Environment	Region of Waterloo Rapid Transit Project Environmental Project Report was approved in March 2012.	
Approval for provincial funding	Ontario Ministry of Transportation	Provincial funding commitment has been obtained.	
Approval for federal funding	Transport Canada	Federal funding commitment has been obtained.	
CEAA Screening determination	Transport Canada (Lead Responsible Authority)		

<b>Permit/ Licence/ Approval/ Agreement</b>	<b>Issuing Agency</b>	<b>Status</b>	<b>Notes</b>
Archaeology – Letter confirming report complies with Ministry requirements and filed with Ontario Public Register of Archaeological Reports	Ontario Ministry of Tourism, Culture and Sports (MTCS)	Letters of Concurrence received from the MTCS have been posted to the data room.	Responsible for any archaeological reports completed prior to Financial Close.  Project Co responsible for any archaeological reports completed after Financial Close.
Agreement to undertake works under CN Rail at King Street in City of Kitchener	Agreement between Region of Waterloo and Canadian National Railway (CN), operated by VIA and G-EX-R		Region of Waterloo is responsible for obtaining the agreement with CN

**PART B – Project Co Permits, Licences, Approvals and Agreements**

**NOTE 1:** The Permits, Licences, Approvals and Agreements may include, but are not limited to, those included in the tables below.

**NOTE 2:** The following table will be updated by addendum, if applicable, upon receipt of further information.

**NOTE 3:** The following table is for the purpose of the performance of all work to be completed in connection with the Project.

**NOTE 4:** If, for any permit, licence, approval or agreement, there is a legislative requirement for the applicant to be the Region, the City of Kitchener or the City of Waterloo, then Project Co shall act as the Region’s, or the applicable City’s agent, and will be responsible for all aspects of the application preparation and submittal process. If required, the Region or the applicable City, will sign off on the application.

Permit/ Licence/ Approval/ Agreement	Issuing Agency	Status	Notes
Permit under <i>Ontario Heritage Act</i>	City of Kitchener / City of Waterloo		
Work Permits			
a. Municipal Consent	Region of Waterloo / City of Kitchener / City of Waterloo		
b. Road Cut Permit (utility circulation)	Region of Waterloo / City of Kitchener / City of Waterloo	Utility circulation was initiated by the Region in the preliminary engineering phase.	
c. Temporary Road Closure Permit	Region of Waterloo / City of Kitchener / City of Waterloo		

<b>Permit/ Licence/ Approval/ Agreement</b>	<b>Issuing Agency</b>	<b>Status</b>	<b>Notes</b>
Site Plan Control – Development Outside of the Public Transit System Right-of-Way	City of Kitchener / City of Waterloo	The City’s Site Plan Control By-law exempts transitway buildings and structures from site plan control approval. However, site plan control approval may be required for development located outside of the public transit system right-of-way. Project Co shall be responsible for submitting any site plan control applications and obtaining site plan control approval to permit development that is not exempt from site plan control approval. Further, Project Co shall be responsible for complying with any conditions that may result from such approval.	
Building and Demolition Permits – Stations and MSF	City of Kitchener / City of Waterloo		
By-law to Regulate the Receiving, Dumping and Disposing of Waste (By-law 98-97)	Region of Waterloo		
Noise By-law Exemption	City of Kitchener / City of Waterloo		
Approval under the Sewer Use By-law to discharge waste water (By-law 1-90, Amended by By-law 92-050)	Region of Waterloo		
Street or Lane Closing/Opening	City of Kitchener		
Zoning By-Law Amendment	Region of Waterloo		
Sign By-law (minor variance)	City of Kitchener / City of Waterloo		

Permit/ Licence/ Approval/ Agreement	Issuing Agency	Status	Notes
Sign Permit	City of Kitchener / City of Waterloo		
Emergency Services Approval – Fire and Life Safety	City of Kitchener / City of Waterloo		
Electrical Plan Review	Electrical Safety Authority		
Construction Registration Permit	Electrical Safety Authority		
Notice of Project	Ministry of Labour		
Registration of Constructors and Employers Engaged in Construction	Ministry of Labour		
Permit to Take Water	Ontario Ministry of the Environment		
Certificate of Approval – SWM facilities	Ontario Ministry of the Environment		
Certificate of Approval – Air and Noise	Ontario Ministry of the Environment		
Approval from MTO for a building and land use permit in accordance with the requirements of the <i>Public Transportation and Highway Improvement Act</i>	Ontario Ministry of Transportation		

**The Region of Waterloo Stage 1 Light Rail Project**

<b>Permit/ Licence/ Approval/ Agreement</b>	<b>Issuing Agency</b>	<b>Status</b>	<b>Notes</b>
Ontario Regulation 174/06 – Development, Interference with Wetlands and Alterations to Shorelines and Watercourses	Grand River Conservation Authority		
Approval under Section 35 of the <i>Fisheries Act</i>	Fisheries and Oceans Canada		
Land Access Permit	Region of Waterloo		
Amendment to the CEAA Screening determination (approval)	Transport Canada  (Lead Responsible Authority)		
All Remaining Permits, Licenses and Approvals	Various Agencies		
City of Kitchener and City of Waterloo Urban Design Review  Note: Not an approval. Review by the City is a requirement of the City’s development review process.	N/A		Project Co is responsible to submit, as required, updated designs to the Cities for their review. Project Co. is responsible to support the Cities in regards to the submission requirements.

**The Region of Waterloo Stage 1 Light Rail Project**

<b>Permit/ Licence/ Approval/ Agreement</b>	<b>Issuing Agency</b>	<b>Status</b>	<b>Notes</b>
Certificate of Approval – Water and Sanitary Sewer	Ontario Ministry of the Environment (Region of Waterloo / City of Kitchener / City of Waterloo as applicable has delegated authority for issuance)		
Archaeology – Letter confirming report complies with Ministry requirements and filed with Ontario Public Register of Archaeological Reports	Ontario Ministry of Tourism, Culture and Sports (MTCS)	Letters of Concurrence received from the MTCS have been posted to the data room.	Responsible for any archaeological reports completed after Financial Close.  The Region is responsible for any archaeological reports completed prior to Financial Close.
Approval from MTO for Encroachment Permit	Ontario Ministry of Transportation		

**APPENDIX 2  
Lands**

**Part A – Construction Period Lands**

See attached files entitled “Region of Waterloo LRT Project – Lands” including sketches, PIN numbers and associated PIN references.

**Part B – Service Period Lands**

See attached CD-ROM entitled “WLRT Sch.1 Appendix 2 Part B”.

Note: The Service Period Lands description to be populated after Financial Close in accordance with Section 25.13(b) of the Project Agreement.

**Part C – Non-Region Owned Lands**

See attached files entitled “Region of Waterloo LRT Project – Non-Region Owned Lands” including sketches, PIN numbers and associated PIN references.