

Schedule 1

Definitions

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Definitions

Abandons means wholly or wilfully ceases to provide substantially all the Services for fifteen (15) consecutive Business Days or thirty (30) Business Days (whether consecutive or not) in any Contract Year except when relieved of the obligation to do so by the express provisions of this Agreement;

Actual Conflict of Interest means any conflict that has been identified and takes place due to a Conflict of Interest;

Actuary's Letter means the letter from the Authority's Actuary;

Additional Service Provider Costs has the meaning given to it in Schedule 4 (Payment Mechanism);

Administering Authority means the Authority;

Administration Regulations means the Local Government Pension Scheme (Administration) Regulations 2008;

Admission Agreement means an admission agreement entered into in accordance with Regulation 6 of the Administration Regulations by the Authority and the Service Provider;

Admission Body means a transferee admission body for the purposes of regulation 6 of the LGPS Regulations;

Affected Party has the meaning given to it in the definition of Force Majeure Event in this Schedule 1 (Definitions);

Affiliate means in respect of a relevant company, any company which is a subsidiary, any holding company or any company that is a subsidiary of the ultimate holding company of that relevant company. References to "holding company" and "subsidiary" shall have the meaning given to them in Section 1159 of the Companies Act 2006;

Agreement Date means the date of this Agreement;

Agreement means this agreement (including its Schedules);

Annual Guaranteed Contract Price has the meaning given to it in Schedule 4 (Payment Mechanism);

Annual Service Charge has the meaning given to it in Schedule 4 (Payment Mechanism);

Annual Service Plan has the meaning given in clause 37.3.4 (Annual Service Report);

Annual Service Report has the meaning given in clause 37.3.1 (Annual Service Report);

Annual Service Report Date means the sixtieth (60th) day after each anniversary of the Service Transfer Date in each year of the Service Period;

Anti-Money Laundering Framework has the meaning given in Schedule 33 (Authority's Policies);

Approval Criteria has the meaning given to it in paragraph 4.5 of the Special Projects Approval Procedure (Schedule 15);

Approved Special Projects has the meaning given to it in paragraph 4.6.2(a) of the Special Projects Approval Procedure (Schedule 15);

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

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

but excluding any assets and rights in respect of which the Authority is, or is intended under this Agreement to be, full legal and beneficial owner (including but not limited to the Specially Written Software and the Project Specific IPRs);

Authority means the London Borough of Barnet and its successors and assigns;

Authority Assets means the assets of the Authority identified in the inventory in Part 2 of Schedule 10 (Authority Assets);

Authority's Actuary means an actuary, appointed by the Authority for the purposes of Schedule 32 (Bulk Transfer Terms);

Authority Base Income has the meaning given to it in Schedule 4 (Payment Mechanism);

Authority Cause means any failure to undertake or to satisfy Authority's Obligations pursuant to Schedule 8 Authority Obligations;

Authority Change means any change in the Services which is initiated by the Authority issuing an Authority Notice of Change under paragraph 2.2 of Schedule 14 (Change Protocol) and/or deemed to be an Authority Change by express provision of this Agreement;

Authority Conflict of Interest Protocol means the conflict of interest protocol of the Authority at Schedule 28 (Conflict of Interest Protocol);

Authority's Constitution means the constitution of the Authority, including all sections, parts and appendices as amended from time to time.

Authority Data means any data (including metadata), record, document or information howsoever stored which is communicated in writing, orally, electronically or by any other means by the Authority, its staff, sub-contractors and agents to the Service Provider relating to Users and Services provided to Users or is obtained, gleaned, compiled or processed by the Service Provider during the course of the Service Provider providing the Services relating to Users and Services provided to Users;

Authority Default means one of the following events:

- (a) an expropriation, sequestration or requisition of a material part of the Assets and/or shares of the Service Provider by the Authority or other Relevant Authority;
- (b) a failure by the Authority to make payment of any amount of money exceeding £500,000 (five hundred thousand pounds) (indexed) that is due and payable by the Authority under this Agreement within twenty (20) Business Days of service of a formal written demand by the Service Provider, where the amount fell due and payable two (or more) months prior to the date of service of the written demand;
- (c) a breach by the Authority of its obligations under this Agreement which substantially frustrates or renders it impossible for the Service Provider to perform its obligations under this Agreement for a continuous period of two months; or
- (d) a breach by the Authority of clause 45.1 (Transfer of the Agreement by the Authority) occurs;

Authority Notice of Change means a notice served by the Authority under paragraph 2.2 of the Change Protocol requesting a change and setting out the information required by paragraph 2.3 of the Change Protocol.

Authority's Information Security Policy and Acceptable Use Policy means the policies to protect the information assets owned and used by the Authority, and other services or networks to which the Authority is connected from misuse and to comply with all regulatory, legislative and internal policy requirements;

Authority Policies means the policies of the Authority referred to in Schedule 33 (Authority's Policies) as amended, supplemented or replaced from time to time and notified to the Service Provider;

Authority Related Party means any officer, agent, employee of the Authority acting in the course of his office or employment including any sub-contractors supplied by the Authority in relation to the Services;

Authority Requirements has the meaning given to it in paragraph 3.1.3 of the Special Projects Approval Procedure (Schedule 15);

Authority Software means software which is owned by or licensed to the Authority, including software which is or will be used by the Service Provider for the purposes of providing the Services but excluding the Service Provider Software;

Authority's Obligations the obligations of the Authority specified in Part 1 of Schedule 8 (Specific Obligations);

Authority's Premises means any premises owned or occupied by the Authority as detailed in Schedule 9 (Access to Authority's Premises) where any of the Services may be or are carried out subject to compliance with the conditions set out in Schedule 9 (Access to Authority's Premises);

AVCs means AVCs or SCAVCs as defined in the LGPS Regulations;

Background IPRs means IPRs owned by the Service Provider before the date of this Agreement, for example those subsisting in the Service Provider's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Service Provider's Know-How or generic business methodologies; and/or IPRs created by the Service Provider independently of this Agreement or any other agreement between the parties hereto; but in all cases, excluding Project Specific IPRs;

Back-up Location has the meaning given to it in clause 22.1;

Bad Debt has the meaning given to it in Schedule 4 (Payment Mechanism);

Base Date has the meaning given to it in Schedule 4 (Payment Mechanism);

Benchmark Comparators means:

(a) **General**

- North London Strategic Alliance (or successor groups) for Services such as planning and land use;
- CIPFA cost benchmarking relating inter alia to costs of service provision;
- NOMIS – a service provided by the Office for National Statistics.

(b) **Land Charges**

- Expenditure per head of population 2008/0: taken from CIPFA Estimate Expenditure & Income 2008/09;

(c) **Building Control and Structures**

- LDSA (London District Surveyors Association) Establishment Survey;
- Expenditure per head of population: taken from CIPFA (Chartered Institute of Public Finance and Accountancy) Estimated Expenditure & Income 2009/10;

- Service Expenditure Outturn Prices (excluding capital charges): CIPFA;
- Planning;
- Department for Communities and Local Government – planning application costs;
- NI 157a % Major developments determined within 13 weeks;
- NI 157b % Minor developments determined within 8 weeks;
- NI 157c % Other developments determined within 8 weeks;

(d) **Environmental Health**

- ALEHM (Association of London Environmental Health Managers) Benchmark;
- NI 184% Food Establishments in the area which are broadly compliant with food hygiene law 2008/9;
- NI 182% Satisfaction of business with local authority regulatory services (trading standards, environmental health and licencing) 2008/9,

or such other reasonable comparators as the Authority may from time to time notify to the Service Provider;

Baseline Cost has the meaning given to it in clause 38.5.5 (Benchmarking);

Benchmark Cost has the meaning given to it in clause 38.5.4 (Benchmarking);

Benchmark Organisations has the meaning given to it in clause 38.2 (Benchmarking);

Benchmarked Services means the elements of the Services which the parties have agreed shall be subject to Benchmarking in accordance with clause 38 (Benchmarking and Market Testing);

Benchmarking Date means the date falling on the 4th and 7th anniversaries of the Service Transfer Date;

Benchmarking Exercise means the process by which the Service Provider compares either its own costs or the costs of its Sub-Contractors against the market price of equivalent services to the Services provided under the Contract;

Benchmarking Plan has the meaning given to it in clause 38.5 (Benchmarking);

Benchmarking Report has the meaning given to it in clause 38.5.8 (Benchmarking);

Benefit Regulations means the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007;

Best Value Change in Law means a Change in Law which comprises:

- (a) an order made by the Secretary of State in the exercise of powers conferred upon him by Section 4 of the 1999 Act the substance of which amounts to a change in a performance standard or a change in the definition of or details of a performance indicator (as opposed to a change in the description of a performance indicator);
- (b) a direction made by the Audit Commission in the exercise of powers conferred upon it by Sections 44 and 46 of the Audit Commission Act 1998 which in substance is similar to an order referred to in (a) above;
- (c) Guidance issued by the Secretary of State or Audit Commission or other competent authority in respect of (a) or (b) above;

Best Value Duty means the duty imposed on the Authority by Section 3 of the 1999 Act in relation to, inter alia, the Services;

