

## SCHEDULE 1 DEFINITIONS

### 1 DEFINITIONS:

In this Agreement, unless otherwise stated:

- AA** means Appropriate Assessments.
- Abandonment** means in respect of the Services and Network to be provided at any time during the Deployment Period, no progress has been made in accordance with the Project Plan or as otherwise required pursuant to an obligation of NBPco under this Agreement or, as applicable, of Buildco under the Buildco Key Subcontract (other than any design or trivial or incidental activities which do not demonstrate a continuing intention to provide the Services or Network) for a continuous period of sixty (60) Working Days but excluding any period for which NBPco is granted relief by reason of a Relief Event pursuant to the provisions of Clause 18 (Relief Event) or a Force Majeure Event pursuant to the provisions of Clause 71 (Force Majeure) or a Compensation Event pursuant to the provisions of Clause 31 (Compensation Events) and the term “**Abandoned**” is construed accordingly.
- Access Network** means the section of the Network defined between the UNI and the first point of active aggregation in the Network (and includes, as the context so admits or requires, any part or parts of it).
- Access Network Assets** means all assets and rights to enable NBPco to provide, own, operate and maintain the Network and provide the Services and Wholesale Products in accordance with this Agreement but is limited to the following Network areas:
1. for the wireline network, this includes the physical components that make up the Network from the distribution point to the WCPE in the End User’s Premises and from the distribution point adjacent to an End User’s Premise or cluster of Premises to

the first point of active aggregation in the NBPco Network; and

2. for the wireless network, this includes the physical components that make up the Network from the interface point on the radio base station equipment (at the mast) to the NBPco's WCPE in the End User's Premises.

**Access Regulations**

means the European Communications (Electronic Communications Network and Services) (Access) Regulations 2011 (S.I. No. 334/2011).

**Accounting Documentation**

means the documents documenting the policies and procedures used in the preparation of the Separated Accounts and comprise the Primary Accounting Documentation and Secondary Accounting Documentation (and includes, as the context so admits or requires, any or all of them or any part or parts, of any or all of them).

**Accounting Policies**

means the specific policies and procedures used by a company to prepare its Accounts and which are required to comply with Schedule 5.5 (Accounting Separation).

**Accounting Principles**

means the key doctrines to be applied in the preparation of the accounting separation information in accordance with Schedule 5.5 (Accounting Separation) including the principles of cost causality, objectivity, transparency and consistency of treatment as more particularly described in Paragraph 4.3.3(A) (Reporting and Transparency) of Schedule 5.5 (Accounting Separation).

**[REDACTED]**

**[REDACTED]**

**Accounts**

has the meaning given to it in Paragraph 4.1 (Reporting and Transparency) of Schedule 5.5 (Accounting Separation).

**[REDACTED]**

**[REDACTED]**

<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Achieve</b>	means, in respect of a Milestone, the issue of a Milestone Achievement Certificate in respect of that Milestone in accordance with the provisions of Paragraph 10 (Milestone Achievement and Testing – Requirements) of Schedule 2.3 (Deployment Requirements) following the satisfaction of the Milestone Achievement Criteria for the Milestone concerned and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " are construed accordingly.
<b>ACMP</b>	means Additional Connection Milestone Payments.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>ACMPC</b>	means Additional Connection Milestone Payment Claim.
<b>Active Access Wholesale Product</b>	means a Wholesale Product of a type more particularly described, in particular, in Paragraph 3.2.1(A) (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) and which requires actively powered components provided by NBPco and which Active Access Wholesale Product is more particularly described in the Service Requirements, Wholesale Product Specification, Reference Offer and NBPco Solution (and includes, as the context so admits or requires, any one, more or all of them).
<b>Active Backhaul Minimum Required Wholesale Product</b>	means a Wholesale Product of a type more particularly described, in particular, in Paragraph 3.2.1(C) (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) and which Active Backhaul Minimum Required Wholesale Products is more particularly described in the Service Requirements, Wholesale Product Specification, Reference Offer and NBPco Solution (and, in particular, Paragraph 2.1.1.1.3 (Active Backhaul - Interconnect) and Paragraph 2.2.1.1.4

	(Transmission-Active Backhaul) of Schedule 3.2 (NBPco Solution - Reference Offer)) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Active Backhaul Wholesale Products</b>	means a Wholesale Product provided by NBPco in the backhaul section of the Network by means of actively powered Equipment, namely the InterConnect Product and Transmission Product (and includes as the context so admits or requires, any one, more or all of them).
<b>Active Infrastructure Access Agreement</b>	means an agreement with an Infrastructure Access Provider for the provision and making available by the Infrastructure Access Provider of any one or more Third Party Active Infrastructure products and/or services (and includes, as the context so admits or requires, any one, more or all of them).
<b>Active PoH</b>	means the PoH to enable Service Providers to InterConnect to Active Wholesale Products such as Bitstream Products and VUA.
<b>Active Subcontract</b>	has the meaning given to it in Paragraph 1.2.20(A) (Relief Events of Schedule 4 (Relief Events)) (and includes, as the context so admits or requires, any part or parts of it).
<b>Active Wholesale Product</b>	means a Wholesale Product which requires active (i.e. powered) components provided by NBPco in the Access Network.
<b>Actual Adjusted Build PE</b>	has the meaning given to it in Paragraph 15.3.2 (Over-Subsidy Claw-Back: Deployment) of Schedule 5.1 (Subsidy Payments).
<b>Actual Take-Up</b>	means the total Take-Up at any one point in time during the Contract Period.
<b>Additional Connection Milestone Payment</b>	means the subsidy payments payable, subject to and in accordance with Paragraph 6B (Additional Connection Milestone Payments), Paragraph 7B (Additional Connection Milestone Payment Claims) and Paragraph 7C

(CMPC Supporting Documentation) of Schedule 5.1 (Subsidy Payments) and the provisions of this Agreement upon Achievement of Connection Payment Milestones in respect of Premises, (and includes, as the context so admits or requires, any one more or all of them).

**Additional Connection  
Milestone Payment Claim**

means NBPco's claim for payment, subject to and in accordance with Schedule 5.1 (Subsidy Payments) and the provisions of this Agreement, in respect of the Achievement of a Connection Payment Milestone in respect of Eligible Connections, as described in Paragraph 7B (Additional Connection Milestone Payment Claims) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any one, more or all of them).

**Additional DD Questions**

means the questions raised by or on behalf of the Minister pursuant to Paragraph 4.7 (Handover Information and Due Diligence) of Part 5 (Change in Ownership and Asset Transfer) of Schedule 6.9 (Consequences of Termination) (and includes, as the context so admits or requires, any one, more or all of them).

**Additional Financial  
Information**

means the information that is to be provided by NBPco to the Minister in accordance with Paragraph 4.5 (Reporting and Transparency) of Schedule 5.5 (Accounting Separation).

**Additional Financial  
Statements**

means the income statement and balance sheet statements for Wholesale Products which are to comply with Paragraph 4.4 (Reporting and Transparency) of Schedule 5.5 (Accounting Separation), an example of the format for which is included in Appendix 1 (Consolidated Income Statement) of Schedule 5.5 (Accounting Separation).

**Additional NBPco  
Expenditure (Passed)**

means the proportion of the total Permitted Expenditure Passed that is not funded by Subsidy Payments, i.e. the nominal amount in euro Permitted Expenditure Passed that is funded by

NBPco and not funded by Subsidy Payments or other form of public subsidy of any type or source (i.e. in the absence of any other form of public subsidy of any type of source).

At the Commencement Date the forecast Additional NBPco Expenditure (Passed) is as follows:

Additional NBPco Expenditure (Passed) = total Permitted Expenditure Passed less the Base Subsidy Payments (Passed).

**Additional Required Wholesale Product**

means a Wholesale Product of a type described in Paragraph 3.5 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) and which Additional Required Wholesale Product is more particularly described in the Service Requirements, Wholesale Product Specification, Reference Offer and NBPco Solution (and, in particular, Paragraph 2.3 (Reference Offer(s) for Additional Required Wholesale Products) of Schedule 3.2 (NBPco Solution - Reference Offer)) (and includes, as the context so admits or requires, any one, more or all of them).

**Additional Services**

has the meaning given to it in the Independent Certifier Contract.

**Additional Subsidy**

means any Subsidy Payments in respect of Permitted Expenditure above:

- (a) the Maximum Deployment Subsidy (and/or above any of (A), (B) or (C) as set out in Paragraph 2.3.1 (Subsidy Payments) of Schedule 5.1 (Subsidy Payments)); or
- (b) Contracted Maximum Subsidy (and/or above any of (F), (G) or (H) as set out in Paragraph 2.3.3 (Subsidy Payments) of Schedule 5.1 (Subsidy Payments)).

**Adjusted Benchmark Reference Price**

means the price approved by the Minister pursuant to Paragraphs 3.1.2 (Benchmark Reference Price and Changes to Benchmark Reference Product) and 3.4 (Benchmark Reference Price and Changes to Benchmark Reference Product) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) which is either (at the Minister's election) the price:

- (A) set pursuant to Paragraph 3.1.2 (Benchmark Reference Price and Changes to Benchmark Reference Product) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules), which price must be demonstrated and proven to reflect NBPco's permissible, incremental costs in respect of provision of the relevant Wholesale Product, with an allowance for a contribution to fixed and common costs. These costs shall be:
  - 1. the costs of NBPco, adjusted where necessary for inefficiency of operation; and
  - 2. costs comparable to the costs of an efficient operator in the Excluded Area providing products; or
- (B) determined based upon a retail minus approach of providing the relevant Wholesale Product (which approach shall ensure that there is an appropriate margin for RSPs).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Advanced Notification Status**

means that NBPco has confirmed that a Wholesale Product, which is not currently available to the Service Provider, will be made available to Service Providers within an upcoming six (6) month period in accordance with Paragraph 4.3.10 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Affected Party**

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Affiliate**

means, in respect of any company, a company which is a Subsidiary, a Holding Company or a company which is a Subsidiary of a Holding Company of that relevant company.

**Agency**

means any one or more persons appointed or established under Law to oversee, manage and/or administrate the Project and/or this Agreement in whole or



in part on behalf of the Minister or State from time to time.

**Agreed Independent Assurance Review Plan**

has the meaning given to it in Paragraph 4.2 (Independent Assurance Review) of Schedule 6.10 (Independent Assurance).

**Agreement**

means the Clauses of this Agreement together with the Recitals, Paragraphs, Schedules, Appendices and Annexes to it (together with any documents or spread sheets, whether or not contained in a CD ROM enclosed in the Agreement, which are expressly stated in this Agreement to be incorporated into it) and the terms set out in any Change Authorisation executed by the Parties (together with any documents or spread sheets, whether or not contained in a CD ROM enclosed with a Change Authorisation executed by the Parties, which are expressly stated in this Change Form to be incorporated into it).

**Alternative Bitstream Wholesale Product**

means an alternative bitstream wholesale product which:

- (a) is provided through an Alternative Technology Solution;
- (b) has different specifications to the specification of the Minimum Wholesale Bitstream Product; and
- (c) has been agreed by the Minister in a Change Authorisation under the Change Control Procedure set out in Schedule 6.2 (Change Control Procedure).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

Schedule 1 – Definitions  
Redacted Version

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Alternative Technology Solution</b>	means the technology solution used by NBPco to provide the Alternative Bitstream Wholesale Product which is to meet the requirements set out in, and be deployed in accordance with, Paragraphs 3.2.3 (Product Requirements, Evolution and Roadmap) and 3.2.4 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) and which has been approved in writing by the Minister in a Change Authorisation from time to time pursuant to the Change Control Procedure.
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>AMI</b>	means Annual Management Information.
<b>AMI Category</b>	means a category of Annual Management Information as listed in Appendix 5 (Annual Management Information) of Schedule 6.7 (Performance Levels).
<b>Anchor Business Retail Product</b>	means the business High Speed Broadband retail products provided by Service Providers to IA End User Premises in the Intervention Area that at least meet (or exceed) the minimum

specification and requirements set out in Paragraph 3.6 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) for business High Speed Broadband retail products (and includes, as the context so admits or requires, any one, more or all of them).

**Anchor Residential Retail Product**

means the residential High Speed Broadband retail products provided by Service Providers to IA End User Premises in the Intervention Area that at least meet (or exceed) the specification and requirements set out in Paragraph 3.6 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) for residential High Speed Broadband retail products (and includes, as the context so admits or requires, any one, more or all of them).

**Anchor Retail Products**

means, as the context so admits or requires, either or both of the Anchor Residential Retail Products and the Anchor Business Retail Products.

**Annual Management Information**

means the reports listed in Appendix 5 (Annual Management Information) of Schedule 6.7 (Performance Levels).

**Anti-Bribery Laws**

means the Criminal Justice (Corruption Offences) Act 2018, the Ethics in Public Office Act 1995 and the Proceeds of Crime (Amendment) Acts 1996 to 2016 and any subordinate legislation made under those Acts from time to time, together with any guidance or codes of practice issued by the relevant Government department concerning any of that legislation (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any or all of them).

**[REDACTED]**

**[REDACTED]**

**Applicable PPI Review Commencement Date**

has the meaning given to it in Paragraph 3.5.2 (Preliminary Procurement Information) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process) (and includes, as

the context so admits or requires, any one, more or all of them).

**[REDACTED]**

**[REDACTED]**

**Applicable SI Review Commencement Date**

has the meaning given to it in Paragraph 4.7.2 (Shortlisting) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process) (and includes, as the context so admits or requires, any one, more or all of them).

**Appointment Date**

means an arrangement for a particular period of time on a specific date during which NBPco or NBPco Personnel are to perform activities at, or in respect of, an End User Premises in connection with the supply of a Wholesale Product.

**Appointment Window**

means 08:00 – 12:00; 12:00 – 16:00; or 16:00 – 20:00, during any Working Day.

**Appropriate Assessments**

means an assessment as referred to in Article 6(3) of Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

**Approved Form**

means, in relation to any deed, document, instrument or analogous item referred to as such in this Agreement, that form which:

- (A) is set out in any Schedule to this Agreement;
- (B) where relating to any deed or document included in NBPco's Tender, is included in NBPco's Tender and approved in writing by the Minister; or
- (C) where (A) and (B) do not apply, is approved in writing by the Minister at a relevant time under the terms of this Agreement or prior to the entry into this Agreement,

and for the purpose of identification signed or initialled (whilst, if applicable, still subject to contract) by or on behalf of each Party on the front and back page.

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Approved Mediator</b>	means one of the mediators as listed in Appendix 3 (List of Approved Mediators) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Arbitration Procedure</b>	has the meaning given to it in Paragraph 7.3.1 (Commencing Arbitration or Court Proceedings) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Arm’s Length</b>	means an arrangement, contract or transaction entered into on terms, conditions and prices that are within the margin of what would reasonably be expected to be in an arrangement, contract or transaction made between two parties that are independent of each other and, in particular, are not part of the same Group or economic group (e.g. in the case of NBPco, the NBPco Economic Group).
<b>Article 6(3) Screening Reports</b>	means a report compiled on the basis of a preliminary assessment and objective criteria, on whether a plan or project, alone and in combination with other plans or projects, could have significant effects on a Natura 2000 site in view of the site’s conservation objectives.
<b>As-Built Drawings</b>	mean drawings of the final installed configuration of the Network and Equipment (both physical or functional) and that:  (a) indicate any deviations from the conceptual design;  (b) show all features of the Network and Equipment as actually constructed; and  (c) provides a permanent record of as-built conditions as amended

from time to time as part of the Services.

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

(d) [REDACTED]

(e) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Asset Register**

has the meaning given to it in Clause 53 (Asset Register).

**Assets**

means all assets and rights (including licences) to enable NBPco (or a successor to NBPco) to provide, own, operate and/or maintain the Network and Operational Environment and provide the Services and Wholesale Products in accordance with this Agreement including:

1. the Network (including any Equipment forming part of or comprising the Network);
2. the Access Network Assets;
3. any land, space or buildings;
4. any furniture and Equipment;
5. any phone numbers;
6. any information, databases, data and meta-data;
7. maps, designs, specifications, processes, protocols and other documents;
8. any books and records (including operating and maintenance

manuals, health and safety manuals and other know-how);

9. any spare parts, tools and other assets;
10. any revenues;
11. any contractual rights including leases, licences, way leaves and Infrastructure Access Agreements;
12. Goodwill; and
13. any Intellectual Property Rights,

(together with any warranties, guarantees and indemnities in respect of those assets) (and, where the context so admits or requires, includes any one, more or all of them or any part or parts or component or components of any one, more or all of them) but excluding, any assets and rights in respect of which the Minister is full legal and beneficial owner.

**Associated Company**

means:

1. in respect of any company, a company which is a Subsidiary, a Holding Company or a company which is a Subsidiary of a Holding Company of that relevant company; and
2. in the case of NBPco, includes (without limiting or affecting paragraph (a)) each of the Shareholders, Buildco Shareholders, Key Subcontractors, each of the persons identified in Schedule 3.12 (Details of Companies) and/or the Ownership Letter and any company which is a Subsidiary, a Holding Company or a company which is a Subsidiary of a Holding Company of a Shareholder, Buildco Shareholder, Key Subcontractor, NBPco and of the persons identified in Schedule 3.12 (Details of Companies) and/or the Ownership Letter and Buildco,

(and includes, as the context so admits or requires, any one, more or all of them from time to time).

**Associated RSP**

means any Authorised Undertaking at the retail level (whether in the Intervention Area or Excluded Area) which forms part of the NBPco Economic Group (and includes, as the context so admits or requires, any one, more or all of them from time to time).

**Associated Service Provider**

means either or both an Associated RSP or an Associated WSP (and includes, as the context so admits or requires, any or all of them).

**Associated WSP**

means any Authorised Undertaking at the wholesale level (whether in the Intervention Area or Excluded Area) which forms part of the NBPco Economic Group (and includes, as the context so admits or requires, any one, more or all of them from time to time).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Assurance**

means to ensure that Wholesale Products provided to Service Providers and IA End Users are continuously available and performing to required Performance Levels.

**Attribution Methods**

means the methods employed to allocate and apportion revenues, costs and capital employed in accordance with Schedule 5.5 (Accounting Separation).

**Audit**

means any exercise by a Regulatory Body or the Minister (including through its Audit Agents) of its Audit Rights pursuant to Clause 47 (Audit) and any exercise by the Minister of its Audit Rights pursuant to Clause 48 (Records and Reports) and Schedule 6.11 (Audits) or other relevant provision of this Agreement.

**Audit Agents**

means:



1. the Minister's internal and external auditors;
2. the Minister's statutory or regulatory auditors;
3. the Comptroller and Auditor General, its staff and/or any appointed representatives of the Comptroller and Auditor General;
4. any party formally appointed by the Minister to carry out audits, spot checks or similar functions (which shall not be a direct competitor (who is an Authorised Undertaking) of NBPco or a direct competitor (who is an Authorised Undertaking) of any Shareholder);
5. the Agency; and
6. successors of any of the above,

(and includes, as the context so admits or requires, any one, more or all of them or any employees, agents, representatives, consultants or contractors of any one, more or all of them).

**Audit Rights**

means the audit, access, spot check and other rights of the Minister set out or referred to in this Agreement including in Clause 47 (Audit), Clause 48 (Records and Reports), Schedule 6.7 (Performance Levels), Schedule 6.10 (Independent Assurance), Schedule 6.11 (Audits) and Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).

**Auditor**

means a firm(s) which is/are authorised to conduct the audit of financial statements of companies registered in Ireland and which is to be appointed in accordance with Paragraph 9 (Financial Audit Requirements) of Schedule 2.7 (NBPco Requirements).

**Authorisation Regulations**

means the European Communities (Electronic Communications Networks

and Services) (Authorisation) Regulations 2011 (S.I. No. 335/2011).

**Authorised Undertaking**

means those persons who are authorised under Law to provide an electronic communications network or an electronic communications service (which, as at the Commencement Date, is those persons authorised pursuant to Regulation 4 of the Authorisation Regulations or who are exempt under the Authorisation Regulations from the requirement to obtain such an authorisation) (and includes, as the context so admits or requires, any one, more or all of them).

**Authority to Proceed (ATP) Certificate**

means a certificate issued by or on behalf of the Minister which permits NBPco to proceed with the Network Deployment in a given Deployment Area in accordance with the Detailed Design, as more particularly described in Paragraph 8.2.22 (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements) and the template form of which is set out at Appendix 8 (Authority to Proceed (ATP) Certificate) of Schedule 2.3 (Deployment Requirements).

**Availability**

means Service Availability, Network Availability, Availability of Operational Environment (i.e. Availability of Universal Wholesale Gateway and Availability of OSS/BSS), Availability of Secure Portal, Availability of Public Portal and Minimum Service Availability (as applicable), with such terms having the meaning given to them in and being measured in accordance with the definitions in Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance), and the term “**Available**” shall be construed accordingly.

**[REDACTED]**

**[REDACTED]**

**Average Price**

has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).

<b>Average Variable Cost</b>	has the meaning given to in Paragraph 4.1 (Wholesale Margin Squeeze Test) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>B2B</b>	means business-to-business.
<b>B2B Interface</b>	the Operational Environment interface between NBPco system and the RSP/WSP systems.
<b>Backhaul Network</b>	means the section of the Network between the first point of active aggregation in the Network and the NNI at the PoH (and includes, as the context so admits or requires, any part or parts of it).
<b>Backhaul Utilisation Performance</b>	has the meaning given to it in Paragraph 5.2 (Network Performance) of Part 1 (Performance Indicators and Performance Level Requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).
<b>Backhaul Utilisation Threshold</b>	is determined in accordance with Paragraph 3.1 (Network Performance) of Part 2 (Definitions and Measurement) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).
<b>Balanced Scorecard Report</b>	has the meaning given to it in Paragraph 2 (Performance Monitoring and Performance Review) of Part 2 (Performance Monitoring) of Schedule 6.7 (Performance Levels).
<b>Barrier Protocols</b>	has the meaning given to them in Paragraph 12.2 (Shared Services) of Schedule 2.7 (NBPco Requirements).
<b>Base Benchmark Reference Price</b>	means, with respect to a particular Wholesale Product and its Wholesale Price as at the Effective Date, the total price of all of the components of the Benchmark Reference Price as at the Effective Date for that Wholesale Product

	as set out in Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
	(i) <b>[REDACTED]</b>
	(ii) <b>[REDACTED]</b>
	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>BCDR Plan</b>	means the business continuity and disaster recovery plan to be prepared and maintained by NBPco pursuant to Clause 70 (Business Continuity and Disaster Recovery) and which forms part of the NBPco Solution.
<b>Benchmark Party</b>	has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>Benchmark Product Change Notice Date</b>	has the meaning given to it in Paragraph 5.4.1 (Monitoring Compliance with the Wholesale Product Benchmarking Rules) of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).
<b>Benchmark Reference Performance Specification</b>	means, with respect to a particular Wholesale Product (and its product and service performance specification, performance levels and other requirements and characteristics) the benchmark reference specification (including its published and actual (by reference to the best available information at the relevant time), whichever give rise to a better Wholesale Product, performance and outcome from an ultimate End User perspective, product and service performance specification, performance levels and other requirements and characteristics) as determined by application of

Paragraph 3 (The Benchmark Reference Performance Specification) of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) at the relevant time and which is to be set out in Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) at the relevant time, including:

- (A) as Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) is to be changed from time to time during the Contract Period to reflect a change in the benchmark reference specification of the Benchmark Reference Product;; and
- (B) as Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) is to be changed from time to time during the Contract Period to reflect a change in the Benchmark Reference Product following each Five Year Review;
- (C) as Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) is to be changed from time to time pursuant to a Change Authorisation where a change

has been made to a Wholesale Product pursuant to the Wholesale Product Control Procedure; and

- (D) as Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) is to be changed from time to time pursuant to a Change Authorisation where the provider of what, up until that point, was the Benchmark Reference Product removes from the market the Benchmark Reference Product concerned,

(and includes, as the context so admits or requires, any one, more or all of them and any component or components of any one, more or all of them).

**Benchmark Reference Price**

means, with respect to a particular Wholesale Product and its Wholesale Price at a point in time, the benchmark reference price (including all one-off and recurring components of it other than the (a) Initial Connection Charge and, where applicable, (b) the excess Initial Connection Charge) determined by application of Paragraph 3 (Benchmark Reference Price and Changes to Benchmark Reference Product) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules), at the relevant time and which are to be set out in Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) at the relevant time, including:

- (A) as Appendix 1 (Benchmark Reference Price, Benchmark

Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) is to be changed from time to time during the Contract Period to reflect a change in the benchmark reference price of the Benchmark Reference Product;

(B) as Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) is to be changed from time to time during the Contract Period to reflect a change in the Benchmark Reference Product following each Five Year Review;

(C) as Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) is to be changed from time to time pursuant to a Change Authorisation where a change has been made to a Wholesale Product pursuant to the Wholesale Product Control Procedure; and

(D) as Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) is to be changed from time to time

pursuant to a Change Authorisation where the provider of what, up until that point, was the Benchmark Reference Product removes from the market the Benchmark Reference Product concerned,

(and includes, as the context so admits or requires, any one, more or all of them and any component or components of any one, more or all of them).

**Benchmark Reference Product**

means, with respect to a Wholesale Product, the product which is, as at (as applicable):

- (A) the ITSFT Date;
- (B) each Five Year Review Date;
- (C) the date of any change to a Wholesale Product under the Wholesale Product Control Procedure, or
- (D) the date of removal from the market by the provider of what, up until that point, was the Benchmark Reference Product of the Benchmark Reference Product concerned,

1. for the purposes of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules):

- (a) an Equivalent Product and which is subject to Regulation and a Regulated Price in the Excluded Area; or
- (b) if there is no Equivalent Product which is subject to Regulation and a Regulated Price in the Excluded Area at the relevant point in time, the Equivalent Product at the relevant point in time; or



2. for the purposes of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules):
  - (a) an Equivalent Product and which is subject to Regulation and a Regulated Specification in the Excluded Area; or
  - (b) if there is no Equivalent Product at the relevant point in time under 2(a) subject to Regulation and a Regulated Specification in the Excluded Area, the Equivalent Product at the relevant point in time;

(and includes, as the context so admits or requires, any one, more or all of them).

**PROVIDED THAT** if there is no wholesale product in the Excluded Area at the relevant point in time that is an Equivalent Product, then the relevant Wholesale Product shall not have a Benchmark Reference Product and the provisions of Paragraph 3.4 (Benchmark Reference Price and Changes to Benchmark Reference Product) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) and Paragraph 3.2 (The Benchmark Reference Performance Specification) of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) shall apply.

A Benchmark Reference Product is determined by application of the provisions of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) at the relevant time and which is to be set out in Appendix 1 ((Benchmark

	Reference Price, Benchmark Reference Product and Others).
<b>Benchmark Review</b>	has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>Benchmarker</b>	has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>Benchmarking Report</b>	has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>Best Industry Practice</b>	means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled, experienced and expert supplier in the Irish or United Kingdom electronic communications services and network industry and sector engaged to carry out and provide services, works, duties, deliverables, functions, responsibilities and activities of a similar scope, nature, scale, complexity and importance to the Services, Network and Wholesale Products (or the relevant part of them) and under the same or similar circumstances or conditions and doing its best in good faith to comply with its contractual obligations and applicable Laws, Codes and Standards, Binding Guidance and Consents and, to the extent that it does not give rise to disproportionate or material cost, Non-Binding Guidance.
<b>Bill of Materials</b>	has the meaning given to it in Paragraph 1.4.1 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Billing</b>	means: <ol style="list-style-type: none"><li>1. to ensure the production of timely and accurate bills, for providing pre-bill use information and billing to Service Providers for processing their payments, and performing payment collections; and</li></ol>

2. to efficiently manage and resolve customer enquiries about bills, billing inquiry status checks and billing problems relating to NBPco bills to the satisfaction of Service Providers in a timely manner,

(and includes, as the context so admits or requires, any or all of them).

**Billing Enquiry**

means an enquiry raised by a Service Provider in respect of a matter related to Billing.

