

SCHEDULE 1

DEFINITIONS AND INTERPRETATION

1. **Definitions.** In the Project Agreement, unless the context otherwise requires, the following terms have the following meanings:
 - 1.1 “**Accessibility for Ontarians with Disabilities Act (Ontario)**” means the *Accessibility for Ontarians with Disabilities Act*, S.O. 2005, c. 11, as amended from time to time.
 - 1.2 “**Account Trustee**” has the meaning given in Schedule 28 – Insurance Trust Agreement.
 - 1.3 “**Activity**” or “**Activity Id**” shall mean an element of Work performed during the course of the Project. An Activity has an expected duration and cost requirements, and shall be the lowest level of any Works Schedule.
 - 1.4 “**Actual Relevant Insurance Cost**” has the meaning given in Section 7.1(a) of Schedule 24 - Insurance and Performance Security Requirements.
 - 1.5 “**Additional Contractor**” means any independent contractor (not being, for the avoidance of doubt, any of the Third Party Contractors or Project Co or any Project Co Party) or the City’s own forces, engaged by the City to carry out the Additional Works.
 - 1.6 “**Additional Property Interest**” has the meaning given in Schedule 33 – Lands.
 - 1.7 “**Additional Works**” means those works or services, in relation to any of the System Infrastructure which are not Works or Maintenance and Rehabilitation Services and which are to be carried out by an Additional Contractor, including works or services to be performed either before or after Substantial Completion.
 - 1.8 “**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 or which otherwise affects or may potentially affect any part of the Works, the Maintenance and Rehabilitation Services, the Lands or the System Infrastructure.
 - 1.9 “**Adjudicator**” has the meaning given in Schedule 26 - Dispute Resolution Procedure.
 - 1.10 “**Adjusted Estimated Fair Value**” has the meaning given in Schedule 22 – Compensation on Termination.
 - 1.11 “**Adjusted Highest Qualifying Tender Price**” has the meaning given in Schedule 22 – Compensation on Termination.
 - 1.12 “**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 unitholders, shareholders, partners or owners as the case may be.
 - 1.13 “**Aggregate Actual Lane Closures**” or “**AALC**” has the meaning given in Schedule 7 – Mobility Matters.

- 1.14 “**Aggregate Actual Lane Closure Cost**” or “**AALCC**” has the meaning given in Schedule 7 – Mobility Matters.
- 1.15 “**Airport**” means the Ottawa MacDonald Cartier International Airport in Ottawa, Canada.
- 1.16 “**Airport Authority**” means the Ottawa MacDonald Cartier International Airport Authority and its agents and representatives.
- 1.17 “**Airport Authority Construction Agreement**” has the meaning given in the Airport Authority MOU.
- 1.18 “**Airport Authority MOU**” means the “Ottawa Airport-Airport Link Memorandum of Understanding” between the Airport Authority and the City relating to the Airport Link and the Station to be built at the Airport.
- 1.19 “**Airport Authority Operating Agreement**” has the meaning given in the Airport Authority MOU.
- 1.20 “**Airport Link**” has the meaning given in Schedule 15 – Output Specifications.
- 1.21 “**Airport Link Lands**” has the meaning given in the Airport Authority MOU.
- 1.22 “**Airport Link Lands Sublease**” has the meaning given in the Airport Authority MOU.
- 1.23 “**Ancillary Documents**” means the Construction Contract; the Maintenance and Rehabilitation Contract; the Performance Security; [REDACTED]; [REDACTED]; and [REDACTED].
- 1.24 “**Annual Service Payment**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.25 “**Anticipated Final Completion Date**” has the meaning given in Section 25.9A(a) of the Project Agreement.
- 1.26 “**Anticipated New Municipal Infrastructure Components Acceptance Date**” has the meaning given in Section 25.13(c) of the Project Agreement.
- 1.27 “**Anticipated Substantial Completion Date**” has the meaning given in Section 25.4(a) of the Project Agreement.
- 1.28 “**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 City or any City Party.
- 1.29 “**Appointed Representative**” has the meaning given in Schedule 41 – Lenders’ Direct Agreement.
- 1.30 “**Appointed Representative Notice**” has the meaning given in Schedule 41 – Lenders’ Direct Agreement.
- 1.31 “**Apprenticeship Plan**” has the meaning given in Section 20.12 of the Project Agreement.
- 1.32 “**Arbitration Act, 1991 (Ontario)**” means the *Arbitration Act, 1991*, S.O. 1991, c. 17, as amended from time to time.
- 1.33 “**Archaeological Reports**” means collectively the following reports:
- a) [REDACTED];
 - b) [REDACTED];
 - c) [REDACTED];
 - d) [REDACTED];
 - e) [REDACTED];
 - f) [REDACTED]; and
 - g) [REDACTED].
- 1.34 “**Architect**” means an architect licensed by the Ontario Association of Architects to practice in the Province of Ontario.
- 1.35 “**As-built Schedule**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.36 “**Associated Liabilities**” has the meaning given in Section 33.7(b)(iv) of the Project Agreement.
- 1.37 “**Authority Requirements**” means any order, direction, directive, request for information, policy, administrative interpretation, guideline or rule of or by any Governmental Authority.
- 1.38 “**Availability Failure**” has the meaning given in Schedule 19 - Payment Mechanism.

- 1.39 “**Background Information**” means any and all drawings, reports (including the Environmental Reports, the Archaeological Reports, the Geotechnical Reports, the Cultural Heritage Reports and the Environmental Assessments, and any other report given or otherwise referred to in the Output Specifications), studies, data, documents, or other information, given or made available to Project Co or any Project Co Party by the City or any City Party, or which was obtained from or through any other sources prior to Commercial Close.
- 1.40 “**Bank**” has the meaning given in Schedule 28 - Insurance Trust Agreement.
- 1.41 “**Bank Act (Canada)**” means the *Bank Act*, S.C. 1991, c. 46, as amended from time to time.
- 1.42 “**Bankruptcy and Insolvency Act (Canada)**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended from time to time.
- 1.43 “**Base Case Equity IRR**” means [REDACTED]%, which for greater certainty, is calculated on a pre-tax basis.
- 1.44 “**Base Relevant Insurance Cost**” has the meaning given in Schedule 24 - Insurance and Performance Security Requirements.
- 1.45 “**Beneficiary**” has the meaning given in Section 54.3(a) of the Project Agreement.
- 1.46 “**Board Order**” means an order, decision or directive governing the construction, modification, reconstruction, expansion, use, operation and/or maintenance of the Existing Trillium Line Assets and/or the System Infrastructure and issued by the Board of Transport Commissioners, the Canadian Transportation Commission (including the Railway Transport Committee), the National Transportation Agency of Canada and/or the Canadian Transportation Agency or any predecessor or successor board, commission, agency or committee of any of the foregoing.
- 1.47 [REDACTED]
- 1.48 “[REDACTED] **Vehicle Maintenance Contract**” has the meaning given in Schedule 15 – Output Specifications.
- 1.49 “**Bonds**” means any one or more of the Performance Bond and the Labour and Material Payment Bond described in Section 19 of Schedule 24 – Insurance and Performance Security Requirements, and, collectively, means all of them.
- 1.50 “**Blocked Accounts Agreement**” means the account control agreement to be entered into between Project Co, the City and [REDACTED] (or another account bank acceptable to Project Co and the City, acting reasonably) on or prior to Substantial Completion in substantially the same form as the Blocked Accounts Agreements (as defined in the Lending Agreements).
- 1.51 “**Business Corporations Act (Ontario)**” means that *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended from time to time.

- 1.52 “**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 Ottawa, Ontario.
- 1.53 “**Business Opportunities**” has the meaning given in Section 4.1(a) of the Project Agreement.
- 1.54 “**CaGBC**” means the Canadian Green Building Council.
- 1.55 “**Canadian and Industry Standards**” means, at the applicable time, those standards, practices, methods and procedures applicable to Good Industry Practice.
- 1.56 “**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.
- 1.57 “**Capital Expenditure**” means capital expenditure as interpreted in accordance with Canadian GAAP.
- 1.58 “**Capital Railway Rules**” has the meaning given in Schedule 15 – Output Specifications.
- 1.59 “**Carleton University**” means Carleton University and its agents and representatives.
- 1.60 “**Category 1 Utility Company**” means any one of:
- (a) [REDACTED];
 - (b) [REDACTED];
 - (c) [REDACTED];
 - (d) [REDACTED];
 - (e) [REDACTED];
 - (f) [REDACTED];
 - (g) [REDACTED];
 - (h) [REDACTED]; and
 - (i) [REDACTED].
- 1.61 “**Cemeteries Act (Revised) (Ontario)**” means the *Cemeteries Act (Revised)*, R.S.O. 1990, c. C.4, as amended from time to time.

- 1.62 “**Certificate of Recognition**” means the certification issued by IHSA to a person confirming that the health and safety management systems of such person comply with the terms, provisions and conditions of the COR Program.
- 1.63 “**Certification Services**” has the meaning given in Schedule 6 - Independent Certifier Agreement.
- 1.64 “**Certification Services Variation**” has the meaning given in Schedule 6 - Independent Certifier Agreement.
- 1.65 “**Certified H&S Inspector**” means an individual who is an employee or contractor of the IHSA and has the necessary credentials recognized by the COR Program for the purpose of such individual performing any inspections as may be required to be performed in accordance with Section 13(b) of the Project Agreement.
- 1.66 “**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, actions or policies of such person, to direct or cause the direction of the management, actions or policies of such person.
- 1.67 “**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.
- 1.68 “**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.
- 1.69 “**Changed Cost for Utilities**” means an amount equal to,
- (a) the total aggregate price actually paid by Project Co for the Eligible Utilities Costs minus any Ineligible Cost Increase; minus,
 - (b) the Original Eligible Utilities Cost.
- 1.70 “**City**” means the City of Ottawa.

- 1.71 “**City Activities**” means the provision of all governmental services and the conduct of all activities provided in connection or otherwise associated with transit and other similar services, including the operation and maintenance of a live rail transit system on the System Infrastructure corridor.
- 1.72 “**City Commissioning**” means the commissioning activities to be carried out by the City or any other person on behalf of the City in accordance with the Commissioning Plan.
- 1.73 “**City Commissioning Period**” means the period during which the City, or any other person on behalf of the City, are performing the City Commissioning.
- 1.74 “**City Default Termination Sum**” has the meaning given in Schedule 22 - Compensation on Termination.
- 1.75 “**City Design Team**” means any of the City, 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 Infrastructure or the City Activities, but excluding Project Co and any Project Co Party.
- 1.76 “**City Engineer**” means the engineer appointed by the City in connection with, among other things, acceptance of the New Municipal Infrastructure Work.
- 1.77 “**City Event of Default**” has the meaning given in Section 44.1(a) of the Project Agreement.
- 1.78 “**City HR Policy**” means the City’s human resources policies and guidelines, as they may be amended from time to time and provided to Project Co in writing.
- 1.79 “**City Jointly Developed Materials**” has the meaning given in Section 49.4(a) of the Project Agreement. Any reference to “**Jointly Developed Materials**” shall mean City Jointly Developed Materials.
- 1.80 “**City Party**” means any of the City’s agents, contractors and subcontractors of any tier engaged with respect to the Project Operations and its or their directors, officers and employees, including for clarity the Operator but excluding Project Co and any Project Co Party, and “**City Parties**” shall be construed accordingly.
- 1.81 “**City Permits, Licences, Approvals and Authorizations**” means those permissions, consents, approvals, certificates, permits, licences, agreements and authorizations, Utility Agreements, and Development Approvals which are the responsibility of the City to obtain as set out Schedule 32 – City Permits, Licences, Approvals and Authorizations, but for greater certainty shall not include any permission, consent, approval, certificate, permit, licence, agreement or authorization not set out in Schedule 32 – City Permits, Licences, Approvals and Authorizations but required by the terms of any such item set out in such Schedule.
- 1.82 “**City PLAA Deadline**” has the meaning given in 9.4(f) of the Project Agreement.

- 1.83 “**City Project Manager**” means the [REDACTED].
- 1.84 “**City Representative**” means the person designated as such by the City on or prior to Commercial Close and any permitted replacement.
- 1.85 “**City Reserve**” has the meaning given in Schedule 33 – Lands.
- 1.86 “**City Retained Dow’s Lake Latent Defect Responsibility**” means any Latent Defect in the Dow’s Lake Tunnel Structure.
- 1.87 “**City Retained Existing Structures Latent Defect Responsibility**” means any Latent Defect in the Existing City Retained Latent Defect Structures.
- 1.88 “**City Retained Latent Defect Responsibility**” has the meaning given in Section 16.9 of the Project Agreement.
- 1.89 “**City Road Allowance**” has the meaning given in Schedule 33 – Lands.
- 1.90 “**City Standards**” means the more recent version of (a) the standards of the City as of December 31, 2016, and (b) the standards of the City set out in Article 3 of Schedule 15-1 of the Output Specifications. For clarity, where there is a conflict, inconsistency or duplication of a standard referenced in items (a) and (b) of this definition of City Standards, the more recent standard shall apply.
- 1.91 “**City Taxes**” means taxes, or payments in lieu of taxes, imposed by the City and HST and property taxes for which the City is responsible pursuant to Section 35 of the Project Agreement.
- 1.92 “**City Third Party Beneficiaries**” has the meaning given in Section 62.17(a)(i) of the Project Agreement.
- 1.93 “**City Trade-Marks**” means any and all Trade-Marks used by the City in any manner whatsoever.
- 1.94 “**City Warranty Deliverables**” means, in respect of New Municipal Infrastructure only, each of the following:
- (a) a copy of a water wellness report prepared, stamped, signed and dated by a professional engineer licensed in the Province of Ontario for all applicable items under the heading “Sanitary, Storm and Combined Sewers”, “Watermains”, “Underground Storage Tanks/Superpipes”, “Oil Grit Separators”, and “Wet or Dry Pond or Other Stormwater Management Facilities”;
 - (b) for sanitary sewers, storm water sewers and combined sewers, four CDs/DVDs and one hard copy set, in PDF format and generated from the source electronic document and scanned from hard copies, of each of the following:
 - (i) material testing results;

- (ii) performance test results; and
 - (iii) video report and detailed written report and electronic files containing chainage-specific defect codes from a CCTV inspection, and where deficiencies have been identified by a CCTV inspection, delivery of evidence that all deficiencies have been rectified;
 - (c) for special infrastructure, five CDs/DVDs and two hard copy sets, in PDF format and generated from the source electronic document and not scanned from hard copies of each of the following:
 - (i) material testing results;
 - (ii) performance test results; and
 - (iii) video report and detailed written report and electronic files containing chainage-specific defect codes from a CCTV inspection and where all deficiencies have been identified by the CCTV inspection, delivery of evidence that all deficiencies have been rectified;
 - (d) if significant repairs were carried out by Project Co to correct any defects, deficiencies or non-compliant items in the New Municipal Infrastructure during the warranty inspection period for the New Municipal Infrastructure set out in Section 25.15 of the Project Agreement, a written certification of the New Municipal Infrastructure in a form acceptable to the City, acting reasonably, from professionals licensed in the Province of Ontario qualified to certify the specific type of work and equipment being certified, each such certificate shall be stamped, signed and dated by the licensed professional; and
 - (e) for trees, a written report on the results of an arborist inspection, conducted two years after planting, to demonstrate that trees are in good health.
- 1.95 “**Civil Remedies Act (Ontario)**” means the *Civil Remedies Act*, S.O. 2001, c.28, as amended from time to time.
- 1.96 “**CLA**” means the *Construction Lien Act (Ontario)*.
- 1.97 “**Commercial Close**” means the date of the Project Agreement.
- 1.98 “**Commissioning Plan**” means the commissioning activities to be carried out by the City or any other person on behalf of the City in accordance with the Testing and Commissioning Plan.
- 1.99 “**Commissioning Tests**” means all commissioning tests:
- (a) described in Schedule 14 – Testing and Commissioning;
 - (b) required by Applicable Law, Canadian and Industry Standards or CSA Standards;