Best Value Inspections means an inspection to establish a local authority's compliance with Part 1 of the 1999 Act

Best Value Inspector means an officer, agent or employee of the Audit Commission or other Relevant Authority empowered to inspect the Authority's compliance with Part 1 of the 1999 Act;

Best Value Service Change Notice has the meaning given to it in clause 37.3.3 (Annual Service Report);

BIS means Department for Business Innovation and Skills, 1 Victoria Street, London SW1H 0ET;

Bond means a bond in the form set out in Schedule 6 (Bond and Guarantee);

Bribery Act means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;

Budget Change means a change required by the Authority to the sums payable to the Service Provider as a result of a reduction or increase in the Authority's annual budget for the relevant expenditure;

Budget Change Proposal has the meaning given under clause 37.5.5;

Business Continuity Plan means any plan prepared pursuant to clause 31 (Business Continuity and Exit Plan), as may be amended from time to time;

Business Day means a day (other than a Saturday or Sunday) on which banks are open for domestic business in the City of London;

Business Plan means the business plan of the Service Provider as defined in the Joint Venture Agreement;

Capita Symonds Limited means Capita Symonds Limited, a company incorporated in England and Wales with company registration number 02018542 whose registered office is at 71 Victoria Street, Westminster, London, SW1H 0XA;

Capital Contribution shall have the meaning given to it in Schedule 4 (Payment and Performance Mechanism);

Capital Expenditure means any expenditure which falls to be treated as capital expenditure in accordance with generally accepted accounting principles in the United Kingdom from time to time;

CDP Commitments means those commitments set out in Schedule 37 as amended from time to time;

CEDR means the Centre for Effective Dispute Resolution

Certificate of Expenditure and Income means a certificate prepared in accordance with and including the information required under clause 35.1 and clause 35.2 (Open Book Accounting);

Cessation Date means any date on which the Service Provider or any sub-contractor to be an Admission Body other than as a result of the termination of this Agreement or because it ceases to employ any Eligible Employees;

Change means any change to the Services or this Agreement initiated through the Change Protocol;

Change in Costs means in respect of any Relevant Event, the effect of that Relevant Event (whether of a one-off or recurring nature, and whether positive or negative) upon the actual or anticipated costs, losses or liabilities of the Service Provider and/or any Key Sub-Contractors (without double counting), including, as relevant, the following:

- (a) the reasonable costs of complying with the requirements of clauses 42 (Authority Step-In) and/or 33 (Financial Adjustments), including the reasonable costs of preparation of design and estimates;
- (b) the costs of continued employment of, or making redundant, staff who are no longer required;
- (c) the costs of employing additional staff;
- (d) reasonable professional fees;
- (e) the costs to the Service Provider of financing any Relevant Event (and the consequences thereof) including commitment fees and capital costs interest and hedging costs, lost interest on any of the Service Provider's own capital employed and any finance required pending receipt of a lump sum payment or adjustments to the Periodic Service Payment;
- (f) the effects of costs on implementation of any insurance reinstatement in accordance with this Agreement, including any adverse effect on the insurance proceeds payable to the Service Provider (whether arising from physical damage insurance or business interruption insurance (or their equivalent)) in respect of that insurance reinstatement and any extension of the period of implementation of the insurance reinstatement;

- (g) operating costs, or life cycle, maintenance or replacement costs;
- (h) Capital Expenditure (or, in the case of a Relevant Event which is a Qualifying Change in Law, Capital Expenditure for which the Authority is responsible);
- (i) the costs required to ensure continued compliance with the Finance Agreements;
- (j) any deductible or increase in the level of deductible, or any increase in premium under or in respect of any insurance policy; and
- (k) liability to third parties and Sub-Contractors, including legal expenses on an indemnity basis;

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

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

Change in Revenue means in respect of any Relevant Event, the effect of that Relevant Event (whether of a one-off or recurring nature, and whether positive or negative) upon the actual Periodic Service Payment or anticipated Third Party Services income of the Service Provider and/or any Key Subcontractors (without double counting);

Change of Ownership means

- (a) any sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares in the Service Provider and/or its holding company and/or the Guarantor (including the control over exercise of voting rights conferred on those shares, control over the right to appoint or remove directors or the rights to dividends); and/or
- (b) any other arrangements that have or may have or which result in the same effect as paragraph (a) above.

Change Protocol means the Change control procedures set out in Schedule 14 (Change Protocol);

Chief Executive Officer means the head of paid service of the Authority;

Chief Internal Auditor means the auditor of the Authority, as notified by the Authority to the Service Provider from time to time;

COI means Conflict of Interest;

COI Check means the Service Provider's procedure for identifying a Conflict of Interest Issue as set out in paragraph 1.1 of Schedule 28 (Conflict of Interest Protocol);

COI Protocol Training means the training programme the Service Provider has devised and which the Authority has approved, to manage any conflict of interest that may arise from the Conflict of Interest Issues which shall set out the practical procedures of the COI Protocol;

COI Protocol means the procedures the Service Provider undertakes to recognise and disclose activities that might give rise to a Conflict of Interest, Perceived Bias or the Perception Conflict of Interest and to ensure that such conflicts are seen to be properly managed and avoided;

Collateral Warranty or Collateral Warranties means a collateral warranty executed as a deed between the Authority and a Key Sub-Contractor in the relevant form as set out in Schedule 5 (Collateral Warranty);

Commercial Development Plan (CDP) means the plan in Schedule 37 (Commercial Development Plan);

Commercially Sensitive Information means the sub set of Confidential Information listed in Schedule 21 (Commercially Sensitive Information) in each case for the period specified in Schedule 21 (Commercially Sensitive Information);

Committed Costs means reasonable breakage costs actually incurred by the Service Provider when terminating a contractual arrangement, notwithstanding the requirements that any such breakage costs are to proper, direct and mitigated, provided always that any such costs shall in no event exceed those agreed to by the Authority within the Financial Model;

Compensation Regulations mean the Local Government (Discretionary Payments) Regulations 1996 (as amended) and the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006;

Conflict of Interest means a situation in which the Service Provider or a Service Provider Related Party or where the categories of persons referred to in (i) and (ii) below:

- (a) permits its or their commercial or other interests to interfere with or conflict with its or their respective duties (which the Service Provider hereby acknowledges) to provide the Services and comply with the Service Provider's obligations under this Agreement;
- (b) uses any information gained through the operation of this Agreement in any way which is or is likely to be detrimental to or in conflict with the interests of the Authority;

- (c) breaches the provisions of the Authority Conflict of Interest Protocol (as may be amended by the Authority from time to time);
- (d) submits a bid or enters into a contract to be a member of a supply chain (including as a contractor, a sub-contractor or as a party to a framework agreement) for the provision of any of the Services or for any other service the management of which the Service Provider is responsible for or involved with under this Agreement;
- (e) acquires any legal, beneficial or equitable interest in any body corporate (including the acquisition of shares, control over exercise of voting rights conferred on those shares or control over the right to appoint or remove directors or the rights to dividends in a company limited by shares or other arrangements which may have such effect) which has submitted a bid or entered into a contract to be a member of a supply chain (including as a contractor, a sub-contractor or as a party to a framework agreement) for the provision of any of the Services or for any other service the management of which the Service Provider is responsible for or involved with under this Agreement; or
- (f) in providing the Services and/or carrying out this Agreement, does not conduct its or their business, operations or activities in a politically neutral fashion, or
- (g) have, directly or indirectly, a private interest in the outcome of any decision making process, which may be perceived to impair or has impaired the impartial and objective performance of their duties.

For the purposes of this definition, "private interest" means any family, emotional life, economic, political or other shared interests which conflict with the Authority's interest including a conflict with the Service Provider's own professional interests.

The rules referred to in this definition shall apply to conflicts of interests involving at least the following categories of persons:

- (i) all members of Staff of the Service Provider, or staff members of other service providers under the Service Providers reasonable control and Service Provider Related Parties, who are involved in providing the Services; or
- (ii) any Key Personnel, the Partnership Manager, chairperson or members of the Strategic Partnership Board, the Partnership Operations Board or the Service Delivery Operations Board or members of a decision-making bodies of the Services Provider and Service Provider Related Parties who, without necessarily being involved in the provision of the Services, may nevertheless influence the outcome of the decision making procedure;

Conflict of Interest Information Barrier means arrangements to ensure the Services, Project or commission of work from which the Conflict of Interest Issue has arisen is confidential and entirely separate from the Service Provider's, Affiliates of

HoldCo and Sub-Contractors' other business including the limbs identified in the definition of the Information Barrier and the following additional limbs:

- that all members of the staff working in relation to the Services (Restricted Group) have no involvement with or for other business at the Service Provider, Affiliate of HoldCo or Sub-Contractor unless otherwise agreed in writing in advance by the Authority;
- that no member of the Restricted Group is managed or supervised in relation to that matter by someone from outside the Restricted Group;
- that the Restricted Group is physically separated from those acting for the other client, for example, by being in a separate building, on a separate floor, or in a segregated part of the offices, and that some form of "access restriction" be put in place to ensure that all physical segregation (for example, a security number to be punched in on a door lock);

Confidential Information means any

- (a) information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either party and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998; and
- (b) Commercially Sensitive Information.