**Billing System**

means the processes, components and systems that NBPco uses or is to use for Billing as more particularly described in the Service Requirements and NBPco Solution (and, in particular, Paragraph 1.3.1.1.10 (Billing System) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, at the context so admits or requires, any or all of them).

**Binding Guidance**

means any guidelines, recommendations, policies, codes of conduct, codes of practice or instructions of any Regulatory Body with which the Minister, its Department or NBPco is required to comply in connection with the Project, Network, Services, Wholesale Products or this Agreement (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Bitstream Port**

means the per End User element of the charge for a Bitstream Product.

**Bitstream Product**

means an Active Wholesale Product provided in the wholesale broadband access market from the WCPE to a PoH.

**Board of NBPco**

has the meaning given to it in Paragraph 6.1 (Board of Directors of NBPco) of Schedule 2.7 (NBPco Requirements).

**BOM Sheet**

means any one of the worksheets in the Project Financial Model labelled:

- (a) Inputs – Bill of Material cost for Distribution part (Wireline)
- (b) Inputs – Bill of Material cost for Distribution part (Wireless)
- (c) Inputs - Bill of Material cost for Backhaul part from First point of active aggregation (POA) to Point of Handover interface point (NNI)
- (d) Inputs - Bill of Material cost for Interconnect/National Backhaul part
- (e) Inputs - Bill of Material cost for UWG and OSS/BSS part (Wireline and/or Wireless)
- (f) Inputs - Bill of Material cost for Drop Connection part (Wireless)
- (g) Inputs - Bill of Material cost for Drop Connection part (Wireline);  
or
- (h) Inputs - Bill of Material cost for New Premises Capex to Connect.

**Border Router** means a router that is usually deployed in front of the Service Provider's main firewalls and performs basic checks on network activity, such as ingress and egress filtering, that may assist in stopping some Internet-based worms from reaching the organisation's firewall.

**Brand Licence** has the meaning given to it in Paragraph 5.4.2 (NBPco Brand Development Plan) of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan).

**Broadband Forum** is a non-profit industry organisation called the *Broadband Forum* which is focused on engineering aspects of broadband networks and is responsible, as at the Commencement Date, for defining standard TR-069 which allows remote management of CPEs.

**BRP Change Notice Deadline** has the meaning given to it in Paragraph 2.9.1 (Wholesale Prices) of Part 1

(Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**BSS**

means Business Support System.

[REDACTED]

[REDACTED]

**Buildco**

means NBI Deployment Designated Activity Company, a company incorporated in Ireland with registered number 631657 and, if applicable, any replacement for Buildco approved by the Minister pursuant to Clause 42.1 (Subcontractors).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Buildco Call Option**

has the meaning given to “Call Option” in the Buildco Constitution

**Buildco CEO**

has the meaning given to it in Paragraph 1.4.2 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).

**Buildco Consideration**

means one hundred euro (€100).

**Buildco Constitution**

means the constitution of Buildco in the Approved Form and set out at Schedule 7.9 (Buildco Constitution) and which is required to comply with the provisions of Schedule 2.7 (Buildco Requirements) of the Buildco Key Subcontract (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

[REDACTED]

**Buildco Direct Agreement  
Ownership Transfer  
Provisions**

means clause 25 (Buildco Direct Agreement Ownership Transfer Provisions) of the Buildco Key Subcontractor Direct Agreement.

**Buildco Equity Subscription  
Agreement**

means, subject to the provisions of this Agreement (including Clause 44 (Project Documents and Funding Documents)), the equity subscription agreement in respect of Buildco between Buildco and Holdco and dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).

**Buildco Key Subcontract**

means, subject to the provisions of this Agreement (including Clause 44 (Project Documents and Funding Documents)), the Key Subcontract between NBPco and Buildco and entered into on or prior to the Commencement Date and which is required to comply with Schedule 2.8 (Key Subcontractor Provisions) (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page) and as amended and restated in accordance with clause 26 (Amendment and Restatement of the Subcontract) of the Buildco Key Subcontractor Direct Agreement).

**Buildco Key Subcontract  
Termination Event**

means any of the termination events set out in clause 77 (Termination by NBPco for Buildco Termination Event) of the Buildco Key Subcontract.

**Buildco Key Subcontractor  
Direct Agreement**

means, subject to the provisions of this Agreement (including Clause 44 (Project Documents and Funding Documents)), the Key Subcontractor Direct Agreement between the Minister, Buildco and NBPco and dated on or prior to the Commencement Date and which is required to be in the form set out in

Schedule 7.3 (Key Subcontractor Direct Agreement) (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).

**Buildco Minister Debenture**

means a fixed and floating charge over all the assets of Buildco between the Minister and Buildco and dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).

**Buildco Minister Limited Recourse Guarantee**

means a limited recourse guarantee from Holdco to the Minister, with recourse limited to the security provided pursuant to the Minister Buildco Share Charge, and dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page) (and, if applicable, any additional Buildco Minister Limited Recourse Guarantee entered into pursuant to Clause 63.17 (Change in Ownership and of Control)) and which is required to be in the form set out in Schedule 7.6 (Limited Recourse Guarantee).

**Buildco Minister Special Share**

means a special share of one euro (€1.00) in the capital of Buildco to be held by the Minister or a person nominated by the Minister conferring the rights on the holder thereof as set out in the Buildco Constitution of Buildco which is required to include the provisions set out and/or referred to in Appendix 2 (Minister Special Share Constitution Requirements) of Schedule 2.7 (Buildco Requirements) of the Buildco Key Subcontract.

**Buildco Minister Special Shareholder**

means the person holding the Buildco Minister Special Share (from time to time).

**Buildco Personnel**

means all employees, agents, consultants and contractors (of any tier) of Buildco and/or of any Subcontractor (of any tier) employed or engaged in the performance of the Buildco Key Subcontract or Buildco Key

Subcontractor Direct Agreement from time to time.

**Buildco Shareholders**

means any person from time to time holding share capital in Buildco or Holdco, the details of which persons as at the Commencement Date are set out in Schedule 3.12 (Details of Companies) (and includes, as the context so admits or requires, any one, more or all of them).

**Buildco Shareholders Agreement**

means, subject to the provisions of this Agreement (including Clause 44 (Project Documents and Funding Documents)), the shareholders agreement in respect of Buildco between Buildco, the Buildco Shareholders and the Minister dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page) and which is required to comply with the provisions of Schedule 2.7 (Buildco Requirements) of the Buildco Key Subcontract.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Buildco Specific Default**

means any breach or default by Buildco or Buildco Personnel of the obligations of Buildco (including abandonment of the Buildco Key Subcontract or Buildco Key Subcontractor Direct Agreement, repudiatory breach or breach of a provision) under the Buildco Key Subcontract or Buildco Key Subcontract Direct Agreement or any other breach, default, act, omission, negligence, misrepresentation or statement of Buildco and/or Buildco Personnel in connection with or in relation to the Buildco Key Subcontract or Buildco Key Subcontractor Direct Agreement or any Project Document for which Buildco is responsible or liable to the Minister or NBPco, but (in all cases) only to the extent that such does not give rise to a Default of this Agreement.

[REDACTED]

[REDACTED]

1. [REDACTED]



2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

**Buildco Subordinated  
Funding Documents**

means the Buildco Equity Subscription Agreement and the agreements listed in Paragraph 2 (Buildco Subordinated Funding Documents) of Part 3 (Funding Documents) of Schedule 9 (Required Documents) as at the Commencement Date and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page.

**Buildco Transferring Assets**

means the Transferring Assets that are set out in the Asset Register as being owned by Buildco and any other Transferring Assets owned by Buildco.

**Building and Cabin Co-  
Location**

means the provision of a Co-Location Product inside a building (such as a telecommunications exchange) or a portable cabin, which is specifically designed to host Service Providers Infrastructure or other equipment and as is more specifically outlined in Paragraphs 4.2.73 (Wholesale Product Specifications) to 4.2.81 (Wholesale Product Specifications) (inclusive) of Schedule 2.2 (Reference Offer Requirements) and “**Building and Cabin Co-Location Product**” is construed accordingly.

[REDACTED]

[REDACTED]

**Build Related Contract  
Assumptions Status Report**

means the report to be provided by NBPCo pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).

<b>Business Continuity and Disaster Plan Recovery Test and Review Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>Business Support System</b>	means the processes, components and systems that NBPco uses or is to use to run its business operations, including those supporting product management, order management, revenue management and customer management as the Business Support System is more particularly described in the Service Requirements and NBPco Solution (and, in particular, Paragraph 1.3.1 (OSS/BSS Systems) of Schedule 3.1 (NBPco Solution - Technical Solution)) (and includes, as the context so admits or requires, any or all of them).
<b>Business Wholesale Products</b>	means Wholesale Products provided by NBPco whose KPI Performance Levels are to at least meet or exceed the KPI Performance Levels associated with the Minimum Bitstream Wholesale Product and for which at least one Operational KPIs is to exceed the Operational KPIs associated with the Minimum Bitstream Wholesale Product. Business Wholesale Products form part of the Additional Required Wholesale Products category.
<b>Busy Hour</b>	means the hour of the day when the traffic volume is greater than any other hour of the day.
<b>Busy Period</b>	means the period of the day comprising consecutive hours of the day when the traffic volume is high and including the Busy Hour.
<b>C-VLAN</b>	means Customer-VLAN
<b>CAG</b>	means the Comptroller and Auditor General.
<b>CA Percentage Threshold</b>	has the meaning given to it in Paragraph 8.2.23 (Network Deployment - Requirements) of Schedule 2.3 (Deployment Requirements).

<b>CA Tracker</b>	has the meaning given to it in Paragraph 1.3 (Reports) of Annex 1 (Report Details) of Appendix 1 (Reports) of Schedule 6.5 (Reports and Records).
<b>Call-Off Key Subcontract</b>	means a contract, order, SOW or similar entered into, pursuant to a Key Subcontract which is in the form of a framework agreement, master agreement or similar, by NBPco with a Key Subcontractor or a 1 <sup>st</sup> Tier Key Subcontractor with a 2 <sup>nd</sup> Tier Key Subcontractor (and includes, as the context so admits or requires, any one, more or all of them). For the avoidance of doubt, a Call-Off Key Subcontract is a Key Subcontract.
<b>Capital Expenditure</b>	means costs capable of being capitalised under generally accepted accounting principles (GAAP).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Carriageway</b>	has the meaning given to it in Paragraph 3.6 (Accuracy of Duct Mix) of Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure).
<b>Cash Balance</b>	means, at a given time, the sum of:  a) the credit balances on any bank accounts and any investment accounts (but excluding the Joint Insurance Account) held by or on behalf of NBPco and/or in which NBPco has an interest; and  b) the cash value of any securities, bonds or commercial paper; any other instruments or contractual rights capable of being realised for cash or cash equivalents; or any other liquid assets held by or on behalf of NBPco and/or in which NBPco has an interest.
<b>Case Summary</b>	means a concise summary of a Party's case in a Dispute subjected to mediation.
<b>[REDACTED]</b>	<b>[REDACTED]</b>

**[REDACTED]**

**CDB Strategic Plan**

**[REDACTED]**

means the strategy prepared or to be prepared by NBPco pursuant to the provisions of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan) and included in the NBPco Solution (and set out at Schedule 3.6 (NBPco Solution – Communications, Demand Stimulation and Brand Plan)), which collectively refers and relates to the Communications and Engagement Plan, the Demand Stimulation Project Plan and the NBPco Brand Development Plan to be implemented throughout the Contract Period (and includes, as the context so admits or requires, any part or parts of it), together with, as the context so admits or requires, the CDB Strategy Implementation Plan.

**CDB Strategy Implementation Plan**

means the plan that operationalises the CDB Strategic Plan in any given Contract Year, to be produced and submitted to the Minister in accordance with Paragraph 2.1 of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan);

**CEDR**

means, as determined by the Minister in a given case, either the Centre for Effective Dispute Resolution in Ireland or the Centre for Effective Dispute Resolution in England (or, if both such organisations cease to exist, such other dispute resolution organisation determined by the Minister acting reasonably).

**CEDR's Model Mediation Agreement**

means the Model Mediation Agreement published by CEDR.

**CEN**

means the Comité Européen de Normalisation.

**Change**

means any change to the provisions of this Agreement, including:

1. a change to the Service Requirements;
2. a change to the NBPco Solution;

3. a change to the Wholesale Product Specification;
4. a change to the Intervention Area, a Deployment Area or a Rollout Area;
5. a change to the Wholesale Prices;
6. a change to the Wholesale Product Roadmap or Technology Roadmap;
7. a change to the Future Proofing Plan;
8. a change to the Wholesale Products (including any evolution or updates to them or the removal or suspension of them);
9. a change to the Wholesale Product & Coverage Template;
10. a change to the Reference Offer (including all component thereof);
11. the introduction of a New Wholesale Product;
12. a change to the Implementation Programme;
13. a change to any of the Project Plans;
14. a change to the Detailed Design;
15. a change to the NBPco Brand;
16. a change to the CDB Strategic Plan;  
or
17. a change to any documents, plans, designs or other matter that NBPco has or is required, pursuant to the provisions of this Agreement, to submit to the Minister for prior approval,

or any other change, other than an Operational Change.

**Change Authorisation**

means Part 3 of the Change Form executed by the Parties in accordance with Paragraph 6 (Execution of Change Authorisation) of Part 2 (Change

	Procedure) of Schedule 6.2 (Change Control Procedure).
<b>Change Communication</b>	means any Change Form, Change Request, Small IA Change Request, Change Impact Assessment, Change Authorisation, Small IA Change Authorisation or other communication sent or required to be sent pursuant to the provisions of Schedule 6.2 (Change Control Procedure) or the Small IA Change Process.
<b>Change Control Procedure</b>	has the meaning given to it in Paragraph 1.1 (Change Control Principles) of Part 1 (General) of Schedule 6.2 (Change Control Procedure).
<b>Change Form</b>	means a form for dealing with Changes in accordance with the Change Control Procedure, substantially in the form set out in Annex 2 (Change Request) of Schedule 6.2 (Change Control Procedure).
<b>Change Impact Assessment</b>	means the assessment carried out in accordance with Paragraph 3 (Change Impact Assessment) of Part 2 (Change Procedure) of Schedule 6.2 (Change Control Procedure) and, where applicable, any Annexes to it, to be provided with the Change Form.
<b>Change in Law</b>	means the coming into effect (by an enactment, commencement order, decision of a Competent Authority or otherwise) of: <ol style="list-style-type: none"><li>1. any Law enacted after the Effective Date;</li><li>2. any modification of any Law existing on the Effective Date (where such modification comes into effect after the Effective Date);</li><li>3. any applicable judgment of an Irish Court or the European Court of Justice or European General Court after the Effective Date which changes a binding precedent; and</li></ol>

4. any change in Binding Guidance which comes into effect after the Effective Date as a direct consequence of (1), (2) or (3),

but which in all cases whatsoever **excludes** any of the above matters which, on or before the Effective Date, had been published (in each case, as designated as such and in the form most recently published prior to the Effective Date):

1. in a draft Bill (including a general scheme of a Bill) which has been presented before the Dáil for approval;
2. in a Bill (including a general scheme of a Bill and heads of a Bill), whether or not initiated in the Oireachtas before the Effective Date;
3. in a draft statutory instrument;
4. as a proposal in a green paper or white paper of a State Body or a proposal in a published legislative programme of the Oireachtas or programme for Government;
5. as a proposal in the Official Journal of the European Union; or
6. in the case only of Binding Guidance, in published written consultation papers of Government departments, a Regulatory Body or Public Service Bodies,

and which **also excludes**, for certainty (and whether before, on or after the Effective Date):

1. any Binding Guidance issued by the Regulator;
2. any Binding Guidance issued under or pursuant to the Electronic Communications Framework, Communications

Regulation Act 2002 or Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks Text with EEA relevance (or national implementing legislation); and/or

3. any determination, designation, decision, finding, ruling or similar by the Regulator, an Irish Court, the European Court of Justice, European General Court or other competent authority:
  - (a) that NBPCo has a particular level of market power or is subject to Regulation;
  - (b) under or pursuant to the Electronic Communications Framework (including any Regulatory Decision and/or USO Decision); Communications Regulation Act 2002 (including section 57); or Directive 2014/61/EU of the European Parliament and of the Council of 15 May 2014 on measures to reduce the cost of deploying high-speed electronic communications networks Text with EEA relevance (or national implementing legislation) (or any successor, equivalent or similar provision under any other Law from time to time); or
  - (c) any determination, designation, decision, requirement, finding, ruling or similar by the Regulator, an Irish Court, the European Court of



Justice, European  
General Court or other  
competent authority  
arising out of or in  
connection with (1) or (2)  
above or as a result of  
such (including the  
imposition of a Regulated  
Price or Regulated  
Specification on NBPco or  
a Regulatory Decision);  
and

4. any legislation in respect of or relating to any of the powers and functions of the Minister and/or his or her Department in respect of electronic communications matters and/or the Project including in respect of any establishment, role or function of the Agency in respect of the Project from time to time.

#### **Change in Ownership**

occurs in respect of a body corporate (the “**Relevant Company**”) when:

- (a) any sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares in the Relevant Company (including the control over the exercise of voting rights conferred on those shares or the control over the right to appoint or remove directors or other management body or the rights to dividends or other distributions);
- (b) any acts, deeds, arrangements, events or procedures which have or may have the effect of a sale, transfer or disposal of any legal, beneficial or equitable interest in any or all of the shares in the Relevant Company (including the control over the exercise of voting rights conferred on those shares or the control over the right to appoint or remove directors or other management body or the rights to dividends or other distributions);  
and/or

- (c) any other acts, deeds, arrangements, events or procedures that have or may have or which result in substantially the same effect as paragraphs (a) or (b) above (including any sharing of or grant of participation in rights or entitlements in those shares or such control).

### **Change of Control**

means, in respect of a body corporate (the “**Relevant Company**”), a Change in Ownership or any other sale, transfer or disposal of any legal, beneficial or equitable interest in any person or any other acts, deeds, arrangements, events or procedures of any kind (“**Relevant Occurrence**”) which results or would result in:

- (a) a person that Controlled the Relevant Company immediately prior to the Relevant Occurrence ceasing to Control the Relevant Company following the Relevant Occurrence; or
- (b) a person, that did not Control the Relevant Company immediately prior to the Relevant Occurrence, following the Relevant Occurrence:
  - 1. holding, directly or indirectly, a Relevant Proportion or more of the issued share capital or of the loan capital (if it is convertible into shares) of the Relevant Company; or
  - 2. being in a position to cast, or directly or indirectly control the casting of, a Relevant Proportion or more of the maximum number of votes that may be cast (i) at a general meeting of the Relevant Company; and/or (ii) to appoint or remove directors or any other management body of the Relevant Company; or
  - 3. having the right to receive a Relevant Proportion of

dividends or other distributions  
of the Relevant Company.

<b>Change Request</b>	means Part 1 of the Change Form completed in accordance with Paragraph 2 (Change Requests) of Part 2 (Change Procedure) of Schedule 6.2 (Change Control Procedure).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>CIR</b>	means Committed Information Rate.
<b>CIRIA</b>	means the <i>Construction Industry Research and Information Association</i> .
<b>Claim</b>	means any action, claim, demand, proceedings or similar.
<b>Clarification Log</b>	means the clarification log as more particularly described in Paragraph 7.2.9 (Service Provider Engagement Framework – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Class of Service (CoS)</b>	means a method for managing multiple types of traffic over a packet network by giving certain traffic types priority over others.
<b>Claw-backable Subcontractor</b>	means Buildco.
<b>CLB</b>	means the Contract Liaison Board.
<b>CLB Chairperson</b>	has the meaning given to it in Paragraph 4.9 (Contract Liaison Board) of Schedule 6.1 (Contract Liaison Board).
<b>CLB Member</b>	has the meaning given to it in Paragraph 4.1 (Contract Liaison Board) of Schedule 6.1 (Contract Liaison Board) (and includes, as the context so admits or requires, any one, more or all of them).
<b>CMPC</b>	means Connection Milestone Payment Claim.
<b>CMPC Supporting Documentation</b>	means the information and documentation more particularly described in Paragraph 7C (CMPC

Supporting Documentation) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any, some or all of it).

**Code of Practice**

means the code or codes of practice drawn up and published in accordance with Paragraph 13 (Code of Practice) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).

**Codes and Standards**

means, from time to time:

1. all of the codes, specifications and standards listed in the Service Requirements and/or NBPCo Solution;
2. any requirement imposed by any industry code or professional code of conduct;
3. any Irish, European or international standards;
4. all applicable standards, specifications and codes of practice issued by the Regulator (or a successor body);
5. all applicable standards, specifications and codes of practice issued by Transport Infrastructure Ireland, the Department of Transport, Tourism and Sport (or a successor body) and/or the Department of Housing, Planning and Local Government and local authorities and County Councils, including in respect of the design, construction, operation or maintenance of roads;
6. all applicable national and local planning policy in respect of electronic communications and sensitive locations and buildings including the natural, built and historic environment; and

7. all applicable guidelines published by the International Commission on Non-Ionising Radiation Protection,

which are relevant in any way to the financing or provision of the Services, Operational Environment, Network, Wholesale Products, Project or other obligations of NBPco under this Agreement (as updated or amended from time to time and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Co-Location**

means the provision of sufficient floorspace and other facilities including but not limited to AC power, DC power, air conditioning, at a Point of Handover and/or the first point of active aggregation and “**Co-Location Product**” is construed accordingly.

**Colo**

means Co-Location.

**Commencement Date**

means the date on which this Agreement is executed and delivered by the Parties, namely the date first written above.

**Commercial Negotiation(s)**

has the meaning given to it in Paragraph 5.1 (Commercial Negotiations) of Schedule 6.3 (Dispute Resolution Procedure).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Committed Information Rate**

means a guaranteed throughput at any time during the normal operation of the Network so that the throughput does not fall under that guaranteed throughput at any time during the normal operation of the Network.

[REDACTED]

[REDACTED]

<b>Committed Investment</b>	has the meaning given to it in Paragraph 8.1 (Committed Investment) of Part 1 (Service, Network and Wholesale Future Proofing) of Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing).
<b>Communications and Engagement Plan</b>	means the plan prepared or to be prepared by NBPco pursuant to the provisions of Paragraph 6 (Communications And Engagement Plan) of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan) and which forms part of the NBPco Solution and is set out at Schedule 3.6 (NBPco Solution – Communications, Demand Stimulation and Brand Plan) (and includes, as the context so admits or requires, any part or parts of it).
<b>Communications, Demand Stimulation and Brand Plan Annual Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records) and to be submitted in accordance with the reporting obligations prescribed under Paragraph 7 (Reporting) of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan).
<b>Comparable</b>	has the meaning given to it in Paragraph 2.4.1 (Process Phases) of Appendix 1 (Supplementary Product Benchmarking Process) of Part 2 (Compliance and Future Proofing Review) of Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing).
<b>Comparison Sample</b>	has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>[REDACTED]</b>	<b>[REDACTED]</b> <b>(A) [REDACTED]</b> <b>(B) [REDACTED]</b> <b>(C) [REDACTED]</b>

(D) [REDACTED]

(E) [REDACTED]

(F) [REDACTED]

(G) [REDACTED]

(H) [REDACTED]

(I) [REDACTED]

[REDACTED]

(1) [REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

(2) [REDACTED]

(3) [REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

(4) [REDACTED]

**Compensation Procedure**

has the meaning given to that term in Paragraph 1 (Introduction) of Annex 8 (Increases in Subsidy Payments and Compensation) of Schedule 6.2 (Change Control Procedure).

**Competent Authority**

means any local, national or supra-national agency, commission, authority, inspectorate, minister, ministry, official or public or statutory person of the Government of Ireland or of the European Union.

**Compliance and Future Proofing Review**

means a review carried out, or to be carried out, by NBPco in accordance with Part 2 (Compliance and Future Proofing Review) of Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing) (and includes as the context so admits or requires, any one, more or all of them).

<b>Compliance and Future Proofing Review Report</b>	means the report produced, or to be produced, by NBPco following the Compliance and Future Proofing Review as further described in Paragraph 4 (Compliance and Future Proofing Review Reporting) of Part 2 (Compliance and Future Proofing Review) of Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Compliance Requirements</b>	has the meaning given to it in Paragraph 7.1 (Audit Rights) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Comptroller and Auditor General</b>	means the Office of the Comptroller and Auditor General.
<b>ComReg</b>	means the Regulator.
<b>Conditions Precedent</b>	means, as the context so admits or requires, each and all of the conditions precedent set out in Schedule 8 (Conditions Precedent) and in clause 26.3.2 (Amendment and Restatement of the Subcontract) of the Buildco Key Subcontractor Direct Agreement (and includes, as the context so admits or requires, any one, more or all of them).
<b>Condition Precedent Deadline</b>	means 31 January 2020.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Confidential Information</b>	means, as the context so admits or requires, the Minister Confidential Information and/or NBPco Confidential Information.
<b>Connect, Connecting Connected, Connection or Connects</b>	each have the same meaning as Premises Connected.



**[REDACTED]**

**Connection Cost**

**[REDACTED]**

means:

1. the cost of providing and installing the new network Infrastructure (comprising poles and/or ducts) to be installed from the boundary of the Curtilage of the Premises to the WCPE in accordance with the requirements set out in Part 4 of Appendix 1 of Schedule 2.4 (Operational Performance) in order to complete the Connection;

plus

2. either
  - (i) in the case of a wireline network, the cost of a fixed drop cable infrastructure that has been deployed between the WCPE in the End User's Premises and the optical distribution point (the ODP) on the Pass Network as well as the cost of providing and installing the WCPE;

or

- (ii) in the case of a point to point wireless network, the cost of the fixed wireless external antenna deployed at the End User's Premises and the radiating antenna (the distribution point) of the wireless Network as well as the cost of providing and installing the WCPE;

or

- (iii) in the case of a point to multipoint point wireless network, the cost of the fixed wireless external antenna deployed at the End User's Premises as well as the cost of providing and installing the WCPE.

The Connection Cost relates only to the incremental Capital Expenditure cost incurred in respect of, or allocated to, the relevant Connection and excludes the cost to Pass Premises (i.e. it excludes Permitted Expenditure Passed) and the

cost to Pass New Premises (i.e. it excludes Permitted Expenditure New Premises).

**Connection Milestone Payment**

means the subsidy payments payable, subject to and in accordance with Paragraph 6 (Connection Milestone Payments), Paragraph 7 (Connection Milestone Payment Claims) and Paragraph 7C (CMPC Supporting Documentation) of Schedule 5.1 (Subsidy Payments) and the provisions of this Agreement, upon Achievement of Connection Payment Milestones, as set out in Table 1 of Appendix 2 (Connection Milestone Payments) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any one, more or all of them).

**Connection Milestone Payment Claim**

means NBPco's claim for payment, subject to and in accordance with Schedule 5.1 (Subsidy Payments) and the provisions of this Agreement, in respect of the Achievement of a Connection Payment Milestone, as described in Paragraph 7 (Connection Milestone Payment Claims) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any one, more or all of them).

**Connection Payment Milestone**

means each of the Milestones set out in Table 1 of Appendix 2 (Connection Milestone Payments) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any one, more or all of them).

**Connection Request**

means, as the context so admits or requires, any, some or all of the following:

1. a SCP Connection Request;
2. Premises Connection Request; and/or
3. a Pre-Ordered Connection Request.

**Connection Request Procedure**

means the procedure for Service Providers to order Wholesale Products for a Premises up to three (3) months in advance of the Network Passing a

Premises as more particularly described in Paragraphs 7.2.12 (Service Provider Engagement Framework – Requirements) to 7.2.15 (Service Provider Engagement Framework – Requirements) (inclusive) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any part or parts of it).

**Connection Service**

means a service provided by NBPco or its Subcontractor to provide bespoke Connections for End Users and/or implement high cost Connections.

**Connections Report**

means the reports to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).