- (c) recommended by the manufacturer of any part of the System Infrastructure; and
 - (d) required to be included in the Testing and Commissioning Plan by the Independent Certifier, the City Commissioning Agent or the City Representative pursuant to Section 25.2 of the Project Agreement.
- 1.100 “**Communications System**” has the meaning given in Schedule 15-1 of the Output Specifications.
- 1.101 “**Companies’ Creditors Arrangement Act (Canada)**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended from time to time.
- 1.102 “**Compensation Event**” has the meaning given in Section 39.1(a) of the Project Agreement.
- 1.103 “**Completion Holdback**” has the meaning given in Section 25.7(a) of the Project Agreement.
- 1.104 “**Complex Structure**” means any post-tensioned or pre-tensioned structure that has undergone significant structural alteration making it difficult for personnel at the Site to predict the direction of forces or likely collapse mechanism to be experienced by such structure in connection with any Demolition of all or any part of such structure.
- 1.105 “**Complex Structure Demolition**” means any Demolition where:
- (a) significant structural elements, such as girders, columns, shearwalls or slabs, or Complex Structures are being removed, de-stressed, altered or removed;
 - (b) large penetrations are being created through slabs;
 - (c) any Demolition may cause the collapse of any building or structure (or any portion thereof) and such collapse may directly impact adjacent occupied areas of a building or structure and potentially jeopardize the safety of workers, staff or the general public using such building or structure; and
 - (d) the Demolition of any building or structure (or any portion thereof) has the potential to result in any materials collapsing onto or interfering with any pedestrian right-of-way or into an occupied part of any building or structure
- 1.106 “**Conditional New Municipal Infrastructure Component Acceptance Certificate**” has the meaning given in Section 25.13(f) of the Project Agreement.
- 1.107 “**Confederation Line**” means Stage 1 of the light rail transit line under construction in Ottawa, Ontario, Canada from Tunney’s Pasture in the west end of Ottawa to Blair Road in the east end of Ottawa.
- 1.108 “**Confidant**” has the meaning given in Section 50.6(a)(i) of the Project Agreement.

- 1.109 “**Confidential Information**” means all confidential and proprietary information which is supplied by or on behalf of a Party, whether before or after Commercial Close.
- 1.110 “**Construction Activities**” means construction, rehabilitation, Reinstatement Work, rectification work, and any other aspect of the Works that:
- (a) comprises the alteration, augmenting, upgrading, construction, completion, inspection, calibration, 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 Works carried out as part of any Force Majeure Event, Relief Event, Variation, or Innovation Proposal accepted by the City; or
 - (d) comprises Construction Clearing and Grubbing.
- 1.111 “**Construction Certificate**” means a certificate with contents described in Attachment 2 to Appendix A of Schedule 10 – Review Procedure.
- 1.112 “**Construction Clearing and Grubbing**” means the stage of the 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).
- 1.113 “**Construction Contract**” means the construction contract between Project Co and the Construction Contractor dated on or about Financial Close.
- 1.114 “**Construction Contractor**” means [REDACTED], engaged by Project Co to perform the Works and any substitute construction contractor engaged by Project Co as may be permitted by the Project Agreement.
- 1.115 “**Construction Contractor’s Direct Agreement**” means the direct agreement between the City, Project Co, the Construction Contractor and the Construction Guarantor in the form set out in Schedule 5-1 - Construction Contractor’s Direct Agreement.
- 1.116 “**Construction Document Submittals**” has the meaning given in Section 20.3(d)(ii) of the Project Agreement.
- 1.117 “**Construction Guarantor**” means [REDACTED].
- 1.118 “**Construction Lien Act (Ontario)**” means the *Construction Lien Act*, R.S.O. 1990, c. C.30, as amended from time to time.
- 1.119 “**Construction Management Plan**” or “**CMP**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.120 “**Construction Period**” means the period of time commencing on Financial Close to and including the Final Completion.

- 1.121 “**Construction Period Complaint Protocol**” has the meaning given in Schedule 18 – Communications and Stakeholder Engagement Obligations.
- 1.122 “**Construction Period Deduction**” has the meaning given in Schedule 20 – Construction Period Payments.
- 1.123 “**Construction Period Lands**” has the meaning given in Schedule 33 – Lands.
- 1.124 “**Construction Period Limit**” has the meaning given in Section 55.4(a)(i) of the Project Agreement.
- 1.125 “**Construction Period Payment**” has the meaning given in Schedule 20 – Construction Period Payments.
- 1.126 “**Construction Period Quality Failure**” has the meaning given in Schedule 20 – Construction Period Payments.
- 1.127 “**Construction Safety Management Plan**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.128 “**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.
- 1.129 “**Contract Month**” has the meaning given in Schedule 19 - Payment Mechanism.
- 1.130 “**Contract Year**” has the meaning given in Schedule 19 - Payment Mechanism.
- 1.131 “**Contractors**” means the Construction Contractor and the Maintenance and Rehabilitation Contractor.
- 1.132 “**Contracts**” means the Construction Contract and the Maintenance and Rehabilitation Contract.
- 1.133 “**Control Party**” means:
- (a) any person with any form of direct ownership interest in Project Co;
 - (b) [REDACTED]; and
 - (c) [REDACTED].
- 1.134 “**Controlled Elements**” means any of (i) the System Infrastructure and (ii) during the Construction Period, the Site (which, for greater certainty, shall include the City Reserve to the extent it forms part of the Site).

- 1.135 “**Copyrights**” means all copyrights (registered or otherwise) and registrations and applications for registration thereof, and all rights therein provided by multinational treaties or conventions.
- 1.136 “**COR Certification**” means, in respect of a person, receipt by such person of its: (i) Certificate of Recognition; and (ii) Letter of Good Standing.
- 1.137 “**COR-Certified Construction Project Co Party**” has the meaning given in Section 9.6(a)(ii) of the Project Agreement.
- 1.138 “**COR Program**” means the national safety program known as “The Certificate of Recognition (COR™)”, being a safety program that enables persons to assess their health and safety management systems to manage risks, establish controls, and minimize the incidence of injury and illness to their workers, and being nationally trademarked and endorsed by participating members of the Canadian Federation of Construction Safety Associations, or such other national safety program approved by HMQ.
- 1.139 “**COR-Qualified Construction Project Co Party**” means one of the following:
- (a) where the Construction Contractor is a single legal entity, the Construction Contractor; or
 - (b) where the Construction Contractor is a joint venture, each member of the joint venture, or
 - (c) where the Construction Contractor is a partnership, each partner of the partnership.
- provided that each such person has current OHSAS 18001 Accreditation in good standing.
- 1.140 “**CP License**” has the meaning given in Schedule 15 – Output Specifications.
- 1.141 “**CP Rail**” means the Canadian Pacific Railway and its agents and representatives.
- 1.142 “**CPI**” means CPI-XFET for Canada, as published by Statistics Canada from time to time, or failing such publication, such other index as the Parties may agree, or as may be determined in accordance with Schedule 26 - Dispute Resolution Procedure, which most closely resembles such index.
- 1.143 “**CPI_n**” is the value of CPI on January 1 of the relevant Contract Year “n”, to be determined by reference to the relevant index in the month immediately preceding the indexation date.
- 1.144 “**CPI_o**” is the value of CPI on the Inflation Base Date, to be determined by reference to the relevant index in the month immediately preceding the Inflation Base Date.
- 1.145 “**Crisis Communications Plan**” has the meaning given in Schedule 18 – Communications and Stakeholder Engagement Obligations.

- 1.146 “**Critical Comment**” means any Non-Conformance or combination of Major Comments that:
- (a) In the reasonable opinion of the City, demonstrates that Project Co is performing the Works in a manner that may result in Project Co becoming unable to satisfy the requirements for Substantial Completion;
 - (b) Is persistent, ongoing or repeated; or
 - (c) In the reasonable opinion of the City, by its continued existence or through the process of rectification, would:
 - (i) result in a Critical Qualifying NCR;
 - (ii) result or is reasonably expected to result in material disruption to the public or a materially adverse disruption to traffic flow or the public transit system in the City of Ottawa;
 - (iii) prejudice or is reasonably expected to materially prejudice the performance of any Governmental Activities;
 - (iv) create or is reasonably expected to create a serious threat to the health, safety or security of any person, including any System User or City Party;
 - (v) materially increase the City’s risk or risk transfer to the City or any City Party;
 - (vi) materially adversely affect the ability of any City Party, Other Contractor or the Operator to perform their activities as permitted or contemplated by the Project Agreement;
 - (vii) materially adversely affect or change the critical path of the Project as defined in the Current Progress Works Schedule, adversely affect Project Co’s ability to achieve Substantial Completion by the Scheduled Substantial Completion Date, require a material re-sequencing of the Works or cause any delay in achieving Substantial Completion; or
 - (viii) potentially compromise (A) the reputation or integrity of the City and/or any City Party; or (B) the nature of the public transit system in the City of Ottawa so as to affect public confidence in the public transit system in the City of Ottawa or the Project.
- 1.147 “**Critical Path(s)**” has the meaning given to in Schedule 12-Works Scheduling Requirements.
- 1.148 “**Critical Qualifying NCR**” has the meaning given to it in Schedule 20 – Construction Period Payments.
- 1.149 “**Crossing Agreement**” means an agreement, entered into by a previous owner or operator of part of the railway corridor which accommodates or will accommodate the

Existing Trillium Line and/or Trillium Line Extension for the purposes of establishing terms and conditions governing crossings of the railway corridor including but not limited to a utility crossings, pedestrian crossings (at grade or grade separated) and/or roadway crossings (at grade or grade separated) which agreements were assigned to and assumed by the City pursuant to the Existing Trillium Line P&S Agreements dated December 6, 2002 and March 21, 2005 respectively and described in more detail in Section 1.1 of Schedule 33 – Lands.

- 1.150 “**Crown**” means Her Majesty the Queen.
- 1.151 “**Crown Agency Act (Ontario)**” means the *Crown Agency Act*, R.S.O. 1990, c.48, as amended from time to time.
- 1.152 “**CSA**” means the Canadian Standards Association.
- 1.153 “**CSA Standards**” means, at the applicable time, the Canadian Standards Association standards.
- 1.154 “**Cultural Heritage Reports**” means the reports set out in Appendix D to this Schedule 1 – Definitions and Interpretation and includes the following reports:
- (a) [REDACTED].
- 1.155 “**Currency Act (Canada)**” means the *Currency Act*, R.S.C., 1985, c. C-52, as amended from time to time.
- 1.156 “**Current PBS**” is, at any point in time, the latest version of the PBS which has been reviewed by the City in accordance with Schedule 10 – Review Procedure. The Current PBS shall be used for Project Co Construction Period Payment Documentation.
- 1.157 “**Custodian**” means the person appointed as Custodian pursuant to the Custody Agreement and as may be permitted pursuant to the Project Agreement.
- 1.158 “**Custody Agreement**” means the custody agreement between Project Co, the Lenders’ Agent, the City and the Custodian in the form set out in Schedule 3 - Custody Agreement.
- 1.159 “**Daily Performance Report**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.160 “**Data Room**” has the meaning given in section 2.4(1) of the RFP.
- 1.161 “**Debt Service Amount**” means, for any period, the principal and interest payable by Project Co or any Project Co Party to the Lenders in the normal course under the Lending Agreements, provided that at any time where any portion of the interest payable to the Lenders is subject to a Hedging Agreement between Project Co and a Hedge Provider, interest payable on account of such portion of interest payable to the Lenders shall be calculated based on the fixed rate payable by Project Co under such Hedging Agreement without regard to whether such fixed rate is payable directly to a Lender or to the Hedge

Provider under the relevant Hedging Agreement and all references to interest payable to the Lenders under this Project Agreement shall be construed accordingly.

- 1.162 “**Deduction**” has the meaning given in Schedule 19 - Payment Mechanism.
- 1.163 “**Defect**” means a defect or deficiency in an item that is readily apparent on reasonable inspection or described in, properly inferable, or readily discoverable from the Background Information.
- 1.164 “**Delay Event**” has the meaning given in Section 38.1(a) of the Project Agreement.
- 1.165 “**Delivered**” has the meaning given thereto in the Revenue Vehicle Supply Contract.
- 1.166 “**Demolition**” means the removal of a building or structure, as the case may be, or of any material part of a building or structure.
- 1.167 “**Design and Bid Fee**” has the meaning given in the Request for Proposals.
- 1.168 “**Design Certificate**” means a certificate with contents described in Attachment 1 to Appendix A of Schedule 10 – Review Procedure.
- 1.169 “**Design and Construction Certification Procedure**” means the process for review and issuance of Design Certificates and Construction Certificates in accordance with Schedule 10 – Review Procedure.
- 1.170 “**Design and Construction Requirements**” means the relevant specifications, standards, procedures and other requirements for the design and construction of the System Infrastructure, the New Municipal Infrastructure, final disposition of the Existing Trillium Line Assets, all as set out in Schedule 15-2 of the Output Specifications.
- 1.171 “**Design and Construction Specifications**” means the specifications as set out in Schedule 15-2 of the Output Specifications.
- 1.172 “**Design Brief**” means a narrative document to accompany Works Submittals with contents described in Schedule 10 – Review Procedure.
- 1.173 “**Design Data**” means all drawings, reports, documents, plans, software, formulae, calculations, and other data prepared or obtained by Project Co relating to the design, construction, testing or monitoring of the System Infrastructure and the New Municipal Infrastructure, but excluding Intellectual Property Rights of third parties, such as CAD software, that is used only in the process of design and construction.
- 1.174 “**Design Development Submittals**” has the meaning given in Section 20.3(d)(i) of the Project Agreement.
- 1.175 “**Design Management Plan**” or “**DMP**” has the meaning given in Schedule 11 – Integrated Management System Requirements.

- 1.176 “**Design Review Meetings**” has the meaning given in Section 20.5(a) of the Project Agreement.
- 1.177 “**Design Team**” means [REDACTED], engaged by Project Co to design the System Infrastructure and the New Municipal Infrastructure and any substitute design team engaged by Project Co as may be permitted by the Project Agreement.
- 1.178 [Not used]
- 1.179 “**Development Approval**” means development permits, building permits, zoning approvals and any other planning or development permit, consent or applicable Permits, Licences, Approvals and Authorizations required from time to time for construction of the System Infrastructure and the New Municipal Infrastructure.
- 1.180 “**Direct Agreements**” means the Construction Contractor’s Direct Agreement and the Maintenance and Rehabilitation Contractor’s Direct Agreement.
- 1.181 “**Direct Cost**” has the meaning given in Schedule 21 -Variation Procedure.
- 1.182 “**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.
- 1.183 “**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 [REDACTED] 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 [REDACTED] percent of the voting securities, units or equity interests of such person; or
 - (c) the direct or indirect power or 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.
- 1.184 “**Discount Rate**” has the meaning given in Schedule 22 - Compensation on Termination.