Consents means all permissions, consents, approvals, certificates, permits, licenses and authorisations of a Relevant Authority required for the performance of any of the Service Provider's obligations under this Agreement;

Construction Contract Payment (CCP) has the meaning given to it in Schedule 4 (Payment Mechanism);

Consultation Event means one or more of the following:

- (a) where there is a statutory duty upon the Authority to undertake consultation;
- (b) in order to comply with the operating practice of the Authority (as updated from time to time);
- (c) where consultation is required pursuant to an Authority Policy;
- (d) where the Authority, acting reasonably, believes consultation would be appropriate,

Contract Manager means the person (including any officer, consultant or contractor) appointed by the Authority under clause 13.1 to act as contract manager as at the date of this Agreement this post will be held by [REDACTED]

Contract Period means the period from and including the Agreement Date to the Expiry Date, or if earlier, the Termination Date;

Contract Standard means the standard to which the Services are to be provided as defined in clause 5.2 of the Agreement;

Contract Year means a period of twelve (12) months commencing on:

- (a) the date of the Agreement for the purposes of Clauses 46 and Clause 48; and
- (b) the Service Transfer Date for the purposes of the rest of the Agreement and the Schedules

and each anniversary thereafter;

Contribution Rate means 17.7% of Pensionable Pay of Eligible Employees or such rate as is notified by the Authority at or near the Agreement Date or occasion of a Relevant Transfer;

Convictions means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of Schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order;

Corporate Centric Policies means the Authority Policies and/or the Service Provider Policies marked as remedy category 3 in Schedule 33 (Authority Policies);

Counter Fraud Framework has the meaning given in Schedule 33 (Authority's Policies);

Customer Satisfaction Surveys has the meaning given in clause 37.2 (Customer Satisfaction Survey);

Customer Satisfaction Survey Date means the date which is three (3) months prior to the Annual Service Report Date and each anniversary thereof during the Contract Period;

Data Subject has the meaning given to it in the DPA;

Database the rights in or to the database developed and supplied by the Service Provider to the Authority in accordance with the terms of this Agreement and the Output Specifications;

Day Rates has the meaning given to it in Schedule 4 (Payment Mechanism);

DCLG means the Department for Communities and Local Government of Eland House Bressenden Place London SW1E 5DU or such governmental department or agency to which DCLG's functions in respect of local government may be transferred;

Deposited Software the Software the Source Code of which is to be placed in escrow as listed in Schedule 11 (Software);

Direct Losses means all damage, losses, indebtedness, claims, actions, cash, expenses (including the cost of legal or professional services, legal costs being an agent/client, client paying basis), proceedings, demands and charges whether arising under statute, contract or at common law but to avoid doubt, excluding Indirect Losses;

Directive means the EC Business Transfer Directive 2001/23, as amended from time to time;

Disclosed Data means information relating to the Project and/or Services and/or Service Provider disclosed to the Service Provider and advisers including:

- (a) the Invitation to Participate in Dialogue, the Invitation to Submit Detailed Solutions and the Invitation to Submit Final Tenders issued as part of the procurement process for the Project;
- (b) the information memorandum issued by the Authority in relation to the Project;
- (c) the contents of the data room at the Agreement Date located at 4Ps website (<http://n3g.4projects.com/>) which is appended to this Agreement in the form of CD Rom(s) initialled by the parties;
- (d) information provided pursuant to the Special Projects Approval Procedure and the Change Protocol; and
- (e) all other information shared with the Service Provider by the Authority directly or through its advisers during the procurement process.

Disclosure and Barring Service means the disclosure and barring service being the executive non-departmental public body of the Home Office which replaced the Criminal Records Bureau and the Independent Safeguarding Authority, as well as any successor body set up by statute or otherwise enabling employers to check an employee's or a prospective employee's criminal record in any relevant circumstance;

Dispute means any difference or dispute between the Authority and the Service Provider arising out of or in connection with this Agreement (including any question as to the validity or interpretation of this Agreement and including any dispute arising before or after termination of this Agreement);

Dispute Resolution Procedure means the procedure for the resolution of disputes set out in Schedule 16 (Dispute Resolution Procedure);

Disputed Amount has the meaning given to it in clause 32.3 (Disputed Amounts) of the Agreement;

Documentation means descriptions of the Services Performance Levels, technical specifications, user manuals, operating manuals, process definitions and procedures, and all such other documentation as:

- (a) is required to be supplied by the Service Provider to the Authority under this Agreement;
- (b) is required by the Service Provider in order to provide the Services; or

- (c) has been or shall be generated for the purpose of providing the Services;

DPA means the Data Protection Act 1998;

Draft Proposal has the meaning given to it in clause 38.15 (Benchmarking);

DWP means the Department for Works and Pensions Caxton House Tothill Street London SW1H 9DA;

EC Business Transfers Directive means the EC Business Transfers Directive 2001/23, as amended from time to time;

EEA means from time to time the European Economic Area as created by The Agreement on the European Economic Area 1992 or any successor or replacement body, association, entity or organisation which has assumed either or both the function and responsibilities of the European Economic Area;

Efficiency Adjustment means the adjustment calculated in accordance with paragraph 30.2 of Schedule 4 (Payment Mechanism);

Eligible Employees means

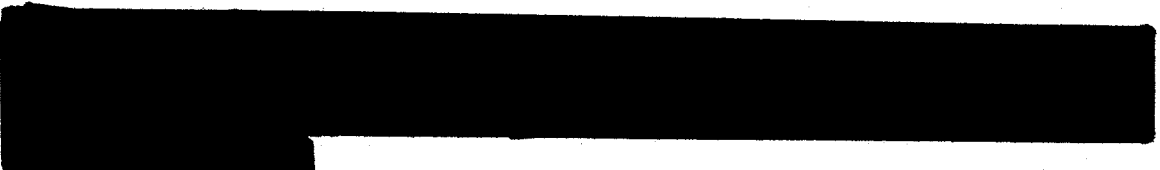
- (a) the Transferring Employees who are active members of or eligible to join the Local Government Pension Scheme on the occasion of a Relevant Transfer; and
- (b) any other individuals nominated by the Service Provider and agreed by the Authority,

for so long as they are employees in connection with the provision of the Services or part of such Services as set out in the Admission Agreement;

Emergency means an event causing or, in the reasonable opinion of a Party, threatening to cause death or injury to any individual, or serious disruption to the lives of a number of people or extensive damage to property, or contamination of the environment, in each case on a scale beyond the capacity of the emergency services or preventing the Services operating under normal circumstances and requiring the mobilisation and organisation of the emergency services,

Employee Information Adjustment has the meaning given to it in Schedule 4 (Payment Mechanism);

Employment Indexation Adjustment has the meaning given to it in Schedule 4 (Payment Mechanism);



Enhanced Licence Terms means a licence granted on a royalty-free (save as otherwise agreed between the Parties in writing), perpetual, irrevocable, worldwide basis (and where such licence may be sub-licensed or transferred by the relevant licensee);

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

Equalities Legislation means all Legislation which makes unlawful discrimination on grounds of sex, sexual orientation, gender reassignment, age, disability, colour, race, ethnic or national origin or religion, marital status, part-time or temporary status in employment or otherwise including the Race Relations Act 1976 (as amended), the Sex Discrimination Act 1975, the Equal Pay Act 1970, the Disability Discrimination Act 1995;

Estimate means an estimate which the Authority may require the Service Provider to provide pursuant to the Change Protocol;

Estimated Change in Project Costs in relation to clause 7.2 (Change in Service), clause 34 (Change in Law) and the Change Protocol, the aggregate of any estimated increase in construction costs, operating costs and financing costs less the aggregate of any reduction in construction costs, operating costs and financing costs;

Excess Amount has the meaning given to it in clause 26.3.6(c)i (Funding);

Excusing Cause has the meaning given to it in clause 43.12.2;

Exclusive Assets means the items identified in the Rolling Inventory from time to time as exclusive assets;

Exit Plan means the exit management plan referred to in Schedule 17 (Exit Arrangements);

Expert means a person appointed as an expert in accordance with Section 5 of Schedule 16 (Dispute Resolution Procedure);

Expiry Date means the tenth (10th) anniversary of the Service Transfer Date unless extended in accordance with clause 2.4.2;

EU means the European Commission;

Final Warning Notice has the meaning given to it in clause 49.4 (Final Warning Notice);

Financial Model means the financial model as at the date of this Agreement in the Agreed Form (which has been delivered by the Service Provider to the Authority as a working CD

Rom) as set out in Appendix J of Schedule 4 (Payment Mechanism) updated from time to time in accordance with this Agreement for the purpose of, amongst other things, calculating the Periodic Service Payment;

Financial Proforma means the Financial Proforma as at the date of this Agreement in the Agreed Form (which has been delivered by the Service Provider to the Authority) as set out in Appendix I of Schedule 4 (Payment Mechanism) as updated from time to time in accordance with this Agreement for the purpose of, amongst other things, calculating the Periodic Service Payment;

First Contractor means the person with whom the Authority initially contracted for the provision of services which are similar to the Services;