**Connections Tracker**

means the tracker report containing the detail set out in Paragraph 1.3 (Reports) of Annex 1 (Report Details) of Appendix 1 (Reports) of Schedule 6.5 (Reports and Records) and which complies, in particular, with the requirements of Paragraph 4 (Connections Tracker) of Appendix 7 (Project Cost Model Requirements) of Schedule 5.3 (The Project Financial Model).

**Consents**

means all permits exemptions, filings, registrations, notarisations, licences, permissions, consents, approvals, certificates, authorisations (whether official, statutory or otherwise) which are required (or which would, in accordance with Best Industry Practice, normally be obtained) from time to time in connection with the Project, the provision of the Services, Wholesale Products, Network and/or any of NBPco's obligations under this Agreement, whether required in order to comply with Law or as a result of the rights of any third party (and including any required planning, environmental, regulatory or third party consents).

**Constitution**

means the constitution of NBPco in the Approved Form and which is required to comply with the provisions of Schedule 2.7 (NBPco Requirements) (and for the

	purpose of identification signed or initialled by or on behalf of each Party on the front and back page).
<b>Construction Activities and Works</b>	means all activities and works carried out by or on behalf of NBPco on, in, over or under land during the Deployment Period or Operational Period in association with the construction or maintenance of Network infrastructure (including mobilisation, enabling and reinstatement activities and works, site investigations and intrusive surveys).
<b>Construction Regulations</b>	means the Safety, Health and Welfare at Work (Construction) Regulations 2013 and 2019.
<b>Continuous Improvement and Future Proofing Obligations</b>	has the meaning given to it in Paragraph 4.2 (Periodic Review) of Part 4 (Review and Compliance) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Contract Liaison Board</b>	means the board established by the Minister pursuant to Paragraph 4.1 (Contract Liaison Board) of Schedule 6.1 (Contract Liaison Board).
<b>Contract Notice</b>	means the contract notice sent to the Official Journal of the European Union on 22 December 2015 and having reference number is 455315-2105.
<b>Contract Period</b>	means the period commencing on and continuing immediately after the Commencement Date and expiring on the earlier of the Expiry Date or the Termination Date, subject to any resumption and extension in accordance with the provisions of Part 3 (Force Majeure, Insurance and Change in Law) of Schedule 6.9 (Consequences of Termination) and to any surviving obligations pursuant to Clause 80.3.2 (Consequences of Termination or Expiry).
<b>Contract Term</b>	means the period commencing on and continuing immediately after the

Commencement Date and expiring on the earlier of the Contract Term Expiry Date or the Termination Date, subject to any resumption and extension in accordance with the provisions of Part 3 (Force Majeure, Insurance and Change in Law) of Schedule 6.9 (Consequences of Termination) and to any surviving obligations pursuant to Clause 80.3.2 (Consequences of Termination or Expiry).

**Contract Term Expiry Date**

means the Expiry Date unless NBPco, in accordance with Clause 74.4 (Term of this Agreement and Service Continuity), notifies the Minister in writing that it intends to comply with Clause 74.5 (Term of this Agreement and Service Continuity), in which case it means the Service Continuity Period Expiry Date.

[REDACTED]

[REDACTED]

**Contract Year**

means a period of twelve (12) months commencing on the first day of the month occurring after the Effective Date or on an anniversary of that date (or shorter period in the period immediately prior to the end of the Contract Period). For example, if the Effective Date occurs on 20 January 2020, the first day of the first Contract Year will occur on 1 February 2020 and the first day of the second Contract Year will occur on 1 February 2021.

[REDACTED]

[REDACTED]

**Contracting Associate**

means the Key Subcontractors, Guarantors and any Associated Company of NBPco which performs any function in connection with this Agreement, the Project, Services, Wholesale Products and/or Network or is a party to any Required Document (and includes, as the context so admits or requires, any one, more or all of them).

**Control or Controls**

means, in relation to a body corporate (the "**Relevant Company**"), where a person:

- (a) holds, directly or indirectly, a Relevant Proportion or more of the

	issued share capital of the Relevant Company; or
	(b) is in a position to cast, or directly or indirectly by any means control the casting of, a Relevant Proportion or more of the maximum number of votes that may be cast or cause to be cast or exercised: (i) at a general meeting of the Relevant Company; and/or (ii) to appoint or remove directors and any other management body of the Relevant Company; or
	(c) has the right to receive a Relevant Proportion of dividends or other distributions of the Relevant Company.
<b>Conviction</b>	means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and binding-over orders.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Core Project Documents</b>	means the Constitution, Buildco Constitution, Shareholders Agreement, Buildco Shareholders Agreement, Equity Subscription Agreement, Buildco Equity Subscription Agreement, NBPco Deferred Equity Guarantee, Minister Share Charge, Minister Debenture, Buildco Minister Debenture, Minister Special Share, Buildco Minister Special Share, Minister NBPco Guarantee, Minister Subordination Deed, Funding Documents and, if applicable, DPB Project Account Charge (and includes, as the context so admits or requires, any one, more or all of them).
<b>CoS</b>	means Class of Service.
<b>Cost Book</b>	means the relevant sheets contained in, or referenced from, the Project Financial Model which contains certain input cost data.
<b>Cost Component</b>	means the accumulation of various costs (direct, indirect, and common) through

the various cost allocation stages within the cost accounting system from initial input layer through to final Wholesale Products.

**Cost Memorandum**

means a document which is required to comply with Schedule 5.3 (The Project Financial Model) and support and explain all aspects of the Project Cost Model assumptions and give further clarity to any assumptions in the Project Cost Model and highlights any additional aspects that may not be readily apparent from the Project Cost Model, which as at the Effective Date is set out in Schedule 5.3 (The Project Financial Model), as may be revised and substituted from time to time in accordance with Paragraph 3 (Management of Changes to the Project Financial Model and Project Cost Model) of Schedule 5.3 (The Project Financial Model).

**County**

means a county of Ireland.

**CPC**

means a Connection Payment Claim.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**CPE**

means Customer Premises Equipment.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Critical Key Subcontractor**

means the Subcontractors identified in Schedule 3.9 (Key Subcontractors) as a “Critical Key Subcontractor” and any replacement Subcontractors approved by the Minister pursuant to Clause 42.1 (Subcontractors) (and includes, as the context so admits or requires, any one, more or all of them).

[REDACTED]

[REDACTED]

1. [REDACTED]

2. [REDACTED]

**Critical Systems**

means all components and systems used to provide the Operational Environment,

	Secure Portal and Public Portal excluding those used solely by NBPco to provide document management, and to store and/or analyse performance management information.
<b>Curtilage</b>	means an area of land immediately surrounding a Premises consisting of a building or group of building structures which is used for the enjoyment of such building or group of building structures and includes any and all private property attached to the Premises that must be crossed by NBPco in order to make a Connection to that Premises.
<b>Customer Premises Equipment</b>	means equipment on an End User's Premises which is not part of a Service Provider electronic communications network, but which is directly or indirectly attached to it, such as a Residential Gateway.
<b>Customer-VLAN</b>	means a VLAN that is allocated to a specific End User.
<b>C-VLAN</b>	means Customer-VLAN.
<b>DA Actual Cost</b>	has the meaning given to that term in Paragraph 8.2.35 (Network Deployment) of Schedule 2.3 (Deployment Requirements).
<b>DA Commencement Notification</b>	has the meaning given to it in Paragraph 8.2.34 (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>DA Forecast Cost</b>	means the costs set out in the Deployment Area Cost Template at the Effective Date.
<b>DACT</b>	means Deployment Area Cost Template.
<b>Dark-Fibre Access</b>	has the same meaning as Dark-Fibre Product.
<b>Dark Fibre Product</b>	is characterised by one or several fibres which are previously unused and which are leased to a Service Provider connecting two (2) points in the Network.



<b>DOCSIS</b>	means <i>Data Over Cable Service Interface Specification</i> .
<b>Data Protection Legislation</b>	means the DPA, e-Privacy Regulations, e-Privacy Directive 2002/58/EC, the European General Data Protection Regulation (EU) 2016/679, and all applicable Legal Requirements, Codes and Standards and Laws, and any secondary legislation which relates to personal data and privacy and any Guidance issued by the Data Protection Commissioner.
<b>DCCAE Vote Funding Estimates Forecast Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1(Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>DD Start Date</b>	is the day after the date upon which the Minister receives a Materially Complete response to the Outline DDQ and Final DDQ.
<b>DD Warning Notice</b>	has the meaning given to it in Paragraph 4.19.2 (Handover Information and Due Diligence) of Part 5 (Change in Ownership and Asset Transfer) of Schedule 6.9 (Consequences of Termination).
<b>Default</b>	means any breach or default by NBPco or NBPco Personnel of the obligations of NBPco (including abandonment of this Agreement, repudiatory breach or breach of a provision) under this Agreement or any other breach, default, act, omission, negligence, misrepresentation or statement of NBPco and/or NBPco Personnel in connection with or in relation to this Agreement or any Project Document for which NBPco is responsible or liable to the Minister.
<b>Defect</b>	means any defect however arising including: <ol style="list-style-type: none"><li>1. any defect or other error or fault in the Services, Wholesale Products, Equipment or Network that is the result of a defect, error, fault or deficiency in the design of the</li></ol>

Equipment, Network, Wholesale Products, or Services or defective or faulty materials or defective or faulty workmanship;

2. any error, damage or defect in the manufacturing of any Equipment;
3. any failure of any Equipment or other part of the Network, Wholesale Products or Services to provide the performance, features and functionality specified in the Service Requirements, Wholesale Product Specification or NBPCo Solution;
4. any failure of any Equipment or other part of the Network, Wholesale Products or Services to properly operate in conjunction with or properly interface with any other Equipment or other part of the Network, Wholesale Products or Services in order to provide the performance, features and functionality specified in the Service Requirements, Wholesale Product Specification or NBPCo Solution;
5. any failure of the Services, Wholesale Products or Network to meet or continue to meet the Service Requirements, Wholesale Product Specification or NBPCo Solution; and
6. any Service Downtime,

and any damage, destruction or other effect consequential on any such Defect.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Deferred Premises**

has the meaning given to that term in Paragraph 8.2.7 (Network Deployment –

	Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Deferred SCP</b>	has the meaning given to that term in Paragraph 8.2.18 (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements)
<b>Deficient Portion</b>	has the meaning given to that term in Clause 16.4 (Testing and Milestones).
<b>Degradation Network Fault</b>	means a Network Fault condition resulting in the deterioration in quality, level, or standard of performance of any Active Wholesale Product.
<b>Delay</b>	means, as the context so admits or requires, a delay: <ol style="list-style-type: none"><li>1. in the Achievement of a Milestone by its Milestone Date; or</li><li>2. in achieving and completing an event, task, milestone or action by the relevant date specified for such in the Wholesale Product Roadmap, Technology Roadmap or Wholesale Product &amp; Coverage Template.</li></ol>
<b>Demand Stimulation</b>	means the stimulation of High Speed Broadband demand from IA End Users and promotion of Take Up in the Intervention Area in accordance with the provisions of Paragraph 4 (Demand Stimulation Project Plan) of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan), the Demand Stimulation Project Plan and other provisions of this Agreement and which forms part of the NBPco Solution.
<b>Demand Stimulation Project Plan</b>	means the detailed project plan for Demand Stimulation as referred to in Paragraph 4 (Demand Stimulation Project Plan) of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan) and as more particularly described in the Service Requirements and NBPco Solution and set out at Schedule 3.6 (NBPco Solution – Communications, Demand Stimulation and Brand Plan) (and which includes, as the context so admits or requires, any part

or parts of any of it and any Changes to it made pursuant to a Change Authorisation).

**Demarcation Point**

means the point in an electronic communications network which marks the responsibility limitation of Authorised Undertakings for an electronic communications service.

**Deployment Area**

means a Deployment Area as more particularly described in Appendix 6 (Rollout Areas) of Schedule 2.3 (Deployment Requirements) and which are required to comply with the requirements of Paragraph 8.1.6 (Network Deployment— Requirements) of Schedule 2.3 (Deployment Requirements) and each of which is more particularly identified in Appendix 3.1.A of Schedule 3.3 (NBPCo Solution - Speed of Deployment and Environment) (and includes, as the context so admits or requires, any one, more or all of them or any part of any one, more or all of them).

**Deployment Area Complete**

means the Achievement of the M2 Milestone in respect of a Deployment Area.

**Deployment Area Cost Template**

means the relevant part of the Project Cost Model containing a list of NBPCo's forecasted costs for each Deployment Area as set out in the version of the Project Cost Model prepared in accordance with Appendix 7 (Project Cost Model Requirements) of Schedule 5.3 (The Project Financial Model) at the Effective Date.

**Deployment Area Deferred Premises Threshold**

means the aggregate maximum number of Deferred Premises permitted in a Deployment Area and which shall not exceed:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]

**Deployment Area Milestone**

means any one, more or all of the M1 Milestone (Detailed Design Complete),

the M2 Milestone (Network Deployment Complete) and the M3 Milestone (Rollout Area Complete) (and includes, as the context so admits or requires, any one, more or all of them).

<b>Deployment Area Network</b>	means the part of the Network within or related to a Deployment Area (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).
<b>Deployment Area Project Plan</b>	means the detailed project plan for Network Deployment in a Deployment Area that is unique to each individual Deployment Area, as more particularly described in the Service Requirements (and, in particular, at Paragraphs 8.2.43 (Network Deployment – Requirements) to 8.2.45 (Network Deployment – Requirements) (inclusive) of Schedule 2.3 (Deployment Requirements) and which is required to be in a format and level of detail substantially similar to that set out in Appendix 3.6.3.1.A of Schedule 3.3 (NBPCo Solution - Speed of Deployment and Environment), (and which includes, as the context so admits or requires, any one, more or all of the Deployment Area Project Plans or any part or parts of any one, more or all of them and as amended by any Change made pursuant to a Change Authorisation).
<b>Deployment Claw-Back Amount</b>	means the amount calculated pursuant to Paragraph 15.3.4 (Over-Subsidy Claw Back: Deployment) of Schedule 5.1 (Subsidy Payments).
<b>Deployment Claw-Back Benefit</b>	has the meaning given to it in Paragraph 15.3.3 (Over-Subsidy Claw Back: Deployment) of Schedule 5.1 (Subsidy Payments).
<b>Deployment Claw-Back Debt</b>	is calculated in accordance with Paragraph 15.5.2 (Over-Subsidy Claw-Back: Deployment) of Schedule 5.1 (Subsidy Payments).
<b>Deployment Completion Date</b>	means the date on which the Programme Level Milestone P4A.100 (which, for the

avoidance of doubt, relates to Network Deployment Complete for one hundred percent (100%) of Premises in the Intervention Area) is Achieved.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

**Deployment Meeting**

means the Quarterly deployment meeting hosted by NBPco throughout the Deployment Period.

**Deployment Milestone Payment**

means the subsidy payments payable, subject to and in accordance with Paragraphs 3 (Deployment Milestone Payments), 4 (Deployment Milestone Payment Claims) and 5 (DMPC Supporting Documentation) of Schedule 5.1 (Subsidy Payments) and the provisions of this Agreement, upon Achievement of Deployment Payment Milestones, as set out in Table 1 of Appendix 1 (Deployment Milestone Payments) of Schedule 5.1 (Subsidy Payments).

**Deployment Milestone Payment Claim**

means NBPco's claim for payment, subject to and in accordance with Schedule 5.1 (Subsidy Payments) and the provisions of this Agreement, in respect of the Achievement of a Deployment Payment Milestone, as described in Paragraph 4 (Deployment Milestone Payment Claims) of Schedule 5.1 (Subsidy Payments).

**Deployment Payment Milestone**

means each of the M0 Milestones and Detailed Design Complete Milestones (M1 Milestones) and Deployment Area Complete Milestones (M2 Milestones) set out in Table 1 of Appendix 1 (Deployment Milestone Payments) of Schedule 5.1

(Subsidy Payments) (and includes, as the context so admits or requires, any one, more or all of them).

**Deployment Performance Bond**

means the Performance Bond in the Approved Form from the Surety in favour of the Minister dated on or prior to the Effective Date and which is required pursuant to Clause 39.1.1 (Performance Bond) to be in the form set out in Schedule 7.2.1 (Form of Deployment Performance Bond) (and, if applicable any supplemental or replacement performance bond entered into pursuant to the provision of this Agreement).

**Deployment Period**

means the period from the Effective Date until the Deployment Completion Date.

**Deployment Subsidy**

has the meaning given to it in Paragraph 2.3.1(A) (Subsidy Payments) of Schedule 5.1 (Subsidy Payments).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Design Proposal Alternative Options**

has the meaning given to it in Paragraph 8.2.26(C) (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements).

**Design Proposals Report**

has the meaning given to it in Paragraph 8.2.25 (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements).

**Detailed Design**

means the detailed breakdown and representation of all of the Network elements for each Deployment Area as determined in accordance with Paragraph 2.2.4 (Milestones) of Appendix 3 (Milestone Acceptance Criteria) of Schedule 2.3 (Deployment Requirements).

**Detailed Design Complete**

occurs in respect of a Detailed Design Complete Milestone when its Milestone Achievement Criteria have been Achieved.

<b>Detailed Design Complete Milestone</b>	means the M1 Milestones as specified as such and as more particularly set out in Paragraph 2.2 (Milestones) of Appendix 3 (Milestone Acceptance Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>DG Comp</b>	means the Directorate-General for Competition, of the European Commission, responsible for establishing and implementing a coherent competition policy for the European Union.
<b>DG Regio</b>	means the Directorate-General for Regional and Urban Policy, of the European Commission, responsible for European Union measures to assist the economic and social development of the underdeveloped regions of the European Union.
<b>Diligent Tenderer</b>	means a tenderer who has acted in good faith and exercised the same degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a reasonably well informed and normally diligent tenderer in preparing its tender in a competition for a project similar to the Project.
<b>Direct Loss</b>	means all liabilities and Losses excluding Indirect Loss.
<b>Directors' Compliance Statement</b>	means a statement from the directors prepared in accordance with the requirements of section 225 of the Companies Act 2014 (and, notwithstanding any to the contrary stated in this Agreement, this definition does not change in the event of a change to section 225 of the Companies Act 2014).
<b>Director of Network Deployment</b>	has the meaning given to it in Paragraph 1.4.3 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Disclosed Information</b>	includes, without limitation, all information, data, documents, materials



and similar disclosed (whether in tangible or electronic form) by or on behalf of the Minister, Regulator, Public Service Body (or any of their employees, advisers, consultants, agents or contractors) to NBPco in connection with the procurement and tender process (including the pre-qualification, competitive dialogue, final Tender and preferred bidder stages) and otherwise in respect of the Project, Services, Network, Wholesale Products and/or this Agreement.

**Disclosure Letter and Disclosed in the Disclosure Letter**

means the Disclosure Letter in Approved Form set out in Schedule 13 (Disclosure Letter). and “**Disclosed in the Disclosure Letter**” means fairly and accurately disclosed in writing to the Minister in the Disclosure Letter (with sufficient detail to enable the Minister to assess the scope and import of the matter disclosed).

[REDACTED]

[REDACTED]

**Discrimination Event**

means any instance of a failure by NBPco to act on a Non-Discriminatory Basis, as categorised as follows:

1. a Minor Discrimination Event;
2. a Serious Discrimination Event; and
3. a Severe Discrimination Event,

(and includes, as the context so admits or requires, any one, more or all of them).

**Discrimination Event Report**

means the report issued by the Minister pursuant to Paragraph 5 of Appendix 8 (Discrimination Event) of Schedule 6.7 (Performance Levels).

**Disenfranchisement Notice**

has the meaning given to “Disenfranchisement Notice” in, as applicable, the Constitution or Buildco Constitution.

**Dispute**

means any dispute, difference of Model ion or disagreement between the Parties arising out of, in connection with or

relating to this Agreement (including as to its existence, interpretation, operation, termination, repudiation or performance) in any way (though NBPCo may not dispute any matter or thing as to which the decision of the Minister under this Agreement is, pursuant to the provisions of this Agreement, (a) final and conclusive; (b) not subject to the Dispute Resolution Procedure or (c) subject to the Minister's discretion).

**Dispute Resolution Procedure**

means the procedure and provisions set out in Schedule 6.3 (Dispute Resolution Procedure).

**Dispute Resolution Timetable**

means the Standard Dispute Resolution Timetable or the Expedited Dispute Resolution Timetable.

**Distribution**

means, whether in cash or in kind, any:

- i. dividend or other distribution in respect of share capital;
- ii. reduction of capital, redemption or purchase of shares or any other reorganisation or variation to share capital;
- iii. payments under the Funding Documents (whether of principle, interest, breakage costs or otherwise);
- iv. payment, loan, contractual arrangement or transfer of assets or rights to the extent (in each case) it was put in place after the Commencement Date and was neither in the ordinary course of business nor on reasonable commercial terms; and/or
- v. the receipt of any other benefit which is not received in the ordinary course of business and on reasonable commercial terms.

**DMP**

means Deployment Milestone Payment.

<b>DMPC</b>	means a Deployment Milestone Payment Claim.
<b>DMPC Supporting Documentation</b>	means the information and documentation more particularly described in Paragraph 5 (DMPC Supporting Documentation) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any, some or all of it).
<b>Download Speed</b>	means the data speed that can be transmitted and measured between two specific points in the Network which is measured in the direction towards the End User taking into account any contention built into the Network and/or the Service Provider's network (as appropriate).
<b>DPA</b>	means the Data Protection Acts 1988 to 2018, including all subordinate legislation enacted under or pursuant to these Acts.
<b>DPB Project Account</b>	means the account in a bank established as the DPB Project Account in accordance with Clause 39.1A (Performance Bond) and which account is more particularly described in, and subject to, the DPB Project Account Charge.
<b>DPB Project Account Charge</b>	means the charge over a bank account in favour of the Minister entered into by the Minister and NBPco in respect of the DPB Project Account pursuant to Clause 39.1A (Performance Bond) and dated on or prior to the Effective Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).
<b>DPB Project Account Charge Release Date</b>	has the meaning given to it in Clause 39.1 (Performance Bond).
<b>Draft Independent Assurance Review Plan</b>	has the meaning given to it in Paragraph 4.1.2 (Independent Assurance Review) of Schedule 6.10 (Independent Assurance).

<b>Draft Plan Date</b>	has the meaning given to it in Paragraph 4.1 (Independent Assurance Review) of Schedule 6.10 (Independent Assurance).
<b>Draft Plan Response Date</b>	has the meaning given to it in Paragraph 4.3 (Independent Assurance Review) of Schedule 6.10 (Independent Assurance).
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Duct</b>	has the meaning given to it in Paragraph 7.6 (Duct Blockages) of Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure).
<b>Duct Access</b>	means the provisioning of duct space in NBPco's duct network to Service Providers.
<b>Duct Access Product</b>	means the provisioning of duct space to enable Service Providers to deploy their own Infrastructure (e.g. cables) in NBPco's duct network.
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Due Diligence Information</b>	means the Handover Information and any Reports, the Asset Register, the Staffing Information and any records, documents, information, books of account and anything else provided, made available or

disclosed to the Minister or other person by or on behalf of NBPco or Buildco pursuant to Paragraph 4 (Handover Information and Due Diligence) of Part 5 (Change in Ownership and Asset Transfer) of Schedule 6.9 (Consequences of Termination) including anything made available in the due diligence data room.

**EbXML**

means the project to use eXtensible Markup Language to standardise the secure exchange of business data.

**EBITDA**

means earnings before interest, taxes, depreciation and amortisation in the Income Statement of NBPco as set out in the Project Financial Model.

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**Effective Date**

means the later of:

1. the date on which this Agreement is executed and delivered by both Parties; and
2. the date on which the last Condition Precedent (excluding any Conditions Precedent the satisfaction of which prior to the Effective Date have, by written agreement of the Parties, been waived by the Minister in accordance with Clause 2.5.2 (Conditions Precedent) or the satisfaction of which have, by written agreement of the Parties, been waived by the Minister in accordance with Clause 2.5.3 (Conditions Precedent)) has been satisfied.

**[REDACTED]**

**[REDACTED]**

(i) **[REDACTED]**

(ii) **[REDACTED]**

**[REDACTED]**

a. [REDACTED]

b. [REDACTED]

[REDACTED]

**Eir Duct Usage by  
Deployment Area Report**

means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).

[REDACTED]

[REDACTED]

**Eircodes**

means, at a point in time, the most recent version of the postcode system available from the Postcode Management Licence Holder.

[REDACTED]

[REDACTED]

**EIR MIP Report**

means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).

**Eir Infrastructure Database**

has the meaning given to it in Paragraph 2.6 (Accuracy of eir Infrastructure Database) of Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure).

**Electronic Communications  
Framework**

means the framework of Irish legislation governing electronic communication services and networks and which as at the Commencement Date includes the Communications Regulation Act 2002, Framework Regulation, Authorisation Regulations, Universal Service Regulations, e-Privacy Regulations and Access Regulations.

**Electronic Network Maps**

means, as the context so admits or requires, either or both of the IA End User Interactive Map and the Network Infrastructure Map.

**Eligibility Rules for ERDF  
Funding**

means (i) Regulation (EU) No. 1303/2013; (ii) Regulation (EU) No. 1301/2013 and (iii) the Department of Public Expenditure and Reform Circular

(DPE 055/18/2015) as amended, supplemented or replaced from time to time.

**Eligible ERDF Expenditure**

means Permitted Expenditure which falls within the Eligibility Rules for ERDF Funding.

**Emergency**

means a circumstance:

1. which poses a serious threat to, or causes or is likely to cause material damage or material disruption to:
  - (a) health or safety of persons or relating to the Network or the general public;
  - (b) the structural integrity or safety of any part of the Network or to any asset of the State or any Asset in NBPco's or any asset in any other person's control or possession;
  - (c) the environment; or
  - (d) the operational security of any part of the Network or to any asset of the State;
2. where it is necessary for the State to take immediate action to discharge statutory duties or powers in connection with a serious threat to, or material damage to, any of the matters specified in paragraph (1); or
3. which constitutes significant loss or damage to, or destruction of, the Network.

**Employee Liabilities**

means all Claims, including claims for redundancy payments, unlawful deduction from wages, unfair, wrongful or constructive dismissal compensation, compensation for discrimination on the grounds of religious belief or political opinion, race, sex (including pregnancy, marital or civil partner status or gender reassignment), sexual orientation, disability or age, claims for equal pay, compensation for less favourable

treatment of part-time workers or fixed term workers, claims by agency workers for less favourable treatment, and any claims (whether in tort, contract or statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Workplace Relations Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation), and any legal costs and expenses.

**Employer**

means, with respect to a particular Key Subcontractor, the entity that engaged that Key Subcontractor under the Key Subcontract to which the Key Subcontractor concerned is a party.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Employment, Training and SME Opportunities Report**

means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).

**Employment Transfer Date**

means the date on which the employment of the relevant Transferring Employee transferred to the New Employer pursuant to the TUPE Regulations.

**EMS**

means Environmental Management System.

**Encumbrance**

means any mortgage, charge, pledge, lien, assignment, hypothecation, option, restriction, right of first refusal, right of pre-emption, right to acquire, third party



right or interest, any other encumbrance or security interest of any kind and any other type of equity, preferential or other right, arrangement or agreement (including set-off, title transfer and retention arrangements) having a similar effect (whether in any case unconditional or not and whether relating to existing or future assets).

<b>End Date</b>	has the meaning given to it in Paragraph 2.6 (Transition from Copper to Fibre) of Annex 5 (Post Build Contract Assumptions) of Schedule 6.2 (Change Control Procedure).
<b>End of Term Reports</b>	has the meaning given to it in Paragraph 3.1 (Report Access and Delivery) of Schedule 6.5 (Reports and Records).
<b>End User</b>	means those business and individual customers of a retail service provider whose use of an electronic communication service offered by a retail service provider would be or is for their own personal or business use and who are not retail or wholesale service providers.
<b>End User Appointment</b>	means an arrangement made with an IA End User for NBPco to attend an End User Premises within a specified Appointment Window.
<b>End User Appointment Date</b>	means the Appointment Date provided to or agreed with an IA End User.
<b>End User Connection</b>	means a Connection in respect of an End User.
<b>End User Fault</b>	means a Service Fault affecting a single End User.
<b>End User Fault Repair</b>	means the cause of the End User Fault has been completely eliminated and the Active Wholesale Product is performing in accordance with all Performance Indicators, Performance Levels and other requirements under this Agreement applicable to that Active Wholesale Product.