- 1.185 “**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 transit systems whose design, construction, financing, 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 Infrastructure or the New Municipal 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, 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 companies; or
 - (g) where such Change in Law is a change in Taxes that affects companies generally.
- 1.186 “**Dispute**” has the meaning given in Schedule 26 – Dispute Resolution Procedure.
- 1.187 “**Dispute Resolution Procedure**” means the procedure set out in Schedule 26 - Dispute Resolution Procedure.
- 1.188 “**Distributions**” means distributions paid in respect of the Equity Capital permitted under Schedule 4 – Wide Equity Funding Requirements.
- 1.189 “**Distribution Account**” means the following account opened at the [REDACTED] in the name of Project Co:
- | | |
|------------------------|------------|
| SWIFT: | [REDACTED] |
| Canadian Routing Code: | [REDACTED] |
| Account No.: | [REDACTED] |
| Beneficiary Name: | [REDACTED] |
- 1.190 “**Dow’s Lake Tunnel Structure**” means the structural system of the existing Dow’s Lake tunnel, the maintenance responsibilities of which are provided for in Attachment 8 of Appendix A to Schedule 15-3 of the Output Specifications.

- 1.191 “**Dust Control Plan**” has the meaning given in Schedule 17 – Environmental Obligations.
- 1.192 “**Early Works Agreement**” has the meaning given in Section 1.5(a) of the Project Agreement.
- 1.193 “**Earned Value**” has the meaning given in Schedule 20 – Construction Period Payments.
- 1.194 “**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.
- 1.195 “**Embargo Period**” means the dates when Utility Companies do not permit works to be undertaken.
- 1.196 “**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 City Parties) or any part of or the whole of the System 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 City Representative or the City (acting reasonably);
 - (iv) materially interferes with or prejudices or may materially interfere with or prejudice the safe operation of the System Infrastructure, any part of the Lands, the conduct of Project Operations, or the conduct of Governmental Activities; or
 - (v) constitutes a period of transition to or from war;and which, in the opinion of the City, 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.
- 1.197 “**Emergency Response Plan**” means the plan to be prepared, submitted and implemented by Project Co in accordance with Schedule 15 - Output Specifications.
- 1.198 “**Emergency Service Providers**” means any Police Service, firefighting service, ambulance service, armed forces or other authority with emergency service authority

pursuant to Applicable Law which may require access to the System Infrastructure from time to time.

- 1.199 “**Enabling Works**” means that scope of work described in the City’s purchase order [REDACTED] performed by or on behalf of [REDACTED].
- 1.200 “**Encumbrances**” means the Encumbrances listed in Schedule 16 - Encumbrances and any other encumbrances deemed to be Encumbrances as described in and for the purposes set out in Section 15.2(d) of the Project Agreement.
- 1.201 “**Environmental Approvals**” means:
- (a) any authorization(s) issued by the Ontario Ministry of the Environment and Climate Change relating to the Environmental Assessments;
 - (b) the Fisheries Act Authorizations; and
 - (c) any Permits, Licences, Approvals and Authorizations relating to environmental matters.
- 1.202 “**Environmental Assessments**” means the documents listed in Appendix “B” of Schedule 1 – Definitions and Interpretation.
- 1.203 “**Environmental Law**” means all Applicable Law relating to public health or the protection of the environment or Species-at-Risk.
- 1.204 “**Environmental Management Plan**” has the meaning given in Schedule 17 – Environmental Obligations.
- 1.205 “**Environmental Manager**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.206 “**Environmental Reports**” means collectively, the following reports:
- (a) [REDACTED]
 - (b) [REDACTED]
 - (c) [REDACTED]
 - (d) [REDACTED]
 - (e) [REDACTED]
 - (f) [REDACTED]
 - (g) [REDACTED]
 - (h) [REDACTED]

- (i) [REDACTED]
- (j) [REDACTED]
- (k) [REDACTED]
- (l) [REDACTED]
- (m) [REDACTED]
- (n) [REDACTED]
- (o) [REDACTED]
- (p) [REDACTED]
- (q) [REDACTED]
- (r) [REDACTED]
- (s) [REDACTED]
- (t) [REDACTED]
- (u) [REDACTED]
- (v) [REDACTED]
- (w) [REDACTED]
- (x) [REDACTED]
- (y) [REDACTED]
- (z) [REDACTED]
- (aa) [REDACTED]
- (bb) [REDACTED]
- (cc) [REDACTED]
- (dd) [REDACTED]
- (ee) [REDACTED]
- (ff) [REDACTED]
- (gg) [REDACTED]

- (hh) [REDACTED]
- (ii) [REDACTED]
- (jj) [REDACTED]
- (kk) [REDACTED]
- (ll) [REDACTED]
- (mm) [REDACTED]
- (nn) [REDACTED]
- (oo) [REDACTED]
- (pp) [REDACTED]
- (qq) [REDACTED]
- (rr) [REDACTED]
- (ss) [REDACTED]
- (tt) [REDACTED]
- (uu) [REDACTED]
- (vv) [REDACTED]
- (ww) [REDACTED]
- (xx) [REDACTED]
- (yy) [REDACTED]
- (zz) [REDACTED]
- (aaa) [REDACTED]
- (bbb) [REDACTED]
- (ccc) [REDACTED]
- (ddd) [REDACTED]
- (eee) [REDACTED]
- (fff) [REDACTED]

(ggg) [REDACTED]

- 1.207 “**Equity Capital**” means the aggregate (without double counting) of all subscribed share capital, shareholder loans, loans made or capital contributed to Project Co by any Affiliate of Project Co or of a Project Co Party, and other contributed capital of Project Co.
- 1.208 “**Equity Contribution Agreement**” means the equity contribution agreement date on or about the date hereof between Project Co and [REDACTED] and the Lenders’ Agent setting out, *inter alia*, the terms and conditions of the Equity Contributions.
- 1.209 “**Equity Contributions**” means the equity contributed to Project Co pursuant to the Equity Contribution Agreement.
- 1.210 “**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 amount, calculated on a pre-tax basis, paid in consideration of the percentage of Equity Capital (as at Financial Close) sold in a particular sale of Equity Capital 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.
- 1.211 “**Equity IRR**” means the projected internal rate of return to the Equity Provider over the full term of this Project Agreement, taking into account the aggregate of all its investments and of all Distributions made and projected to be made.
- 1.212 “**Equity Lock-Up Account**” means the following account opened at [REDACTED] in the name of Project Co:
- | | |
|------------------------|------------|
| SWIFT: | [REDACTED] |
| Canadian Routing Code: | [REDACTED] |
| Account No.: | [REDACTED] |
| Beneficiary Name: | [REDACTED] |
- 1.213 “**Equity Provider**” means each of [REDACTED] and [REDACTED].
- 1.214 “**Equity Sale Amount**” means the gross amount, without taking into account any transaction costs and fees, received in consideration of a percentage of Equity Capital.
- 1.215 “**Equity Sale IRR**” means the annualized internal rate of return realized by the seller on a sale of any percentage Equity Capital, between the date on which such seller initially invests in or acquires such percentage of Equity Capital, and the date on which the sale of such percentage of Equity Capital occurs. Equity Sale IRR shall be calculated using the XIRR function in Excel, by taking into account the Equity Sale Amount, together with all Distributions received by the seller with respect to such percentage of Equity Capital, and the amount initially paid by the same seller to invest in or acquire the percentage of the

Equity Capital in question, as well as the actual timing of payment and/or receipt of all such amounts.

- 1.216 “**ESA**” means the *Endangered Species Act, 2007 (Ontario)*.
- 1.217 “**Escrow Account**” has the meaning given in Schedule 23 - Expiry Transition Procedure.
- 1.218 “**Estimate**” has the meaning given in Schedule 21 - Variation Procedure.
- 1.219 “**Estimated Fair Value**” has the meaning given in Schedule 22 - Compensation on Termination.
- 1.220 “**Event of Vandalism**” has the meaning given in Schedule 15 – Output Specifications.
- 1.221 “**Excess Equity Gain**” means an amount equal to the greater of zero and the difference between:
- (a) the Equity Sale Amount; and
 - (b) the Threshold Equity Sale Amount.
- 1.222 “**Excise Tax Act (Canada)**” means the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended from time to time.
- 1.223 “**Excusing Cause**” has the meaning given in Section 40.1(a) of the Project Agreement.
- 1.224 “**Executive Council Act (Ontario)**” means the *Executive Council Act*, R.S.O. 1990, c. E. 25, as amended from time to time.
- 1.225 “**Existing City Retained Latent Defect Structures**” means the following structures forming part of the Existing Trillium Line Assets as more fully described in Appendix “C” of Part 2 of Schedule 15-2 - Output Specifications:
- (a) [REDACTED];
 - (b) [REDACTED];
 - (c) [REDACTED];
 - (d) [REDACTED];
 - (e) [REDACTED];
- 1.226 “**Existing Contamination**” has the meaning given in Section 16.2(a) of the Project Agreement.
- 1.227 “**Existing Trillium Line**” means the approximately 8km long passenger rail line currently operated and maintained by the City of Ottawa from Bayview Station in the

north to Greenboro Station in the south. The Existing Trillium Line also has stations at Carling, Carleton and Mooney’s Bay.

- 1.228 “**Existing Trillium Line Assets**” means the infrastructure, assets and systems of the Existing Trillium Line which are located in, on or adjacent to the Lands and which are handed over by the City to Project Co at the commencement of the Shutdown Period, but excluding the Existing Vehicle Fleet.
- 1.229 “**Existing Vehicle Fleet**” has the meaning given in Schedule 15-1 of the Output Specifications.
- 1.230 “**Existing Vehicle Maintenance Standard**” means the vehicle maintenance of the Existing Vehicle Fleet in accordance with (i) the [REDACTED], (ii) the LINT DMU Inspection & Safety Rules approved by Transport Canada , and (iii) the vehicle cleaning, fueling, inspections, maintenance, and field technical support regime contemplated in the [REDACTED], including the “Annex A Terms of Reference” thereto.
- 1.231 “**Existing Walkley Yard**” has the meaning given in Schedule 15-1 of the Output Specifications.
- 1.232 “**Expanded Trillium Line**” means, collectively, the Existing Trillium Line and the Trillium Line Extension.
- 1.233 “**Expert**” has the meaning given in Schedule 26 - Dispute Resolution Procedure.
- 1.234 “**Expiry Date**” means the 27th anniversary of the Scheduled Substantial Completion Date and in no event will the Expiry Date be adjusted.
- 1.235 “**Expiry Rehabilitation Costs**” has the meaning given in Schedule 23 - Expiry Transition Procedure.
- 1.236 “**Expiry Transition Amount**” has the meaning given in Schedule 23 - Expiry Transition Procedure.
- 1.237 “**Expiry Transition Procedure**” means the procedure for expiry transition described in Schedule 23 - Expiry Transition Procedure.
- 1.238 “**Expiry Transition Process Asset Preservation Work Schedule**” has the meaning given in Schedule 15 – Output Specifications.
- 1.239 “**Expiry Transition Requirements**” has the meaning given in Schedule 23 - Expiry Transition Procedure.
- 1.240 “**Expiry Transition Security**” has the meaning given in Schedule 23 - Expiry Transition Procedure.
- 1.241 “**Expiry Transition Works**” has the meaning given in Schedule 23 - Expiry Transition Procedure.

- 1.242 “**Expiry Transition Works Costs**” has the meaning given in Schedule 23 - Expiry Transition Procedure.
- 1.243 “**Extension Contractor**” has the meaning given in Schedule 36 – System Extension.
- 1.244 “**External IMS Audit**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.245 “**Facilities**” has the meaning given in Schedule 15 – Output Specifications.
- 1.246 “**Factory Acceptance Test**” or “**FAT**” has the meaning given in Schedule 14 – Testing and Commissioning.
- 1.247 “**Failure Points**” has the meaning given in Schedule 19 - Payment Mechanism.
- 1.248 “**Fare Control Service Provider**” means the Third Party Contractor responsible for supply, installation, operation and non-custodial maintenance of all fare control equipment.
- 1.249 “**Final Completion**” means the completion of the Works in accordance with the Project Agreement, including completion of all Minor Deficiencies, other than any minor work that is seasonal in nature and cannot be completed by the Final Completion Date.
- 1.250 “**Final Completion Certificate**” means the certificate to be issued by the Independent Certifier in accordance with Section 25.10 of the Project Agreement.
- 1.251 “**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.
- 1.252 “**Final Completion Notice**” has the meaning given in Section 25.10(b) of the Project Agreement.
- 1.253 “**Final Completion Countdown Notice**” has the meaning given in Section 25.9A(a) of the Project Agreement.
- 1.254 “**Final Design Development**” or “**FDD**” has the meaning given in Schedule 10 – Review Procedure.
- 1.255 “**Final New Municipal Infrastructure Works Acceptance Certificate**” means the certificate issued by the City Engineer to Project Co confirming New Municipal Infrastructure Works Acceptance.
- 1.256 “**Final New Municipal Infrastructure Works Requirement**” has the meaning given in Section 25.13(j) of the Project Agreement.
- 1.257 “**Final New System Infrastructure Condition Report**” has the meaning given in Schedule 23 – Expiry Transition Procedure.

- 1.258 “**Financial Administration Act, R.S.O. 1990, c. F.12**” means the *Financial Administration Act*, R.S.O. 1990, c. F.12, as amended from time to time.
- 1.259 “**Financial Close**” means the first date that funding is available under the Lending Agreements.
- 1.260 “**Financial Close Target Date**” means Friday March 29, 2019, as such date may be extended in accordance with the provisions of the Project Agreement.
- 1.261 “**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.
- 1.262 “**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.
- 1.263 “**FIPPA**” means the *Freedom of Information and Protection of Privacy Act* (Ontario).
- 1.264 “**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.
- 1.265 “**Float**” has the meaning given to in Schedule 12 - Works Scheduling Requirements .
- 1.266 “**Force Majeure**” has the meaning given in Section 42.1(a) of the Project Agreement.
- 1.267 “**Freedom of Information and Protection of Privacy Act (Ontario)**” means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended from time to time.
- 1.268 “**Funeral, Burial and Cremations Services Act, 2002 (Ontario)**” means the *Funeral, Burial and Cremations Services Act*, S.O. 2002, c. 33, as amended from time to time.
- 1.269 “**Future Known Expansion**” includes, without limitation and subject to further approval by the City, the future works in the design of the Project listed in Article 2.9(d) of Part 1 in Schedule 15-2 of the Output Specifications.
- 1.270 “**Geotechnical Reports**” means the reports listed in Appendix E to this Schedule 1 – Definitions and Interpretation.
- 1.271 “**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.