Fixed Services has the meaning given to it in Schedule 4 (Payment Mechanism);

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

Force Majeure Event means the occurrence after the date of Agreement of:

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

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

Force Majeure Termination Payment means the payment set out in Part 3 of Schedule 25 (Compensation on Termination)

Fraud means any offence under Legislation creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Agreement or defrauding or attempting to defraud or conspiring to defraud the Authority;

Full Business Case has the meaning given to it in paragraph 4.1 of the Special Projects Approval Procedure (Schedule 15);

Fund means the London Borough of Barnet Local Government Pension Scheme Fund within the Local Government Pension Scheme;

Funding Protocol means the protocol set out in Schedule 38 (Funding Protocol) of this Agreement;

Funding Protocol Training means the procedures the Service Provider undertakes to properly manage and implement the process of funding applications and adherence to

funding conditions for funding received by the Authority in respect of the Services pursuant to the Funding Protocol;

Further Occupation Periods means any period on or after 1 September 2015 during which the Service Provider occupies the Authority's Premises;

Future Service Provider means each and every service provider who shall provide any service equivalent to any of the Services immediately after expiry or earlier termination of this Agreement;

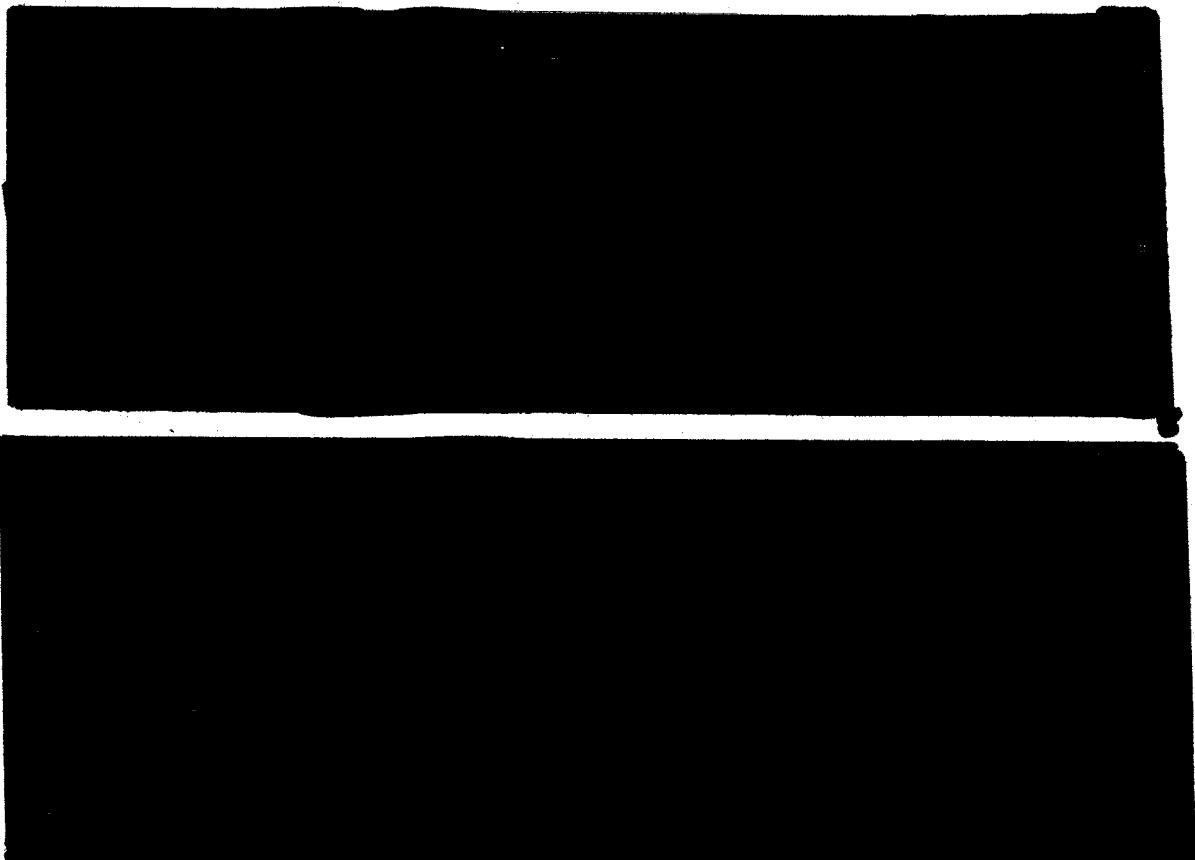
General Change in Law a Change in Law which is not a Qualifying Change in Law (provided always that any Legislation or Guidance coming into effect after the date of this Agreement relating to and/or giving effect to any those documents or policies listed in the Services Legislation List shall be deemed to be a General Change in Law);

GLA (HCA) means the Greater London Authority City Hall The Queen's Walk More London SE1 2AA;

Good Industry Practice means that degree of skill, care, prudence, foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced operator (engaged in the same type of undertaking as that of the Service Provider) or any Sub-Contractor under the same or similar circumstances;

Guarantee Criteria has the meaning set out in clause 41.5;

Guarantee means a guarantee in the form set out in Schedule 6 (Bond and Guarantee);





Guaranteed Income Payment Period means a period initially comprised of the shorter of:

- (a) the first six (6) Service Charge Payment Periods; or
- (b) the period from the Service Transfer Date to the end of the Authority's financial year in which the Service Transfer Date falls,

and thereafter each subsequent period of three Service Charge Payment Periods save that the last Guaranteed Income Payment Period shall end on the last day of the Service Period;



Guarantor means Capita plc (company registered number 02081330) whose registered office is at 71 Victoria Street, London, SW1H 0XA and any permitted successor in title pursuant to the Agreement or the Guarantee;

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

Hendon Cemetery and Crematorium Construction Contract has the meaning given to it in Schedule 4 (Payment Mechanism);

Hold Co means Capita Symonds Limited;

Income has the meaning given to it in Schedule 4 (Payment Mechanism);

Income Payment has the meaning given to it in Schedule 4 (Payment Mechanism);

Indemnified Party has the meaning given under clause 46.7 (Notification of Claims);

Indemnifying Party has the meaning given to it in clause 46.7 (Notification of Claims);

Index means Average Weekly Earning Index published by the Office for National Statistics on 1 January immediately preceding the Indexation Date;

Indirect Losses means loss of profits, loss of use, loss of production, loss of business, loss of business opportunity, or any claim for consequential loss or for indirect loss of any nature;

Inflation Exempt Costs has the meaning given to it in Schedule 4 (Payment Mechanism);

Information has the meaning given to it under section 84 of the Freedom of Information Act 2000;

Information Barrier means arrangements to ensure the Services and Project are confidential and entirely separate from the Service Provider's, Affiliates of HoldCo's and Sub-Contractors' other business including:

- that all members of the Restricted Group confirm at the start of the engagement that they understand that they possess or might come to possess information which is confidential, and that they must not discuss it with any other colleague unless that person is, or becomes, a member of the Restricted Group, and that is an on-going obligation;
- that each member of the Restricted Group confirms when the information barrier is established, that they have not done anything which would amount to a breach of the information barrier;
- each member of the Restricted Group signs a confidentiality undertaking in relation to the Services and supplies any declarations of interest regarding the Services to the Authority;
- that only members of the Restricted Group have access to documents in relation to the Services;
- information in relation to the Services on computer systems is protected by use of a separate computer network or through use of password protection or similar means;
- that the Service Provider, Affiliate and Sub-Contractors issue a statement that it will treat any breach, even an inadvertent one, of the information barrier as a serious disciplinary offence including that staff can be dismissed if they breach the information barrier;
- that each member of the Restricted Group gives a written statement at the start of the engagement that they understand the terms of the information barrier and will comply with them;
- that the Service Provider, Affiliate and Sub-Contractors undertake that they will do nothing which would or might prevent or hinder any member of the Restricted Group from complying with the information barrier;
- that the Service Provider identifies a specific manager or other appropriate person within the Restricted Group with overall responsibility for the information barrier;
- that the Service Provider provides formal and regular training for members of their staff on duties of confidentiality and responsibility under information barriers or will ensure that such training is provided before the work is undertaken; and
- that the Service Provider, Affiliate and Sub-Contractor implement a system for the opening of post, receipt of faxes and distribution of e-mails, which will ensure that confidential information is not disclosed to anyone outside the Restricted Group.