<b>End User Fault Repair Time</b>	means the period starting on the earlier of the time NBPco becomes aware of the End User Fault or the time the Service Provider notifies NBPco of the End User Fault until the Service Fault is removed.
<b>End User Information Management Data Sources</b>	means the data sources including, but not limited to, GeoDirectory, Eircodes and the Minister’s validated list of relevant Premises, which are used or to be used by NBPco to construct and keep up-to-date the Premises Database.
<b>End User Management Database</b>	has the meaning given to it in Paragraph 4.4.5 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification), as more particularly described in the Service Requirement and NBPco Solution (and, in particular, Paragraph 1.3.1.1.2 (End-User Management Database) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).
<b>End User Migration</b>	means the total time, measured from the time NBPco receives a request from a Service Provider, for NBPco to complete the migration, on behalf of an End User, from one Wholesale Product to another, and/or to migrate a Wholesale Product from one Service Provider to another.
<b>End User panel</b>	has the meaning given to it in Paragraph 2.2.1 (Product Performance) of Part 2 (Definitions and Measurement) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).
<b>End User Residential Gateway</b>	has the same meaning as Residential Gateway.
<b>End User Premises</b>	means a Premises of an End User (and includes, as the context so admits or requires, any one, more or all of them).
<b>End User Survey</b>	means the process of issuing of a set of questions to a representative sample of IA End Users of the Network in the Intervention Area and the collection of their responses (and includes, as the

context so admits or requires, any one, more or all of the End User Surveys).

**Enduring Project Agreement Obligations**

means the following obligations:

1. to adhere to the governance and auditing reporting compliance requirements set out at Schedule 2.7 (NBPCo Requirements) and Schedules 6.1 (Contract Liaison Board) to 6.5 (Reports and Records) (inclusive) to the extent reasonably necessary to enable the Minister monitor and verify compliance with the Enduring Project Agreement Obligations and to comply with State Aid Law and any requirements or requests of the European Commission in connection with State aid and/or the ERDF in connection with ERDF Funding;
2. to continue to offer all Wholesale Products, as specified in Paragraph 3.1.2 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) and Paragraph 1.1.2 (Introduction) of Schedule 2.2 (Reference Offer Requirements);
3. to ensure that the prices of all products will be set in a manner consistent with the requirements of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules); and
4. to ensure that all Wholesale Products must be offered on a Non-Discriminatory and Equivalence of Inputs basis as outlined in Paragraphs 1.1.2, 1.1.3 (C), 3.1.3, (Product Requirements, Evolution and Roadmap) 3.3.4 (Product Requirements, Evolution and Roadmap) and 4.1.1 (Operational Environment Requirements) of

Schedule 2.1 (Technical Solution  
Specification).

<b>Enhanced Telecom Operations Map</b>	means an ongoing initiative developed by the TM Forum to deliver a business process framework for the telecoms industry.
<b>Environmental Annual Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Report) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>Environmental Information Regulations</b>	means the European Communities (Access to Information on the Environment) Regulations 2007 together with any Guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations.
<b>Environmental Management System</b>	means the environmental management system to be developed and implemented by NBPco in accordance with Paragraph 5.1 (Environmental Management System) of Schedule 2.5 (Environmental) and includes, as the context so admits or requires, any part or parts of the Environmental Management System.
<b>Environmental Protection Agency</b>	means the independent body established under the Environmental Protection Agency Act 1992.
<b>Eol</b>	means Equivalence of Input.
<b>EPA</b>	means Environmental Protection Agency.
<b>ETSI</b>	means European Telecommunications Standards Institute.
<b>e-Privacy Regulations</b>	means the European Communications (Electronic Communications Network and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 / 2011).
<b>Equipment</b>	means any ducts, sub-ducts, pipes, cabling, pylons, Infrastructure, communications links, technology,

systems, software, hardware, databases, tools, plant, machinery, vehicles, components, parts, spare parts, servers, materials, devices, equipment, applications and all other peripheral items of any nature whatever used or to be used by NBPco or its Subcontractors for the provision of the Services, Wholesale Products, Operational Environment and/or Network (and, where the context so admits or requires, includes any one, more or all of it or any part or parts of any one, more or all of it).

[REDACTED]

[REDACTED]

**Equi-Proportional Mark-Up**

means the method of allocating the joint or common costs to a Wholesale Product in proportion to the ratio of all relevant costs and expenditure already directly or indirectly assigned.

[REDACTED]

[REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

**Equity Subscription Agreement**

means, subject to the provisions of this Agreement (including Clause 44 (Project Documents and Funding Documents)), the equity subscription agreement in respect of NBPco between Holdco and NBPco dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

**[REDACTED]**

<b>equivalent position</b>	has the meaning given to it in Clause 1.4 (Definitions and Interpretation).
<b>Equivalent Services</b>	has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>Equivalence of Input</b>	means the obligation imposed on NBPco to provide all Wholesale Products, services and information to all Service Providers and (whether directly or indirectly) to its Associated Service Providers in the same timescales, and on the same terms and conditions (including price and Performance Levels) by means of the same systems and processes (and, in particular, includes the use by NBPco of such systems and process in the same way and with the same degree of reliability and performance when providing services and information to all Service Providers and, whether directly or indirectly, to its Associated Service Providers).
<b>Equivalent Product</b>	<p>means, with respect to a Wholesale Product (the “<b>relevant Wholesale Product</b>”):</p> <ol style="list-style-type: none"><li>1. where the relevant Wholesale Product is a Passive Wholesale Product, the least expensive wholesale product available in the Excluded Area that is at least equivalent in all material respects from a Service Provider’s perspective to the specification of the relevant Wholesale Product; or</li><li>2. where the relevant Wholesale Product is an Active Wholesale Product, the least expensive wholesale product available in the Excluded Area that:<ol style="list-style-type: none"><li>a. is a High Speed Broadband product;</li><li>b. as a minimum, satisfies and performs in compliance with the</li></ol></li></ol>

minimum performance specification for a Minimum Bitstream Wholesale Product set out in Paragraph 4.2.2 (Wholesale Product Specifications) of Schedule 2.2 (Reference Offer Requirements); and

- c. is at least equivalent in all material respects from a Service Provider's perspective to the performance and specification of the relevant Wholesale Product.

**PROVIDED THAT** if, applying the above rules in a given case at the relevant time, there is more than one Equivalent Product in respect of a Wholesale Product, the wholesale product which is an Equivalent Product and which has the highest specification from a Service Provider's perspective shall be deemed to be the Equivalent Product.

<b>ERDF</b>	means the European Regional Development Fund.
<b>ERDF Expenditure Profile</b>	means the profile of Eligible ERDF Expenditure contained with the Project Financial Model.
<b>ERDF Funding</b>	means the amount of ERDF funding granted to the Exchequer by the European and Regional Development Fund for the purposes of this Agreement.
<b>ERDF Funding Report</b>	means the report to be provided by NBPco pursuant to Paragraph 2 (ERDF Project Specific Conditions) of Schedule 5.4 (Eligibility Requirements for ERDF Funding) in accordance with Schedule 6.5 (Reports and Records).
<b>ERDF Programme Area</b>	means the Regional Operational Programmes for the Southern and Eastern Region (S&E) and the Border, Midland and Western (BMW) Region. This provides for funding from the

	European Regional Development Fund (ERDF) and the Irish exchequer invested in the two regions between 2014 and 2020.
<b>ERDF co-funded Project</b>	means the project to deliver the Network, Wholesale Products and Services to the ERDF Programme Area.
<b>ERDF Project Specific Conditions</b>	means those project specific conditions relating to the ERDF Project notified to the Minister by the European Commission.
<b>ERDF Funding Projects Application</b>	means the application for the grant of ERDF Funding submitted by the Minister to the ERDF.
<b>ERDF Publicity Compliance Report</b>	means the report to be provided by NBPco pursuant to Paragraph 4 (Publicity) of Schedule 5.4 (Eligibility Requirements for ERDF Funding) in accordance with Schedule 6.5 (Reports and Records).
<b>ERDF Region</b>	means the designated regions for the management of EU Structural Fund, namely: <ol style="list-style-type: none"><li>1. Southern and Eastern Region (S&amp;E) consisting of Carlow, Clare, Cork, Dublin, Kerry, Kildare, Kilkenny, Limerick, Meath, Tipperary, Waterford, Wexford and Wicklow; and</li><li>2. Border, Midlands and Western Region (BMW) consisting of Cavan, Donegal, Galway, Laois, Leitrim, Longford, Louth, Mayo, Monaghan, Offaly, Roscommon, Sligo and Westmeath.</li></ol>
<b>ERDF Supporting Documentation</b>	means the additional information and documentation required by the Minister to support a claim for ERDF Funding, where and to the extent that such additional information and documentation is specified in Schedule 5.4 (Eligibility Requirements for ERDF Funding).
<b>Escalation Process</b>	means the process for escalation during Commercial Negotiations in accordance



with Schedule 6.3 (Dispute Resolution Procedure).

**Estimated Change in Costs**

means, in respect of any Relevant Event, the direct effect of that Relevant Event (whether of a one-off or recurring nature, and whether positive or negative) upon Project Costs (in all cases as identified by reference to the version of the Project Financial Model pursuant to Schedule 5.3 (The Project Financial Model) applicable as at the date of occurrence of the Relevant Event (which in the case of a Qualifying Change in Law, means the coming into effect (by an enactment, commencement order, decision of a Competent Authority or otherwise) of the relevant Qualifying Change in Law) and includes:

- a) any estimated increase in Capital Expenditure and, to the extent Permitted Expenditure, Operating Expenditure;
- b) the costs to NBPco of financing any Relevant Event including commitment fees and capital costs, interest and hedging costs, lost interest on any of NBPco's own capital employed and any finance required pending receipt of a relevant compensation payment from the Minister under this Agreement;
- d) any deductible or increase in the level of deductible, or any increase in premium under or in respect of any insurance policy; and
- e) Losses including reasonable legal expenses on an indemnity basis,

but in each case less the aggregate of any estimated reduction in any of the above costs arising as a result of the Relevant Event (and, for the avoidance of doubt, save in respect of the Accuracy of SLA Infrastructure Delivery Assumption, this concept and methodology does not

apply in respect of any Change Requests pursuant to Annex 5 (Post Build Contract Assumptions) and Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control)).

**Estimated Change in Project Costs**

means, in respect of a Relevant Event, the aggregate of any Estimated Change in Costs and (without double counting), any Estimated Change in Revenue (if relevant) as calculated in accordance with the process applicable to the Relevant Event and Annex 8 (Increases in Subsidy Payments and Compensation) of Schedule 6.2 (Change Control Procedure) (and, for the avoidance of doubt, save in respect of the Accuracy of SLA Infrastructure Delivery Assumption, this concept and methodology does not apply in respect of any Change Requests pursuant to Annex 5 (Post Build Contract Assumptions) and Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control)).

**Estimated Change in Revenue**

means, in respect of any Relevant Event, if applicable and to the extent only not capable of mitigation, the direct effect of that Relevant Event (whether of a one-off or recurring nature, and whether positive or negative) upon Project Revenues (in all cases as identified by reference to the version of the Project Financial Model pursuant to Schedule 5.3 (The Project Financial Model) applicable immediately prior to the date of NBPCo's application for compensation in respect of the Estimated Change in Project Costs in accordance with this Agreement (and, for the avoidance of doubt, save in respect of the Accuracy of SLA Infrastructure Delivery Assumption, this concept and methodology does not apply in respect of any Change Requests pursuant to Annex 5 (Post Build Contract Assumptions) and Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control)).

**Ethernet**

means the standard network technology that connects computers and devices to each other and to the Internet via cables.

<b>eTom</b>	means the Enhanced Telecom Operations Map.
<b>EURIBOR</b>	means the euro interbank offered rate administered by the <i>European Money Markets Institute</i> (or any other person which takes over the administration of that rate) for the relevant period, displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters. If such page or service ceases to be available, the Minister may specify another page or service displaying the relevant rate after consultation with NBPco.
<b>Evaluation Report</b>	has the meaning given to it in Paragraph 1.4.4 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Evaluation Team</b>	has the meaning given to it in Paragraph 1.4.5 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Excess Fibre Cable</b>	has the meaning given to it in Paragraph 11.2.12 (Monitoring Deployment - Requirements) of Schedule 2.3 (Deployment Requirements).
<b>[REDACTED]</b>	<b>[REDACTED]</b> a. <b>[REDACTED]</b> b. <b>[REDACTED]</b>

	<b>c. [REDACTED]</b>
<b>Excluded Area</b>	means, at a point in time, all of Ireland other than the Intervention Area and which is identified in 'blue or light blue' on the Intervention Area Map.
<b>Excluded Area Products</b>	means electronic communications products, services and networks sold, licensed or leased by NBPco in the Excluded Area.
<b>Excluded Project</b>	means:  (A) any project, initiative or scheme (or like measure) initiated, promoted and/or funded from time to time by any of the institutions of the European Union including projects in respect of internet connectivity promotion published as at the Commencement Date such as the European Commission scheme, commonly referred to as Wifi4EU, to support the installation of free public Wi-Fi hotspots in local communities across the EU, as adopted in Regulation (EU) 2017/1953; and  (B) any project, initiative or scheme (or like measure) that has been publicly announced by or on behalf of the relevant State Body in national print media, by means of the website of the relevant State Body or by means of a published state-aid notification to the European Commission in or with respect to Ireland prior to or as at the Commencement Date.
<b>Excluded Third Party IPR</b>	means all IPR in respect of:  1. Eircodes;  2. GeoDirectory and any information, database or data (including maps) made available by or from An Post GeoDirectory Limited (or any successor or replacement to it from time to time);

3. any information, database or data (including maps) made available by or from Ordnance Survey Ireland (or any successor or replacement to it from time to time);
4. any information, database or data (including maps) made available by or from Geological Survey Ireland (or any successor or replacement to it from time to time);
5. any information, database or data (including maps) made available by or from the Central Statistics Office (or any successor or replacement to it from time to time); and
6. any other information, database, data (including maps) and licences (including software licences) which NBPco must procure from any third party, including any Infrastructure Access Provider.

**Existing Premises**

means:

1. a building (whether a business premises, residence or other building) in the Intervention Area which as at 31 March 2018 has a corresponding Eircode in the Premises Database; and/or
2. a Strategic Community Point which as at 31 March 2018 is included in the Premises Database,

and includes, as the context so admits, or requires, any one, more or all of such buildings and Strategic Community Points.

**Expedited Dispute Resolution Procedure**

means the reduced timetable for the resolution of material Disputes set out in Appendix 2 of Schedule 6.3 (Dispute Resolution Procedure) to be used in accordance with, and subject to, Paragraph 10 (Timetable for Dispute Resolution) of Schedule 6.3 (Dispute Resolution Procedure).

<b>Expedited Dispute Resolution Timetable</b>	means the reduced timetable for the resolution of material Disputes set out in the Appendix 2 of Schedule 6.3 (Dispute Resolution Procedure) to be used in accordance with Paragraph 10 (Timetable for Dispute Resolution) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Expensive Premises</b>	has the meaning given to that term in Paragraph 8.2.29(A) of (Network Deployment) of Schedule 2.3 (Deployment Requirements).
<b>Expiration Performance Bond</b>	means the Performance Bond in the Approved Form from the Surety in favour of the Minister dated on or prior to the date that is three (3) years prior to the then scheduled Expiry Date and which is required pursuant to Clause 39.1.2 (Performance Bond). to be in the form set out in Schedule 7.2.2 (Form of Expiration Performance Bond) (and, if applicable any supplemental or replacement performance bond entered into pursuant to the provision of this Agreement).
<b>Expiry Date</b>	means the date that is twenty-five (25) years from the Effective Date (except as may be altered pursuant to the provisions of this Agreement including Clause 71.8 (Force Majeure) and Clause 74.1 (Term of this Agreement and Service Continuity).
<b>Extended Condition Precedent Deadline</b>	means, in respect of a specific Condition Precedent, the extended deadline for satisfaction of the Condition Precedent concerned agreed by the Parties in writing pursuant to Clause 2.5.1 (Conditions Precedent).
<b>External</b>	means the supply of products to parties outside of NBPco and the NBPco Economic Group.
<b>External Commercial Operator</b>	has the meaning given to it in Paragraph 4.1.1 (New Infrastructure in the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).

<b>External High Speed Broadband Infrastructure</b>	has the meaning given to it in Paragraph 4.1.2 (New Infrastructure in the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).
<b>External Premises Passed</b>	has the meaning given to it in Paragraph 4.1.3 (New Infrastructure in the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).
<b>Fast Track Change</b>	means any Change Request expedited in accordance with Paragraph 4 (Fast Track Changes) of Part 1 (General) of Schedule 6.2 (Change Control Procedure).
<b>Fault Management System</b>	means the system to detect malfunctions in an electronic communications network to be developed, maintained and implemented by NBPco as more particularly described in the Service Requirements (and, in particular, Paragraphs 4.4.41 (Service Assurance: (1) Fault Management Systems) to 4.4.44 (Service Assurance: (1) Fault Management Systems) of Schedule 2.1 (Technical Solution Specification)) and NBPco Solution (and, in particular, Paragraph 1.3.1.1.6 (Fault Management System) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).
<b>FD End Date</b>	has the meaning given to it in Paragraph 15.5.2(A) (Over-Subsidy Claw-Back: Deployment) of Schedule 5.1 (Subsidy Payments).
<b>Fibre Inventory Management Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>Fibre Subcontract</b>	has the meaning given to it in Paragraph 1.2.20(A) (Relief Events) of Schedule 4 (Relief Events).
<b>Fibre Wastage</b>	means fibre optic cable (of any type) for a Deployment Area which is not installed in the Deployment Area but has been

wasted because the length of fibre off-cuts are not in usable lengths.

[REDACTED]

[REDACTED]

**Final Persistent Default Notice**

means a notice issued pursuant to Paragraph 1.2 (Persistent Default) of Part 1 (Persistent Default) of Schedule 6.8 (Persistent Defaults and Remedial Plan Process) or a notice issued pursuant to Paragraph 2.3 (Persistent Buildco Specific Default) of Part 1 (Persistent Default) of Schedule 6.8 (Persistent Defaults and Remedial Plan Process).

**Final Required Documents**

mean those documents required to be delivered (executed or Approved, as the case may be) to the Minister by the Effective Date in accordance with Clause 2.1 (Conditions Precedent) and Schedule 9 (Required Documents).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Final Tender**

means the Tender.

[REDACTED]

[REDACTED]

1. [REDACTED]

2. [REDACTED]

[REDACTED]

[REDACTED]

**Financial Distress Service Continuity Plan**

means a plan provided or procured by NBPco in accordance with Clause 35 (Financial Distress) and the provisions of Schedule 5.7 (Financial Distress) to remedy the potential adverse impact of the relevant Financial Distress Event on the continued performance of this Agreement and/or the security of public subsidy already granted (or to be granted) pursuant to this Agreement (including in the event of Termination) or any Guarantee (if applicable) or Performance Bond (and includes as the context so admits or requires, any one,



more or all of them or any part or parts of any one, more or all of them).

**Financial Memorandum**

means a document which is required to comply with Schedule 5.3 (The Project Financial Model) and support and explain all aspects of the Project Financial Model assumptions and give further clarity to any assumptions in the Project Financial Model and highlight any additional aspects that may not be readily apparent from the Project Financial Model, which as at the Effective Date is set out in Appendix 1 of Schedule 5.3 (The Project Financial Model), as may be revised and substituted from time to time in accordance with Paragraph 3 (Management of Changes to the Project Financial Model and Project Cost Model) of Schedule 5.3 (The Project Financial Model).

**[REDACTED]**

**[REDACTED]**

1. **[REDACTED]**
2. **[REDACTED]**
3. **[REDACTED]**
4. **[REDACTED]**
5. **[REDACTED]**

**[REDACTED]**

**Financial Period**

means from 1 January to 31 December in a given year.

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

1. **[REDACTED]**
2. **[REDACTED]**

**Financial Year**

means:

1. with respect to NBPco, the financial year of NBPco for which NBPco prepares its annual audited financial statements for the purposes of this

Agreement, namely 1 January to 31 December; and

2. with respect to any other Monitored Entity, the financial year for which the Monitored Entity concerned prepares its annual audited financial statements,

(and includes, as the context so admits or requires, any one, more or all of them).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

[REDACTED]

a. [REDACTED]

b. [REDACTED]

[REDACTED]

**Five Year Review**

has the meaning given to it in Paragraph 4.1 (Periodic Review) of Part 4 (Review and Compliance) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) (and includes, as the context so admits or requires, any one, more or all of them).

**Five Year Review Date**

has the meaning given to it in Paragraph 4.1 (Periodic Review) of Part 4 (Review and Compliance) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) (and includes, as

the context so admits or requires, any one, more or all of them).

**Fixed Asset**

means tangible and intangible items that are held for use in the production or supply of goods or services, or for administrative purposes.

**Fixed Asset Register**

means a register of all Fixed Assets held by NBPco that is updated and maintained on an on-going basis to reflect all, subject to the provisions of this Agreement, purchases, construction, disposal and sale of Fixed Assets including the recording of relevant depreciation, write downs etc.

**Fixed Wireless Access**

means a type of wireless broadband communication, which is performed between two fixed locations, connected through a wireless link.

**FOI Act**

means the Freedom of Information Act 2014 and any subordinate legislation made under that Act together with any Guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation.

**FOI Request**

means a request for access to a record (as defined in the FOI Act) pursuant to the FOI Act.

**Footway**

has the meaning given to it in Paragraph 3.6 (Accuracy of Duct Mix) of Annex 6 (Build Related Contract Assumptions) to Schedule 6.2 (Change Control Procedure).

**[REDACTED]**

**[REDACTED]**

**Force Majeure Affected Area**

means, with respect to a particular Force Majeure Event, that part of the Intervention Area in which NBPco, as a direct consequence of the Force Majeure Event concerned, is incapable of performing the Services in a manner that meets the Target Performance Levels, as such area is set out in the notice issued pursuant to Clause 71.8.1 (Force

	<p>Majeure) by the Minister in respect of the Force Majeure Event concerned.</p>
<b>Force Majeure Affected Services</b>	<p>means, with respect to a particular Force Majeure Event, those Services which NBPco, as a direct consequence of the Force Majeure Event concerned, is incapable of performing in a manner that meets the Target Performance Levels, as such Services are set out in the notice issued pursuant to Clause 71.8.1 (Force Majeure) by the Minister in respect of the Force Majeure Event concerned.</p>
<b>Force Majeure Contract Period Extension</b>	<p>means, with respect to a particular Force Majeure Event and the related Force Majeure Affected Services and Force Majeure Affected Area, a period of time:</p> <ol style="list-style-type: none"><li>1. starting on what would have been the Expiry Date but for the application of Clause 71.8.1 (Force Majeure) in respect of the Force Majeure Event concerned; and</li><li>2. ending upon the expiry of a period of time equal to the Force Majeure Impact Period in respect of the Force Majeure Event concerned.</li></ol>
<b>Force Majeure Event</b>	<p>means any of the following:</p> <ol style="list-style-type: none"><li>1. war, invasion, hostilities or armed conflict (but, for clarity, not including terrorism or its consequences) of foreign enemy in each case arising in or affecting the State;</li><li>2. act of terrorism causing physical damage to the Network;</li><li>3. rebellion, revolution, or insurrection (but, for clarity, not including terrorism, riots or industrial or labour disputes, strikes or lock out or their consequences or any act or omission of NBPco Personnel or person for whom NBPco is responsible) which causes physical damage and long term disruption to the Network, in each case within the State;</li></ol>

4. nuclear explosion, combustion of nuclear fuel, radioactive or chemical or biological contamination or ionising radiation, which event is not caused or contributed to by an act, omission or default of NBPco or NBPco Personnel or person for whom NBPco is responsible; and
5. pressure waves caused by aircraft or other aerial devices travelling at supersonic speed,

as a direct consequence of which all or a material part of the obligations of either Party (the “**Affected Party**”) under this Agreement are incapable of being (as distinct, in particular, from them being more expensive to be) performed.

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

**Force Majeure Impact Period**

means, with respect to a particular Force Majeure Event, the period of time during which NBPco, as a direct consequence of the Force Majeure Event concerned, is incapable of performing the Force Majeure Affected Services in the Force Majeure Affected Area in a manner that meets the Target Performance Levels, as such period is set out in the notice issued pursuant to Clause 71.8.1 (Force Majeure) by the Minister in respect of the Force Majeure Event concerned.

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Force Majeure Notice**

means a notice issued by the Affected Party pursuant to Clause 71.1 (Force Majeure).

**Force Majeure Resumption Area**

means that part of the Force Majeure Terminated Areas in which NBPco, subsequent to termination (whether partial or full) of the Agreement in respect of the Force Majeure Terminated Area, becomes capable of performing the Services in accordance with the provisions of this Agreement, as such area is set out in the notice issued by the Minister to NBPco pursuant to Paragraph 1.7.4 (Force Majeure, Insurance and Change in Law) of Part 3 (Force Majeure, Insurance and Change in Law) of Schedule 6.9 (Consequences of Termination).

**Force Majeure Resumption Period**

means, with respect to a particular Force Majeure Resumption Area and the related Force Majeure Resumption Services, the period:

1. starting on the date that NBPco resumes performance of Force Majeure Resumption Services in that Force Majeure Resumption Area in accordance with Paragraph 1.7.5 (Force Majeure, Insurance and Change in Law) of Part 3 (Force Majeure, Insurance and Change in Law) of Schedule 6.9 (Consequences of Termination) and the provisions of this Agreement; and
2. ending on the expiry of a period of time (on the basis that such period of time starts on the date in paragraph (1)) equal to the sum of:
  - (a) the Force Majeure Termination Impact Period; and
  - (b) the period of time equal to the period between the date on

which NBPco resumes performance of Force Majeure Resumption Services in that Force Majeure Resumption Area in accordance with Paragraph 1.7.5 (Force Majeure, Insurance and Change in Law) of Part 3 (Force Majeure, Insurance and Change in Law) of Schedule 6.9 (Consequences of Termination) and the Expiry Date.

**Force Majeure Resumption Services**

means the provision, subject to and in accordance with Paragraph 1.7.5 (Force Majeure, Insurance and Change in Law) of Part 3 (Force Majeure, Insurance and Change in Law) of Schedule 6.9 (Consequences of Termination), of the Services in the Force Majeure Resumption Area in accordance with the provisions of this Agreement.

**Force Majeure Terminated Area**

means:

1. if the Agreement was terminated pursuant to Clause 78 (Non-Default Termination) in respect of the entire Intervention Area, the entire Intervention Area; or
2. if the Services were terminated pursuant to Clause 78 (Non-Default Termination) in respect of some of the Deployment Areas, the Deployment Areas in respect of which the Services were terminated (as such are identified in the relevant Partial Termination Notice).

**Force Majeure Termination Impact Period**

means, with respect to a particular Force Majeure Resumption Area, a period of time equivalent to the period of time:

1. starting on the date when NBPco, as a direct consequence of a Force Majeure Event, first became incapable of performing the Services

in accordance with the provisions of this Agreement; and

2. ending on the date on which NBPco resumed, pursuant to Paragraph 1.7.5 (Force Majeure, Insurance and Change in Law) of Part 3 (Force Majeure, Insurance and Change in Law) of Schedule 6.9 (Consequences of Termination), performance of Force Majeure Resumption Services in that Force Majeure Resumption Area,

as such period is set out in the notice issued pursuant to Paragraph 1.7.4 (Force Majeure, Insurance and Change in Law) of Part 3 (Force Majeure, Insurance and Change in Law) of Schedule 6.9 (Consequences of Termination) by the Minister to NBPco in respect of the Force Majeure Resumption Area concerned.