- 1.272 “**Government Sensitive Information**” means any information which is designated as such by the City 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 City.
- 1.273 “**Governmental Activities**” means the provision of all governmental services and the conduct of all activities provided in connection or otherwise associated with the Lands or the System Infrastructure by any Governmental Authority or Emergency Service Provider, and includes the City Activities.
- 1.274 “**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 City, any aspect of the performance of the Project Agreement, the operation of the Trillium Line Extension or the Governmental Activities, in each case to the extent it has or performs legislative, judicial, regulatory, administrative or other functions within its jurisdiction.
- 1.275 “**Guarantors**” means the Construction Guarantor and the Maintenance and Rehabilitation Guarantor.
- 1.276 “**Guideway**” has the meaning given in Schedule 15 – Output Specifications.
- 1.277 “**H&S Certification Default Event**” has the meaning given in Section 9.6(c) of the Project Agreement.
- 1.278 “**H&S Certification Maintenance Plan**” has the meaning given in Section 9.6(c)(vii)(B) of the Project Agreement.
- 1.279 “**H&S Certification Reinstatement Plan**” has the meaning given in Section 9.6(c)(vii)(B) of the Project Agreement.
- 1.280 “**H&S Construction Inspection**” has the meaning given in Section 13(b) of the Project Agreement.
- 1.281 “**H&S Construction Inspection Report**” has the meaning given in Section 13(c) of the Project Agreement.
- 1.282 “**H&S Construction Re-Inspection**” has the meaning given in Section 13(e)(ii) of the Project Agreement.
- 1.283 “**H&S Construction Re-Inspection Report**” has the meaning given in Section 13(e)(iii) of the Project Agreement.

- 1.284 “**H&S Conviction**” has the meaning given in Section 43.1(a)(xix) of the Project Agreement.
- 1.285 “**H&S Maintenance Inspection**” has the meaning given in Section 13(b) of the Project Agreement.
- 1.286 “**H&S Maintenance Inspection Report**” has the meaning given in Section 13(d) of the Project Agreement.
- 1.287 “**H&S Maintenance Re-Inspection**” has the meaning given in Section 13(e)(ii) of the Project Agreement.
- 1.288 “**H&S Maintenance Re-Inspection Report**” has the meaning given in Section 13(e)(iv) of the Project Agreement.
- 1.289 “**Handover**” means, as applicable, the successful handover, by Project Co of,
- (a) the New Municipal Infrastructure, or a component thereof, to the City in accordance with Section 25.13 of the Project Agreement including, for clarity, the delivery of the Final New Municipal Works Acceptance Certificate by the City Engineer to Project Co in accordance with Section 25.13(i) of the Project Agreement; or
 - (b) the New Utility Infrastructure to the Utility Companies and in accordance with the requirements agreed to between Project Co and the Utility Companies.
- 1.290 “**Has Knowledge**” or “**Have Knowledge**” means:
- (a) a natural person knows or has knowledge when information is received or acquired by the person under the circumstances in which a reasonable person would take cognizance of it; and
 - (b) corporation knows or has knowledge when information has been received or has come to the attention of:
 - (i) a director or officer of the corporation; or
 - (ii) a senior employee of the corporation with responsibility for matters to which the information relates,
 - (c) the City knows or has knowledge when information has been received or has come to the attention of:
 - (i) [REDACTED];
 - (ii) [REDACTED]; or
 - (iii) [REDACTED];

under circumstances in which a reasonable person would take cognizance of it and, in the case of Project Co, shall include matters referred to in subparagraph (a) or (b) above with respect to the Contractors, and “**Knowledge**” has a corresponding meaning.

- 1.291 “**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.
- 1.292 “**Health and Safety Certification Maintenance Plan**” has the meaning given in Section 9.6(b)(iv)(B) of the Project Agreement.
- 1.293 “**Health and Safety Certification Reinstatement Plan**” has the meaning given in Section 9.6(b)(iii)(B) of the Project Agreement.
- 1.294 “**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.
- 1.295 “**Hedging Agreement**” means an agreement relating to the hedging of interest rate risk entered into by Project Co and the Hedge Provider(s) pursuant to the Lending Agreements.
- 1.296 “**HST**” means the value-added tax imposed pursuant to Part IX of the *Excise Tax Act* (Canada), and any successor legislation thereto.
- 1.297 “**IHSA**” means Infrastructure Health and Safety Association, a not-for-profit occupational safety organization formed on January 1, 2010 that provides health and safety training material and services to Ontario construction, electrical utilities and transportation industries, and is accredited in Ontario to issue and grant Certificates of Recognition and Letters of Good Standing, or such other person so accredited in Ontario to issue and grant Certificates of Recognition and Letters of Good Standing.
- 1.298 “**IMS Audit**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.299 “**Initial Capital Investment Date**” has the meaning given in Schedule 20 – Construction Period Payments.
- 1.300 “**Income Tax Act (Canada)**” means the *Income Tax Act*, R.S.C., 1985, c. 1, as amended from time to time.
- 1.301 “**Income Tax Act (Ontario)**” means the *Income Tax Act*, R.S.O. 1990, c. I.2, as amended from time to time.
- 1.302 “**Indemnifiable Taxes**” has the meaning given in Section 33.7(b)(iii) of the Project Agreement.
- 1.303 “**Indemnifier**” has the meaning given in Section 54.3(a) of the Project Agreement.

- 1.304 “**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.
- 1.305 “**Independent Certifier Agreement**” means the contract entered into between Project Co, the City and the Independent Certifier in substantially the form attached hereto as Schedule 6 - Independent Certifier Agreement.
- 1.306 “**Independent Inspector**” has the meaning given in Schedule 23 - Expiry Transition Procedure.
- 1.307 “**Independent Safety Assessor**” means an independent party appointed by Project Co to assess:
- (a) the safety and security of the Works prior to Substantial Completion; and
 - (b) changes to System Infrastructure after Substantial Completion, if any.
- 1.308 “**Indirect Losses**” has the meaning given in Section 55.1(a) of the Project Agreement.
- 1.309 “**Inflation Base Date**” has the meaning given in Schedule 19 - Payment Mechanism.
- 1.310 “**Injurious Affection**” has the meaning given in the *Expropriations Act*, R.S.O. 1990, c. E. 26, as amended from time to time.
- 1.311 “**Innovation Proposal**” has the meaning given in Section 37.2(b) of the Project Agreement.
- 1.312 “**IPFP Framework**” means the alternative financing and procurement project framework which complies with the principles set out in *MOI’s Building a Better Tomorrow: An Infrastructure Planning, Financing and Procurement Framework for Ontario’s Public Sector*.
- 1.313 “**Inspection and Test Plan**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.314 “**Insurance Adjustment**” has the meaning given in Section 7.3 of Schedule 24 - Insurance and Performance Security Requirements.
- 1.315 “**Insurance Cost Differential**” has the meaning given in Section 7.1(c) of Schedule 24 - Insurance and Performance Security Requirements.
- 1.316 “**Insurance Policies**” has the meaning given in Schedule 28 - Insurance Trust Agreement.
- 1.317 “**Insurance Proceeds**” has the meaning given in Schedule 28 - Insurance Trust Agreement.

- 1.318 “**Insurance Review Date**” has the meaning given in Schedule 24 - Insurance and Performance Security Requirements.
- 1.319 “**Insurance Review Period**” has the meaning given in Schedule 24 - Insurance and Performance Security Requirements.
- 1.320 “**Insurance Trust Account**” means Account No. [REDACTED] at [REDACTED].
- 1.321 “**Insurance Trust Agreement**” means the insurance trust agreement to be entered into between the City, Project Co, the Lenders’ Agent and the Account Trustee in the form set out in Schedule 28 - Insurance Trust Agreement.
- 1.322 “**Integrated Management Plans**” or “**IMP**” have the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.323 “**Integrated Management System**” and “**IMS**” have the meanings given in Schedule 11 – Integrated Management System Requirements.
- 1.324 “**Integrated System Extension**” has the meaning given in Schedule 36 – System Extension.
- 1.325 “**Intellectual Property**” means all intellectual and industrial property, including without limitation: (i) Trade-Marks; (ii) Patents; (iii) Copyrights; (iv) inventions, whether or not patentable, whether or not reduced to practice or whether or not yet made the subject of a pending patent application or applications; (v) ideas and conceptions of potentially patentable subject matter, including, without limitation, any patent disclosures, whether or not reduced to practice and whether or not yet made the subject of a pending patent application or applications; (vi) trade secrets and confidential, technical or business information (including ideas, formulas, compositions, designs, inventions, and conceptions of inventions whether patentable or unpatentable and whether or not reduced to practice); (vii) whether or not confidential, technology (including know-how and show-how), manufacturing and production processes and techniques, methodologies, research and development information, drawings, specifications, designs, plans, proposals, technical data, copyrightable works, marketing and business data, pricing and cost information, business and marketing plans; (xiv) copies and tangible embodiments of all the foregoing, in whatever form or medium; (ix) all rights to obtain and rights to apply for any of the foregoing and all rights therein provided by multinational treaties or conventions; (x) all rights under any agreements or instruments with respect to items in (i) to (ix) above; and (xi) all rights to sue and recover and retain damages and costs and attorneys’ fees for present and past infringement or other violation of any of the intellectual property rights hereinabove set out.
- 1.326 “**Intellectual Property Rights**” means all right, title and interest in, to and under the Intellectual Property in or associated with the Project Data and all Intellectual Property which, or the subject matter of which, is at any time before or after Commercial Close created, brought into existence, acquired, used or intended to be used by Project Co, any Subcontractor or by other third parties (for such third parties’ use by or on behalf of or for the benefit of Project Co) for any or all of the purposes of:

- (a) the Works, including the design and construction of the System Infrastructure (excluding Intellectual Property Rights of third parties, such as CAD software, that is used only in the process of design and construction);
 - (b) the Maintenance and Rehabilitation Services, including the maintenance, improvement, testing and rehabilitation of the System Infrastructure;
 - (c) any other Project Operations; or
 - (d) the Project Agreement.
- 1.327 **“Interim Maintenance Period”** has the meaning given in Section 7 of Schedule 19 – Payment Mechanism.
- 1.328 **“Interim Substantial Completion”** means the point at which (i) the System Infrastructure, the New Municipal Infrastructure, the New Utility Infrastructure have been completed in accordance with the Project Agreement; (ii) the Payment Certifier appointed pursuant to Section 15.3(g) of the Project Agreement has certified the substantial performance of the Construction Contract and the related certificate of substantial performance of the Works is published pursuant to Section 32(1) of the CLA; and (iii) all requirements for Readiness for Revenue Service described in Schedule 14 – Testing and Commissioning have been satisfied in respect of the System Infrastructure and the New Municipal Infrastructure as a whole, in each case, other than in respect of Minor Deficiencies and Remaining Works. For clarity, Interim Substantial Completion shall include the successful completion of the SIT required to verify the System Infrastructure will: comply with the AODA/ADA requirements relative to the New Revenue Vehicles; comply with all the required clearances relative to the New Revenue Vehicles.
- 1.329 **“Interim Substantial Completion Certificate”** means, following the delivery of the Interim Substantial Completion Notice, the certificate to be issued by the Independent Certifier in accordance with Section 25.3 of the Project Agreement.
- 1.330 **“Interim Substantial Completion Date”** means the date on which Interim Substantial Completion is achieved as evidenced by the Interim Substantial Completion Certificate, as such date shall be stated therein.
- 1.331 **“Internal IMS Audit”** has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.332 **“International Financial Reporting Standards”** means international financial reporting standards within the meaning of the IAS Regulation 1606/2002 and in effect from time to time, consistently applied.
- 1.333 **“ISO 45001 Accreditation”** means, in respect of an entity, such entity having received certification in respect of its health and safety management systems that such systems comply with the requirements of ISO 45001.

- 1.334 “**ISO 45001 Compliant Maintenance and Rehabilitation Project Co Party**” means one of the following:
- (a) where the Maintenance and Rehabilitation Contractor is a single legal entity, the Maintenance and Rehabilitation Contractor; or
 - (b) where the Maintenance and Rehabilitation Contractor is a joint venture, each member of the joint venture; or
 - (c) where the Maintenance and Rehabilitation Contractor is a partnership, each partner of the partnership.
- 1.335 “**ISO 45001 Accredited Maintenance and Rehabilitation Project Co Party**” has the meaning given in Section 9.6(b)(ii) of the Project Agreement.
- 1.336 “**Joint Insurance Cost Report**” has the meaning given in Schedule 24 - Insurance and Performance Security Requirements.
- 1.337 “**Key Individual**” means those Project Co Parties listed in Schedule 9 - Key Individuals.
- 1.338 “**Key Works Milestones**” has the meaning given in Schedule 12 - Works Scheduling Requirements.
- 1.339 “**Labour and Material Payment Bond**” means, collectively, the Labour and Material Payment Bond and the Multiple Obligee Rider to Labour and Material Payment Bond in the form attached as Appendix C to Schedule 24 – Insurance and Performance Security Requirements.
- 1.340 “**Lands**” has the meaning given in Schedule 33 – Lands.
- 1.341 “**Lands Table**” has the meaning given in Schedule 33 – Lands.
- 1.342 “**Lane Closure**” has the meaning given in Schedule 7 – Mobility Matters.
- 1.343 “**Lane Closure Adjustment**” has the meaning given in Schedule 7 – Mobility Matters.
- 1.344 “**Lane Closure Target Letter**” has the meaning given in Schedule 7 – Mobility Matters.
- 1.345 “**Latent Defect**” means a shortcoming, failure, fault, inadequacy, weakness, deficiency or imperfection whether caused by inappropriate or inadequate design, construction, installation, affixation or material, lack of or improper maintenance, negligence or wilful damage by a third party that is not visible or readily apparent through normal inspection, investigation or use or that is not properly inferable from the age and prior use of the item; provided that: (i) any condition described in, properly inferable, readily apparent or readily discoverable from the Background Information; (ii) any condition that (A) is attributable to the failure by Project Co to perform the Project Operations in accordance with the Project Agreement, (B) is caused by Project Co or any Project Co Party, or (C) is attributable to Project Co’s design or construction means and methods, shall not constitute a Latent Defect.

- 1.346 “**LEED**” means Leadership in Energy & Environmental Design.
- 1.347 “**LEED Rating System**” means the CaGBC’s Leadership in Energy & Environmental Design (LEED) Green Building Rating System for New Construction and Major Renovations, LEED® Canada-NC 2009.
- 1.348 “**Lenders**” means any or all of the persons acting arm’s length to Project Co and each Project Co Party who provide the financing, and for greater clarity, excludes the Hedge Provider(s) or any other hedge providers and their respective permitted successors and assigns and any Affiliate of Project Co or a Project Co Party.
- 1.349 “**Lenders’ Agent**” has the meaning given in Schedule 41 – Lenders’ Direct Agreement.
- 1.350 “**Lenders’ Consultant**” means [REDACTED].
- 1.351 “**Lenders’ Direct Agreement**” means the direct agreement to be entered into between the City, the Lenders’ Agent and Project Co in the form set out in Schedule 41 - Lenders’ Direct Agreement.
- 1.352 “**Lending Agreements**” means any or all of the agreements or instruments to be entered into by Project Co or any of its Affiliates relating to the financing of the Project Scope, including, for greater certainty, any interest rate hedging arrangements entered into between Project Co and any hedge providers in connection with the foregoing and any agreements or instruments to be entered into by Project Co or any of its Affiliates relating to the rescheduling of their indebtedness in respect of the financing of the Works or the refinancing of the Works.
- 1.353 “**Letter of Credit**” means the letter or letters of credit delivered in accordance with Section 9.1(2) of the Request for Proposals.
- 1.354 “**Letter of Credit Provider**” has the meaning given in the Request for Proposals.
- 1.355 “**Letter of Good Standing**” means the document issued by IHSA to a person confirming that the internal maintenance audit performed by such person regarding its health and safety management systems has been approved by ISHA, and that such person has successfully completed such internal audit pursuant to the terms and conditions of the COR Program.
- 1.356 “**Line Replaceable Unit**” means a modular component which is removed and replaced at the field level to restore the end item to an operational ready condition.
- 1.357 “**Limited Modification Rights**” has the meaning given in Schedule 35 – Intellectual Property.
- 1.358 “**Limitations Act, 2002 (Ontario)**” means the *Limitations Act*, 2002, S.O. 2002, c. 24, Sch. B, as amended from time to time.
- 1.359 “**Listed PLAA Tracking System**” has the meaning given in Section 9.4(h) of the Project Agreement.