Initial Occupation Period means the period during which the Service Provider occupies the Authority's Premises beginning on the Commencement Date (as defined in the NLBP Licence) and expiring on 31 August 2015;

Initial Transferring Assets means those assets of the Authority identified in the inventory in Part 1 of Schedule 10 (Authority Assets) which are transferred to the Service Provider in accordance with clause 29.2 (Initial Transferring Assets) for the purpose of being used by the Service Provider in the provision of the Services;

Insolvency Event means the occurrence of any of the following events (or any event analogous to any of the following in a jurisdiction other than England and Wales) in relation to the Service Provider, Guarantor or Key Sub-Contractor):

- (c) the entity is dissolved (other than pursuant to a consolidation, amalgamation or merger);
- (d) the entity becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due;
- (e) the entity makes a general assignment, arrangement or composition with or for the benefit of its creditors;
- (f) the entity institutes or has instituted against it, by a regulator, supervisor or any similar official with primary insolvency, rehabilitative or regulatory jurisdiction over it in the jurisdiction of its incorporation or organisation or the jurisdiction of its head or home office, a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation by it or such regulator, supervisor or similar official;
- (g) the entity has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition is instituted or presented by a person or entity not described in paragraph (d) above and:
 - i results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation; or
 - ii is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof;
- (h) the entity has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger);

- (i) the entity seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets;
- (j) a secured party take possession of all or substantially all of the entity's assets or the entity has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter;
- (k) the entity takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts,

however, a resolution by the relevant entity or a court order that such entity be wound up for the purpose of a bona fide/solvent reconstruction or amalgamation shall not amount to an Insolvency Event;

Intellectual Property Rights or IPR any and all patents, trade marks, service marks, copyright, database rights, moral rights, rights in a design, know-how, confidential information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attached thereto;

Intervening Contract means a contract with the Authority for the provision of services which are similar to the Services, at times after they were provided under a contract with the First Contractor and before they are to be provided by the Service Provider;

Invoice One has the meaning given to it in Schedule 4 (Payment Mechanism);

Invoice Two has the meaning given to it in Schedule 4 (Payment Mechanism);

IPR Claim means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR used to provide the Services or as otherwise provided by the Service Provider (or to which the Service Provider has provided access) to the Authority in the fulfilment of its obligations;

IPR Liability means any loss, damage, cost, charges, expenses, claims, actions or demands which may arise out of, or in consequence of, any infringement or alleged infringement by the Authority or the Service Provider of any Intellectual Property Rights used to provide the Services;

Joint Venture Agreement means the shareholders' agreement for Capita (BDRS) Limited entered into by Capita Symonds Limited and NewCo on 5 August 2013 (company number: 8615172);

Joint Venture Company Managing Director "JV Co MD" means the person appointed by the Service Provider in accordance with clause 13.2 and specifically referred to in Schedule 3 (The Service Delivery Plan) but whom shall also be known as the Partnership Manager and/or Partnership Director;

Key Documents means the following documents:

- (a) Key Sub-Contracts;
- (b) Sub-Contracts;
- (c) any document where the variation or termination of such document would have the effect of invalidating or reducing the ability of any party to comply with its obligations to the Authority in the PCG or Bond.
- (d) any document where the variation or termination of such document would, or might reasonably be expected to, have a material adverse impact on the Service Provider's ability to comply with its obligations under this Agreement
- (e) any agreement with a third party who has, or has been granted, access to the Authority's systems or personal data supplied by or derived from the Authority's data
- (f) significant financing/funding documents;

Key Performance Indicator or KPI has the meaning given to it in Schedule 4 (Payment Mechanism);

Key Personnel means those members of the Service Provider's Personnel described in Schedule 19 (Key Personnel) as such is modified by agreement by the parties;

Key Sub-Contract means the agreements entered into by the Service Provider and the Key Sub-Contractors for the performance of its obligations under this Agreement;

Key Sub-Contractor means a counter party of the Service Provider to a Key Sub-Contract who is appointed by the Service Provider to provide or supply a significant or important part of the Services (a significant or important part of the Services shall be deemed to be for a term greater than three (3) years or for a value greater than two hundred thousand pounds (£200,000);

Key Sub-Contractor Insolvency Remedy Notice has the meaning given in clause 49.5;

Local Authority Services means the Services to be provided to other local authorities by the Service Provider the same as, or similar to, the Services being provided under this Agreement;

Legislation means any Act of Parliament or subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, any exercise of the Royal Prerogative, and any enforceable community right within the meaning of Section 2 of the European Communities Act 1972, in each case in the United Kingdom;

LGPS Employer Contribution Rate Adjustment has the meaning given to it in Schedule 4 (Payment Mechanism);

LGPS Regulations means The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 and The Local Government Pension Scheme (Administration) Regulations 2008;

Local Government Pension Scheme means the Local Government Pension Scheme made by the Secretary of State in exercise of powers under sections 7 and 12 of the Superannuation Act 1972, as amended;

Malicious Software means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious Software is introduced wilfully, negligently or without knowledge of its existence;

Managed Expenditure means amounts the Authority commits for expenditure in relation to Third Party Contracts under clause 5.5;

Market Testing means the process by which the Service Provider re-tenders the Market Testing Services to that the Authority can test whether the Market Testing Services represent value for money;

Market Testing Date means the date agreed by the parties pursuant to clause 38.13 upon which the Market Testing shall take place;

Market Testing Services means those elements of the Service which the Authority notifies the Service Provider pursuant to clause 38.11 (Benchmarking and Market Testing) shall be Market Tested;

Mediation means the procedure for resolving disputes through mediation in accordance with Section 4 of Schedule 16 (Dispute Resolution Procedure);

Mediator means the person appointed to mediate a dispute in accordance with Section 4 of Schedule 16 (Dispute Resolution Procedure);

Member has the meaning given to it in clause 12.2.1(a);

Monitoring Procedure means the systems and procedures for monitoring the performance of the Service Provider's obligations in respect of this Agreement as set out in Schedule 13 (Monitoring Procedure);

Monthly Performance Report shall have the meaning given to it in Schedule 13 (Monitoring Procedure);

Net Book Value means the value of an asset being its purchase price less an amount equal to the depreciation of the asset in a straight line at the time such value is to be calculated and as noted in the Rolling Inventory as updated from time to time;

NewCo means the wholly owned company of the Authority (Barnet (Holdings) Limited, company number: 8632530) which was incorporated for the purpose of the Authority being a shareholder in Capita (BDRS) Limited;

New Employee means those new employees employed by the Service Provider and/or any sub-contractor to provide the Services (including any Relevant Employee) who will be working alongside the Transferring Employees;

NJC Pay Award has the meaning given to it in Schedule 4 (Payment Mechanism);

NLPB Break Date means 17 October 2015, being the date that the Authority may exercise its break clause in respect of its lease of the first and second floors of Building 4 at North London Business Park;

NLBP Licence means a licence to occupy the Authority's Premises in the form annexed at Part 2 of Schedule 9 (Access to Authority's Premises);

Non Employment Indexation Adjustment has the meaning given to it in Schedule 4 (Payment Mechanism);

Non Employment Price Index or "RPIX" has the meaning given to it in Schedule 4 (Payment Mechanism);

Non-Outsourced Activities means the activities specified in the legal comments sections of the Output Specifications (Part A of Schedule 2) and any other activities required to deliver the Services which it is unlawful for the Service Provider to carry out;

NSCSO Contract means the contract entered into by the Authority and the NSCSO Contractor on or about the date of this Agreement relating to new support and customer services (as amended and updated from time to time);

NSCSO Contractor means Capita Business Services Limited (company number 02299747) and its successors under the NSCSO Contract;

NSCSO Cost Obligation Adjustment has the meaning given to it in Schedule 4 (Payment Mechanism);

Operational KPI has the meaning given to it in Schedule 4 (Payment Mechanism);

Other Key Personnel means those posts set out in Schedule 19 (Key Personnel);

Other Set Off Amount has the meaning given to it in Schedule 4 (Payment Mechanism);

Output Specifications means the output specifications set out in Part A of Schedule 2 (Output Specifications, KPIs and PIs) and any modifications or additions thereto as may from time to time be made in accordance with the provisions of this Agreement;

Paid for User Services has the meaning given to it in Schedule 4 (Payment Mechanism);

Partnership Manager means the person appointed by the Service Provider in accordance with clause 13.2 whom shall also be known as the Partnership Director and / or Joint Venture Company Managing Director (JV Co MD);

Partnership Operations Board means the partnership operations board established and maintained by the parties throughout the Contract Period in accordance with Schedule 12 (Partnering Governance);

Party means a party to this Contract and Parties shall be construed accordingly;

Payment Mechanism means the payment mechanism set out in Schedule 4 (Payment Mechanism);

Payment Three has the meaning given to it in paragraph 14.3 (Payment Three) of Schedule 4 (Payment Mechanism);

Pension Cost Modelling means the pricing assumptions set out by the Service Provider and provided to the Authority at or prior to the Agreement Date and updated at the occasion of a Relevant Transfer to document the pensions costs assumed in respect of Eligible and New Employees (as appropriate) for the term of the Agreement;

Pension Cost Modelling Adjustment has the meaning given to it in Schedule 4 (Payment Mechanism);

Pension Fund means the London Borough of Barnet fund of the Local Government Pension Scheme;

Pension Notice means a notice from the Service Provider which:

- (a) notifies the Authority of the Excess Amount or the Scheme Deficit Amount; and
- (b) notifies the Authority of the amount claimed by the Service Provider pursuant to clause 26.3.6(c);

Pensionable Pay has the same meaning as "Pensionable Pay" as defined in Regulation 4 of the Benefits Regulations;

Perceived Bias means in the reasonable opinion of the Authority the circumstances are likely to have occurred or have occurred which impair the ability of the Service Provider to fulfil the obligations of the Agreement due to a reasonably held perception of bias;