**[REDACTED]**

**[REDACTED]**

**Framework Regulations**

means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333/2011).

**FSAN**

means Full Service Access Network.

**Fulfilment**

means the provision by NBPco of requested Wholesale Products in a timely and correct manner to a Service Provider.

**Full Service Access Network**

means the forum for the world's leading telecommunications services providers, independent test labs, and equipment suppliers that work towards the common goal of broadband fibre access networks.

**Functional Cost Categories**

means the various expense categories as set out in Paragraph 5.4.2 (Accounting Principles) of Schedule 5.5 (Accounting Separation) (and includes, as the context so admits or requires, any one, more or all of them).

**Fund**

means (in the context of Schedule 5.4 (Eligibility Requirements for ERDF



	Funding) any European and Structural Investment Fund.
<b>Funder</b>	means each of the parties to the Funding Documents, except NBPco and the Minister (and includes, as the context so admits or requires, any one, more or all of them and any replacement Funder from time to time).
<b>Funding Documents</b>	means, subject to the provisions of this Agreement (including Clause 44 (Project Documents and Funding Documents), any one, more or all of the agreements and documents specified in Part 3 (Funding Documents) of Schedule 9 (Required Documents) as at the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page) and any amendments to such documents from time to time made in accordance with the provisions of this Agreement (and includes, as the context so admits or requires, any one, more or all of them).
<b>Future Proofing and Continuous Improvement Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>Future Proofing Plan</b>	means the plan prepared, or to be prepared, and implemented by NBPco throughout the Intervention Area and Contract Period pursuant to the provisions of Part 1 (Service, Network and Wholesale Future Proofing) of Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing) to comply with the Service Requirements, the NBPco Solution, the Wholesale Product Benchmarking Rules and Best Industry Practice in respect of the continuous improvement and future proofing of the Services, Network, Operational Environment and Wholesale Products, and which forms part of the NBPco Solution and is set out at Paragraph 1.5 (Network Evolution and Future Proofing) of Schedule 3.1 (NBPco Solution –

	Technical Solution) (and includes, as the context so admits or requires, any one, more or all of them).
<b>FWA</b>	means Fixed Wireless Access.
<b>General Change in Law</b>	means a Change in Law that is not a Qualifying Change in Law.
<b>General PE Supporting Documentation</b>	has the meaning given to it in Paragraph 5B (General PE Supporting Documentation) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any, some or all of it).
<b>GeoDirectory</b>	means the most recent source of location information, provided by and available from An Post GeoDirectory Limited, that is used or to be used by NBPco to identify the location of Premises (and any successor source from time to time) approved in writing by the Minister.
<b>Gigabit Passive Optical Network</b>	is a telecommunications technology that implements point-to-multipoint architecture in which unpowered splitters are used to enable a single optical fibre to serve multiple end-points such as End Users, without having to provision individual fibres between the splitters and End Users.
<b>Good Procurement Practice</b>	has the meaning given to it in Paragraph 1.4.6 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Good Value</b>	has the meaning given to it in Paragraph 1.2 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>Goodwill</b>	means:  (a) in respect of NBPco, the goodwill, connections and custom of the business of NBPco and the exclusive right of the Nominated Asset Owner (and its successors or assigns) to represent itself as carrying on the business of NBPco in

	succession to NBPco and to use the NBPco Brand; and
	(b) in respect of Buildco, the goodwill, connections and custom of the business of Buildco and the exclusive right of the Nominated Asset Owner (and its successors or assigns) to represent itself as carrying on the business of Buildco in succession to Buildco.
<b>Governance Protocol</b>	has the meaning given to it in Paragraph 6.16 (Board of Directors of NBPco) of Schedule 2.7 (NBPco Requirements).
<b>Government</b>	means the Irish government.
<b>GPON</b>	means Gigabit Passive Optical Network.
<b>Grace Period End Date</b>	means the relevant date set out in column 4 of the table in Annex 1 (Relevant 2021 Milestone Dates) of Appendix 1 (Deployment Milestone Payments) of Schedule 5.1 (Subsidy Payments).
<b>Ground of Objection</b>	has the meaning given to it in Part 5 (Grounds of Objection) of Schedule 9 (Required Documents) and includes, as the context so admits or requires, any one of the Grounds of Objection.
<b>Group</b>	means, in relation to a company, its Holding Company and each company which would be regarded as a Subsidiary of that company or the ultimate Holding Company (and includes, in the case of NBPco, Buildco, Buildco Shareholders, Holdco, the Shareholders and each of the persons identified in Schedule 3.12 (Details of Companies) and/or the Ownership Letter).
<b>[REDACTED]</b>	<b>[REDACTED]</b> 1. <b>[REDACTED]</b> 2. <b>[REDACTED]</b> <b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
	1. [REDACTED]
	2. [REDACTED]
	[REDACTED]
<b>Guidance</b>	means Binding Guidance and Non-Binding Guidance.
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Harmful Material</b>	means any substance that may lead to a deterioration in water quality.
<b>HCA Income Statements</b>	means Historical Cost Account (HCA) Income Statements.
<b>Head of Commercial</b>	has the meaning given to it in Paragraph 1.4.7 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>HICP</b>	means the European Union Harmonised Index of Consumer Prices – Ireland published by the Central Statistics Office (or any successor or replacement to it from time to time).
[REDACTED]	
<b>High Speed Broadband</b>	means a service that is available to an End User (residential or business) with a performance specification that is greater than or equal to the Product Key Performance Indicators of the Anchor Retail Product set out in Paragraphs 3.6.1 (Anchor Retail Product), 3.6.2 (Anchor Retail Product) and 3.6.3 (Anchor Retail Product) and Figure 2.1 of Schedule 2.1

	(Technical Solution Specification) or equivalent.
<b>Historical Cost Account</b>	means the nominal historic cost of an asset when it is acquired.
<b>HoldCo</b>	means Metallah Limited, a company incorporated in Ireland with registered number 631659 or any person from time to time holding share capital in NBPco or Buildco (and includes, as the context so admits or requires, any one, more or all of them).
<b>Holding Company</b>	has the meaning given to “holding company” in section 8 of the Companies Act 2014 (and, notwithstanding any to the contrary stated in this Agreement, this definition does not change in the event of a change to the definition of “holding company” in the Companies Act 2014).
<b>HTML</b>	means hyper text markup language, a commonly used language for documents designed to be displayed in a web browser.
<b>HTTP</b>	means hypertext transfer protocol, an application-layer protocol for transmitting hypermedia documents, such as HTML.
<b>IAA Indemnity Claim</b>	has the meaning given to that term in the Key Subcontractor Direct Agreement between the Minister, NBPco and eircom Limited.
<b>IA End User</b>	means an End User with a Premises in the Intervention Area.
<b>IA End User Interactive Map</b>	has the meaning given to it in Paragraph 4.4.27 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification) (and includes, as the context so admits or requires, any part or parts of it).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>IEEE</b>	means the Institute of Electrical and Electronic Engineers, the global association and organisation of professionals working toward the development, implementation and

	maintenance of technology-centred products and services.
<b>IETF</b>	means the Internet Engineering Task Force, the open standards organisation which develops and promotes voluntary Internet standards, in particular the standards that comprise the Internet protocol suite.
<b>IFI</b>	means Inland Fisheries Ireland.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Implementation Discretion</b>	means: <ol style="list-style-type: none"><li>1. the doing of, or refraining from doing of, any act, matter or thing by or on behalf of NBPco (except, subject to paragraphs 2, 3, 4, 5 and 6 of this definition below, if, and in that case only to the extent that, NBPco has no discretion whatever but to do, or refrain from doing, the relevant act, matter or thing in a particular and specific manner prescribed explicitly pursuant to the provisions of this Agreement);</li><li>2. the doing of, or refraining from doing of, any act, matter or thing by or on behalf of NBPco in order to implement or comply with any part of the NBPco Solution or Schedule 3 (NBPco Solution) (comprising Schedule 3.1 (NBPco Solution – Technical Solution) to Schedule 3.12 (Details of Companies)) (except if, and in that case only to the extent that, NBPco had no discretion but to provide in the NBPco Solution for the doing of, or refraining from doing of, the relevant act, matter or thing in a particular and specific manner prescribed explicitly pursuant to the provisions of the ITSFT);</li><li>3. the doing of, or refraining from doing of, any act, matter or thing by or on behalf of NBPco in order to implement or comply with a Change resulting</li></ol>

from a Change Request made by NBPco;

4. the provision of any Minimum Required Wholesale Products (including those contained in the original NBPco Solution submitted in its final Tender) (except if, and in that case only to the extent that, NBPco had no discretion but to provide in the NBPco Solution for the provision of the relevant Minimum Required Wholesale Product in a particular and specific manner prescribed explicitly pursuant to the provisions of the ITSFT);
5. the provision of any Additional Required Wholesale Products (including those contained in the original NBPco Solution submitted in its final Tender) (except if, and in that case only to the extent that, NBPco had no discretion but to provide in the NBPco Solution for the provision of the relevant Additional Required Wholesale Product in a particular and specific manner prescribed explicitly pursuant to the provisions of the ITSFT); and/or
6. the provision of any Other Permitted Wholesale Products (including those contained in the original NBPco Solution submitted in its final Tender).

**Implementation Programme**

means, as the context so admits or requires, either or both:

1. the overarching implementation programme plan used to plan and track progress and Milestones Achieved for all Project Plans within the programme plan for the Project more particularly described in Paragraph 5 (Implementation Programme - Requirements) of Schedule 2.3 (Deployment Requirements) and set out in NBPco's Implementation Programme plan FT Solution for Deployment in Schedule 3.3 (NBPco Solution –

Speed of Deployment and Environmental); or

2. a separate standalone overarching implementation programme plan used to plan and track progress and Milestones Achieved for all Project Plans for a specific Change introduced pursuant to a Change Authorisation and set out in the Change Authorisation concerned,

(and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any, some or all of them and as amended pursuant to any Change made pursuant to a Change Authorisation).

**In-building InterConnect Product**

means a Wholesale Product for the connection from NBPco's Network to the Service Provider's equipment within the PoH.

**In Use**

means a Wholesale Product in respect of which, at the relevant time, one or more Service Providers have entered into an agreement with NBPco pursuant to a Reference Offer which has not been terminated in respect of that Wholesale Product.

**Incident**

means:

1. a Network Fault; and/or
2. a failure of the Operational Environment introducing an adverse effect to any of its functions; and/or
3. a failure of the Secure Portal introducing an adverse effect to any of its functions; and/or
4. a failure of the Public Portal introducing an adverse effect to any of its functions; and/or
5. a failure of the Network Operations Centre resulting in a loss of NBPco's ability to manage, control or monitor the Network,



(and includes, as the context so admits or requires, any one, more or all of them).

**Incident Management**

means the management of Incidents in accordance with the provisions of Paragraph 8 (Incident Management) of Schedule 2.4 (Operational Performance), the Service Requirements and NBPco's Solution.

**Incident Resolution**

means:

1. the root cause of the Network Fault has been eliminated and all affected Active Wholesale Products are performing in accordance with the relevant Performance Levels; and/or
2. the root cause of the Operational Environment failure has been eliminated and NBPco and Service Providers can access and utilise all the functions of the Operational Environment; and/or
3. the root cause of the Secure Portal failure has been eliminated and NBPco and Service Providers can access and utilise all the functions of the Secure Portal; and/or
4. the root cause of the Public Portal failure has been eliminated and NBPco and Service Providers can access and utilise all the functions of the Public Portal; and/or
5. the root cause of the failure of the Network Operations Centre has been eliminated and NBPco's ability to manage, control or monitor the Network has been restored.

**Incident Resolution Time**

means the period beginning on the earlier of the point in time at which:

- (a) NBPco or a Subcontractor (whichever is earlier) first becomes aware of the Incident; and
- (b) the Service Provider notifies NBPco or a Subcontractor

	(whichever is earlier) of the Incident,
	and ending upon Incident Resolution.
<b>Income Statement</b>	means a statement showing all items of income and expense recognised in a period.
<b>Indemnified Claim</b>	means any Claim threatened or anticipated Claim or other similar circumstance which falls within the scope of one or more of the indemnities provided in this Agreement (and includes, as the context so admits or requires, any one, more or all of them).
<b>Indemnified Party</b>	in respect of an indemnity being given under the provisions of this Agreement, means the Party being indemnified.
<b>Indemnifying Party</b>	in respect of an indemnity being given under the provisions of this Agreement, means the Party providing the indemnity.
<b>Independent Assurance Review</b>	means a formal independent review by an Independent Assurance Reviewer pursuant to Schedule 6.10 (Independent Assurance) of any of the Services, Wholesale Products and Network and of other matters more particularly described in Schedule 6.10 (Independent Assurance). or another relevant provision of the Agreement (including Clause 78.34 (Non-Default Termination)) which refers to an Independent Assurance Review.
<b>Independent Assurance Review Report</b>	means the report produced by the Independent Assurance Reviewer following the Independent Assurance Review as further described in Paragraph 5 (Independent Assurance Review Report) of Schedule 6.10 (Independent Assurance) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Independent Assurance Reviewer</b>	means a party formally appointed by the Minister pursuant to Schedule 6.10 (Independent Assurance) to carry out an Independent Assurance Review.

<b>Independent Certifier</b>	means the person appointed as an independent certifier pursuant to Schedule 2.3 (Deployment Requirements), the terms of which appointment are set out in the Independent Certifier Contract.
<b>Independent Certifier Contract</b>	means the agreement between NBPco, the Minister and the Independent Certifier under which the Independent Certifier is appointed and the terms of which are required to be substantially in the form required pursuant to Paragraph 10.2.3 (Milestones Achievement and Testing – Requirements) of Schedule 2.3 (Deployment Requirements) (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Independent Research Entity</b>	means an entity which conducts the End User Survey and reports its results to the Minister (and includes, as the context so admits or requires, any one, more or all of them).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Index</b>	means the European Union Harmonised Index of Consumer Prices Index - Ireland published by the Central Statistics Office (or any successor or replacement to it from time to time).
<b>Indexed</b>	has the meaning given to it in Clause 1.2.27 (Definitions and Interpretation).
<b>Indirect Loss</b>	means:  <ol style="list-style-type: none"><li>1. loss of profits, loss of use, loss of income, loss of revenue, loss of production, loss of business and/or loss of business opportunity; and</li><li>2. any claim for consequential, special or indirect loss, damage or liabilities of any nature,</li></ol> but excluding:

3. any loss of Subsidy Payments properly payable in accordance with the provisions of this Agreement; and
4. in circumstances where the Minister exercises its right of step-in under Clause 73 (Step-In Rights) and NBPco is not in breach of its obligations under this Agreement in connection with such circumstances, fifty percent (50%) of the difference between the loss of Project Revenue incurred by NBPco and that loss in Project Revenue which would have been incurred by NBPco had NBPco, and not the Minister, dealt with the circumstances concerned (having regard to any saving realised by NBPco or any expenditure that was not incurred by NBPco as a result of the Minister exercising its rights under Clause 73 (Step-In Rights)).

**Industry Standard Benchmark Service Levels**

means service levels (including, at a minimum, service levels in respect of each of the Performance Indicators set out in the tables in Part 1 (Performance Indicators and Performance Level requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance), in respect of the provision of the Wholesale Products, that either:

- (a) are agreed by the Parties in writing in accordance with Clause 74.5.3 (Term of this Agreement and Service Continuity) as being in line with industry standard benchmarks applicable or reasonably expected to be applicable during the Service Continuity Period; or
- (b) determined by the Benchmarker pursuant to Clause 74.5.4 (Term of this Agreement and Service Continuity) and Schedule 6.12 (Benchmarking and Market Testing) as being in line with industry standard benchmarks applicable or reasonably

expected to be applicable during the Service Continuity Period,

provided that no Industry Standard Benchmark Service Level shall in any case be worse than the Performance Levels set out in Part 1 (Performance Indicators and Performance Level requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) or the SP Performance Levels that were offered by NBPco in its SP SLA or Reference Offer at any time in the thirty six (36) month period prior to the Expiry Date (and includes, as the context so admits or requires, any one, more or all of them).

**Industry Standard Service Level Agreement**

means service level agreements, in respect of the provision of the Wholesale Products and the Industry Standard Benchmark Service Levels, that either:

- (a) are agreed by the Parties in writing in accordance with Clause 74.5.3 (Term of this Agreement and Service Continuity) as being in line with industry standard applicable or reasonably expected to be applicable during the Service Continuity Period; or
- (b) determined by the Benchmarker pursuant to Clause 74.5.4 (Term of this Agreement and Service Continuity) and Schedule 6.12 (Benchmarking and Market Testing) as being in line with industry standard applicable or reasonably expected to be applicable during the Service Continuity Period,

provided that no Industry Standard Service Level Agreement shall in any case be worse, or less favourable to a Service Provider, than the SP SLA offered by NBPco at any time in the thirty six (36) month period prior to the Expiry Date (and includes, as the context so

	admits or requires, any one, more or all of them).
<b>Information Request Notice</b>	has the meaning given to “Information Request Notice” in, as applicable, the Constitution or Buildco Constitution.
<b>Infrastructure</b>	all electronic communications and utility infrastructure of any type whatever (whether passive or active), including poles, ducts, subducts, underground chambers, cables, masts, radio towers, access networks, backhaul networks dark fibre and other transmission services.
<b>Infrastructure Access Agreement</b>	means, as the context admits or requires, either or both a Passive Infrastructure Access Agreement and an Active Infrastructure Access Agreement (and includes, as the context so admits or requires, any one, more or all of them).
<b>Infrastructure Access Costs</b>	means the Project Costs incurred by NBPCo during the Contract Period in respect of the rental (in lieu of build) of infrastructure or assets that is required by NBPCo in order to establish and operate the Network during the Contract Period, which, for the avoidance of doubt, shall include payment (expressed as a positive Project Cost) and return (expressed as a negative Project Cost) of the Openeir Security Deposit.
<b>Infrastructure Access Provider</b>	means all of the following:  <ol style="list-style-type: none"><li>1. open eir; and</li><li>2. E-Nasc Éireann Teoranta, a company incorporated in Ireland with registration number 332982 and having its registered office at Hamilton House National Technological Park, Plassey, Limerick (“enet”),</li></ol> (and includes, as the context so admits or requires, any one, more or all of them).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Infrastructure Services Forum</b>	means the body, the role and function of which are more particularly set out in Appendix 4 (Service Provider Engagement Framework) of Schedule 2.4 (Operational Performance), which is to be established and operated by NBPco so that it is recognised as the acknowledged industry body responsible for developments and proposals for NBP infrastructure related products and any specific concerns which affect industry, either as a whole or significant segments within the market.
<b>Initial Connection</b>	means the first End User Connection for that End User for the Premises concerned.
<b>Initial Connection Charge</b>	means, with respect to an End User, and subject to Paragraph 6.4.1 (Initial Connection Charges and Other Connection Charges) of Part 1 of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules), one hundred euros (€100) (exclusive of VAT).
<b>Initial Deployment Meeting</b>	has the meaning given to it in Paragraph 7.2.5 (Service Provider Engagement Framework – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Initial Milestone Achievement Report</b>	has the meaning given to it in Paragraph 10.2.10 (Milestone Achievement and Testing – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Initial Network Deployment Plan</b>	means the Network Deployment Plan as at the Commencement Date.
<b>Initial Required Documents</b>	mean those documents required to be delivered (executed or Approved, as the case may be) to the Minister by the Commencement Date in accordance with

Clause 2.1 (Conditions Precedent) and Schedule 9 (Required Documents).

**Initial Standard Connection**

means the Infrastructure required to complete the Connection from the boundary of the curtilage of the Premises to the WCPE where:

- (A) the initial cost of the Connection does not exceed the Connection Cost Threshold; and
- (B) one of the scenarios set out in Paragraph 2.1 (Initial Standard Connections) of Part 4 (Initial Standard Connections and Initial Non-Standard Connections) to Schedule 2.4 (Operational Performance) is satisfied.

**Initial Non-Standard Connection**

means the Infrastructure required to complete the Connection from the boundary of the curtilage of the Premises to the WCPE where:

- (A) the initial cost of the Connection exceeds the Connection Cost Threshold; or
- (B) the Service Provider or End-User prefers an alternative connection solution other than the Initial Standard Connection offered by NBPco; or
- (C) regardless of the cost of the Connection, the Connection does not fall within one of scenarios set out in Paragraph 2.1 (Initial Standard Connections) of Part 4 (Initial Standard Connections and Initial Non-Standard Connections) to Schedule 2.4 (Operational Performance).

**Initial Valuation Submission**

has the meaning given to it in Paragraph 4.2.4(D)(1) (Independent Valuer) of Part 6 (General) of Schedule 6.9 (Consequences of Termination).



<b>Initial Valuation Submission Date</b>	has the meaning given to it in Paragraph 4.2.4(D)(1) (Independent Valuer) of Part 6 (General) of Schedule 6.9 (Consequences of Termination).
<b>Inland Fisheries Ireland</b>	means the statutory agency established under the Inland Fisheries Act 2010 responsible for the protection, management and conservation of Ireland’s inland fisheries and sea angling resources.
<b>Input Products</b>	has the meaning given to it in Paragraph 1.2.20 (A) (Relief Events) of Schedule 4 (Relief Events) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Input Products Contract</b>	has the meaning given to it in Paragraph 1.2.20 (B) (Relief Events) of Schedule 4 (Relief Events) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Input Products Contractor</b>	has the meaning given to it in Paragraph 1.2.20 (B) (Relief Events) of Schedule 4 (Relief Events) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Insolvency Event or Insolvent</b>	<p>means the occurrence of any of the following in relation to a body corporate (or, in the case of NBPco, either NBPco or Holdco, or, in the case of Buildco, either Buildco or Holdco):</p> <ol style="list-style-type: none"><li>1. the existence of any circumstance pursuant to which it could be deemed to be unable to pay its debts as they fall due within the meaning of Section 570 of the Companies Act, 2014, or it is unable or admits inability to pay its debts as they fall due or suspends making payments on all or a substantial part of its debts;</li><li>2. it takes any corporate action, or legal proceedings are, issued by it or any of its directors (including the making of an application, the presentation of a petition, the filing or service of a notice, the passing of a resolution of its board or its members or convenes</li></ol>

a meeting of its members) in relation to:

2.1 the suspension of all or a substantial part of the payments, a moratorium of all or a substantial part of the indebtedness, winding-up, dissolution;

2.2 seeking the appointment of a liquidator, examiner, receiver or the like,

otherwise than in the context of a solvent reconstruction or amalgamation which has been previously approved in writing by the Minister;

3. a liquidator, examiner, receiver, receiver and manager, trustee or other similar officer is appointed in respect of it or all or a substantial part of its assets or undertaking;
4. the presentation of a petition by a third party (including any person who is not the company or a director of the company) (that is not dismissed or withdrawn within fifteen (15) days of the presentation thereof) or the granting of an order by a court for its winding up or a petition is presented by a third party (including any person who is not the company or a director of the company) for the appointment of an examiner;
5. the convening of a meeting of its creditors for the purposes of Section 587 of the Companies Act, 2014 or the sanction or approval of any composition in respect of the satisfaction of its debts, or scheme of arrangement of its affairs, or compromise or arrangement between it and its creditors or members or any class of its creditors or members;

6. any expropriation, attachment, sequestration, distress or execution affects all or a substantial part of its assets; or
7. any analogous event or circumstance to those described in Paragraphs 1 to 6 of this definition above occurs in any jurisdiction other than Ireland.

**In-span InterConnect Product** means a Wholesale Product for the connection from NBPco's Network to the Service Provider's equipment outside of the PoH.

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

**Intellectual Property Rights** means IPR.

**Inter** means the supply of products and services between NBPco and/or Buildco and other members of the NBPco Economic Group.

**InterConnect or InterConnection** means a connection between the Service Provider's network and NBPco's Network.

**InterConnect Product** means a data communications link for connecting a Service Provider's network to NBPco's Network that is used for transporting traffic between the two networks as more particularly described in Paragraph 4.2.66 (Wholesale Product Specifications) to Paragraph 4.2.71 (Wholesale Product Specifications) (inclusive) of Schedule 2.2 (Reference Offer Requirements).

**InterConnect Test Facility** means a facility which simulates NBPco's Network and the termination equipment for Wholesale Products as more particularly described in the Service Requirements (and, in particular, Paragraphs 7.2.1 (Service Provider

Testing and Support Facilities) to 7.2.3 (Service Provider Testing and Support Facilities) (inclusive) of Schedule 2.4 (Operational Performance)) and NBPCo's Solution (and, in particular, Paragraph 4.3.2 (Interconnect Test Facilities and Test Rooms) of Schedule 3.4 (NBPCo Solution – Operational Performance)) (and includes, as the context so admits or requires, any part or parts of it).

**Interim UWG Release**

means an interim UWG system change/update organised and implemented or to be organised and implemented by NBPCo in accordance with Paragraph 5.1 (Operational Environment) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).

**Internet Demarcation Point**

means the Demarcation Point between the Service Providers' network and the Internet which is typically at the Service Provider's Border Router which marks the Demarcation Point between the Service Provider's own network and third-party networks forming the Internet.

**Internet Protocol**

the method or protocol by which data is sent from one computer or device to another via the Internet.

**Intervention Area**

means, at a point in time, the area (which can be a geographic area and also can be certain specific Premises) on the Intervention Area Map shaded in the colour 'white' at that point in time (and includes, as the context so admits or requires, all of it or any part or parts of it).

**Intervention Area Deferred Premises Threshold**

means the aggregate maximum number of Deferred Premises permitted in the Intervention Area which have been deferred for a period of time which is greater than twelve (12) months and which shall not exceed:

1. five hundred and forty (540) Premises during the period beginning on the first day of Contract Year 1 and ending on the last day of Contract Year 6;

2. four hundred and five (405) Premises by the last day of Quarter 1 of Contract Year 7;
3. two hundred and seventy (270) Premises by the last day of Quarter 2 of Contract Year 7;
4. one hundred and thirty five (135) Premises by the last day of Quarter 3 of Contract Year 7; or
5. zero (0) Premises by the last day of Quarter 4 of Contract Year 7.

<b>Intervention Area Map</b>	means the map setting out the Intervention Area and the Excluded Areas, as set out in Schedule 11 (Intervention Area Map) (as amended from time to time pursuant to a Change Authorisation).
<b>Intra</b>	means the supply of products and services within NBPco including in the event that NBPco acts as a retailer of last resort under this Agreement.
<b>Inventory Management Database</b>	means the database used to record all information for the Inventory Management System.
<b>Inventory Management System</b>	has the meaning given to it in Paragraph 4.4.17 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification) and which is the database which forms the Asset Register (and includes, as the context so admits or requires, any part or parts of it).
<b>IP</b>	means Internet Protocol.
<b>IPR</b>	means: <ol style="list-style-type: none"><li>1. copyrights, discoveries, concepts, domain names, patents, secret processes, database rights, sui generis database rights, technologies, know how, inventions, ideas, improvements, all copyright works, business methods, logos, designs, trademarks, service marks, goodwill in relation to the foregoing, topography and semi-conductor chip rights, business names, literary, dramatic, musical and artistic works</li></ol>

	anywhere in the world, trade secrets and rights in Confidential Information (whether any of the foregoing is registered or unregistered and including any application in relation to any of the aforesaid);
	2. applications for registration, and the right to apply for registration, for any of the rights listed at (1) that are capable of being registered in any country or jurisdiction; and
	3. all other rights having equivalent or similar effect in any country or jurisdiction.
<b>Ireland</b>	means the Republic of Ireland.
<b>Irish Language Scheme</b>	means the scheme prepared by the Minister under Part 3 of the Official Languages Act 2003.
<b>Irish Transverse Mercator</b>	means the global positioning system (GPS) compatible mapping projection system adopted by the Ordnance Survey Ireland in 2002.
<b>IRR</b>	means the annualized effective interest rate or rate of return that sets the net present value of a set of cash flows (both positive and negative) equal to zero.
<b>IRR Claw-Back</b>	means the process set out in Paragraph 16 (Over-Subsidy Claw-Back: IRR) of Schedule 5.1 (Subsidy Payments).
<b>IRR Clawback Account</b>	means the account in the name of the Minister into which the IRR Claw-Back Amounts shall be paid in accordance with Paragraph 16 (Over-Subsidy Claw-Back: IRR) of Schedule 5.1 (Subsidy Payments).
<b>IRR Claw-Back Amount</b>	is calculated in accordance with Paragraph 16.6 (Over-Subsidy Claw-Back: IRR) of Schedule 5.1 (Subsidy Payments).
<b>IRR Claw-Back Benefit</b>	has the meaning given to it in Paragraph 16.5.4 (Over-Subsidy Claw Back: IRR) of Schedule 5.1 (Subsidy Payments).