- 1.360 “**Listed Project Co PLAAs**” means those Project Co Permits, Licences, Approvals and Authorizations listed in Appendix F to this Schedule 1 – Definitions and Interpretation.
- 1.361 “**Liquid Market**” has the meaning given in Schedule 22 - Compensation on Termination.
- 1.362 “**Load-Path Diagram**” means a graphically illustrated diagram that indicates in all relevant detail (including by use of colour-coded arrows indicating the directions of forces caused by dead loads, live loads, vertical loads and lateral loads) how the structural loads are transferred throughout a building or structure that is to be the subject of a Demolition.
- 1.363 “**Longstop Date**” has the meaning given in Section 43.1(a)(ii) of the Project Agreement.
- 1.364 “**Look-ahead Schedule**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.365 “**Maintenance and Rehabilitation Contract**” means the agreement between Project Co and the Maintenance and Rehabilitation Contractor or such other party as shall be approved by the City to perform the Maintenance and Rehabilitation Services with respect to the System Infrastructure.
- 1.366 “**Maintenance and Rehabilitation Contractor**” means [REDACTED] engaged by Project Co to perform the Maintenance and Rehabilitation Services and any substitute person engaged by Project Co to perform such work as may be permitted by the Project Agreement.
- 1.367 “**Maintenance and Rehabilitation Contractor’s Direct Agreement**” means the direct agreement to be entered into amongst the City, the Maintenance and Rehabilitation Contractor and the Maintenance and Rehabilitation Guarantor, in the form set out in Schedule 5-2 – Maintenance and Rehabilitation Contractor’s Direct Agreement.
- 1.368 “**Maintenance and Rehabilitation Guarantor**” means [REDACTED].
- 1.369 “**Maintenance and Rehabilitation Plan**” has the meaning given in Schedule 15-1 of the Output Specifications.
- 1.370 “**Maintenance and Rehabilitation Management Plan**” or “**M&RMP**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.371 “**Maintenance and Rehabilitation Requirements**” means the maintenance and rehabilitation requirements as set out in Schedule 15-3 of the Output Specifications.
- 1.372 “**Maintenance and Rehabilitation Services**” has the meaning given in Schedule 15-1 of the Output Specifications, as such work and services may from time to time be varied in accordance with the Project Agreement, but specifically excluding Governmental Activities and the Works.
- 1.373 “**Maintenance and Rehabilitation Submittals**” has the meaning given in Section 1.1 of Part B of Schedule 10 – Review Procedure.

- 1.374 “**Maintenance Committee**” has the meaning given in Section 12.1(a) of the Project Agreement.
- 1.375 “**Maintenance Period**” means the period from the Substantial Completion Date and expiring at midnight on the Termination Date.
- 1.376 “**Maintenance Period Limit**” has the meaning given in Section 55.4(a)(ii) of the Project Agreement.
- 1.377 “**Maintenance Plan**” has the meaning given in Schedule 15 – Output Specifications.
- 1.378 “**Maintenance Vehicles**” has the meaning given in Schedule 15 – Output Specifications”.
- 1.379 “**Major Comment**” means any Non-Conformance that:
- (a) contains significant deficiencies;
 - (b) is reasonably expected to result in a Medium Qualifying NCR; or
 - (c) the continued existence of which is reasonably expected to result in Project Co being unable to satisfy the requirements of Substantial Completion by the Longstop Date.
- 1.380 “**Major Maintenance Schedule**” has the meaning given in Section 16.5(c) of the Project Agreement.
- 1.381 “**Make Good**”, “**Made Good**” and derivatives thereof, means repairing, restoring, refurbishing, rehabilitating or performing filling operation on the Works as required under the Project Agreement or any existing components disturbed due to the Works, to at least the condition existing at the commencement of the 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.
- 1.382 “**Maximum Service Payment**” has the meaning given in Schedule 22 - Compensation on Termination.
- 1.383 “**Medium Qualifying NCR**” has the meaning given to it in Schedule 20 – Construction Period Payments.
- 1.384 “**Milestone**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.385 “**Minimum Required Fleet**” has the meaning given in Schedule 15-1 – Output Specifications: Technical Terms and Reference Documents.
- 1.386 “**Minor Deficiencies**” means any defects, deficiencies and items of outstanding work (including in relation to seasonal work) arising from or related to the work required to achieve Substantial Completion, and that would not materially impair:

- (a) the public's, System Users', or the City's use and enjoyment of the System Infrastructure or any third parties use and enjoyment of their respective System Infrastructure (including any City Commissioning);
- (b) the performance of the Governmental Activities;
- (c) the performance of the Maintenance and Rehabilitation Services by Project Co;
- (d) safety, security, or traffic flow on the System Infrastructure in any relevant respect.

For greater certainty Minor Deficiencies shall not be applicable to nor shall Minor Deficiencies include defects, deficiencies and items of outstanding work arising from or related to the supply of the New Revenue Vehicles.

1.387 “**Minor Deficiencies List**” has the meaning given in Section 25.7(a) of the Project Agreement.

1.388 “**Minor Comment**” means any Non-Conformance that:

- (a) generally conforms to the requirements of the Project Agreement, but in which immaterial deficiencies have been found; or
- (b) the continued existence of which is not reasonably expected to result in Project Co becoming unable to satisfy the requirements for Substantial Completion but may result in a Minor Deficiency.

1.389 “**Minor System User Contamination**” means Contamination where the costs of clean up or remediation shall not exceed \$[REDACTED] on a per occurrence basis (and not in the aggregate).

1.390 “**Mislocated Utility Infrastructure**” means:

- (a) Utility Infrastructure that is discovered more than 200mm horizontally from the provided surveyed point via any Quality Level A investigation in the Subsurface Utility Engineering Report;
- (b) Utility Infrastructure that is discovered more than 150mm vertically from the provided surveyed point via any Quality Level A investigation in a Subsurface Utility Engineering Report;
- (c) Utility Infrastructure that is discovered more than 1500mm horizontally from the location provided via any Quality Level B investigation in a Subsurface Utility Engineering Report;
- (d) Utility Infrastructure that is discovered more than 2000mm horizontally from the location provided in the Quality Level C investigation in a Subsurface Utility Engineering Report

- (e) Utility Infrastructure that is discovered more than 3000mm horizontally from the location provided in the Quality Level D investigation in a Subsurface Utility Engineering Report; or
- (f) Utility Infrastructure that is owned by the City that is discovered more than 600mm vertically from the location provided in a Subsurface Utility Engineering Report,

provided, however, that the following shall be excluded from the definition of “**Mislocated Utility Infrastructure**”:

- (g) any Utility Infrastructure that is a service connection;
- (h) any Utility Infrastructure that is above-ground, aerial, or at-grade;
- (i) any of the following Utility Infrastructure that is owned by the City;
 - (A) watermains of nominal diameter less than 150mm;
 - (B) combined sewers or storm sewers of nominal diameter less than 300mm;
 - (C) sanitary sewers of nominal diameter less than 225mm; and
 - (D) street lighting and traffic signal cables.
- (j) any Utility Infrastructure relocations carried out at the Site subsequent to Commercial Close, including with respect to,
 - (A) the Works; and
 - (B) Third Party Works and Additional Works.

1.391 “**Modification**” has the meaning given in Schedule 35 – Intellectual Property.

1.392 “**MOI**” means Her Majesty The Queen in right of Ontario as represented by the Minister of Infrastructure, and includes any successors thereto or persons exercising delegated power under the Minister’s authority.

1.393 “**Monitoring Notice**” has the meaning given in Section 30.5(a) of the Project Agreement.

1.394 “**Monthly Equity Distribution Ratio**” has the meaning given in the Financial Model.

1.395 “**Monthly Previously Paid HST Amount**” means, if applicable, 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 Period

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 City shall determine the Monthly Previously Paid HST Amount in accordance with such Applicable Law, provided that the City 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 Period, 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 City so determines in its sole discretion;

- (b) communicated by the City to Project Co in writing at the same time that the City pays Project Co the Section 35.1(c) Payment; and
- (c) credited to the City in each Monthly Service Payment invoice sent by Project Co to the City following the payment of the Section 35.1(c) Payment.

- 1.396 “**Monthly Progress Report**” means a monthly progress report submitted by Project Co in accordance with Part 2 of Schedule 31 – Works Report Requirements.
- 1.397 “**Monthly Service Payment**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.398 “**MTO**” means the Ministry of Transportation of Ontario and its agents and representatives.
- 1.399 “**Multiple Obligee Rider to Labour and Material Payment Bond**” means the Multiple Obligee Rider amending the Labour and Material Payment Bond to add the City and Lenders as additional named Obligees, in the form attached as Exhibit 1 to Appendix C of Schedule 24 – Insurance and Performance Security Requirements.
- 1.400 “**Multiple Obligee Rider to Performance Bond**” means the Multiple Obligee Rider amending the Performance Bond to add the City and Lender as additional named Obligees, in the form attached as Exhibit 1 to Appendix B of Schedule 24 – Insurance and Performance Security Requirements.
- 1.401 “**NCC**” means the National Capital Commission and its agents and representatives.
- 1.402 “**NCC Act**” means the *National Capital Act* (Canada).
- 1.403 “**NCC FLUDA**” means the federal land use, design approval of the NCC under section 12 of the National Capital Act required in respect of the change of use of, or erection, alteration, extension or demolition of a building or other work on, Crown Lands which are “public lands” within the “National Capital Region” (as such terms are defined in the NCC Act), as indicated in Appendix 2 – Lands – After – Acquired Lands – Crown Lands to this Schedule 1, which approval may include and be subject to conditions.

- 1.404 “**NMI Minor Deficiencies**” has the meaning given to it in “Section 25.13(f) of the Project Agreement.
- 1.405 “**NMI Minor Deficiency Deduction**” has the meaning given in Section 25.13(f) of the Project Agreement.
- 1.406 “**New Agreement**” has the meaning given in Schedule 22 - Compensation on Termination.
- 1.407 “**New Municipal Infrastructure**” means the infrastructure to be installed, relocated, upgraded, reinstated, downsized, restored, designed and/or built by Project Co for the City in accordance with Article 14 of Part 1 of Schedule 15-2 Output Specifications to the Project Agreement.
- 1.408 “**New Municipal Infrastructure Component**” means a component or element of the New Municipal Infrastructure, as set out in the Works Schedule.
- 1.409 “**New Municipal Infrastructure Component Acceptance**” means the point in time at which the City Engineer determines that an individual New Municipal Infrastructure Component has been completed in accordance with the Project Agreement and all requirements for New Municipal Infrastructure Component Acceptance described in the Output Specifications in respect of New Municipal Infrastructure Works have been satisfied, the New Municipal Infrastructure Component Works Requirements have been satisfied and the issuance by the City Engineer of a New Municipal Infrastructure Component Acceptance Certificate.
- 1.410 “**New Municipal Infrastructure Component Acceptance Certificate**” means, in respect of an individual New Municipal Infrastructure Component, the certificate issued by the City Engineer to Project Co confirming acceptance of the applicable New Municipal Infrastructure Component.
- 1.411 “**New Municipal Infrastructure Component Acceptance Date**” means, in respect of an individual New Municipal Infrastructure Component, the date on which the City Engineer has issued a New Municipal Infrastructure Component Acceptance Certificate in respect of such New Municipal Infrastructure Component.
- 1.412 “**New Municipal Infrastructure Component Acceptance Notice**” has the meaning given in Section 25.13(d) of the Project Agreement.
- 1.413 “**New Municipal Infrastructure Component Works Requirements**” has the meaning given in Section 25.13(d) of the Project Agreement.
- 1.414 “**New Municipal Infrastructure Work**” means the temporary and permanent installation, relocation, upgrading, reinstatement, restoration, downsizing, designing and/or building works by Project Co relating to the New Municipal Infrastructure for the City, carried out in connection with or as part of the Project Operations.
- 1.415 “**New Municipal Infrastructure Works Acceptance**” means the receipt by Project Co of New Municipal Infrastructure Component Acceptance Certificates for all New

Municipal Infrastructure Components and completion and satisfaction of all Final New Municipal Infrastructure Works Requirements.

- 1.416 “**New Municipal Infrastructure Works Acceptance Date**” means the date on which New Municipal Infrastructure Works Acceptance is achieved.
- 1.417 “**New Municipal Infrastructure Works Component Countdown Notice**” has the meaning given in Section 25.13(c) of the Project Agreement.
- 1.418 “**New Revenue Vehicles**” means the Revenue Vehicles supplied under the Revenue Vehicle Supply Contract under Section 9.11(a) of the Project Agreement.
- 1.419 “**New Utility Infrastructure**” means the Utility Infrastructure to be installed, relocated, upgraded, reinstated, restored, designed and/or built by Project Co for a Utility Company in accordance with the Project Agreement with reference to the applicable City Standards and Utility Company standards.
- 1.420 “**New Walkley Yard**” has the meaning given in Schedule 15 – Output Specifications.
- 1.421 “**New Walkley Yard Facilities Management Services**” means facilities management services to be delivered by Project Co at the New Walkley Yard as specified in Schedule 15 - Output Specifications.
- 1.422 “**Noise and Vibration Control Plan**” has the meaning given in Schedule 17 – Environmental Obligations.
- 1.423 “**Noise and Vibration Survey**” has the meaning given in Schedule 17 – Environmental Obligations.
- 1.424 “**Non-Conformance**” means any failure by Project Co to perform any of its obligations under the Project Agreement in respect of any aspect of the Works and which failure is not rectified by Project Co within the applicable time period, if any, stipulated in this Project Agreement.
- 1.425 “**Non-Conformance Tracking System**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.426 “**Non-Default Termination Sum**” has the meaning given in Schedule 22 - Compensation on Termination.
- 1.427 “**Non-Disclosure Agreement**” has the meaning given in Schedule 26 - Dispute Resolution Procedure.
- 1.428 “**Non-Project Co Cause**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.429 “**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).
- 1.430 “**Non-Revenue Vehicle**” has the meaning given in Schedule 15 – Output Specifications.