Perceived Conflict of Interest means the occurrence of a circumstance which may lead to a Perceived Bias and in the reasonable opinion of the Authority may give rise to a Conflict of Interest;

Performance Indicator, or "PI" has the meaning given to it in Schedule 4 (Payment Mechanism);

Performance Report has the meaning given to it in Schedule 4 (Payment Mechanism);

Performance Review means the performance review prepared by the Service Provider and submitted to the Authority in accordance with paragraph 3 (Annual Performance Review) of Schedule 13 (Monitoring Procedure);

Performance Standard Benchmarking Exercise means the benchmarking exercise to be undertaken in accordance with clause 37.4 (Performance Standard Benchmarking);

Performance Standards means the standards set out in Part A of Schedule 2 (Output Specifications, KPIs and PIs);

Performance Target has the meaning given to it in Schedule 4 (Payment Mechanism);

Periodic Proportion has the meaning given to it in Schedule 4 (Payment Mechanism);

Periodic Service Deduction has the meaning given to it in Schedule 4 (Payment Mechanism);

Periodic Service Payment has the meaning given to it in Schedule 4 (Payment Mechanism);

Persistent Breach Final Warning Notice has the meaning given in clause 49.2.2;

Persistent Breach means a breach for which a Persistent Breach Final Warning Notice (referred to in clause 49.2.2) has been issued which has continued or recurred for more than 10 days or recurred three (3) or more times within the three (3) month period after the date on which the Persistent Breach Final Warning Notice is served on the Service Provider;

Personal Data shall mean any information as defined in the DPA which is supplied to the Service Provider by the Authority or is obtained by the Service Provider in the course of performing the Services; or any information relating to an identified or identifiable natural person ('data subject'); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic cultural or social identity;

PI Insurance means the professional indemnity insurance that the Service Provider undertakes to procure in accordance with clause 47.2;

Policy KPIs has the meaning given to it in Schedule 4 (Payment Mechanism);

Potential Conflict of Interest means any conflict that has been identified and has the potential to take place due to a Conflict of Interest but which has not yet crystallised;

Prescribed Rate means two percent (2%) above the base rate from time to time of the Bank of England;

Processing of personal data shall mean any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;

Prohibited Act means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
 - i induce that person to perform improperly a relevant function or activity; or
 - ii reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;

- (c) offering, giving or agreeing to give to any servant of the Authority or any other public body or person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind as an inducement or reward:
 - iii for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other contract with the Authority; or
 - iv for showing or not showing favour or disfavour to any person in relation to this Agreement or any other contract with the Authority;
- (d) entering into this Agreement or any other contract with the Authority in connection with which commission has been paid or has been agreed to be paid by the Service Provider or on its behalf, or to its knowledge, unless before the relevant contract is entered into particulars of any such commission and of the terms and conditions of any such contract for the payment thereof have been disclosed in writing to the Authority; or
- (e) committing any offence:
 - i under the Bribery Act;
 - ii under Legislation creating offences in respect of fraudulent acts; or
 - iii at common law in respect of fraudulent acts in relation to this Agreement or any other contract with the Authority;
- (f) defrauding or attempting to defraud or conspiring to defraud the Authority;

Project means the provision of development and regulatory services to the Authority by the Service Provider as contemplated by this Agreement including the provision of the Services;

Project Specific IPRs means:

- (a) IPRs in items created by the Service Provider (or by a third party on behalf of the Service Provider) specifically for the purposes of this Agreement (including any Special Projects) and updates and amendments of these items; and/or
- (b) IPRs arising as a result of the performance of the Service Provider's obligations under this Agreement; and/or
- (c) IPRs in items (including but not limited to preparatory or explanatory documentation) created by or any behalf of the Service provider and/or the Authority before the date of this Agreement in contemplation of the entry by the parties into, and the performance by the parties of, this Agreement or otherwise relating to the implementation and operation of this Agreement,

but which shall not include the Background IPRs or the Specially Written Software;

Protected Characteristics means any one or more of the following:

- (a) age;
- (b) disability;
- (c) gender reassignment;
- (d) pregnancy and maternity;
- (e) race;
- (f) religion or belief;
- (g) sex;
- (h) sexual orientation,

Public Sector Equality Duty means the duty set out in Section 149 of the Equality Act 2010 (as supplemented by guidance and updated from time to time);

Qualifying Change in Law means:

- (a) any Change in Law which specifically refers to the provision of a service the same as or similar to the Services; or
- (b) a Change in Law the terms of which apply expressly to the Project and to similar projects and/or the Service Provider and not to other persons; or
- (c) a Best Value Change in Law,

which was not foreseeable at the date of this Agreement (provided always that any Legislation or Guidance coming into effect after the date of this Agreement relating to and/or giving effect to any of the Legislation, those documents or policies listed in the Services Legislation List shall be deemed to be foreseeable at the date of this Agreement);

Quarterly Date or "Quarter" means 1 April, 1 July, 1 October and 1 January each year (or the next Business Day if such date is not a Business Day) or such other dates as the parties shall agree in writing;

Rectification Plan has the meaning given to it in Schedule 4 (Payment Mechanism);

[REDACTED]

Related Contract means a contract between the Authority and a Related Contractor following a Related Procurement;

Related Contractor means any contractor selected by a Related Procurement and with whom the Authority enters into a Related Contract including the Contractor selected by the New Support and Customer Services organisation procurement;

Related Procurement means any procurement of services undertaken by the Authority during the Contract Period which may reasonably relate to or interface with the Services under this Agreement, including but not limited to the New Support and Customer Services Organisation Procurement;

Relevant Authority means any court with the relevant jurisdiction and any local, national or supra-national agency, inspectorate, minister, ministry, officer or public or statutory person of the Government of the United Kingdom or of the European Union;

Relevant Employees means all those employees subject to a Relevant Transfer on a Relevant Transfer Date;

Relevant Event means a Change, Qualifying Change in Law or other event as a result of which there may be an adjustment to the Periodic Service Payment, in accordance with clause 33 (Financial Adjustments);

Relevant KPIs means the KPI that measures the following specific service areas as set out in Part B of Schedule 2 (Output Specifications, KPIs and Pls): Land Charge KPI01, Hendon Cemetery and Crematory HCC01 and Building Control KPI01;

Relevant Transfer means a relevant transfer for the purposes of TUPE;

Relevant Transfer Date means a date on which the provision of the Services changes (save for the Service Transfer Date);

Relief Event means:

- (a) fire, explosion, lightning, storm, tempest, flood, bursting or overflowing of water tanks, apparatus or pipes, ionising radiation (to the extent it does not constitute a Force Majeure Event), earthquakes, riot and civil commotion;
- (b) failure by any statutory undertaker, utility company, central government or local authority (excluding the Authority) or other like body to carry out work or provide services;
- (c) any failure or shortage of power, fuel or transport;
- (d) any blockade or embargo which does not constitute a Force Majeure Event;
- (e) any:
 - i official or unofficial strike;
 - ii lockout;
 - iii go-slow; or

iv other dispute,

generally affecting the provision of the same or similar services as the Services; and

- (f) the introduction of any virus which is not capable of being detected by the latest update of virus detection software which is available and should be used as a matter of Good Industry Practice,

affecting the Service Provider, its sub-contractors or the Authority unless any of the events listed in paragraphs (a) to (f) inclusive arises (directly or indirectly) as a result of any wilful default or wilful act of the Relevant Party claiming relief under clause 43 (Relief Events), or its employees, sub-contractors or agents;

Remedy Notice has the meaning given to it in clause 49.4 (Remedy Notice);

Report One has the meaning given to it in clause 32.1.2(a);

Report Two has the meaning given to it in clause 32.2.3(a);

Report Three has the meaning given to it in clause 32.2A.2;

Required Insurances means the insurances specified in Schedule 31 (Insurance);

Request for Information has the meaning set out in the FOIA or any apparent request for information made under the FOIA or the Environment Information Regulations;

Required Action has the meaning given to it in clause 42.3.1;

Required Insurances means the insurances specified in clause 47.1.1 (Insurance);

Restricted Share Transfer means any transfer of shares in the Service Provider or its holding company to any person engaged, or with substantial interests in:

- (a) gambling, gaming, the production, distribution or sale of alcoholic drinks or products containing or derived from tobacco, or the manufacture or sale of arms and weapons;
- (b) any person whose activities are, in the reasonable opinion of the Authority, incompatible with the provision of Services to the Authority; or
- (c) any person whose activities, in the reasonable opinion of the Authority, pose or could pose a threat to national security;

Reward Payment has the meaning given to it in Schedule 4 (Payment Mechanism);;

Rolling Inventory means the contents of Schedule 10 (Authority's Assets) as may be updated from time to time in accordance with clause 29.3 (Authority Assets) and as a minimum every twelve (12) months to create a rolling and up to date inventory of all Assets used by the Service Provider in the operation of the Project and Services;

Schedule means a schedule to this Agreement;

Secondment Activities means the activities specified in Part 3 of Schedule 8 (Specific Obligations);

Senior Executive means a director or other senior executive of either the Authority or the Service Provider;