<b>IRR Claw-Back Excess Benefit</b>	has the meaning given to it in Paragraph 16.5.3 (Over-Subsidy Claw-Back: IRR) of Schedule 5.1 (Subsidy Payments).
<b>IRR Comparator</b>	is calculated in accordance with Paragraph 16.4 (Over-Subsidy Claw-Back: IRR) of Schedule 5.1 (Subsidy Payments).
<b>IRR Deficit Amount</b>	has the meaning given to it in Paragraph 16.5.6 (Over-Subsidy Claw-back: IRR) of Schedule 5.1 (Subsidy Payments).
<b>[REDACTED]</b>	<b>[REDACTED]</b> <ol style="list-style-type: none"><li>1. <b>[REDACTED]</b></li><li>2. <b>[REDACTED]</b></li><li>3. <b>[REDACTED]</b></li><li>4. <b>[REDACTED]</b></li></ol>
<b>[REDACTED]</b>	<b>[REDACTED]</b> <ol style="list-style-type: none"><li>1. <b>[REDACTED]</b></li><li>2. <b>[REDACTED]</b></li><li>3. <b>[REDACTED]</b></li><li>4. <b>[REDACTED]</b></li><li>5. <b>[REDACTED]</b></li></ol> <b>[REDACTED]</b>
<b>ISO</b>	means the International Organization for Standardization.
<b>ISO 14001</b>	means the standard developed by the ISO which specifies requirements for effective environmental systems.
<b>ISO 9001:2000</b>	means the standard developed by the ISO which specifies requirements for a quality management system.
<b>ITIL</b>	means <i>Information Technology Infrastructure Library</i> , a set of practices for IT service management that focuses

	on aligning IT services with the needs of businesses.
<b>ITSFT</b>	means the <i>Invitation to Submit Final Tender</i> in respect of the Project issued by the Minister's department on the ITSFT Date.
<b>ITSFT Date</b>	means 13 September 2018.
<b>ITU</b>	means Internal Telecommunication Union.
<b>ITU-T</b>	means the telecommunication standardisation sector of the International Telecommunications Union, the primary international body for fostering cooperative standards for telecommunications equipment and systems.
<b>Jitter</b>	means the variation in the Latency, generally measured in milliseconds (ms), between packets arriving at a destination, which can be caused by network congestion, timing drift, or route changes.
<b>Joint Enclosure</b>	is a telecommunications medium (e.g. copper, fibre) management product typically used outdoor to connect two medium cables together to provide adequate space and protection against environmental conditions (e.g. prevents ingress of water into a joint).
<b>Joint Insurance Account</b>	means a bank account in the name of the Minister and NBPco and into which proceeds are to be paid in accordance with the provisions of Clause 69 (Required Insurance).
<b>Joint Notice</b>	has the meaning given to it in the Independent Certifier Contract.
<b>Key Performance Indicator</b>	means the key performance indicators with the acronym "KPI" set out in Table 1 (Key Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard



Report) of Schedule 6.7 (Performance Levels).

**Key Personnel**

means those persons appointed by NBPco to fulfil Key Roles, being the persons listed in Schedule 3.8 (Key Personnel) against each Key Role as at the Commencement Date or as amended from time to time in accordance with Clause 51 (NBPco Personnel) (and includes, as the context so admits or requires, any one, more or all of them).

**Key Role**

means a role described as a Key Role in Schedule 3.8 (Key Personnel) (and includes, as the context so admits or requires, any one, more or all of them).

**Key Service**

means an agreement for the provision to NBPco or Buildco of works, supplies or services in respect of any of the following:

- (a) Connections, except if:
  - (i) the value of the agreement; or
  - (ii) if more than one agreement is entered into with the relevant prospective or actual Key Subcontractor, the aggregate value of the agreements,

**[REDACTED]**

- (b) BCP delivery and/or maintenance;
- (c) Network Operations Centre services, except if:
  - (i) the annual value of the agreement; or
  - (ii) if more than one agreement is entered into with the relevant prospective or actual Key Subcontractor, the annual aggregate value of the agreements,

**[REDACTED]**

- (d) operation and/or maintenance, except if:
  - (i) the annual value of the agreement; or
  - (ii) if more than one agreement is entered into with the relevant prospective or actual Key Subcontractor, the annual aggregate value of the agreements,

**[REDACTED]**

- (e) Equipment vendor customer support and/or fault management, except if:
  - (i) the annual value of the agreement; or
  - (ii) if more than one agreement is entered into with the relevant prospective or actual Key Subcontractor, the annual aggregate value of the agreements,

**[REDACTED]**

- (f) Equipment and/or materials, except if:
  - (i) the value of the agreement; or
  - (ii) if more than one agreement is entered into with the relevant prospective or actual Key Subcontractor, the aggregate value of the agreements,

**[REDACTED]**

**Key Subcontract**

means a Subcontract between:

1. NBPco and a Key Subcontractor; or

2. a Key Subcontractor and another Key Subcontractor (of a lower tier),

(and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Key Subcontract concerned** has the meaning given to it in Paragraph 7.1.2 (Subcontractor Breakage Costs) of Part 6 (General) of Schedule 6.9 (Consequences of Termination).

**Key Subcontract Provisions** means the provisions more particularly described in Schedule 2.8 (Key Subcontractor Provisions) (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Key Subcontract Service Review** has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).

**Key Subcontractor** means:

- (a) the Subcontractors (including, for certainty, the Critical Key Subcontractors) identified in Schedule 3.9 (Key Subcontractors) as a “Key Subcontractor”;
- (b) any Subcontractor appointed or to be appointed in accordance with Clause 42.1.3 (Subcontractors) as a provider of a Key Service; and
- (c) any Subcontractor appointed in accordance with the process set out in Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process),

and any replacement Subcontractors approved by the Minister pursuant to Clause 42.1 (Subcontractors) (and includes, as the context so admits or requires, any one, more or all of them). For the avoidance of doubt, a Critical Key Subcontractor is a Key Subcontractor.

**Key Subcontractor Direct Agreement**

means a direct agreement, in the Approved Form, entered into or to be entered into between:

- (a) the Minister;
- (b) NBPco and/or Buildco; and
- (c) a Key Subcontractor (of any tier);  
and
- (d) where applicable, a Guarantor,

and which is required to be in the form set out in Schedule 7.3 (Form of Key Subcontractor Direct Agreement) (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Key Subcontractor Guarantee**

means a Key Subcontractor Direct Agreement which includes a guarantee from a Key Subcontractor Guarantor, in the Approved Form, in favour of the Minister and entered into or to be entered into by the Minister, Key Subcontractor and a Key Subcontractor Guarantor and which is required to be in the form set out in Schedule 7.3 (Key Subcontractor Direct Agreements), including the clause entitled “Guarantee and Change of Control of Subcontractor” (or, if applicable any supplemental or replacement deed entered into pursuant to the provision of this Agreement) (and includes, as the context so admits or requires, any one, more or all of them). For clarity, the Buildco Key Subcontractor Direct Agreement does not contain a Key Subcontractor Guarantee.

**Key Subcontractor Guarantor**

means any other person that provides a guarantee under a Key Subcontractor Guarantee (and includes, as the context so admits or requires, any one, more or all of them).

**KPI**

means Key Performance Indicator.

**KPI Failure**

means a failure to meet the Target Performance Level in respect of a Key

Performance Indicator (and includes, as the context so admits or requires, any one, more or all of them).

**KPI Performance Level**

means the Performance Level set out against the relevant Key Performance Indicator under the heading “KPI / PI Performance Level” in the table in Part 1 (Performance Indicators and Performance Level Requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).

**KPI Performance Level that is applicable at the start of the Measurement Period**

has the meaning given to it in Paragraph 1.2.1 (Introduction) of Part 1 (Performance Indicators and Performance Level requirements) of Appendix 1 (Performance Level Requirements) Schedule 2.4 (Operational Performance) and “KPI Performance Level for the relevant Wholesale Product at the start of the Measurement Period” is construed accordingly.

**KPI Performance Level for the relevant Wholesale Product that is applicable at the start of the Measurement Period**

is construed in the manner set out in the definition of KPI Performance Level that is applicable at the start of the Measurement Period.

**KPI Performance Threshold**

shall be as set out against the relevant Key Performance Indicator in the fifth column of Table 1 (Key Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels).

**Land Rights**

means any right, wayleave, easement, licence, lease, planning permission, planning exemption or similar of NBPco or Buildco over or in respect of or otherwise relating in any way to land (including any relating in any way to any Infrastructure on, in or under any land or on, in or under any Infrastructure), whether temporary, revocable, legal,

	equitable or otherwise, of whatever nature.
<b>Last CIA Date</b>	has the meaning given to it in Paragraph 9.13 (Small Changes to the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).
<b>Last Instalment Date</b>	means the Instalment Date on which the last Unaccrued Subsidy Payment is paid in accordance with Paragraph 8.1 (Payment by Instalments) of Part 6 (General) of Schedule 6.9 (Consequences of Termination).
<b>Latency</b>	means the time it takes, generally measured in milliseconds (ms), for a source to send a packet of data to a receiver.
<b>Law</b>	means any law applicable in Ireland and includes without limitation, common law, enactment, statute, statutory instrument, proclamation, bye-law, directive, constitutions, decision, regulation, regulatory policy, rule, order, notice, rule of court, instruments, any interpretation of law or finding contained in any judgments given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired and which has not at any relevant time been reversed or modified, Legal Requirements, delegated or subordinate legislation.
<b>Leased Equipment</b>	means any Network or Equipment which is subject to an operating lease with any third party and is deemed to include any replacement of it from time to time (and includes, as the context so admits or requires, any one, more or all of them).
<b>Legal Requirements</b>	means: <ol style="list-style-type: none"><li>1. the requirement of any European Union Law or of any Law;</li><li>2. Binding Guidance; and</li><li>3. any direction, decision, designation, condition, instruction, authorisation,</li></ol>

requirements or rule of the Regulator, Agency or any other Regulatory Body which has jurisdiction with regard to any part of the Project, Network, Services, Wholesale Products, Operational Environment, NBPco, or Agreement or whose systems may be affected by any part of the Project, Network, Wholesale Products, Operational Environment or Services and with which NBPco is bound to comply.

**Letter of Engagement**

means an auditor's letter of engagement which is a tri-partite arrangement between the Minister, NBPco and NBPco's auditors (and which provides for a duty of care to the Minister).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Level 1 Representative**

means the level 1 representatives set out in the table in Appendix 1 (Commercial Negotiation Representatives) of Schedule 6.3 (Dispute Resolution Procedure).

<b>Level 2 Representative</b>	means the level 2 representatives set out in the table in Appendix 1 (Commercial Negotiation Representatives) of Schedule 6.3 (Dispute Resolution Procedure).
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Line of Sight (LoS)</b>	means a type of propagation that can transmit and receive data only where transmit and receive stations are in view of each other without any sort of an obstacle between them. FM radio, microwave and satellite transmission are examples of line-of-sight communication.
<b>Local Area Network (LAN)</b>	is a network that connects computers and other devices in a relatively small area, typically a single building or a group of buildings.
<b>Local Development Companies</b>	means the companies from time to time which are members of the Irish Local Development Network (ILDN) which deliver the Social Inclusion Community Activation Programme (SICAP) and the LEADER Rural Development Programme.
<b>Local Enterprise Offices</b>	means the local enterprise offices in each of the (as at the Commencement Date), 31 (thirty-one) local authorities in Ireland, tasked with providing advice, information and support to local businesses in their locality.
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Losses</b>	means all damages, losses, liabilities, costs, expenses, including reasonable legal and other professional charges and expenses and charges whether arising under statute, contract or at common law or in connection with judgements,



proceedings, vouched internal costs or demands but excluding:

1. loss of profit for work not executed or services not provided (whether direct or indirect);
2. loss of income (whether direct or indirect);
3. loss of business opportunity (whether direct or indirect);
4. loss of goodwill or reputation (whether direct or indirect); and
5. any form of indirect or consequential loss of whatsoever nature or howsoever incurred.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**M0 or M0 Milestone**

means an M0 type Milestone for delivery of materials as specified as such and as more particularly set out in Paragraph 2.1 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them)

**M1 or M1 Milestone**

means an M1 type Milestone for Detailed Design Complete as specified as such and as more particularly set out in Paragraph 2.2 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**M2 or M2 Milestone**

means an M2 type Milestone for Network Deployment Complete as specified as such and as more particularly set out in Paragraph 2.3 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

<b>M3 or M3 Milestone</b>	means an M3 type Milestone for Rollout Area Complete as specified as such and as more particularly set out in Paragraph 2.4 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Maintenance Schedule</b>	shall have the meaning set out in Paragraph 4 (Permitted Maintenance) of Part 1 (Performance Indicators and Performance Credits) of Schedule 6.7 (Performance Levels).
<b>Maintenance UWG Release</b>	means a maintenance UWG system change/update organised and implemented or to be organised and implemented by NBPco in accordance with Paragraph 5.1 (Operational Environment) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Maintenance Window</b>	means the time period agreed for conducting the Permitted Maintenance as set out in the Maintenance Schedule.
<b>Major Projects Approval</b>	means the approval granted by the ERDF to the Minister in respect of the ERDF Funding Projects Application.
<b>Major UWG Release</b>	means a major UWG system change/update organised and implemented or to be organised and implemented by NBPco in accordance with Paragraph 5.1 (Operational Environment) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Management Accounts</b>	means the summary financial records to be maintained by NBPco and Critical Key Subcontractors in respect of this Agreement, as described in Paragraph 11 (Project Accounts and Financial Records) of Schedule 5.1 (Subsidy Payments) and Paragraph 2 (Management Accounts) of Appendix 5 (Reports) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any one,

	more or all of them or any part or parts of any one, more or all of them).
<b>Management Information</b>	means any information provided by or on behalf of NBPco to the Minister under or pursuant to this Agreement.
<b>Management Information System</b>	means the system to be provided by NBPco which shall be the repository of:  <ol style="list-style-type: none"><li>(1) all Reports; and</li><li>(2) the records set out in Appendix 2 (Documentation, Records and Information) of Schedule 6.5 (Reports and Records) or, to the extent that a particular record set out in Appendix 2 (Documentation, Records and Information) of Schedule 6.5 (Reports and Records) is not made available through the system, the location in which that record is available and accessible to the Minister,</li></ol> in accordance with Paragraph 3.1 (Report Access and Delivery) of Schedule 6.5 (Reports and Records).
<b>Mandatory Test Scenario</b>	means all of the tests which a Service Provider is required to successfully complete as part of the Service Provider Onboarding Process set out in Appendix 3 (Service Provider Onboarding Framework) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Map Change</b>	means all changes to the Intervention Area arising from the National Broadband Plan Conclusion of the Mapping Exercise for the Intervention Area Pre Deployment published 26 July 2019 which results in adjustments to the Intervention Area for the Project.
<b>Map Change Cost Comparison Spreadsheet</b>	means the spreadsheet contained in Annex 7A (Map Change Cost Comparison Spreadsheet) of Schedule 6.2 (Change Control Procedure).

<b>Market Testing Procedure</b>	has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>Market Testing Review Dates</b>	has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).
<b>Master Project Cost Model</b>	means the Parties' agreed version of the Project Cost Model held by the Minister as the "Master Project Cost Model" which represents the agreed master copy of the Project Cost Model for the purposes of this Agreement and which is an input to the Master Project Financial Model, as updated from time to time in accordance with the provisions of Paragraph 3 (Management of Changes to the Project Financial Model and Project Cost Model) of Schedule 5.3 (The Project Financial Model).
<b>Master Project Financial Model</b>	means the Parties' agreed version of the Project Financial Model held by the Minister as the "Master Project Financial Model" (and includes the Master Project Cost Model) which represents the agreed master copy of the Project Financial Model for the purposes of this Agreement and as updated from time to time in accordance with the provisions of Paragraph 3 (Management of Changes to the Project Financial Model and Project Cost Model) of Schedule 5.3 (The Project Financial Model).
<b>Material Contract</b>	means any contract, agreement, licence (including licences from the Regulator and/or software licences), lease, wayleave, Land Rights or other arrangement to which NBPco or Buildco is a party the termination of which and/or failure of which to assign, novate or otherwise transfer to the Minister (and/or its one or more nominees) could reasonably be expected to have a material adverse effect on the continued provision, operation or maintenance of the Services, Network, Operational Environment, Equipment or Project following exercise of the Assets Option or Share Option (and includes, as the

context so admits or requires, any one, more or all of them).

**Material KPI Failure**

means any of the following:

1. a Serious KPI Failure;
2. a Severe KPI Failure; or
3. a failure by NBPco to meet a KPI Performance Threshold,

(and includes, as the context so admits or requires, any one, more or all of them).

**Material PI Failure**

means any of the following;

1. a Serious PI Failure;
2. a Severe PI Failure; or
3. a failure by NBPco to meet a PI Performance Threshold,

(and includes, as the context so admits or requires, any one, more or all of them)

**Material Subcontractor**

means Buildco.

**Materially Complete**

means that the Minister has been provided, in response to each specific question in, as applicable, either:

(a) the Outline DDQ and Final DDQ; or

(b) the 2<sup>nd</sup> Round DD Questions,

with an answer which, in all material respects, contains all answers and underlying information, data and documents required to properly respond to and address the question concerned.

**Materially Complete Complaint**

has the meaning given to it in Paragraph 4.19.3 (Handover Information and Due Diligence) of Part 5 (Change in Ownership and Asset Transfer) of Schedule 6.9 (Consequences of Termination).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Maximum Number of Deferred Premises in the IA**

means five hundred and forty (540).

<b>Maximum Packet Loss</b>	means the maximum permitted Packet Loss whose measurement methodology is defined in Paragraph 2.4.6 (Product Performance) of Part 2 (Definitions and Measurement) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).
<b>Maximum PPI Review Period</b>	has the meaning given to it in Paragraph 3.5.1 (Preliminary Procurement Information) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Maximum SI Review Period</b>	has the meaning given to it in Paragraph 4.7.1 (Shortlisting) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Mean Capital Employed</b>	is the mean of the assets and liabilities of NBPco (or non-NBPco entity as the context so admits or requires), adjusted to amend for certain assets and liabilities which are excluded for regulatory purposes.
<b>Mean Time to Failure (MTTF)</b>	means the length of time an item of Equipment is expected to last in operation.
<b>Mean Time to Repair (MTTR)</b>	means the average time required to troubleshoot and repair failed Equipment and return it to normal operating conditions.
<b>Measurement Period</b>	means in relation to a Key Performance Indicator or Subsidiary Performance Indicator, the period over which NBPco's performance is measured (for example, Quarterly or annually) as set out for each Key Performance Indicator and Subsidiary Performance Indicator in the fourth column of Table 1 (Key Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels).

<b>Media Access Control Address</b>	means a unique identifier assigned to network interfaces for communications on the physical network segment.
<b>Mediation Notice</b>	has the meaning given to it in Paragraph 6.1 (Mediation) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Mediator</b>	has the meaning given to it in Paragraph 6.3 (Mediation) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Medium Business Additional Required Wholesale Product</b>	means an Additional Required Wholesale Product that is developed by NBPco and that is tailored to meet the needs of medium type businesses.
<b>MEF</b>	means the Metro Ethernet Forum, the global industry alliance that develops technical specifications and implementation agreements to promote interoperability and deployment of Ethernet.
<b>Method Statement</b>	means documents which are prepared by NBPco, outlining site specific step by step measures to complete a construction activity, identifying in particular, sensitivities and risks, control measures and monitoring, machinery and resources required for undertaking each construction activity (and which forms part of NBPco Solution) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Milestone</b>	means a task or event described in the Implementation Programme or a Project Plan as a “Milestone” which NBPco is required to complete and Achieve by the relevant Milestone Date (and includes, as the context admits or requires, any one, more or all of them).
<b>Milestone Achievement Certificate</b>	means the certificate to be granted by the Independent Certifier, in accordance with Paragraph 10 (Milestone Achievement and Testing – Requirements) of Schedule 2.3 (Deployment Requirements), when NBPco has satisfied the Milestone Achievement Criteria for the Milestone concerned, which certificate shall be substantially in the form set out in

	<p>Appendix 3 of the template Independent Certifier Contract set out in Appendix 3 (Form of Milestone Achievement Certificate) to Schedule 2.3 (Deployment Requirements) (and includes, as the context admits or requires, any one, more or all of them).</p>
<b>Milestone Achievement Certificate Unique Reference Number</b>	<p>means the unique identifier to be allocated by the Independent Certifier to each Milestone on receipt of the Milestone Achievement Report for the corresponding Milestone.</p>
<b>Milestone Achievement Criteria</b>	<p>means the criteria to be satisfied for the Achievement of each Milestone type as specified in Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of the criteria for the Achievement of any one, more or all of the Milestones).</p>
<b>Milestone Achievement Date</b>	<p>means the date that the relevant Milestone was Achieved.</p>
<b>Milestone Achievement Report</b>	<p>means a report to be provided by NBPCo in accordance with Paragraph 10.2.10 (Milestone Achievement and Testing – Requirements) of Schedule 2.3 (Deployment Requirements) (and includes, as the context admits or requires, any one, more or all of them).</p>
<b>Milestone Date</b>	<p>means the date set out against the relevant Milestone in in the Implementation Programme, the Wholesale Product Launch Project Plan, the Network Deployment Plan, the Operational Environment Project Plan, the Service Provider Engagement Framework Project Plan and each Deployment Area Project Plan, by which the Milestone must be Achieved by NBPCo (and includes, as the context so admits or requires, any one, more or all of them).</p>
<b>Milestone Pre-requisites</b>	<p>has the meaning given to it in Paragraph 1.2.2 (Application) of Appendix 3 (Milestone Achievement Criteria) of</p>



	Schedule 2.3 (Deployment Requirements).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
	<b>a. [REDACTED]</b>
	<b>b. [REDACTED]</b>
	<b>[REDACTED]</b>
<b>Minimum Bitstream Wholesale Product</b>	means a Bitstream Product identified in Paragraph 2.1 (Reference Offer(s) for Minimum Bitstream Wholesale Product Suite) of Schedule 3.2 (NBPCo Solution – Reference Offer) as the Minimum Bitstream Wholesale Product which is to meet or exceed the specifications for the Minimum Bitstream Wholesale Product as set out in Paragraph 4.2 (Wholesale Product Specifications) of Schedule 2.2 (Reference Offer Requirements).
<b>Minimum Bitstream Wholesale Product Suite</b>	means the set of products referred to in Paragraph 2.1 (Reference Offer(s) for Minimum Bitstream Wholesale Product Suite) of Schedule 3.2 (NBPCo Solution – Reference Offer) as the Minimum Bitstream Wholesale Product Suite which comprises the following three products:  <ol style="list-style-type: none"><li>1. the Minimum Bitstream Wholesale Product;</li><li>2. Building and Cabin Co-location Product; and</li><li>3. InterConnect Product,</li></ol> and which are to meet or exceed the specifications for the Minimum Bitstream Wholesale Product as set out in Paragraph 4.2 (Wholesale Product Specifications) of Schedule 2.2 (Reference Offer Requirements), and shall include references to Minimum Bitstream Wholesale Product, where the context permits.
<b>Minimum Required Wholesale Products</b>	means a Wholesale Product of a type described in Paragraph 3.2 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution

Specification) and which must be provided by NBPco as a part of the NBPco Solution and which are more particularly described in the Service Requirements, Wholesale Product Specification, Reference Offer and NBPco Solution (and, in particular, Paragraph 2.1 (Reference Offer(s) for Minimum Bitstream Wholesale Product Suite) and Paragraph 2.2 (Reference Offer(s) for Remaining Minimum Required Wholesale Products Suite) of Schedule 3.2 (NBPco Solution – Reference Offer)) (and includes, as the context so admits or requires, any one, more or all of them).

**Minimum Virtual Unbundled Access (VUA) Wholesale Product**

means the VUA product which is to meet or exceed the specifications set out in Paragraph 4.2.20 (Wholesale Product Specifications) to 4.2.24 (Wholesale Product Specifications) (inclusive) (Wholesale Product Specifications) of Schedule 2.2 (Reference Offer Requirements) comprising part of the Minimum Required Wholesale Products and which must be provided by NBPco as part of the NBPco Solution and which is more particularly described in Paragraph 2.1 (Reference Offer(s) for Minimum Bitstream Wholesale Product Suite) of Schedule 3.2 (NBPco Solution – Reference Offer).

[REDACTED]

[REDACTED]

**Minister Buildco Share Charge**

means a charge entered into by Holdco in favour of the Minister over the entire issued share capital of Buildco (other than the Buildco Minister Special Share) and dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page) (and, if applicable any additional Minister Buildco Share Charge entered into pursuant to the provision of this Agreement) and which is required to be in the form set out in Schedule 7.7 (Minister Share Charge) (and includes, as the context so admits or requires, any one, more or all of them).

**Minister Confidential Information**

any information provided or disclosed by or at the direction of the Minister (or its employees, agents, consultants and contractors) to NBPco or NBPco Personnel in relation to or in connection with this Agreement or its performance, however it is conveyed, that relates to the business, affairs, developments, trade secrets, strategy, plans, operations, know-how, personnel, and suppliers of the Minister, including all IPR, together with all information derived from any of the above, any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential.

**[REDACTED]**

**[REDACTED]**

**Minister Data**

the data, text, drawings, diagrams, images or sounds (including any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are supplied to NBPco or NBPco Personnel by or on behalf of the Minister pursuant to this Agreement (excluding the Excluded Third Party IPR).

**Minister Debenture**

means a fixed and floating charge over all the assets of NBPco between the Minister and NBPco and dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).

**Minister Default**

means any one or more of the following:

1. the Minister fails to pay any Overdue Payment; or
2. if a relevant breach (not the subject of 1. above) by the Minister of its obligations under this Agreement /is a Compensation Event (a "Relevant Breach"), where NBPco has first exercised its rights in respect of the Relevant Breach pursuant to Clause 31 (Compensation Events) and the

results of such exercise under this Agreement have been agreed in writing by the Parties or are otherwise not the subject of a Dispute (the “agreed steps”), the Relevant Breach continues or the agreed steps are not taken in the timeframe agreed by the Parties such that the Relevant Breach or failure to take the agreed steps substantially frustrates or renders it impossible for NBPco to perform its obligations under this Agreement for a continuous subsequent period of forty-five (45) days;

3. if a relevant breach (not the subject of 1 or 2 above) by the Minister is not a Compensation Event, where a breach by the Minister of its obligations under this Agreement substantially frustrates or renders it impossible for NBPco to perform its obligations under this Agreement for a continuous period of sixty (60) days;
4. a Minister State Aid Action the subject of Clause 30.8 (State Aid).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Minister IPR</b>	any IPR owned by, or licensed to, the Minister in connection with this Agreement, excluding NBPco IPR and the Excluded Third Party IPR.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Minister NBPco Share Charge</b>	means a charge entered into by Holdco in favour of the Minister over the entire issued share capital of NBPco (other than the Minister Special Share) and dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page) (and, if applicable any additional Minister NBPco Share Charge entered into pursuant to the provision of this Agreement) and which is required to be in the form set out in Schedule 7.7 (Minister Share Charge) (and includes, as the context so admits or requires, any one, more or all of them).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
	<b>[REDACTED] [REDACTED]</b>
<b>Minister Security Documents</b>	means Minister Share Charge, Minister Debenture, Buildco Minister Debenture, Minister NBPco Guarantee, Minister Limited Recourse Guarantee, Buildco Minister Limited Recourse Guarantee, Minister Subordination Deed and, if applicable, the DPB Project Accounts Charge.
<b>Minister Share Charge</b>	means the Minister NBPco Share Charge and the Minister Buildco Share Charge.
<b>Minister Special Share</b>	means a special share of one euro (€1.00) in the capital of NBPco to be held by the Minister or a person nominated by the Minister conferring the rights on the holder thereof as set out in the

Constitution of NBPco which is required to include the provisions set out and/or referred to in Appendix 2 (Minister Special Share Constitution Requirements) of Schedule 2.7 (NBPco Requirements).