- 1.431 “**Notice**” has the meaning given in Section 59.1(a) of the Project Agreement.
- 1.432 “**Notice of Dispute**” has the meaning given in Schedule 26 - Dispute Resolution Procedure.
- 1.433 “**Notice of Pending Claim**” has the meaning given in Section 38.2(a) of the Project Agreement.
- 1.434 “**NRC**” means the National Research Council of Canada and its agents and representatives.
- 1.435 “**OC Transpo**” means OC Transpo and its agents and representatives .
- 1.436 “**Occupational Health and Safety Act (Ontario)**” means the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1, as amended from time to time.
- 1.437 “**Off-Peak Period**” has the meaning given in Schedule 15 – Output Specifications.
- 1.438 “**OHSAS 18001**” means the international standard for occupational health and safety management systems developed by the Occupational Health and Safety Advisory Services Project Group, a British body formed to develop the standard.
- 1.439 “**OHSAS 18001 Accreditation**” means, in respect of an entity, such entity having received certification in respect of its health and safety management systems that such systems comply with the requirements of OHSAS 18001.
- 1.440 “**Ontario Heritage Act (Ontario)**” means the *Ontario Heritage Act*, R.S.O. 1990, c. O.18, as amended from time to time.
- 1.441 “**Operator**” means any person directly engaged by the City of Ottawa to carry out the Operator Tasks.
- 1.442 “**Operator Tasks**” means all of the tasks to be performed by the Operator in connection with the operation of the Trillium Line as set out in Schedule 15 – Output Specifications.
- 1.443 “**Operator Transition**” has the meaning given in Section 26.7(a) of the Project Agreement.
- 1.444 “**Operator Transition Notice**” has the meaning given in Section 26.7(b) of the Project Agreement.
- 1.445 “**Order**” has the meaning given in Schedule 28 - Insurance Trust Agreement.
- 1.446 “**Other Contractor**” means an Additional Contractor or a Third Party Contractor.
- 1.447 “**Other Works**” means the Additional Works and the Third Party Works.
- 1.448 “**Output Specifications**” means Schedule 15 – Output Specifications, and includes Schedule 15-1 – Technical Terms and Reference Documents, Schedule 15-2 - Design and

Construction Requirements and Schedule 15-3 – Maintenance and Rehabilitation Requirements.

- 1.449 “**Outside Substantial Completion Date**” means August 1, 2022.
- 1.450 “**Ownership**” has the meaning given in Schedule 35 – Intellectual Property.
- 1.451 “**PA Parties**” or “**PA Party**” has the meaning given in Schedule 6 - Independent Certifier Agreement.
- 1.452 “**PAR Meeting**” has the meaning given in Section 11.6(f) of the Project Agreement
- 1.453 “**PAR Meeting Expiry Date**” has the meaning given in Section 11.6(g) of the Project Agreement.
- 1.454 “**Party**” means either the City or Project Co, and “**Parties**” means collectively the City and Project Co, but, for greater certainty, such definitions do not include MOI.
- 1.455 “**Party Representative**” and “**Party Representatives**” have the meanings given in Schedule 26 - Dispute Resolution Procedure.
- 1.456 “**Passenger**” means a natural person using any segment of the Extended Trillium Line.
- 1.457 “**Patents**” includes all national (including the United States and Canada), regional and multinational statutory invention registrations, patents, patent registrations, patent applications, provisional patent applications, industrial designs, industrial models, including all reissues, divisions, continuations, continuations-in-part, extensions and re-examinations, and all rights therein provided by multinational treaties or conventions and all improvements to the inventions disclosed in each such registration, patent or application.
- 1.458 “**Payment Adjustment Report**” has the meaning given in Section 32.6(i)(ii) of the Project Agreement.
- 1.459 “**Payment Certifier**” means the professional architect of record or engineer of record for the Project.
- 1.460 “**Payment Commencement Date**” means the date that is two (2) Business Days after the Substantial Completion Date.
- 1.461 “**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 [REDACTED]% over the rate of interest per annum quoted by National Bank of Canada 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.

- 1.462 “**Payment Mechanism**” means the payment mechanism set out in Schedule 19 - Payment Mechanism.
- 1.463 “**Payment Periods**” means the payment periods of one calendar month (as adjusted in this definition) established by the City 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.
- 1.464 “**PBS**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.465 “**PBS Update**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.466 “**PBS Submittal**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.467 “**Peak Period**” has the meaning given in Schedule 15 – Output Specifications.
- 1.468 “**Performance Audit**” has the meaning given in Section 30.1(a) of the Project Agreement.
- 1.469 “**Performance Bond**” means any of the Performance Bonds described in Section 17 of Schedule 24 – Insurance and Performance Security Requirements.
- 1.470 “**Performance Criteria**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.471 “**Performance Guarantees**” means the guarantees to Project Co in respect of the Construction Contract and the Maintenance and Rehabilitation Contract provided by the Construction Guarantor and the Maintenance and Rehabilitation Guarantor, respectively.
- 1.472 “**Performance Monitoring Program**” means the monitoring of performance by Project Co through the Non-Conformance reporting process detailed in Schedule 11 – Integrated Management System Requirements and the Performance Monitoring Reports prepared and submitted in accordance with Schedule 11 – Integrated Management System Requirements.
- 1.473 “**Performance Monitoring Report**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.474 “**Performance Security**” means the performance security required pursuant to Article 19 of Schedule 24 – Insurance and Performance Security Requirements.
- 1.475 “**Permits, Licences, Approvals and Authorizations**” means the City Permits, Licences, Approvals and Authorizations and the Project Co Permits, Licences, Approvals and Authorizations.

- 1.476 “**Permitted Borrowing**” means any additional financing approved by the City in accordance with Section 1.9 of Schedule 21 - Variation Procedure to the Project Agreement.
- 1.477 “**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 City in respect of the Project.
- 1.478 “**Personal Information Protection and Electronic Documents Act (Canada)**” means the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, as amended from time to time.
- 1.479 “**Phase 1 and Phase 2 Environmental Site Assessment Reports**” means the reports set out in Appendix B to this Schedule 1 – Definitions and Interpretation.
- 1.480 “**Planned Major Maintenance Activity**” has the meaning given in Section 16.5(c) of the Project Agreement.
- 1.481 “**Planned Value**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.482 “**Police Service**” means the Royal Canadian Mounted Police, the Ontario Provincial Police, the Ottawa Police Service and any other law enforcement agency with jurisdiction pursuant to Applicable Law, as applicable.
- 1.483 “**Post-Installation Checkout**” or “**PICO**” has the meaning given in Schedule 14 – Testing and Commissioning.
- 1.484 “**Pre-Existing Environmental Site Conditions**” means the environmental condition of the Lands as set out in the Environmental Reports.
- 1.485 “**Pre-Final Design Development**” or “**PFDD**” has the meaning given in Schedule 10 – Review Procedure.
- 1.486 “**Private Capital Advance Confirmations**” has the meaning given in Schedule 20 – Construction Period Payments.
- 1.487 “**Private Capital Funding Confirmations**” has the meaning given in Schedule 20 – Construction Period Payments.
- 1.488 “**Preparatory Activities**” has the meaning given in Schedule 15 – Output Specifications.
- 1.489 “**Proceeding At Risk**” has the meaning given in Section 11.6(g) of the Project Agreement.

- 1.490 “**Proceeding At Risk Matter**” has the meaning given in Section 11.6(a)(ii) of the Project Agreement.
- 1.491 “**Proceeding At Risk Notice**” has the meaning given in Section 11.6(a) of the Project Agreement.
- 1.492 “**Proceedings Against the Crown Act (Ontario)**” means the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P.27, as amended from time to time.
- 1.493 “**Proceeds Account**” means the following account opened at [REDACTED] in the name of Project Co:
- | | |
|------------------------|------------|
| SWIFT: | [REDACTED] |
| Canadian Routing Code: | [REDACTED] |
| Account No.: | [REDACTED] |
| Beneficiary Name: | [REDACTED] |
- 1.494 “**Proceeds Account Cascade**” has the meaning given in Schedule 4 – Wide Equity Funding Requirements.
- 1.495 “**Product**” or “**Products**” means material, machinery, equipment and fixtures forming the New Municipal Infrastructure but does not include machinery and equipment used to prepare, fabricate, convey or erect the New Municipal Infrastructure, which is referred to as construction machinery and equipment.
- 1.496 “**Professional Engineer**” means a professional engineer licensed by Professional Engineers Ontario to practice in the Province of Ontario.
- 1.497 “**Prohibited Act**” has the meaning given in Section 58.1(a) of the Project Agreement.
- 1.498 “**Project**” has the meaning given in the recitals to the Project Agreement.
- 1.499 “**Project Agreement**” has the meaning given in the recitals to the Project Agreement.
- 1.500 “**Project Agreement Arbitration**” has the meaning given in Schedule 26- Dispute Resolution Procedure.
- 1.501 “**Project Co**” means [REDACTED] and any successor or permitted assign.
- 1.502 “**Project Co Assumed Responsibilities for the Dow’s Lake Tunnel Structure**” has the meaning given in Section 16.7(a) of the Project Agreement.
- 1.503 “**Project Co Communications Protocol**” has the meaning given in Schedule 18 – Communications and Stakeholder Engagement Obligations Protocol.
- 1.504 “**Project Co Construction Communications Plan**” has the meaning given in Schedule 18 – Communications and Stakeholder Engagement Obligations Protocol.

- 1.505 “**Project Co Event of Default**” has the meaning given in Section 43.1(a) of the Project Agreement.
- 1.506 “**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.
- 1.507 “**Project Co Operator Transition Services**” has the meaning given in Section 26.7(a) of the Project Agreement.
- 1.508 “**Project Co Party**” means:
- (a) the Construction Contractor;
 - (b) the Maintenance and Rehabilitation 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.
- 1.509 “**Project Co Permits, Licences, Approvals and Authorizations**” means all permissions, consents, approvals, certificates, permits, licences, agreements and authorizations required to perform the Project Operations in accordance with the Project Agreement and as required by Applicable Law, and including those permissions, consents, approvals, certificates, permits, licences, agreements and authorizations which are the responsibility of Project Co to obtain as set out in Schedule 32 – City Permits, Licences, Approvals and Authorizations or which is the responsibility of Project Co to perform or fulfill as set out in Schedule 32 – City Permits, Licences, Approvals and Authorizations, 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 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, but other than City Permits, Licences, Approvals and Authorizations.
- 1.510 “**Project Co Proposal Extracts**” means the documents attached as Schedule 13 - Project Co Proposal Extracts.
- 1.511 “**Project Co Representative**” means the person designated as such by Project Co on or prior to Commercial Close and any permitted replacement.
- 1.512 “**Project Co Testing and Commissioning**” means the commissioning activities to be carried out by Project Co in order to achieve Readiness for Revenue Service as set forth in Schedule 14 – Testing and Commissioning.

- 1.513 “**Project Co Testing and Commissioning Coordinator**” has the meaning given in Schedule 14 – Testing and Commissioning.
- 1.514 “**Project Co Utility Works**” means the works relating to New Utility Infrastructure carried out by Project Co as part of the Project Operations, including design, construction, installation, commissioning, protection, removal and relocation of duct banks, poles, pole lines, conduits, gas pipes, oil pipes, sewers and telephone and telecommunication lines, and related and ancillary works.
- 1.515 “**Project Co Variation Notice**” has the meaning given in Schedule 21 - Variation Procedure.
- 1.516 “**Project Co’s Expiry Transition Process Asset Preservation Work Schedule**” has the meaning given in Schedule 15 – Output Specifications.
- 1.517 “**Project Data**” has the meaning given in Schedule 35 – Intellectual Property.
- 1.518 “**Project Documents**” means the Ancillary Documents.
- 1.519 “**Project Insurance Change**” has the meaning given in Section 7.1(f) of Schedule 24 - Insurance and Performance Security Requirements.
- 1.520 “**Project Know-How**” means all ideas, concepts, alternatives, methodologies, processes, recommendations and suggestions developed by or through Project Co or any Project Co Party and revealed to or discovered by the City, whether before or after Commercial Close, which may be connected in any way to:
- (a) the Works, including the design and construction of the System Infrastructure;
 - (b) the Maintenance and Rehabilitation Services, including the maintenance, rehabilitation, improvement and testing of the System Infrastructure;
 - (c) any other Project Operations; or
 - (d) the Project Agreement.
- 1.521 “**Project Operations**” means:
- (a) the performance of the Works;
 - (b) the performance of the Maintenance and Rehabilitation Services; and
 - (c) the performance of all other obligations of Project Co under the Project Agreement.
- 1.522 “**Project Term**” means the period commencing on Commercial Close and expiring at midnight on the Termination Date.
- 1.523 “**Project Term Lands**” has the meaning given in Schedule 33 – Lands.

- 1.524 “**Proponent**” has the meaning given in the Request for Proposals.
- 1.525 “**Proprietor**” has the meaning given in Section 50.6(a) of the Project Agreement.
- 1.526 “**Protesters**” has the meaning given in Section 9.7(a) of the Project Agreement.
- 1.527 “**Province**” means Her Majesty the Queen in right of Ontario.
- 1.528 “**Qualifying Tender**” has the meaning given in Schedule 22 - Compensation on Termination.
- 1.529 “**Quality Documentation**” means all documentation to be prepared, submitted (where applicable) and implemented by Project Co in accordance with Schedule 11 – Integrated Management System Requirements.
- 1.530 “**Quality Failure**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.531 “**Quality Manager**” has the meaning given in Schedule 11 – Integrated Management System Requirements.
- 1.532 “**Rail Transit Specific Change in Law**” means any Change in Law which principally affects or principally relates only to the design, construction, maintenance or rehabilitation of rail transit systems.
- 1.533 “**Railway Company**” means CP Rail and any other railway company that owns or operates a rail service, any part of which is on any part of the Lands during the Project Term and “**Railway Companies**” means all of them
- 1.534 “**Readiness for Revenue Service**” has the meaning given in Schedule 14 – Testing and Commissioning.
- 1.535 “**Record Drawings**” means signed and sealed drawings prepared by the inspecting professional engineer, using as-built information, after verifying in detail the actual conditions of the completed project or applicable components as they are constructed, including any changes that were initiated due to site conditions or other causes and where all such changes are clearly identified through redlines or by means of any other format agreed by the City.
- 1.536 “**Recovery Amount**” has the meaning given in Section 54.3(g) of the Project Agreement.
- 1.537 “**Recovery Schedule**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.538 “**Recovery Schedule Report**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.539 “**Rectification Time**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.540 “**Refinancing**” has the meaning given in Schedule 27 – Refinancing.

- 1.541 “**Reimbursement Event**” has the meaning given in Section 31.5(a) of the Project Agreement.
- 1.542 “**Reinstatement Plan**” has the meaning given in Section 29.2(a) of the Project Agreement.
- 1.543 “**Reinstatement Work**” has the meaning given in Section 29.1(a) of the Project Agreement.
- 1.544 “**Release**” has the meaning given in Schedule 17 – Environmental Obligations.
- 1.545 “**Relevant Change in Law**” means a Discriminatory Change in Law or a Rail Transit Specific Change in Law.
- 1.546 “**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 City from time to time, and that conviction remains in effect at that time and is one for which a pardon has not been granted.
- 1.547 “**Relevant Insurance**” has the meaning given in Section 7.1(g) of Schedule 24 - Insurance and Performance Security Requirements.
- 1.548 “**Relevant Insurance Inception Date**” has the meaning given in Section 7.1(h) of Schedule 24 - Insurance and Performance Security Requirements.
- 1.549 “**Relief Event**” has the meaning given in Section 41.1(a) of the Project Agreement.
- 1.550 “**Remaining Works**” means:
- (a) the provision of the remaining New Revenue Vehicles not yet Delivered to the New Walkley Yard in compliance with Schedule 15-2 Part 8;
 - (b) the testing and commissioning of the New Revenue Vehicles in accordance with 15-2 Part 8 and Schedule 14;
 - (c) completion of the training of the City Operators on the New Revenue Vehicles;
 - (d) completion of a 14 day trial running period simulating full revenue service, and safety certification of the New Revenue Vehicles; and
 - (e) the delivery of all manuals, spare parts, and materials associated with the New Revenue Vehicles otherwise required by the Project Agreement.
- For greater certainty, Remaining Works do not constitute Minor Deficiencies.
- 1.551 “**Remedial Period**” has the meaning given in Schedule 19 – Payment Mechanism.