Service Charge Payment Period means each month during the Service Period provided that:

- (a) the first contract month shall commence on the first Service Transfer Date and end on the last day of the month in which the first Service Transfer Date occurs; and
- (b) the last contract month shall begin on the first day of the month in which the last day of the Service Period occurs and end on the last day of the Service Period;

Service Deduction has the meaning given to it in Schedule 4 (Payment Mechanism);

Service Delivery Plan(s) means the method of performing each of the Services to the standards laid down in the Output Specifications and any modifications or additions thereto as may be agreed in accordance with the Change Protocol and clause 34 (Change in Law) from time to time;

Service Delivery Operations Board means the service delivery operation board established and maintained by the parties throughout the Contract Period in accordance with Schedule 12 (Partnering Governance);

Service Failure has the meaning given to it in Schedule 4 (Payment Mechanism);

Services Legislation List means the list set out in Schedule 23;

Service Level Agreement means the agreement entered into between Capita Symonds Limited and the Service Provider in accordance with the terms of the Joint Venture Agreement;

Service Performance Levels includes the service levels and the service requirements as set out in Part A of Schedule 2 (Output Specifications, KPIs and PIs);

Service Period means the period specified in clause 2.2;

Service Provider means Capita (BDRS) Limited, (company registered number 8615172) whose registered office is at 17 Rochester Row, London, SW1P 1QT and any permitted successor in title pursuant to the Agreement;

Service Provider's Actuary means an actuary appointed by the Service Provider and/or relevant sub-contractor for the purposes of Schedule 32 (Bulk Transfer Terms);

Service Provider Commitments means those commitments set out in Schedule 36 (Service Provider Commitments);

Service Provider Change means a change in the Services which is initiated by the Service Provider by submitting a Service Provider Change Notice to the Authority and/or deemed to be a Service Provider Change by express provision of this Agreement;

Service Provider Costs has the meaning given to it in Schedule 4 (Payment Mechanism);

Service Provider Default means one of the following events:

- (a) a breach by the Service Provider of any of its obligations under this Agreement which materially and adversely affects the performance of all or any part of the Services;
- (b) a Persistent Breach occurs;
- (c) an Insolvency Event occurs;
- (d) a breach by the Service Provider of its obligations under clause 45 (Assignment and Sub-Contracting) occurs;
- (e) a breach of clause 48 (Change of Control) occurs;
- (f) the Service Provider Abandons the Agreement at any time;
- (g) a failure to achieve the Service Transfer Date by three (3) months after the Service Transfer Date;
- (h) in any six (6) month period the number of Under Performance Points accrued in relation to all or any part of the Services exceed fifty (50) per cent of the Under Performance Points available under the Payment Mechanism during such period in relation to such Services. Where Under Performance Points accrue in respect of a Relevant KPI then for the purposes of this limb (h) they shall be excluded unless the number of Under Performance Points attributable to such Relevant KPI exceed fifty (50) per cent of the points available to it in any twelve (12) month period;
- (i) in any twelve (12) month period the number of Under Performance Points accrued in relation to all or any part of the Services is more than thirty (30) per cent of the Under Performance Points available under the Payment Mechanism during such period in relation to such Services. Where Under Performance Points accrue in respect of a Relevant KPI then for the purposes of this limb (i) they shall be excluded unless the number of Under Performance Points attributable to such Relevant KPI exceed thirty (30) per cent of the points available to it in any twenty-four (24) month period;
- (j) achieving 20% or less of the performance target for any single priority 3 or 4 KPI for three (3) consecutive measurement periods or achieving 20% or less of the performance target for any single priority 3 or 4 KPI on four (4) or more measurement periods in any six (6) month period;

- (k) a breach by the Service Provider of its obligations to take out and maintain any of the Required Insurances;
- (l) there is a Conflict of Interest or a breach of the Conflict of Interest Arrangements; or
- (m) a breach by the Service Provider of its obligations to take out and maintain any of the Required Insurances; or
- (n) if the Authority believes a Level One Financial Distress has occurred in relation to the Service Provider or a Service Provider Related Party or if the Guarantor does not meet the Guarantee Criteria; or
- (o) a material failure of the Service Provider to comply with the Authority's requirement to submit a major funding application which materially prejudices the Authority's funding application or leads to a loss of funding or loss of grant which may have been avoided had the Service Provider carried out its obligations in accordance with this Agreement.
- (p) where the Service Provider has reached the Contract Year or Contract Period caps set out in clauses 46.10.1(a) and 46.10.1(b) respectively.

Service Provider Management Fee has the meaning given to it in Schedule 4 (Payment Mechanism);

Service Provider Notice of Change means a notice serviced by the Service Provider under paragraph 3.1 of the Change Protocol requesting a change and setting out the information required by paragraph 3.2 of the Change Protocol;

Service Provider Policies means the policies of the Service Provider which are of at least an equivalent standard to the corresponding Authority Policies in Schedule 33 (Authority Policies) and which comply with the provisions of clause 5.2.4;

Service Provider Profit has the meaning given to it in Schedule 4 (Payment Mechanism);

Service Provider Related Parties means any of the following:

- (a) an officer, servant, employee or agent of the Service Provider, or any Affiliate of the Service Provider and any officer, servant, employee or agent of such a person acting in that capacity;
- (b) any contractor or sub-contractor of the Service Provider of any tier and any of their directors, officers, servants, employees or agents acting in that capacity;

this definition shall be deemed to include the NSCSO Contractor and its sub-contractors and their directors, officers, servants, employees or agents;

Service Provider Scheme means the retirement benefits scheme or schemes established or to be established by the Service Provider and/or relevant Sub-Contractor under clause 26.3.8 of this Agreement;

Service Provider Software means software which is proprietary to the Service Provider, including software which is or will be used by the Service Provider for the purposes of providing the Services;

Service Provider Warranted Data means the information relating to the Service Provider and its Affiliates contained in Schedule 7 (Warranted Data);

Service Provider's Premises means the premises owned by or leased or licensed to the Service Provider and used by the Service Provider in the provision of the Services excluding Authority's Premises;

[REDACTED]

[REDACTED]

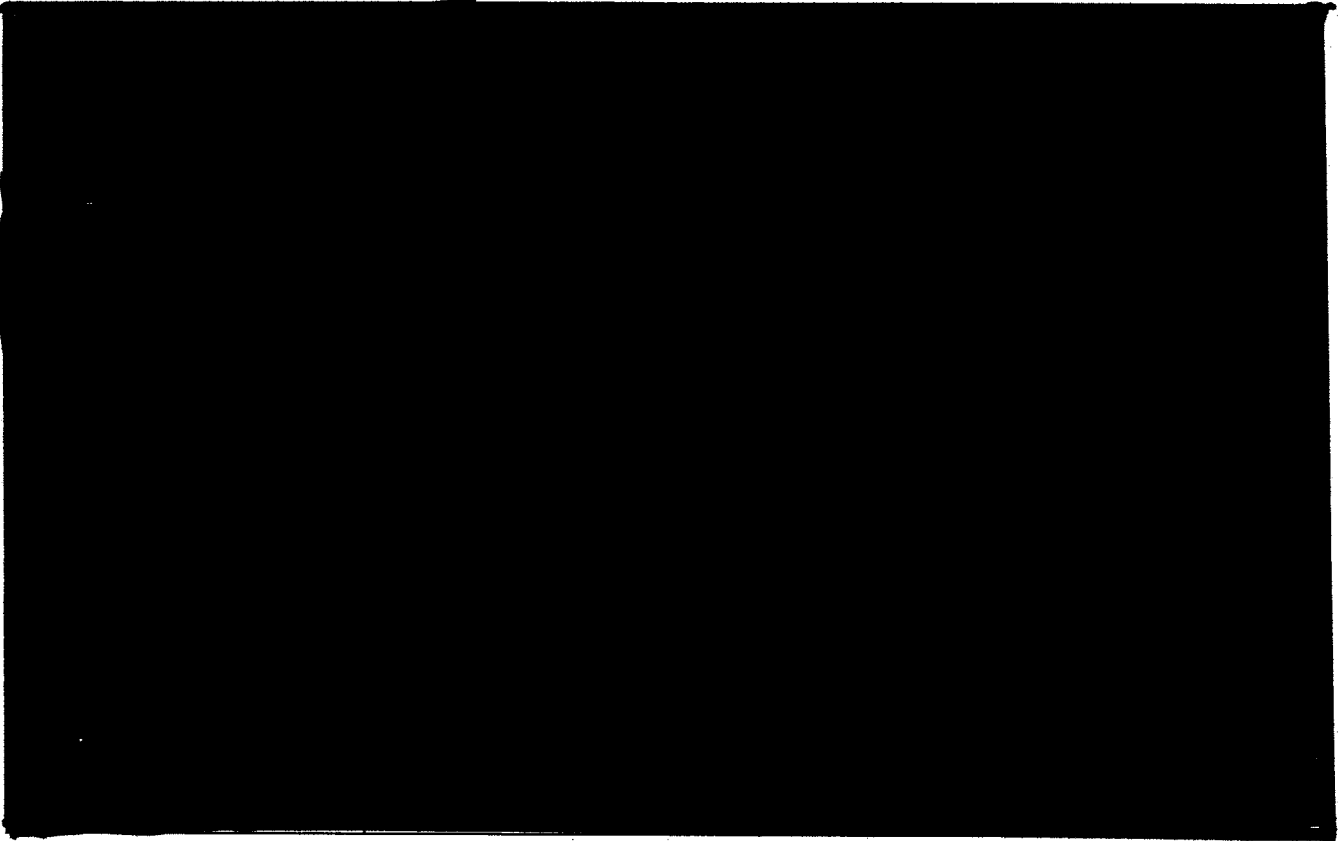
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[REDACTED]

[REDACTED]

[REDACTED]



Service Provider Turnover has the meaning given to it in Schedule 4 (Payment Mechanism);

Service Transfer Date means the transfer on 1 October 2013 or such other date agreed by the parties to the Service Provider of responsibility for provision of (or procuring the provision by sub-contractors of) the Services in accordance with the Agreement;

Service Users means a person or organisation who is a recipient of the Services (including without limitation residents and businesses located in the London Borough of Barnet and other statutory agencies) that are not the Authority.