**Minister Special Shareholder** means the person holding the Minister Special Share (from time to time).

**Minister State Aid Action** means:

(a) the inclusion by the Minister of materially incorrect or materially misleading information in the State Aid Notification; and/or

(b) the exclusion by the Minister of material information from the State Aid Notification which, having regard to the circumstances and information known to the Minister as at the date of submission of the State Aid Notification, would ordinarily and reasonably be considered relevant to the European Commission's assessment of the State Aid Notification (but this does not include the exclusion of any information by the Minister as a result of, or in compliance with, any recommendation, opinion or guidance in whatever form by or on behalf of the European Commission in respect of the State Aid Notification or the State Aid Decision),

but for the inclusion and/or exclusion (as applicable) of which the European Commission would not likely have given a positive State Aid Decision.

**[REDACTED]**

**[REDACTED]**

(a) **[REDACTED]**

(b) **[REDACTED]**

**[REDACTED]**

**[REDACTED]**

<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Minister Subordination Deed</b>	means, subject to the provisions of this Agreement (including Clause 44 (Project Documents and Funding Documents)), the subordination deed between NBPco, Buildco, Holdco and the Minister and dated on or prior to the Commencement Date Agreement (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Minister’s Appointee</b>	has the meaning given to it in Paragraph 6.2.3 (Board of Directors of NBPco) of Schedule 2.7 (NBPco Requirements).
<b>Minister’s Representative</b>	means such person or persons (or such substitute or substitutes) (other than the Regulator) as may be appointed by the Minister for the time being pursuant to the provisions of Clause 45 (Representatives).
<b>Minor Discrimination Event</b>	means a Discrimination Event to which the Minister assigns a severity level of “minor” in accordance with Appendix 8 (Discrimination Event) of Schedule 6.7 (Performance Levels).
<b>Minor KPI Failure</b>	is as set out against the relevant Key Performance Indicator in the fifth column of Table 1 (Key Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report), of Schedule 6.7 (Performance Levels) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Minor PI Failure</b>	is as set out against the relevant Subsidiary Performance Indicator in the fifth column of Table 2 (Subsidiary Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and

Balanced Scorecard Report) of Schedule 6.7 (Performance Levels) (and includes, as the context so admits or requires, any one, more or all of them).

**MMI** means Monthly Management Information.

**MMI Category** means a category of Monthly Management Information as listed in Appendix 6 (Monthly Management Information) of Schedule 6.7 (Performance Levels).

**[REDACTED]**

**[REDACTED]**

(a) **[REDACTED]**

(b) **[REDACTED]**

(c) **[REDACTED]**

(d) **[REDACTED]**

(e) **[REDACTED]**

(f) **[REDACTED]**

**[REDACTED]**

**Monthly Management Information**

means those reports that are stated in Paragraph 1.3 (Reports) of Appendix 1 (Reports) of Schedule 6.5 (Reports and Records) as having a frequency / reporting period that is monthly.

**Monuments, Antiquities and Archaeological Objects**

means all fossils, articles of value or antiquity and structures or other remains or things of particular geological, historical or archaeological interest (including without limitation archaeological artefacts/features and deposits) discovered in the course of Network Deployment or when carrying out the Project (and includes, as the context so admits or requires, any one, more or all of them).

**Most Comparable Retail Product**

means, with respect to a retail product in the Intervention Area (the “**relevant IA retail product**”), the retail product that is the least expensive retail product available in the Excluded Area that:



- (A) is a High Speed Broadband product;
- (B) as a minimum, satisfies and performs in compliance with the minimum performance specification for a Minimum Bitstream Wholesale Product set out in Paragraph 4.2.2 (Wholesale Product Specifications) of Schedule 2.2 (Reference Offer Requirements); and
- (C) is at least equivalent in all material respects from an End User's perspective to the performance and specification of the relevant IA retail product.

<b>Multi-Party Dispute</b>	means a Dispute involving the Minister, NBPco and/or Buildco and a Related Third Party.
<b>Multi-Party Dispute Resolution Board</b>	has the meaning given to it in Paragraph 9.7 (Multi-Party Disputes) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Multi-Party Dispute Resolution Procedure</b>	has the meaning given to it in Paragraph 9.1 (Multi-Party Disputes) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Multi-Party Dispute Procedure Initiation Notice</b>	has the meaning given to it in Paragraph 9.3 (Multi-Party Disputes) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Multi-Party Dispute Representatives</b>	has the meaning given to it in Paragraph 9.7 (Multi-Party Disputes) of Schedule 6.3 (Dispute Resolution Procedure) (and includes, as the context so admits or requires, any one, more or all of them).
<b>MTTF</b>	means Mean Time to Failure.
<b>MTTR</b>	means Mean Time to Repair.
<b>Named Unserved End User</b>	means, in respect of a specific RoLR End User Product, the IA End User named in the RoLR Authorisation or NBPco RoLR Authorisation Form in respect of that End User and that RoLR End User Product.
<b>NBP Completion Bible</b>	means:

- (a) the completion bible identified as the “Commencement Date NBP Completion Bible” issued by Mason Hayes & Curran Solicitors to Arthur Cox Solicitors in or around the Commencement Date; and, if applicable,
- (b) the completion bible identified as the “Effective Date NBP Completion Bible” issued by Mason Hayes & Curran Solicitors to Arthur Cox Solicitors in or around the Effective Date.

**NBP Industry Council**

means the body, the establishment and governing terms of which are more particularly set out in Appendix 4 (Service Provider Engagement Framework) of Schedule 2.4 (Operational Performance), which is to be established and operated by NBPco so that it is recognised as the acknowledged industry body responsible for all NBP management matters, processes and policy.

**NBP Industry Council Key Representative**

has the meaning given to it in Paragraph 1.4.1 (NBP Industry Council Governing Terms) of Part 3 (NBP Industry Council Governing Terms) of Appendix 4 (Service Provider Engagement Framework) of Schedule 2.4 (Operational Performance).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

**NBPco Assets**

means all of the Assets in respect of which NBPco acquired the property in, title to or ownership of using any of the Subsidy Payments, whether the Subsidy Payment funded the acquisition of the Asset in whole or in part (and includes, as

the context so admits or requires, any one, more or all of them).

**NBPco Bidder**

means the tenderer (including all of its Bidder Members, as that term was defined in the Project Information Memorandum published by the Minister in respect of the Project) that was appointed as the preferred bidder for the Project and includes each iteration of that consortium as it evolved from the date of its submission of its pre-qualification questionnaire up until the Commencement Date.

**NBPco Brand**

has the meaning given to it in Paragraph 5.4 (NBPco Brand Development Plan) of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan) and includes the NBPco Brand as it changes or is replaced from time to time.

**NBPco Brand Development Plan**

means the plan prepared or to be prepared by NBPco pursuant to the provisions of Paragraph 5 (NBPco Brand Development Plan) of Schedule 2.6 (Communications, Demand Stimulation and Brand Plan) and which forms part of the NBPco Solution (and is set out at Schedule 3.6 (NBPco Solution – Communications, Demand Stimulation and Brand Plan) (and includes, as the context so admits or requires, any part or parts of it).

**NBPco Call Option**

has the meaning given to “Call Option” in the Constitution.

**NBPco Confidential Information**

means any information provided by NBPco (or its NBPco Personnel) to the Minister in relation to this Agreement, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and NBPco's of NBPco, including IPR, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.

**[REDACTED]**

**NBPco Costs**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

has the meaning given to it in Paragraph 1.2 (NBPco Costs and Project Costs) of Appendix 4 (Costs, Permitted Expenditure and Revenues) to Schedule 5.1 (Subsidy Payments).

**[REDACTED]**

(a) **[REDACTED]**

**[REDACTED]**

(b) **[REDACTED]**

(i) **[REDACTED]**

(A) **[REDACTED]**

(B) **[REDACTED]**

(ii) **[REDACTED]**

**[REDACTED]**

(a) **[REDACTED]**

(b) **[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

1. **[REDACTED]**

**[REDACTED]**

2. **[REDACTED]**

**[REDACTED]**

(a) **[REDACTED]**

(b) **[REDACTED]**

(c) **[REDACTED]**

**[REDACTED]**

**[REDACTED]**

(a) **[REDACTED]**

(b) **[REDACTED]**

	(c) [REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
	(1) [REDACTED]
	(2) [REDACTED]
	(3) [REDACTED]
	(4) [REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>NBPco Economic Group</b>	means:
	1. all those undertakings in which NBPco, directly or indirectly:
	(a) owns half or more than half the capital or business assets;
	(b) has the power to exercise half or more than half the voting rights;
	(c) has the power to appoint half or more than half of the members of the supervisory board, the administrative board or bodies legally representing the undertaking concerned;
	(d) has the right to manage the undertaking's affairs;
	(e) holds a minority shareholding but holds veto rights which go beyond those rights typically afforded to minority shareholders to protect their financial interests as investors including veto rights relating to:
	i. determination of the budget;

- ii. appointment of senior management;
- iii. approval of the business plan;
- iv. approval of investments at a relatively low level; and/or
- v. decisions which are important when viewed in the context of the particular market in which the undertaking operates; or

(f) holds a minority shareholding but is likely to have a stable majority of the votes at shareholders' meeting in light of the level of its own shareholding, the historic attendance and voting pattern at shareholders' meetings in previous years and the position of other shareholders;

2. those undertakings which, directly or indirectly, solely or jointly, hold in NBPco any of the rights or powers listed in paragraph (1);
3. those undertakings in which an undertaking referred to in (2), directly or indirectly, solely or jointly, hold any of the rights or powers listed in (1); and
4. Buildco.

**NBPco Economic Group  
Commitment Agreement**

means any agreement entered into from time to time by the Minister (or any other Minister to whom the Minister's relevant functions are transferred) before, on or after the Commencement Date in relation to the National Broadband Plan – Commercial Deployment Commitment with any Associated Company of NBPco or any member of the NBPco Economic Group (including where such person was an Associated Company or member of

	the NBPco Economic Group as at the date the relevant commitment agreement was executed, but ceases to be at a later date) (and includes, as the context so admits or requires, any one, more or all NBPco Economic Group Commitment Agreements).
<b>NBPco Economic Group Commitment Agreement Deployment Area</b>	means all the premises (including premises to be in the future) and areas included within the Deployment Area (as defined in the relevant commitment agreement or Commitment Agreements by such name or similar name) in all NBPco Economic Group Commitment Agreements (and includes, as the context so admits or requires, any one, more or all of such premises and/or areas), provided that the removal of any area or premises from an NBPco Economic Group Commitment Agreement Deployment Area in accordance with the provisions of the relevant Commitment Agreement shall be ignored for the purposes of determining, for the purposes of this Agreement, what is in the NBPco Economic Group Commitment Agreement Deployment Area.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>NBPco Funding</b>	means NBPco’s funding for the Project as provided for in the Funding Documents.
<b>NBPco Group</b>	means the Group of NBPco.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>NBPco Internal Procurement Procedure</b>	has the meaning given to it in Paragraph 1.4.10 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>NBPco IPR</b>	means any IPR (excluding the Minister IPR) owned by NBPco or any Subcontractor (or their respective

	Associated Companies), or licensed to or used by NBPco or any Subcontractor in connection with this Agreement, and which include the Project Specific IPR.
<b>NBPco Lot Area</b>	means those parts of Ireland more particularly identified in the map set out in Schedule 12 (NBPco Lot Area).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>NBPco Part 1 Certificate</b>	has the meaning given to it in Paragraph 9.4 (Disagreement Regarding the Benchmark Reference Price or Wholesale Pricing Rules) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules).
<b>NBPco Part 3 Certificate</b>	has the meaning given to it in Paragraph 6.4 (Disagreement Regarding the Benchmark Reference Performance Specification or Wholesale Product Benchmarking Rules) of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).
<b>NBPco Personnel</b>	means all employees, agents, consultants and contractors (of any tier) of NBPco and/or of any Subcontractor (of any tier) employed or engaged in the performance of this Agreement from time to time.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>NBPco Representative</b>	means the person identified as such in Clause 92.5 (Notices) or such substitute as may be appointed by NBPco pursuant to Clause 45.6 (Representatives) and Clause 51.9 (NBPco Personnel).
<b>NBPco Request</b>	has the meaning given to it in Paragraph 9.1 (Multi-Party Disputes) of Schedule 6.3 (Dispute Resolution Procedure).
<b>NBPco Retail Pricing Rules Report</b>	has the meaning given to it in Paragraph 5.5 (Monitoring Compliance with the Retail Pricing Rules) of Part 2 (Retail Pricing Rules) of Schedule 5.2



(Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) (and includes, as the context so admits or requires, any one, more or all of them).

**NBPco Revenues**

has the meaning given to it in Paragraph 6.1 (NBPco Revenues and Project Revenues) of Appendix 4 (Costs, Permitted Expenditure and Revenues) to Schedule 5.1 (Subsidy Payments).

**NBPco RoLR Authorisation Form**

means a form executed by the Minister, substantially in the form set out in Appendix 6 (RoLR Authorisation Form) of Schedule 2.4 (Operational Performance).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**NBPco Submission**

has the meaning given to it in Paragraph 2.1 (NBPco Submission) of Appendix 3 (Wholesale Price Control Procedure and Wholesale Product Control Procedure) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**NBPco Solution**

means NBPco's solution to meet the Service Requirements and its obligations under this Agreement which is set out in Schedule 3 (NBPco Solution), comprising Schedules 3.1 (NBPco Solution – Technical Solution) to 3.12 (Details of Companies) (inclusive) and the Implementation Programme, NBPco Funding Plan, Project Plans, Wholesale Product Roadmap, Technology Roadmap, Reference Offer, Wholesale Product & Coverage Template and Wholesale Product Specification as may be amended or supplemented pursuant to a Change Authorisation from time to time (and includes, as the context so admits or requires, any, some or all of it or any part or parts of any, some or all of it).

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
	(a) [REDACTED]
	(b) [REDACTED]
	[REDACTED]
	(i) [REDACTED]
	(ii) [REDACTED]
	(iii) [REDACTED]
	(iv) [REDACTED]
	[REDACTED]
[REDACTED]	[REDACTED]
<b>NBPco Warranties</b>	means each and all of the warranties of NBPco set out in the provisions of Clause 6 (Acknowledgements, Warranties) (and includes, as the context so admits or requires, any one, more or all of them).
<b>NBPco Wholesale Pricing Rules Report</b>	has the meaning given to it in Paragraph 8.5 (Monitoring the Benchmark Reference Price and Compliance with the Wholesale Pricing Rules) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) (and includes, as the context so admits or requires, any one, more or all of them).
<b>NBPco Wholesale Product Benchmarking Rules Report</b>	has the meaning given to it in Paragraph 5.6 (Monitoring Compliance with the Wholesale Product Benchmarking Rules) of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Nearest Equivalent Charge</b>	means a price/prices from the Wholesale Price List which most closely represent(s)

the technical capabilities of a Wholesale Product as if it were an External transaction.

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Network**

means all of the passive and active electronic communications network (from any Handover Point to all End User Premises termination points) procured, designed, built, deployed, leased, interconnected, Connected, enabled, operated, used and/or maintained by NBPco pursuant to this Agreement and as more particularly described in the Service Requirements and NBPco Solution (and, in particular, Schedules 3.1 (NBPco Solution – Technical Solution), 3.2 (NBPco Solution – Reference Offers), 3.3 (NBPco Solution – Speed of Deployment and Environment) and 3.4 (NBPco Solution – Operational Performance)) including:

1. all Equipment forming part of or comprising or used by the Network (including both active and passive infrastructure);
2. the Access Network; and
3. the Backhaul Network,

(and, includes as the context so admits or requires, any, some or all of it or any components or parts of any, some or all of it).

**Network Availability**

is calculated in accordance with Paragraph 3 (Network Availability) of Part 3 (Product Performance Level Calculations) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).

<b>Network Build Progress Report</b>	means the report to be provided by NBPCo pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Network Deployment</b>	means the procurement, design, build, lay, rollout, installation, Testing, commissioning, dimensioning, Connecting, InterConnecting, completing, enabling, provision, operation and ongoing maintenance of the Network in accordance with the Implementation Programme, the Project Plan and the other relevant provisions of this Agreement.
<b>Network Deployment Co</b>	means Buildco.
<b>Network Deployment Complete</b>	means the point in time in respect of a Network Deployment Complete Milestone when its Milestone Achievement Criteria has been Achieved.
<b>Network Deployment Complete Milestone</b>	means the P4A Milestone Network Deployment Complete for (x%) of Premises in the Intervention Area as specified as such and as more particularly set out in Paragraph 2.10 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Network Deployment Plan</b>	means the detailed plan that describes how the Network will be implemented, including the implementation of all Equipment such as the infrastructure, equipment, facilities, software and hardware specified in Paragraph 8.2.41 (Network Deployment Plan Requirements) (Network Deployment Plan Requirements) of Schedule 2.3 (Deployment Requirements) and in a format and level of detail similar to NBPCo Solution set out in Apendix 3.6.3.1.A of Schedule 3.3 (NBPCo Solution - Speed of Deployment and Environment) (and which includes, as the context so admits or requires, any part or parts of it and as

	amended by any Change made pursuant to a Change Authorisation).
<b>Network Deployment Plan Milestone</b>	means a Milestone contained in the Network Deployment Plan (and includes, as the context so admits or requires, any one, more, or all of them).
<b>Network Deployment Progress Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>Network Element</b>	means the functional link between the Network plant and Equipment and the Wholesale Products that are provided to users of the Network plant.
<b>Network Fault</b>	means a Service Fault affecting multiple End Users.
<b>Network Infrastructure Map</b>	has the meaning given to it in Paragraphs 4.4.30 (Operational Environment Requirements) to 4.4.32 (Operational Environment Requirements) (inclusive) of Schedule 2.1 (Technical Solution Specification) and which is the geographical information system which displays information contained in the Asset Register as more particularly described in the Service Requirements and NBPco Solution (and, in particular, Paragraph 1.4.2 (Network Infrastructure Map) of Schedule 3.1 (NBPco Solution - Technical Solution) (and includes, as the context so admits or requires, any part or parts of it).
<b>Network Links</b>	means the communications facilities used to connect nodes in the Backhaul Network.
<b>Network Operations Centre</b>	means the central locations from which NBPco manages, controls and monitors the Network through appropriate systems specified in Paragraphs 4.4.52 to 4.4.57 (Service Assurance: (3) Network Operation Centre (NOC)) of Schedule 2.1 (Technical Solution Specification) and which are more particularly described in the NBPco Solution (and, in particular, Paragraph 1.3.1 (OSS/BSS Systems) of

Schedule 3.1 (NBPco Solution – Technical Solution).

**Network Termination Unit** means a passive device which enables the connection of the WCPE to the Network in the End-User Premises.

**Network Time Protocol (NTP)** means the networking protocol for clock synchronization between different systems.

**Network-to-Network Interface** means the physical interface that connects two (or more) networks and defines inter signalling and management processes and which, in the case of the Network, is the physical interface that connects the Network to the Service Provider's network.

[REDACTED] [REDACTED]

**New Deployment Area** means a number of specific Premises or a geographic area outside the Intervention Area but which are to be included in it as a result of a Change to the Intervention Area, as each New Deployment Area is more particularly described in the Change Authorisation for the relevant New Deployment Area (provided that a New Deployment Area is not necessarily required to satisfy all of the criteria in the definition of a Deployment Area) (and includes, as the context so admits or requires, any one, more or all New Deployment Areas).

**New Employer** means a person to whom the employment of a member of Staff transferred or will transfer pursuant to the TUPE Regulations.

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

**New Premises** means a Premises in the Intervention Area that is not an Existing Premises.

<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>New Rollout Area</b>	means a number of specific Premises or a geographic area outside the Intervention Area but which are to be included in it as a result of a Change to the Intervention Area, as each New Rollout Area is more particularly described in the Change Authorisation for the relevant New Rollout Area (and includes, as the context so admits or requires, any one, more or all New Rollout Areas).
<b>New Wholesale Product</b>	means a Wholesale Product that, until its introduction or proposed introduction pursuant to a Change Authorisation, is not identified in the Wholesale Product Specification.
<b>NNI</b>	means Network-to-Network Interface.
<b>NOC</b>	means Network Operations Centre.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Non-Binding Guidance</b>	means any guidelines, recommendations, policies, codes of conduct, codes of practice or instructions which are not Binding Guidance and with which a reasonable and prudent person, seeking in good faith to fully perform its contractual obligations in accordance with Best Industry Practice, would comply in connection with the Project, Network, Operational Environment, Services or Agreement (but not to the extent that it would give rise to disproportionate or material cost).
<b>Non-Discriminatory Basis</b>	means on a non-discriminatory basis, including by complying with all non-discrimination obligations under this Agreement such as those outlined in Clause 36 (Non-Discrimination and Transparency).
<b>Non-Discrimination Provisions</b>	has the meaning given in Paragraph 3.2.2 (NBPco as a Separate Legal Entity) of Schedule 2.7 (NBPco Requirements).

<b>Non-Permitted Maintenance</b>	means any maintenance that is not Permitted Maintenance.
<b>Non Relevant Excluded Area Products</b>	means electronic communications products, services and networks sold, licensed or leased by NBPco in the Excluded Area.
<b>Non-Service Affecting Fault</b>	means a Network Fault condition that requires corrective action by NBPco to prevent a Degradation Network Fault or Outage Network Fault from occurring.
<b>Non-Transferring Assets</b>	means all Transferable Assets except the Transferring Assets.
<b>Non-Transferring Contracts</b>	means all Transferable Contracts except the Transferring Contracts.
<b>[REDACTED]</b>	<b>[REDACTED]</b>  (a) <b>[REDACTED]</b>  <b>[REDACTED]</b>  (b) <b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>  (a) <b>[REDACTED]</b>  (b) <b>[REDACTED]</b>  <b>[REDACTED]</b>  1. <b>[REDACTED]</b>  2. <b>[REDACTED]</b>  3. <b>[REDACTED]</b>
<b>Not In Use</b>	means a Wholesale Product in respect of which, at the relevant time, no Service Provider has entered into an agreement with NBPco pursuant to a Reference Offer or any or all previous agreements in respect of such Wholesale Product have been terminated.
<b>Notice</b>	has the meaning given to it in Clause 92.1 (Notices).



<b>Notice of Dispute</b>	means the notice issued pursuant to, and in accordance with, Paragraph 3 (Notice of Dispute) of Schedule 6.3 (Dispute Resolution Procedure).
<b>Notifiable Event</b>	means, as the context so admits or requires, any one, more or all of the events referenced in Paragraph 1 (Notification) of Part 2 (Remedial Plan Process) of Schedule 6.8 (Persistent Defaults and Remedial Plan Process).
<b>Notification</b>	means, as the context so admits or requires, any one, more or all of the notifications referenced in Appendix 2 (Notification to Service Providers and Notification Times) and Appendix 3 (Notification to the Minister and Notification Times) of Schedule 6.7 (Performance Levels).
<b>Notification Time</b>	means, as the context so admits or requires, any one, more or all of the times referenced in Appendix 2 (Notifications to Service Providers and Notification Times) and Appendix 3 (Notifications to the Minister and Notification Times) of Schedule 6.7 (Performance Levels).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>NTP</b>	means Network Time Protocol.
<b>OAM</b>	means operation, administration and maintenance.
<b>OCP</b>	means Ongoing Capital Payment.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>OCPC</b>	means Ongoing Capital Payment Claim.
<b>OHSAS</b>	means Occupational Health and Safety Assurance Series, an international standard which provides a framework to identify, control and decrease the risks associated with health and safety within the workplace.

<b>OLT</b>	means Optical Line Termination.
<b>OLT Service Area</b>	means all Premises in the Technical Solution which are connected to the OLT in the Detailed Design.
<b>Onboarded</b>	means:  (A) in relation to a WSP (including, subject to Clause 19.18 (Wholesale Products), an Associated WSP), that NBPco has completed the Service Provider Onboarding Process in relation to the WSP or Associated WSP; and  (B) in relation to an RSP (including an Associated RSP), means either that:  1) NBPco has completed the Service Provider Onboarding Process in relation to the RSP; or  2) that the RSP has completed the onboarding process of a WSP for which NBPco has completed the Service Provider Onboarding Process,  and references to “ <b>Onboarding</b> ” shall be construed accordingly.
<b>Onboarding Test Scenarios</b>	means those test cases that NBPco may reasonably require Service Providers to complete before NBPco permits them to progress to the final phase of the Service Provider Onboarding Process.
<b>Ongoing Capital Payment</b>	means the subsidy payments payable, subject to and in accordance with Paragraph 8 (Ongoing Capital Payments) of Schedule 5.1 (Subsidy Payments) and the provisions of this Agreement upon Achievement of the Deployment Payment Milestones type M2, as set out in Table 1 (Ongoing Capital Payments) of Appendix 3 (Ongoing Capital Payments) of Schedule 5.1 (Subsidy Payments) and to be adjusted by the amounts set out in Table 2 (Ongoing Capital Payments

	Adjustments) of Appendix 3 (Ongoing Capital Payments) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Ongoing Capital Payment Claim</b>	means NBPco's claim for payment, subject to and in accordance with Schedule 5.1 (Subsidy Payments) and the provisions of this Agreement, as described at Paragraph 9 (Ongoing Capital Payment Claims) of Schedule 5.1 (Subsidy Payments).
<b>ONT</b>	means optical network terminal.
<b>Open Book</b>	has the meaning given to the term in Paragraph 2.16 (Review by the Minister of Subsidy Payments) of Schedule 5.1 (Subsidy Payments).
<b>Open Book Data</b>	means complete and accurate financial and non-financial information which is necessary to enable the Minister to verify the incurred expenditure or other relevant matter being reviewed or audited.
<b>open eir</b>	means eircom Limited, a company incorporated in Jersey with registration number 116389 and having its registered office at 22 Grenville Street, St Helier, Jersey JE4 8PX.
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Operational Change</b>	means a change to NBPco's operational procedures which when implemented, will not: <ol style="list-style-type: none"><li>1. affect any public subsidy, including the Subsidy Payments;</li><li>2. adversely affect the output of the Services, Wholesale Products, Operational Environment and/or the Network or increase the risks in providing the Services, Wholesale Products, Operational Environment and/or the Network even though it may change the way in which the Services are provided;</li></ol>

3. adversely affect the wholesale or retail High Speed Broadband in the market in the Intervention Area;
4. affect the Wholesale Prices or Wholesale Products;
5. adversely affect the Deployment Area, the Intervention Area, the Service Requirements and/or the NBPco Solution;
6. adversely affect any Milestones;
7. change any Milestone Dates;
8. change the Implementation Programme;
9. adversely affect the retail prices for High Speed Broadband services in the retail market in the Intervention Area; and
10. adversely affect the ability of NBPco to perform its obligations under this Agreement.

**Operational Environment**

is the collective term used to refer to the UWG and the OSS/BSS environment.