- 1.552 “**Request for Proposals**” or “**RFP**” means the request for proposals issued in respect of the Project on February 19, 2016, as amended from time to time.
- 1.553 “**Request for Utility Works Payment**” has the meaning given in Section 20.13(g) of the Project Agreement.
- 1.554 “**Response**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.555 “**Response Time**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.556 “**Restricted Payment Conditions**” has the meaning given in Schedule 4 – Funding Requirements.
- 1.557 “**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, (i) he or she has been convicted of any indictable offence less than five years prior to the date at which the consideration of whether such individual is a “**Restricted Person**” is made hereunder, whether or not such person received a custodial sentence; or (ii) he or she has been sentenced to a custodial sentence, other than a suspended sentence, for any regulatory offence other than under the *Highway Traffic Act* (Ontario) or corresponding legislation in any other jurisdiction less than five years prior to the date at which the consideration of whether such individual is a “**Restricted Person**” is made hereunder;
 - (d) in the case of a person other than an individual, (i) it or any of the members of its (or its general partner’s) board of directors or its senior executive managers has been convicted of any indictable offence less than five years prior to the date at which the consideration of whether such person is a “**Restricted Person**” is made hereunder, whether or not such person received a custodial sentence; or (ii) any of the members of its (or its general partner’s) board of directors or its senior executive managers has been sentenced to a custodial sentence, other than a suspended sentence, for any regulatory offence other than under *the Highway Traffic Act* (Ontario) or corresponding legislation in any other jurisdiction less than five years prior to the date at which the consideration of whether such person is a “**Restricted Person**” is made hereunder;
 - (e) 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;

- (f) is subject to a material claim of the City 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 City’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
 - (g) has a material interest in the production of tobacco products.
- 1.558 **“Restrictions and Requirements”** means the restrictions, qualifications and requirements contained in the Lands Table forming part of Schedule 33 – Lands.
- 1.559 **“Revenue Service”** has the meaning given in Schedule 15 – Output Specifications.
- 1.560 **“Revenue Service Commencement”** means the commencement of Passenger service to the public on the System by the City on the Revenue Service Commencement Date.
- 1.561 **“Revenue Service Hours”** has the meaning given in Schedule 15 – Output Specifications.
- 1.562 **“Revenue Service Train Kilometres”** has the meaning given in Schedule 19 – Payment Mechanism.
- 1.563 **“Revenue Vehicle Contract Costs”** has the meaning given in Section 9.11(b) of the Project Agreement.
- 1.564 **“Revenue Vehicle Deficiency”** means a defect or deficiency in a Revenue Vehicle such that the Revenue Vehicle does not meet those Revenue Vehicle Technical Specifications that are not Technical Specifications (Built to Specification).
- 1.565 **“Revenue Vehicles”** has the meaning given in Schedule 15 – Output Specifications.
- 1.566 **“Revenue Vehicle Payment Request”** has the meaning given in Section 9.11(c) of the Project Agreement.
- 1.567 **“Revenue Vehicle Supplier”** means [REDACTED].
- 1.568 **“Revenue Vehicle Supply Contract”** has the meaning given in Section 9.11(a) of the Project Agreement.
- 1.569 **“Review Procedure”** means the procedure set out in Schedule 10 - Review Procedure.
- 1.570 **“Review Procedure Activities”** means:
- (a) performance of the requirements of Schedule 10 – Review Procedure for all Works Submittals required to be delivered prior to Substantial Completion, including:

- (i) all Submittals by Project Co;
 - (ii) City review periods and responses regarding Works Submittals;
 - (iii) amendment by Project Co, if required; and
 - (iv) re-submission by Project Co, if required;
- (b) any other submission activities required by Project Co pursuant to the Project Agreement
- 1.571 “**Review Procedure Activities Register**” means a register of Review Procedure Activities which shall include the submission dates and review periods for all Works Submittals required under Schedule 10 – Review Procedure, Schedule 12 – Work Scheduling Requirements, and elsewhere in the Project Agreement.
- 1.572 “**Revised New System Infrastructure Condition Report**” has the meaning given in Schedule 23 – Expiry Transition Procedure.
- 1.573 “**Road Cut Permit – Major Construction (Civil Works and Utility Relocation)**” has the meaning given in Schedule 15 – Output Specifications.
- 1.574 “**Road Safety Audit**” has the meaning given in Schedule 15-1 of the Output Specifications.
- 1.575 “**Road Sections**” has the meaning given in Schedule 7 – Mobility Matters.
- 1.576 “**RVSC Cash Allowance Account**” means the RVSC Cash Allowance Account to be established in accordance with Section 9.11 of the Project Agreement.
- 1.577 “**RVSC Cash Flow**” means that cash flow defined by the RVSC Milestone dates and corresponding amounts set forth Appendix G.
- 1.578 “**RVSC Fixed Cost Amount**” means \$[REDACTED].
- 1.579 “**RVSC Milestone**” has the meaning assigned to the term Milestone in the Revenue Vehicle Supply Contract.
- 1.580 “**Safety and Security Management Committee**” has the meaning given in Schedule 15 – Output Specifications.
- 1.581 “**Safety Management Plan**” has the meaning given in Schedule 15 – Output Specifications.
- 1.582 “**Schedule**” means a schedule to the Project Agreement.
- 1.583 “**Scheduled Final Completion Date**” means the date that is 202 days following Substantial Completion.

- 1.584 “**Scheduled Passenger Facility Hours**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.585 “**Scheduled Revenue Service Train Kilometres**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.586 “**Scheduled Substantial Completion Date**” means August 10, 2022, as such date may be amended pursuant to Section 38 of the Project Agreement.
- 1.587 “**Security**” has the meaning given in Schedule 41 – Lenders’ Direct Agreement.
- 1.588 “**Security Documents**” has the meaning given in Schedule 41 – Lenders’ Direct Agreement.
- 1.589 “**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.
- 1.590 “**Service Failure**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.591 “**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.
- 1.592 “**Shutdown Period**” means the period beginning on May 3, 2020.
- 1.593 “**Shutdown Period Service Obligations**” means the obligations in respect of the care, maintenance and repair of the Existing Trillium Line Assets and the Existing Vehicle Fleet during the Shutdown Period as set out in Schedule 15-3.
- 1.594 “**Shutdown Period Transition and Maintenance Plan**” has the meaning given in Section 10 of the Output Specifications.
- 1.595 “**Signalling and Train Control System**” has the meaning given in Schedule 15 – Output Specifications.
- 1.596 “**Site**” means, at any time and from time to time, that portion of the Lands,
- (a) on which Project Co or any Project Co Party is engaged in any construction or demolition activities or is otherwise engaged in completing the Works;
 - (b) on which any of the Works have been commenced but not completed in their entirety;

- (c) that are hoarded, cordoned, or otherwise fenced off by Project Co, and any Lands immediately surrounding such hoarding, cordons or fencing; or
 - (d) within the active construction footprint of the Works.
- 1.597 “**Site Acceptance Test**” or “**SAT**” has the meaning given in Schedule 14 – Testing and Commissioning.
- 1.598 “**Site Conditions**” means the condition of the Lands, including the physical, geophysical, climatic, ecological, environmental, geotechnical and archaeological conditions.
- 1.599 “**Small Works**” means any works, including facilities and equipment, of a minor nature that are requested by the City to be performed having an individual cost or aggregate cost with other linked works, including facilities and equipment, of a minor nature, not exceeding \$[REDACTED] (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 Quality 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 Work.
- 1.600 “**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.
- 1.601 “**Stakeholders**” means individuals and organizations with an interest in the Project, including those listed in Schedule 15 - Output Specifications, but excluding the City.
- 1.602 “**Standard Operating Procedures**” has the meaning given in Schedule 15 – Output Specifications.
- 1.603 “**Standards & Guidelines for Conservation of Provincial Heritage Properties**” means the Standards & Guidelines for Conservation of Provincial Heritage Properties issued under the *Ontario Heritage Act* (Ontario) on April 28, 2010, as amended from time to time.
- 1.604 “**Start-Up Meeting**” has the meaning given in Section 20.4(a) of the Project Agreement.
- 1.605 “**Station**” or “**Stop**” has the meaning given in Schedule 15 – Output Specifications.
- 1.606 “**Station Plaza**” means a plaza at a Station.
- 1.607 “**Structures**” has the meaning given in Schedule 15 – Output Specifications.
- 1.608 “**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 consultant, and any subcontractor of any other subcontractor at any tier.

- 1.609 “**Subcontractor Losses**” has the meaning given in Schedule 22 - Compensation on Termination.
- 1.610 “**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.
- 1.611 “**Submittal**” means a Works Submittal or a Maintenance and Rehabilitation Submittal.
- 1.612 “**Substantial Completion**” means the point at which (i) the System Infrastructure, the New Municipal Infrastructure, the New Utility Infrastructure have been completed in accordance with the Project Agreement; (ii) the Payment Certifier appointed pursuant to Section 15.3(g) of the Project Agreement has certified the substantial performance of the Construction Contract and the related certificate of substantial performance of the Works is published pursuant to Section 32(1) of the CLA; and (iii) all requirements for Readiness for Revenue Service described in Schedule 14 - Testing and Commissioning, other than in respect of Minor Deficiencies, have been satisfied in respect of the System Infrastructure and the New Municipal Infrastructure as a whole.
- 1.613 “**Substantial Completion Certificate**” means the certificate to be issued by the Independent Certifier in accordance with Section 25.3 of the Project Agreement.
- 1.614 “**Substantial Completion Countdown Notice**” has the meaning given in Section 25.4(a) of the Project Agreement.
- 1.615 “**Substantial Completion Date**” means the date on which Substantial Completion is achieved as evidenced by the Substantial Completion Certificate, as such date shall be stated therein.
- 1.616 “**Substantial Completion Notice**” has the meaning given in Section 25.3(b) of the Project Agreement.
- 1.617 “**Substantial Completion Payment**” means \$[REDACTED].
- 1.618 “**Substantial Completion Payment Commencement Date**” means the date that is two Business Days after the Substantial Completion Date.
- 1.619 “**Substitute**” has the meaning given in the applicable Direct Agreement.
- 1.620 “**Subsurface Utility Engineering Reports**” or “**SUE**” means the [REDACTED].
- 1.621 “**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.
- 1.622 “**System Event**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.623 “**System Extension**” has the meaning given in Schedule 36 – System Extension.

- 1.624 “**System**” means the rapid transit system to be designed, constructed, supplied, tested, commissioned and maintained by Project Co in accordance with this Project Agreement, in, on, over or under any part of the Lands as part of the Works, including, without limitation, the Vehicles, the System Infrastructure, all site services, utilities, roadways and parking areas required to support such System Infrastructure, all supporting systems and improvements and all other Works, improvements, modifications, additions, demolitions, removals of the Existing Trillium Line Assets required in each case to meet the Output Specifications and all requirements of the Permits, Licenses, Approvals and Authorizations, whether or not in the course of construction, installation, completion or maintenance.
- 1.625 “**System Infrastructure**” at any time means the infrastructure, assets and systems to be designed, constructed and installed by Project Co in, on, over or under any part of the Lands as part of the Works to create the System in accordance with the Project Agreement, and includes those parts of the Existing Trillium Line Assets which Project Co designs, utilizes, relocates, refurbishes, upgrades, reinstates, restores, rebuilds and integrates into the System, but, for purposes of determining the Maintenance and Rehabilitation Services, excludes the New Municipal Infrastructure.
- 1.626 “**System Infrastructure Condition Report**” has the meaning given in Schedule 23 – Expiry Transition Procedure.
- 1.627 “**System Infrastructure Performance Demonstration**” has the meaning given in Schedule 23 – Expiry Transition Procedure.
- 1.628 “**System User**” means any member of the public, any City Party and any other person that is on or about the New Municipal Infrastructure, the System or is otherwise making use of the System Infrastructure for any purpose.
- 1.629 “**Systems Integration Dispute**” means a dispute related to the integration and function of the communications systems.
- 1.630 “**Systems Integration Test**” or “**SIT**” has the meaning given in Schedule 14 – Testing and Commissioning.
- 1.631 “**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 City Taxes.
- 1.632 “**Technical Information**” has the meaning given in Schedule 35 – Intellectual Property.
- 1.633 “**Technical Reports**” means the Environmental Reports, the Geotechnical Reports and the Archaeological Reports.
- 1.634 “**Technical Submission Deadline**” means August 10, 2018.

- 1.635 “**Temporary Street Occupancy Permit**” means the consent(s) and permit(s) to perform street work and for temporary street occupation as set out in the City of Ottawa Road Activity Bylaw (By-law No. 2003-445) and Encroachments on City Highways (By-law No. 2003-446, Streets and Sidewalks, as such consent(s) and permit(s) are related to those portions of the City Road Allowance required by Project Co for the Works.
- 1.636 “**Terminal Station**” has the meaning given in Schedule 15 – Output Specifications.
- 1.637 “**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.
- 1.638 “**Testing and Commissioning Manuals**” has the meaning given in Section 1.6(f) of Schedule 14 – Testing and Commissioning.
- 1.639 “**Testing and Commissioning Plan**” has the meaning given in Section 1.3(a) of Schedule 14 – Testing and Commissioning.
- 1.640 “**Testing and Commissioning Schedule**” has the meaning given in Section 1.3(m) of Schedule 14 – Testing and Commissioning.
- 1.641 “**Testing and Commissioning Team**” has the meaning given in Schedule 14 – Testing and Commissioning.
- 1.642 “**Third Party Access Agreements**” has the meaning given in Schedule 33 – Lands.
- 1.643 “**Third Party Arbitration**” has the meaning given in Schedule 26 - Dispute Resolution Procedure.
- 1.644 “**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.
- 1.645 “**Third Party Litigation**” has the meaning given in Schedule 26 - Dispute Resolution Procedure.
- 1.646 “**Third Party Works**” means any work performed by a Third Party Contractor on the Lands, including works in relation to,
- (a) an Encumbrance; and
 - (b) Utility Work and work pursuant to a Utility Agreement or an encroachment permit or other permitting authority of any Governmental Authority under Applicable Law.
- 1.647 “**Total Capital Cost**” means \$[REDACTED].
- 1.648 “**Threshold Equity Sale Amount**” means an Equity Sale Amount that would result in an Equity Sale IRR equal to the Base Case Equity IRR.