Services means the whole of the services or any of them to be provided by the Service Provider pursuant to this Agreement including any Special Projects which have received Stage 2 Approval under the Special Projects Approval Procedure or such of them as may from time to time remain the subject of this Agreement, which are required to satisfy the Output Specifications set out in Part A of Schedule 2 (Output Specifications, KPIs and PIs);

Shared Assets means the items identified in the Rolling Inventory from time to time as shared use assets;

Shareholder means each person from time to time holding share capital in the Service Provider or its holding company;

Single Data List means the single data list for Central Government Departments (2011 - 12) published by the Department for Communities and Local Government on 14 April 2011, containing a comprehensive list of all data required of local government by central government, and any subsequent lists of central government's data requirements from

local government, as may be issued by the Department of Communities and Local Government or any other competent authority from time to time;

Software means Specially Written Software, Service Provider Software and Third Party Software as listed in Schedule 11 (Software);

Source Code means computer programs and/or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent binary code together with all technical information and documentation necessary for the use, reproduction, modification and enhancement of such software;

Specially Written Software means any software created by the Service Provider (or by a third party on behalf of the Service Provider) specifically for the purposes of this Agreement (including but not limited to for any Special Projects)), including the software specified as such in Schedule 11 (Software) but excluding any Background IPRs;

Special Projects means any projects connected with the Services in relation to which the Authority may seek a business case from the Service Provider in accordance with the Special Projects Approval Procedure under Schedule 15 (Special Projects Approval Procedure);

Special Projects Approval Procedure means the procedure set out in Schedule 15 (Special Projects Approval Procedure);

Special Projects Cost Estimate means a cost estimate which has been agreed in accordance with Schedule 15 (Special Projects Approval Procedure) and which forms part of a Stage 2 Approved Project;

Special Projects Implementation Plan means the plan for implementing the Special Projects including any associated implementation tests;

Staff means all persons employed by the Service Provider to perform its obligations under this Agreement together with the Service Provider's servants, agents, suppliers and Sub-Contractors used in the performance of its obligations under this Agreement;

Stage 1 Approval has the meaning given to it in paragraph 3.6 of the Special Projects Approval Procedure (Schedule 15);

Stage 1 Approved Special Projects has the meaning given to it in paragraph 3.6 of the Special Projects Approval Procedure (Schedule 15);

Stage 2 Approval has the meaning given to it in paragraph 4.6.2(a) of the Special Projects Approval Procedure (Schedule 15);

Stage 2 Approved Special Projects has the meaning given to it in paragraph 4.6.2(a) of the Special Projects Approval Procedure (Schedule 15);

Standard Licence Terms means the licence granted on a royalty-free (save as otherwise agreed between the parties in writing), perpetual, worldwide basis (which may only be sub-licensed with the relevant licensor's prior consent not to be unreasonably withheld, delayed or conditioned);

Strategic Business Case has the meaning given to it in paragraph 3.1 of the Special Projects Approval Procedure (Schedule 15);

Strategic Partnership Board means the strategic partnership board established and maintained by the parties throughout the Contract Period in accordance with Schedule 12 (Partnering Governance);

Sub-Contractor means each of the counterparties of the Service Provider to the Project Documents or any person engaged by the Service Provider from time to time as may be permitted by this Agreement to procure the provision of the Services (or any of them). References to sub-contractors mean sub-contractors (of any tier) of the Service Provider;

Sub-Contracts means the contracts entered into between the Service Provider and the Sub-Contractors;

Subsequent Contribution Rate means the percentage of Pensionable Pay of Eligible Employees who transfer to the Service Provider and/or any Sub-Contractor on the occasion of a Relevant Transfer as calculated in each Valuation subsequent to the Contribution Rate as notified by the Authority;

Super KPI has the meaning given to it in Schedule 4 (Payment Mechanism);

Target Cost has the meaning given to it in paragraph 3.1.1 of the Special Projects Approval Procedure (Schedule 15);

Technical and Organisational Security Measures shall mean measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alternation, unauthorised disclosure or access and against all other unlawful forms of processing.

Termination Date means any date of early termination of this Agreement in accordance with clause 43 (Relief Events), clause 44 (Force Majeure) or Part 9 (Termination and Exit Management);



Termination Notice means a notice of termination issued in accordance with this Agreement;

Third Party Contract(s) means any contracts or arrangements listed in Schedule 22 (Third Party Contracts) and any other contracts which the parties agree in writing through the Change Protocol shall be treated as Third Party Contracts;

Third Party Contractor(s) means the third party contractors who are parties to the Third Party Contracts;

Third Party Services means any services provided by the Service Provider other than the Services, and shall include Local Authority Services;

Third Party Software means software which is proprietary to any third party other than an Affiliate of the Service Provider, including the software specified as such in Schedule 11 (Software);

Tolerance Parameters has the meaning given to it in Schedule 4 (Payment Mechanism);

Transfer Amount means the amount or amounts referred to in paragraph 3.1 of Schedule 32 (Bulk Transfer Terms);

Transferring Employees means the employees of the Authority who will transfer from the employment of Authority to the employment of the Service Provider as a result of the application of TUPE in relation to the Agreement;

Transferring Member means an Eligible Employee who agrees to a transfer of benefits being made for him or her from the Fund to the Service Provider's Scheme under paragraph 2 of Schedule 32 (Bulk Transfer Terms);

Transition Period means a period of approximately three (3) months commencing on the Agreement Date in accordance with the Transition Plan;

Transition Plan means the transition plan at Schedule 34 (Transition Plan);

Transition Services means the transition services described in the Transition Plan to be performed by the Service Provider during the Transition Period;

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended from time to time;

Under Performance Credit Point has the meaning given to it in Schedule 4 (Payment Mechanism);

Under Performance Point has the meaning given to it in Schedule 4 (Payment Mechanism);

Under Performance Points Threshold has the meaning given to it in Schedule 4 (Payment Mechanism);

Use means:

- (a) with respect to the Standard Licence Terms, the right to load, execute, store, transmit, display and copy (for the purposes of loading, execution, storage, transmission or display) that Software;
- (b) with respect to the Enhanced Licence Terms for Software, the right to load, execute, store, transmit, display, copy (for the purposes of loading, execution, storage, transmission or display), modify, adapt, enhance, reverse compile, decode, translate, or otherwise utilise that Software; and

- (c) with respect to the Enhanced Licence Terms for Project Specific IPR other than Software, the right to copy, adapt, publish (including on the ICT Environment), distribute or otherwise use any other Project Specific IPR;

Valuation means each statutory valuation of the Pension Fund by the actuary to the Pension Fund and as appropriate shall include a valuation obtained in accordance with Regulation 38(2) of the Administration Regulations;

VAT means any value added taxes;

Workaround Solution means a solution employed by the Service Provider to overcome any matter preventing the Services from being provided in accordance with the terms of the Agreement, such solution:

being provided in accordance with Good Industry Practice;

- (a) not resulting in the parties being in breach of their obligations pursuant to this Agreement;
- (b) to be appropriate in all relevant aspect in order to overcome the matter preventing Service provision; and
- (c) not resulting in a diminution in the Service;

Year 4 Detailed Proposal has the meaning given to it in clause 37.4.7 (Year 4 Review);

Year 4 Implementation Plan has the meaning given to it in clause 37.4.9 (Year 4 Review);

Year 4 Options Proposal has the meaning given to it in clause 37.4.5 (Year 4 Review);

Year 4 Outcome Review has the meaning given to it in clause 37.4.1 (Year 4 Review);

Year 7 Detailed Proposal has the meaning given to it in clause 37.4.17 (Year 7 Review);

Year 7 Implementation Plan has the meaning given to it in clause 37.4.19 (Year 7 Review);

Year 7 Options Proposal has the meaning given to it in clause 37.4.15 (Year 7 Review);

Year 7 Review has the meaning given to it in clause 37.4.11 (Year 7 Review);

1999 Act means the Local Government Act 1999; and

7 Year Change means a change required by the Authority to the Services or sums payable to the Service Provider as a result of the 7 Year Reviews.