- 1.649 “**Track**” has the meaning given in Schedule 15-1 of the Output Specifications.
- 1.650 “**Trade-Marks**” means all trademarks, service marks, trade dress, logos, distinguishing guises and indicia, trade names, corporate names, business names, domain names, whether or not registered, including all common law rights, and registrations, applications for registration and renewals thereof, including, but not limited to, all marks registered in the Canadian Intellectual Property Office and the trademark offices of other nations throughout the world, and all rights therein provided by multinational treaties or conventions.
- 1.651 “**Train Control System**” has the meaning given in Schedule 15 – Output Specifications.
- 1.652 “**Train Kilometres Availability Failure**” has the meaning given in Schedule 19 – Payment Mechanism
- 1.653 “**Train Kilometres Availability Failure Deduction**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.654 “**Traffic and Transit Management Plan**” or “**TTMP**” has the meaning given in Schedule 15-1 of the Output Specifications.
- 1.655 “**Traffic Control Plan**” has the meaning given in Schedule 15 – Output Specifications.
- 1.656 “**Transit Operations Control Centre**” or “**TOCC**” has the meaning given in Schedule 15 – Output Specifications.
- 1.657 “**Transport Canada Safe Operation Requirements**” means Transport Canada’s track safety standards for safe operation on the Existing Trillium Line at the respective track speeds applicable to the operation of the Existing Trillium Line as set out in Schedule 15- Output Specifications.
- 1.658 “**Trespasser**” has the meaning given in Section 9.7(a) of the Project Agreement.
- 1.659 “**Trial Running**” has the meaning given in Schedule 15-1 of the Output Specifications.
- 1.660 “**Trillium Line Extension**” means the approximately 12km long extension from Greenboro Station to Limebank Station.
- 1.661 “**Tunnels**” has the meaning given in Schedule 15 – Output Specifications.
- 1.662 “**Uninsurable Event**” means any event which arises directly and solely from an Uninsurable Risk.
- 1.663 “**Uninsurable Risk**” has the meaning given in Schedule 24 - Insurance and Performance Security Requirements to the Project Agreement.
- 1.664 “**Unit Rate Price**” has the meaning given in Schedule 7 – Mobility Matters.

- 1.665 “**Unpaid Construction Period Payments**” has the meaning given in Schedule 20 – Construction Period Payments.
- 1.666 “**Updated Shared Use Agreement**” has the meaning given in Schedule 32 – City Permits, Licenses, Approvals and Authorizations.
- 1.667 “**Utilities**” means energy/power supplies, communications, data transmission and waste recovery, including electricity, natural gas/fuel oil, water, sanitary waste and storm water.
- 1.668 “**Utility Agreement**” means any agreement entered into by Project Co with a Utility Company in connection with the design removal, construction, installation, 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.
- 1.669 “**Utility Baseline Report**” means the Utility Baseline Report submitted by Project Co in its proposal in response to the Request for Proposals and included herein as Schedule 40 – Utility Baseline Report.
- 1.670 “**Utility Company**” means the owner or operator of any Utility Infrastructure.
- 1.671 “**Utility Company Self-Performed Works**” means the temporary and permanent installation, protection, removal, relocation, upgrading, reinstatement, restoration, downsizing, designing, and/or building works relating to Utility Infrastructure or New Utility Infrastructure carried out by a Utility Company under a Utility Agreement in connection with or as part of the Project Operations.
- 1.672 “**Utility Company Works Cash Allowance**” has the meaning given in Section 20.13 of the Project Agreement.
- 1.673 “**Utility Infrastructure**” means privately, publicly or cooperatively owned lines, facilities or systems for transmitting or distributing electricity, lighting, data, communications, gas, oil and petroleum products, water, storm water or sewage, wireless, 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.
- 1.674 “**Utility Works**” means, collectively, the Project Co Utility Works and the Utility Company Self Performed Works.
- 1.675 “**Utility Works Cost**” means the actual cost of performing the Utility Company Self Performed Works.
- 1.676 “**Utility Works Fee**” has the meaning given in Section 20.13(f) of the Project Agreement.
- 1.677 “**Variation**” has the meaning given in Schedule 21 - Variation Procedure.
- 1.678 “**Variation Confirmation**” has the meaning given in Schedule 21 - Variation Procedure.

- 1.679 “**Variation Directive**” has the meaning given in Schedule 21 - Variation Procedure.
- 1.680 “**Variation Enquiry**” has the meaning given in Schedule 21 - Variation Procedure.
- 1.681 “**Variation Procedure**” means the procedure set out in Schedule 21 - Variation Procedure.
- 1.682 “**Vehicle Maintenance Records**” has the meaning given in Section 16.5(c) of the Project Agreement.
- 1.683 “**Vehicles**” means , collectively, the Revenue Vehicles and the Maintenance Vehicles.
- 1.684 “**Via Rail**” means Via Rail Canada and its agents and representatives.
- 1.685 “**Volume Payment**” has the meaning given in Schedule 19 – Payment Mechanism.
- 1.686 “**Warning Notice**” has the meaning given in Section 30.4(a) of the Project Agreement.
- 1.687 [Not used]
- 1.688 “**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.
- 1.689 “***Workplace Safety and Insurance Act, 1997 (Ontario)***” means the *Workplace Safety and Insurance Act, 1997*, S.O. 1997, c. 16, Sch. A, as amended from time to time.
- 1.690 “**Works**” means all design and construction works to be performed by Project Co under the Project Agreement to meet the Output Specifications, including the supply of New Revenue Vehicles, the New Municipal Infrastructure Work, the Project Co Utility Works and the design, construction, refurbishing, alteration, integration, installation, testing, commissioning and completion of the System Infrastructure, including rectification of any Minor Deficiencies, and any other activities required to enable or facilitate the commencement of the Maintenance and Rehabilitation Services, and all other work under the Permits, Licences, Approvals and Authorizations, except for (i) all work which is expressly described in Schedule 32 – City Permits, Licences, Approvals and Authorizations as being the responsibility of the City, and (ii) any City Commissioning.
- 1.691 “**Works Area Micro-Schedule**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.692 “**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 Infrastructure which is similar in nature to the Works but is not Works 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.
- 1.693 “**Works Committee**” has the meaning given in Section 11.1(a) of the Project Agreement.
- 1.694 “**Works Report**” means those updates and reports to be issued by Project Co in accordance with Schedule 31 – Works Report Requirements.
- 1.695 “**Works Schedules**” has the meaning given in Schedule 12 – Works Scheduling Requirements.
- 1.696 “**Works Submittal**” has the meaning given in Section 1.1 of Schedule 10 - Review Procedure.
- 1.697 “**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 any City Party shall be construed having regard to the interactive nature of the activities of the City 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 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; 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 City'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 Ottawa, Ontario. Any reference to a stipulated "day" which is not specifically referred to as a "Business Day" shall be deemed to be a calendar day measured from midnight to midnight.
- 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 City they shall be construed and interpreted as synonymous and to read “Project Co shall” or “the City 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 City 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:

Adjusted amount or sum = Amount or sum x $\frac{CPI_n}{CPI_o}$

- 2.32 The terms “properly inferable”, “readily apparent” and “readily discoverable” as used in the 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 A
INTENTIONALLY DELETED**

**APPENDIX B
PHASE 1 AND PHASE 2 ENVIRONMENTAL SITE ASSESSMENT REPORTS**

	Report Title	Author/Firm	Report Date	Report Type & Status
1	[REDACTED]	[REDACTED]	June 14, 2017	Phase II Environmental Site Assessment, Complete
2	[REDACTED]	[REDACTED]	June 14, 2017	Phase II Environmental Site Assessment, Complete
3	[REDACTED]	[REDACTED]	June 6, 2017	Contamination Overview Study, Complete
4	[REDACTED]	[REDACTED]	September 22, 2017	Groundwater Investigation, Complete
5	[REDACTED]	[REDACTED]	December 11, 2017	Limited Phase II Environmental Site Assessment, Complete
6	[REDACTED]	[REDACTED]	December 11, 2017	Limited Phase II Environmental Site Assessment, Complete
7	[REDACTED]	[REDACTED]	December 11 2017	Limited Phase II Environmental Site Assessment, Complete
8	[REDACTED]	[REDACTED]	December 11, 2017	Limited Phase II Environmental Site Assessment, Complete
9	[REDACTED]	[REDACTED]	January 4, 2018	Limited Phase II Environmental Site Assessment, Complete
10	[REDACTED]	[REDACTED]	January 4, 2018	Limited Phase II Environmental Site Assessment, Complete
11	[REDACTED]	[REDACTED]	January 4, 2018	Limited Phase II Environmental Site Assessment, Complete
12	[REDACTED]	[REDACTED]	January 4, 2018	Limited Phase II Environmental Site Assessment, Complete
13	[REDACTED]	[REDACTED]	January 3, 2018	Limited Phase II Environmental Site Assessment, Complete

14	[REDACTED]	[REDACTED]	January 5, 2018	Limited Phase II Environmental Site Assessment, Complete
15	[REDACTED]	[REDACTED]	January 5, 2018	Limited Phase II Environmental Site Assessment, Complete
16	[REDACTED]	[REDACTED]	March 6, 2018	Limited Phase II Environmental Site Assessment, Complete
17	[REDACTED]	[REDACTED]	January 22, 2018	Limited Phase II Environmental Site Assessment, Complete
18	[REDACTED]	[REDACTED]	2005	Phase I Environmental Site Assessment, Complete
19	[REDACTED]	[REDACTED]	2005	Phase II Environmental Site Assessment, Complete
20	[REDACTED]	[REDACTED]	2006	Phase II Environmental Site Assessment, Complete
21	[REDACTED]	[REDACTED]	2016	Groundwater Investigation, Complete
22	[REDACTED]	[REDACTED]	2016	Soil Sampling Program Report, Complete
23	[REDACTED]	[REDACTED]	2015	Environmental Investigation Report, Complete
24	[REDACTED]	[REDACTED]	2006	Phase I Environmental Site Assessment, Complete
25	[REDACTED]	[REDACTED]	2006	Phase II Environmental Site Assessment, Complete
26	[REDACTED]	[REDACTED]	2013	Soil Sampling Program Report, Complete
27	[REDACTED]	[REDACTED]	2012	Phase I Environmental Site Assessment, Complete
28	[REDACTED]	[REDACTED]	2012	Soil Sampling Program Report, Complete
29	[REDACTED]	[REDACTED]	2015	Phase II Environmental Site Assessment, Complete

30	[REDACTED]	[REDACTED]	2014	Phase II Environmental Site Assessment, Complete
31	[REDACTED]	[REDACTED]	2006	Phase I Environmental Site Assessment, Complete
32	[REDACTED]	[REDACTED]	2011	Limited Phase II Environmental Site Assessment, Complete
33	[REDACTED]	[REDACTED]	2011	Phase I Environmental Site Assessment, Complete
34	[REDACTED]	[REDACTED]	2006	Phase II Environmental Site Assessment, Complete
35	[REDACTED]	[REDACTED]	2012	Phase II Environmental Site Assessment, Complete
36	[REDACTED]	[REDACTED]	2015	Groundwater Investigation, Complete
37	[REDACTED]	[REDACTED]	2005	Remediation Report, Complete
38	[REDACTED]	[REDACTED]	2008	Groundwater Investigation, Complete
39	[REDACTED]	[REDACTED]	2001	Remediation Report, Complete
40	[REDACTED]	[REDACTED]	2004	Groundwater Investigation, Complete
41	[REDACTED]	[REDACTED]	2003	Limited Phase II Environmental Site Assessment, Complete
42	[REDACTED]	[REDACTED]	2005	Monitoring Well Decommissioning Report, Complete
43	[REDACTED]	[REDACTED]	1999	Phase I Environmental Site Assessment, Complete
44	[REDACTED]	[REDACTED]	2004	Phase I Environmental Site Assessment, Complete
45	[REDACTED]	[REDACTED]	2002	Limited Phase II Environmental Site Assessment, Complete
46	[REDACTED]	[REDACTED]	2002	Phase II Environmental Site Assessment, Complete

47	[REDACTED]	[REDACTED]	2009	Supplemental Phase II Environmental Site Assessment, Complete
48	[REDACTED]	[REDACTED]	2006	Phase I Environmental Site Assessment, Complete
49	[REDACTED]	[REDACTED]	2017	Supplemental Phase III Environmental Site Assessment, Complete
50	[REDACTED]	[REDACTED]	2017	Phase II Environmental Site Assessment, Complete
51	[REDACTED]	[REDACTED]	2017	Groundwater Investigation, Complete
52	[REDACTED]	[REDACTED]	2015	Subsurface Investigation Report, Complete
53	[REDACTED]	[REDACTED]	2005	Supplemental Phase II Environmental Site Assessment, Complete
54	[REDACTED]	[REDACTED]	2005	Phase II Environmental Site Assessment, Complete

**APPENDIX C
INTENTIONALLY DELETED**

**APPENDIX D
CULTURAL HERITAGE REPORTS**

[REDACTED]

**APPENDIX E
GEOTECHNICAL REPORTS**

	Report Title	Author/Firm	Project Component	Report Date	Report Type & Status
1	[REDACTED]	[REDACTED]	Trillium Line Extension	May 2017	Geotechnical Data Report
2	[REDACTED]	[REDACTED]	Trillium Line Extension	June 2017	Geotechnical Data Report
3	[REDACTED]	[REDACTED]	Trillium Line Extension	January 2018	Geotechnical Data Report
4	[REDACTED]	[REDACTED]	Trillium Line Extension	February 2018	Geotechnical Data Report
5	[REDACTED]	[REDACTED]	Trillium Line Extension	January 2018	Geotechnical Data Report
6	[REDACTED]	[REDACTED]	Trillium Line Extension	March 2018	Geotechnical Data Report
7	[REDACTED]	[REDACTED]	Trillium Line Extension	July 2017	Historic Geotechnical Data Report
8	[REDACTED]	[REDACTED]	Trillium Line Extension	February 2018	Historic Geotechnical Data Report
9	[REDACTED]	[REDACTED]	Trillium Line Extension	July 2017	Hydrogeological Data Report
10	[REDACTED]	[REDACTED]	Trillium Line Extension	March 2018	Hydrogeological Data Report
11	[REDACTED]	[REDACTED]	Trillium Line Extension	March 2018	Hydrogeological Data Report
12	[REDACTED]	[REDACTED]	Trillium Line Extension	January 2018	Hydrogeological Data Report

	Report Title	Author/Firm	Project Component	Report Date	Report Type & Status
13	[REDACTED]	[REDACTED]	Trillium Line Extension	February 2018	Hydrogeological Data Report

**APPENDIX F
LISTED PROJECT CO PLAAs**

Listed Project Co PLAA's	Timeline for Final Determination by the City
Site Plan Control - Development Outside of the Public Transit System Right-of-Way	[REDACTED]
Building and Demolition Permits - Stations and MSF	[REDACTED]
Noise By-law Exemption * If approved by ward councillor	[REDACTED]
Approval discharge waste water - Under Sewer Use By-law	[REDACTED]
Road Cut Permit Utility Circulation	[REDACTED]
Temporary Construction-Related Encroachment Permit ROW/Property	[REDACTED]
Street or Lane Closing/Opening	[REDACTED]
Zoning By-Law Amendment	[REDACTED]
Sign Permit	[REDACTED]
Permit Under Ontario Heritage Act	[REDACTED]
Emergency Services Approval - Fire and Life Safety	[REDACTED]

**APPENDIX G
RVSC CASH FLOW**

[REDACTED]