**Operational Environment Development Forum**

means the body, the role and function of which are more particularly set out in Appendix 4 (Service Provider Engagement Framework) of Schedule 2.4 (Operational Performance), which is to be established and operated by NBPco so that it is recognised as the acknowledged industry body responsible for validating the development of NBPco IT solutions in accordance with the Agreement, particularly within the Operational Environment, and the industry acknowledged source of technical information on Service Provider impacting changes for Service Providers consuming Wholesale Products via the Universal Wholesale Gateway.

**Operational Environment Project Plan**

means the detailed plan as outlined at Paragraph 6.2.3 (Operational Environment - Requirements) of Schedule 2.3 (Deployment

Requirements) that describes the activities that NBPco shall manage, undertake and complete in implementing the Operational Environment as more particularly described in the Service Requirements and NBPco Solution and set out at Appendix 3.5.2.B of Schedule 3.3 (NBPco Solution - Speed of Deployment and Environment, (and which includes, as the context so admits or requires, any part or parts of it and any Change made to it pursuant to a Change Authorisation).

**Operational Environment Project Plan Milestone**

means a Milestone contained in the Operational Environment Project Plan component of the Project Plan (and includes, as the context so admits or requires, any one, more, or all of them).

**Operational Key Performance Indicator**

means the Key Performance Indicator related to an operational performance (which includes, but is not limited to, the service provisioning time for new connections, service migration and cessation and single connection fault resolution time).

**Operational KPI**

means Operational Key Performance Indicator.

**Operational Performance**

means the contract performance and contract assurance governance arrangements, as required by Schedule 2.4 (Operational Performance), for the Contract Period, as more particularly described in the Service Requirements and NBPco Solution (and, in particular, Schedule 3.4 (NBPco Solution – Operational Performance)) (and includes, as the context so admits or requires, any part or parts of it).

**Operational Period**

means the period starting upon Achievement of Network Deployment Complete for the first Deployment Area and ending on the Termination Date.

**Operations Support and Readiness**

means business processes, systems and activities used by NBPco to ensure operational readiness in the areas of Fulfilment, Assurance and Billing as more particularly described in the Service

Requirements and NBPco Solution (and, in particular, Paragraph 4.2.1 (Network Performance) of Schedule 3.4 (NBPco Solution – Operational Performance)) (and includes, as the context so admits or requires, any part or parts of it).

**Operations Manual**

means a manual prepared and maintained by NBPco, used to supplement the Reference Offers, which documents the processes and procedures that apply to the operational aspects of the supply of Wholesale Products by NBPco to Service Providers, including but not limited to, deployment planning, order handling, fault management, Incident Management and Billing.

**Operations Support System**

means the system, components and processes used by NBPco to manage Wholesale Products, Services and the Network, which includes components providing support management functions such as network inventory, service provisioning, network configuration and fault management and as more particularly described in the Service Requirements and NBPco Solution (and, in particular, Paragraph 1.6.1 (Operational Environment) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).

**Optical Distribution Frame or ODF**

means a passive device which terminates and Interconnects optical fibres.

**Optical Line Termination**

means a device which serves as NBPco's first point of active aggregation between the End User and the PoH. It is located in an exchange or co-located at the PoH on the Network.

**Order Management and Provisioning System**

means the system used by NBPco to provide order management and provisioning functionality, as more particularly described in the Service Requirements (and, in particular, Schedule 2.1 (Technical Solution Specification)) and NBPco Solution (and, in particular, in Paragraph 1.3.1.1.5 (Order Management and Provisioning

Systems) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).

**Order Management System**

means the system implemented by NBPco to allow Service Providers to order Wholesale Products, to allow for the booking of IA End User installation appointments on behalf of RSPs and to manage the order until completion / delivery, as more particularly described in the Service Requirements (and, in particular, Paragraph 4.4.33 (Service Fulfilment: Order Management and Provisioning Systems) to Paragraph 4.4.40 (Service Fulfilment: Order Management and Provisioning Systems) (inclusive) of Schedule 2.1 (Technical Solution Specification)) and NBPco Solution (and, in particular, Paragraph 1.3.1.1.5 (Order Management and Provisioning Systems) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).

**Original M2 Milestone Dates**

means the respective dates identified at the Effective Date in Table 1: Deployment Milestone Payments, to Appendix 1 (Deployment Milestone Payments) of Schedule 5.1 (Subsidy Payments) of the Project Agreement.

**Original Project Financial Model**

means the Project Financial Model as at the Effective Date.

**OSS**

means Operations Support System.

**OSS/BSS**

is the collective term used to refer to OSS and BSS together (and includes, as the context so admits or requires, either or both of them).

**Other Connection Charges**

means connection charges for a connection other than the initial Connection (such as, for example, where the service was discontinued and a reconnection is required where all of the deployed infrastructure is still in situ and in good working order) with the result that minimal intervention is required in order

to re-establish service and which are more particularly set out in Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) and NBPco's Reference Offers.

**Other NBP Supplier**

means any person appointed by or on behalf of the Minister to provide wholesale products, network and services similar to the Network, Wholesale Products and Services following and arising from any Partial Termination of this Agreement.

**Other Permitted Wholesale Products**

means a Wholesale Product of a type more particularly described, in particular, in Paragraph 3.4 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) and which are more particularly described in the Service Requirements, Wholesale Product Specification, Reference Offer and NBPco Solution (and, in particular, Paragraph 2.4 (Reference Offer(s) for Other Permitted Wholesale Products) of Schedule 3.2 (NBPco Solution – Reference Offer)) (and includes, as the context so admits or requires, any one, more or all of them).

**Outage**

means a period of interruption when a particular Service or Wholesale Product is not available or when Network equipment is unavailable.

**Outage Network Fault**

means a Network Fault condition resulting in an Outage.

**Outcome Description**

has the meaning given to it in Paragraph 1.2.1 (Application) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements).

**[REDACTED]**

**[REDACTED]**

**Outstanding OCPs**

means all OCPs that would, but for the termination of this Agreement, have fallen due for payment after the Termination Date pursuant to the provisions of this



	<p>Agreement on the basis of (only) the Milestones Achieved as at (but not after) the date of issue of the Termination Notice (as provided for in the most recent version of the Project Financial Model as at the date the Termination Notice is issued).</p>
<b>Outstanding Subsidy Payments</b>	<p>means all Subsidy Payments that would, but for the termination of this Agreement, have fallen due for payment after the Termination Date pursuant to the provisions of this Agreement (as provided for in the most recent version of the Project Financial Model as at the date the Termination Notice is issued).</p>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
	<ol style="list-style-type: none"><li>1. <b>[REDACTED]</b></li><li>2. <b>[REDACTED]</b></li><li>3. <b>[REDACTED]</b></li></ol>
<b>Overhead to Underground Transitions</b>	<p>has the meaning given to it in Paragraph 9.5 (Exceptional Cost Circumstances) of Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure).</p>
<b>Overnight</b>	<p>means the period from 00:00 to 06:00.</p>
<b>Ownership Letter</b>	<p>means the letter from David C. McCourt to the Minister dated the same date as the Commencement Date and entitled “Ownership Letter”.</p>
<b>P1 or P1 Milestone</b>	<p>means a P1 type Milestone regarding the Operational Environment as specified as such and as more particularly set out in Paragraph 2.5 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).</p>
<b>P1A.1 OE and P1A.2 OE</b>	<p>are P1 Milestones and have the meaning given to them in Paragraph 2.5.2 (Milestones) of Appendix 3 (Milestone</p>

Achievement Criteria) of Schedule 2.3 (Deployment Requirements).

**P2 or P2 Milestone**

means a P2 type Milestone regarding the Service Provider Engagement Framework as specified as such and as more particularly set out in Paragraph 2.6 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**P3 or P3 Milestone**

means a P2 type Milestone regarding the Detailed Design Complete for (x)% of Premises in the Intervention Area as specified as such and as more particularly set out in Paragraph 2.7 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**P4A.A or P4A.A Milestone**

means a P4 type Milestone regarding the Procurement Complete for Key Subcontractors as specified as such and as more particularly set out in Paragraph 2.8 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**P4A.0 or P4A.0 Milestone**

means a P4 type Milestone regarding Network Deployment Complete for Ramp Up as specified as such and as more particularly set out in Paragraph 2.9 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**P4A or P4A Milestone**

means a P4 type Milestone regarding Network Deployment Complete for (x)% of Premises in the Intervention Area as specified as such and as more particularly set out in Paragraph 2.10 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and

includes, as the context so admits or requires, any one, more or all of them).

**P4B or P4B Milestone**

means a:

- A. P4 type Milestone regarding Detailed Design Complete for prioritised Strategic Community Points as specified as such and as more particularly set out in Paragraph 2.11 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them); or
- B. P4 type Milestone regarding Network Deployment Complete for prioritised Strategic Community Points as specified as such and as more particularly set out in Paragraph 2.12 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**P4C or P4C Milestone**

means a P4 type Milestone regarding Premises Passed for (x)% of Premises in the Intervention Area as specified as such and as more particularly set out in Paragraph 2.13 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**P5 or P5 Milestone**

means a P5 type Milestone regarding Wholesale Products as specified as such and as more particularly set out in Paragraph 2.14 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**P6 or P6 Milestone**

means a P6 type Milestone regarding Premises Connected in Intervention Area as specified as such and as more

particularly set out in Paragraph 2.15 (Milestones) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

<b>Packet Loss</b>	means the failure of one or more transmitted packets to arrive at their destination.
<b>Parliamentary Question</b>	means a question by a TD (Teachta Dála or Deputy to the Dáil) or Senator to a Minister; some of which are selected to be answered in the Dáil, with the remainder receiving written replies.
<b>Part 1 Incorrect Overpayment</b>	has the meaning given to it in Paragraph 9.5 (Disagreement Regarding the Benchmark Reference Price or Wholesale Pricing Rules) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules).
<b>Part 3 Incorrect Overpayment</b>	has the meaning given to it in Paragraph 6.5 (Disagreement Regarding the Benchmark Reference Performance Specification or Wholesale Product Benchmarking Rules) of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).
<b>Part 1 Non-Compliance Overpayment</b>	has the meaning given to it in Paragraph 10.1 (Consequences of Non-Compliance) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules).
<b>Partial Termination</b>	means the termination of this Agreement in respect of some but not all Deployment Areas in accordance with Clause 78.1 (Non-Default Termination).
<b>Partial Termination Date</b>	means the date on which the relevant Partial Termination of this Agreement takes effect in accordance with its terms.

<b>Partial Termination Notice</b>	means a notice issued pursuant to Clause 78.1 (Non-Default Termination).
<b>Participant</b>	means a Service Provider who takes part in, or becomes involved in, the activities of the NBP Industry Council.
<b>Participant Form</b>	means the form which a Service Provider must complete and sign to become a Participant in the NBP Industry Council.
<b>Pass or Passed</b>	means, in respect of a Premises, when Premises Passed is achieved in respect of that Premises.
<b>Passive Access Wholesale Product</b>	means a Wholesale Product provided by NBPCo by means of passive infrastructure in the access section of the Network; namely, Duct Access Product, Pole Access Product Unbundled Fibre Access Product, Dark Fibre Product and Radio Tower and Mast Access Product (and includes as the context so admits or requires, any one, more or all of them).
<b>Passive Backhaul Wholesale Product</b>	means a Wholesale Product provided by NBPCo by means of passive infrastructure in the backhaul section of the Network, namely, Duct Access Product, Pole Access Product and Dark Fibre Product, Radio Tower and Mast Access and Building and Cabin Co-Location (and includes as the context so admits or requires, any one, more or all of them).
<b>Passive Infrastructure Access Agreement</b>	means an agreement with an Infrastructure Access Provider for the provision and making available by the Infrastructure Access Provider of any one or more Third Party Passive Infrastructure products and/or services (and includes, as the context so admits or requires, any one, more or all of them).
<b>Passive PoH</b>	means a PoH to enable Service Providers to InterConnect to passive products such as dark fibre, unbundled access, pole and Duct Access.

<b>Passive Wholesale Product</b>	means a Wholesale Product which does not require any active (i.e. powered) components to be provided.
<b>Passive Wholesale Product Access Request</b>	means a request from a Service Provider to NBPco for access to a Passive Wholesale Product.
<b>Passive Wholesale Product Access Time</b>	means the time period between a Passive Wholesale Product Access Request being made and the request being fulfilled.
<b>PE Test</b>	has the meaning given to it in Paragraph 2.9 (Subsidy Payments) of Schedule 5.1 (Subsidy Payments).
<b>PE Tracker</b>	means the PE Tracker report as described in Paragraph 1.3 (Reports) of Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>Peak Network Link Utilisation</b>	is calculated in accordance with Paragraph 3.1.3 (Network Performance) of Part 2 (Definitions and Measurement) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).
<b>Performance Bond</b>	means, as the context so admits or requires, the Deployment Performance Bond or Expiration Performance Bond or both of them.
<b>Performance Bond Trigger Event</b>	means, with respect to a Performance Bond, any event, circumstance or occurrence that permits the Minister to drawdown on the Performance Bond concerned (and includes, if a Performance Bond is replaced by cash in accordance with Clause 39.3.5 (Performance Bond), any such event, circumstances or occurrence that would permit the Minister to drawdown on the replaced Performance Bond if it was still in force).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
	<b>[REDACTED]</b>
	<b>[REDACTED]</b>

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Performance Credits**

means the sums payable in respect of the failure by NBPco to meet one or more Target Performance Levels as determined in accordance with the provisions of Schedule 5.1 (Subsidy Payments).

**Performance Failure**

means, as the context so admits or requires, either or both a KPI Failure and a PI Failure.

**Performance Indicator**

means, as the context so admits or requires, either or both the Key Performance Indicators and the Subsidiary Performance Indicators.

**Performance Indicator Failure**

means a failure to meet the Target Performance Level in respect of a Subsidiary Performance Indicator.

**Performance Levels**

means the minimum level of performance for a Performance Indicator which is required by the Minister, as set out against the relevant Performance Indicator under the heading “KPI / PI Performance Level” in the tables in Part 1 (Performance Indicators and Performance Level Requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).

**Performance Management System**

means the system, components and processes implemented by NBPco to manage the performance of the Network, Services and Wholesale Products delivered over it, as more particularly described in the Service Requirements and NBPco Solution (and, in particular, Paragraph 4.1 (Operational Performance Management) of Schedule 3.4 (NBPco

	<p>Solution – Operational Performance) (and includes, as the context so admits or requires, any part or parts of it).</p>
<b>Performance Monitoring Report</b>	<p>has the meaning given in Paragraph 2.1 (Performance Monitoring and Performance Review) of Part 2 (Performance Monitoring) of Schedule 6.7 (Performance Levels).</p>
<b>Performance Points</b>	<p>means in relation to a KPI Failure, the points that are set out against the relevant Key Performance Indicator in the sixth column of the table in Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels).</p>
<b>Performance Review Meeting</b>	<p>has the meaning given in Paragraph 2.6 (Performance Monitoring and Performance Review) of Part 2 (Performance Monitoring) of Schedule 6.7 (Performance Levels).</p>
<b>Permitted Discounts Requirements</b>	<p>means that any discounts and rebates in respect of Wholesale Prices proposed by NBPco pursuant to Paragraph 7.1 (Transparency and Non-Discrimination) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) must:</p> <ol style="list-style-type: none"><li>1. for a single level volume discount, be calculated by area appropriately sized, taking account of circumstances in the Intervention Area and network architecture, and be applied equally to all RSPs which, in the area concerned, are willing to purchase at least the volume of lines giving access to the discount;</li><li>2. over an appropriate timeframe, ensure that there is a sufficient margin for RSPs between Wholesale Prices and Retail Prices; and</li><li>3. comply with Law and Legal Requirements including Irish and EU competition law.</li></ol>



**Permitted Expenditure** has the meaning given to it in Paragraph 3.1 (Permitted Expenditure) of Appendix 4 (Costs, Permitted Expenditure and Revenues) of Schedule 5.1 (Subsidy Payments) and excludes Permitted Expenditure WIP.

**Permitted Expenditure Connect** means the Permitted Expenditure to Connect Premises after the Effective Date in the Intervention Area that have not previously been Connected (i.e. Permitted Expenditure relates to the first time a Premise is Connected only).

**Permitted Expenditure Connect WIP** means Capital Expenditure that meets all of the following criteria:

1. the Capital Expenditure is a Project Cost; and
2. the Capital Expenditure is to Connect Premises after the Effective Date in the Intervention Area that have not previously been Connected (i.e. Capital Expenditure relates to the first time a Premise is Connected only); and
3. the Capital Expenditure is in respect of Connections that have been completed but have not, at the relevant point in time, been included in a Connection Milestone Payment Claim; and
4. the Capital Expenditure does not include the costs of any fibre and poles that, at the point in time concerned, are included in Permitted Expenditure Stock.

For the avoidance of doubt, Permitted Expenditure Connect WIP is included for the purposes of the PE Test only and is not Permitted Expenditure.

**Permitted Expenditure DA WIP** means Capital Expenditure that meets all of the following criteria:

1. the Capital Expenditure is a Project Cost; and
2. the Capital Expenditure is to Pass Premises that exist in a Deployment

Area at the time the Network is first deployed in that Deployment Area (i.e. the Premises that existed in that Deployment Area prior to Deployment Area Complete); and

3. the Capital Expenditure is for costs associated with Network Deployment in respect of that Deployment Area; and
4. the Capital Expenditure has been incurred by NBPco or Buildco in respect of a LR Subcontract for a Deployment Area for which the M2 Milestone has not yet been Achieved; and
5. the Capital Expenditure has not been, at the relevant point in time, submitted for verification by the Minister's Representative as eligible and valid Permitted Expenditure Passed (DA) or Permitted Expenditure Passed (Common) in respect of the Achievement of the M2 Milestone for that Deployment Area in accordance with Paragraph 5 (DMPC Supporting Documentation) and Paragraph 5B (General PE Supporting Documentation) of Schedule 5.1 (Subsidy Payments).

For the avoidance of doubt, Permitted Expenditure DA WIP is included for the purposes of the PE Test only and is not Permitted Expenditure.

**Permitted Expenditure NBPco** means the Permitted Expenditure to set up and establish NBPco and Buildco into commercially viable businesses, from the Effective Date to the earlier of: (i) the end of the Quarter when NBPco is first achieving a positive net operating cashflow over any four consecutive Quarters; and (ii) the end of the seventh (7) Contract Year.

**Permitted Expenditure NBPco (Build)** means the amount of the Permitted Expenditure NBPco (if any) that directly relates to, and is required to, Pass the Premises that exist in a Deployment Area at the time the Network is first deployed in

that Deployment Area (i.e. the Premises that existed in that Deployment Area prior to Deployment Area Complete) but which does not fall within the definition of Permitted Expenditure Passed.

**Permitted Expenditure New Premises**

means the Permitted Expenditure to Pass those New Premises in a Deployment Area that are Passed after the M2 Milestone (Deployment Area Complete) Achievement Date for that Deployment Area.

**Permitted Expenditure Passed**

means the Permitted Expenditure relating to Permitted Expenditure Passed (DA), Permitted Expenditure Passed (Common) and Permitted Expenditure Passed (Infra Rental) only.

**Permitted Expenditure Passed (Common)**

means the Permitted Expenditure relating to Network design, Assets and Network Deployment that is common to two or more Deployment Areas and is required to Pass Premises in two or more Deployment Areas at the time the Network is first deployed in those Deployment Areas (i.e. the Premises that existed in those Deployment Areas prior to Deployment Area Complete), provided all such Permitted Expenditure has been verified by the Minister's Representative as eligible and valid Permitted Expenditure in accordance with Paragraph 5B (General PE Supporting Documentation) of Schedule 5.1 (Subsidy Payments). Permitted Expenditure Passed (Common) excludes Permitted Expenditure Passed (DA).

**Permitted Expenditure Passed (DA)**

means the Permitted Expenditure to Pass the Premises that exist in an individual Deployment Area (including Deferred Premises) at the time the Network is first deployed in that Deployment Area (i.e. the Premises that existed in that Deployment Area prior to Deployment Area Complete), including costs associated with Network design, Assets and Network Deployment in respect of that Deployment Area, provided all such Permitted Expenditure has been verified by the Minister's Representative as eligible and valid Permitted Expenditure

that directly relates to the Achievement of the M2 Milestone for that Deployment Area in accordance with Paragraph 5 (DMPC Supporting Documentation) of Schedule 5.1 (Subsidy Payments). Permitted Expenditure Passed (DA) excludes Permitted Expenditure Passed (Common).

**Permitted Expenditure Passed (Infra Rental)**

means the Permitted Expenditure relating to Infrastructure Access Costs during the Contract Period.

**Permitted Expenditure Stock**

means, at a point in time, the then current aggregate value of the fibre and poles held as stock by NBPco and Buildco, but excluding the costs of any fibre and poles that, at the point in time concerned, have been verified or submitted for verification by the Minister's Representative as eligible and valid:

1. Permitted Expenditure Passed (DA) in accordance with Paragraph 5 (DMPC Supporting Documentation); or
2. Permitted Expenditure Passed (Common) in accordance with Paragraph 5B (General PE Supporting Documentation); or
3. Permitted Expenditure Connect in accordance with Paragraph 7C (CMPC Supporting Documentation);

of Schedule 5.1 (Subsidy Payments). The then current aggregate value of such stock shall be calculated based on the total cost paid by NBPco or Buildco (as applicable) for the fibre and poles at the time payment was made to the supplier (i.e. not Buildco) in accordance with the terms of the relevant E&M Subcontract.

For the avoidance of doubt, Permitted Expenditure Stock is included for the purposes of the PE Test only and is not Permitted Expenditure.

**Permitted Expenditure WIP**

means Permitted Expenditure DA WIP, Permitted Expenditure Connect WIP and Permitted Expenditure Stock only. For

the avoidance of doubt, Permitted Expenditure WIP is included for the purposes of the PE Test only and is not Permitted Expenditure.

**Permitted Maintenance**

has the meaning given in Paragraph 4.1 (Permitted Maintenance) of Part 1 (Performance Indicators and Performance Credits) of Schedule 6.7 (Performance Levels).

**Permitted Upper Price Limit**

means the maximum price from time to time which NBPco is allowed to charge for the Wholesale Products in accordance with the Wholesale Product and Price Rules.

**Persistent Buildco Specific Default Warning Notice**

means a notice issued pursuant to Paragraph 2.1 (Persistent Buildco Specific Default) of Part 1 (Persistent Default) of Schedule 6.8 (Persistent Defaults and Remedial Plan Process).

**[REDACTED]**

**[REDACTED]**

1. **[REDACTED]**

2. **[REDACTED]**

**[REDACTED]**

**Persistent Default Notice**

means a notice issued pursuant to Paragraph 1.1 (Persistent Default) of Part 1 (Persistent Default) of Schedule 6.8 (Persistent Defaults and Remedial Plan Process) or a notice issued pursuant to Paragraph 2.2 (Persistent Buildco Specific Default) of Part 1 (Persistent Default) of Schedule 6.8 (Persistent Defaults and Remedial Plan Process).

**Persistent PI Failure**

has the meaning given to it in respect of KPI 17 in Table 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels).

<b>Person Week</b>	means the number of NBPco Personnel (including those of its Subcontractors) who are employed to implement, perform and provide the Services and the Network each week commencing on the Commencement Date and ending on the earlier of the Expiry Date or the Termination Date.
<b>PI</b>	means Performance Indicator.
<b>PI Failure</b>	means Performance Indicator Failure.
<b>PI Insurance</b>	has the meaning given to it in Clause 69.16.1 (Required Insurance).
<b>PI Performance Level</b>	means the Performance Level set out against the relevant Subsidiary Performance Indicator under the heading “KPI / PI Performance Level” in the table in Part 1 (Performance Indicators and Performance Level Requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).
<b>PI Performance Level that is applicable at the start of the Measurement Period</b>	has the meaning given to it in Paragraph 1.2.2 (Introduction) of Part 1 (Performance Indicators and Performance Level requirements) of Appendix 1 (Performance Level Requirements) Schedule 2.4 (Operational Performance) and “PI Performance Level for the relevant Wholesale Product at the start of the Measurement Period” is construed accordingly.
<b>PI Performance Level for the relevant Wholesale Product at the start of the Measurement Period</b>	is construed in the manner set out in the definition of PI Performance Level that is applicable at the start of the Measurement Period.
<b>PI Performance Threshold</b>	is as set out against the relevant Subsidiary Performance Indicator in the fifth column of Table 2 (Subsidiary Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and

Balanced Scorecard) of Schedule 6.7  
(Performance Levels).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**PoH**

means Point of Hand Over.

**Point of Hand Over**

means the point at which NBPco hands over the conveyance of a Wholesale Product to the Service Provider so that the Service Provider is then able to use a number of connection options to Connect PoH to its own network.

**Point to Point**

means a network topology which consists in using dedicated medium (such as dedicated wireless / fibre) to connect WCPE to the active equipment located in the first active aggregation point.

**Point-to-Multipoint architecture**

means an Access Network architecture where a single port at the Network end of the Access Network serves multiple End Users.

**Points of Presence**

is used in the context of a Service Provider's network to designate the point of InterConnection to its own network.

**Pole Access Product**

means the provisioning of space in NBPco's pole network (and associated ancillary products and services) to enable Service Providers to deploy Service Provider Infrastructure through NBPco's pole network.

**Pollution Prevention Programme**

means a programme of measures to examine and assess the environmental pollution risks associated with Construction Activity and Works along with the necessary controls to be put in place to prevent the risks occurring.

**PoP**

means a point of presence, where a Service Provider stores its equipment.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<b>Postcode Management Licence Holder</b>	means the person appointed by the Minister to design, realise, verify, disseminate, operate and maintain the Irish postcodes system.
<b>PQ</b>	means Parliamentary Questions.
<b>Pre-Order</b>	has the meaning given to it in Paragraph 7.2.12 (Service Provider Engagement Framework - Requirements) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Pre-Approved Change</b>	has the meaning given to it in Paragraph 1.4 (General Principles) of Appendix 3 (Wholesale Price Control Procedure and Wholesale Product Control Procedure) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules).
<b>Pre-Ordered Connection Request</b>	has the meaning given to it in Paragraph 7.2.14 (Service Provider Engagement Framework - Requirements) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Pre-Procurement Design</b>	has the meaning given to it in Paragraph 1.4.13 (Introduction and Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Preferred Supplier Recommendation</b>	has the meaning given to it in Paragraph 1.4.11 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Preliminary Procurement Information</b>	has the meaning given to it in Paragraph 1.4.12 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Premises</b>	means, at a point in time: <ol style="list-style-type: none"><li>1. all buildings (whether a business premises, residence or other building) in the Intervention Area that have a corresponding Eircode in the Premises Database (as amended or</li></ol>



should have been amended from time to time in accordance with this Agreement); and/or

2. all Strategic Community Points that are included in the Premises Database (as amended or should have been amended from time to time in accordance with this Agreement),

and includes, as the context so admits, or requires, any one, more or all of such buildings and Strategic Community Points.

**Premises Categories**

comprises residential Premises, commercial Premises and residential and commercial Premises (as categorised in the GeoDirectory data).

**Premises Connected**

means when a Wholesale Product is available at a Premises that is Passed and where the WCPE is installed, tested and commissioned and is able to carry live traffic and which requires, in particular:

1. in the case of a wireline network, that a fixed drop cable infrastructure has been deployed between the WCPE in the End User's Premises and the optical distribution point (the ODP) on the Pass Network; and
2. in the case of a point to point or point to multipoint wireless network, that a fixed wireless external antenna has been deployed at End User's Premises and that a WCPE has been deployed in the End User's Premises.

**Premises Connected Actual Cost**

means the costs incurred for Equipment and/or Labour to Connect a Premise to the Network excluding any costs to Pass that Premise.

**Premises Connection Request**

means a request to NBPco from a Service Provider to Connect a Premises.

**Premises Database**

means, at a point in time, the up-to-date database of the complete list of all Premises located within the Intervention Area from time to time that is developed, managed and maintained by NBPCo in accordance with Paragraphs 4.3.36 (Operational Environment Requirements) to 4.3.40 (Operational Environment Requirements) (inclusive) of Schedule 2.1 (Technical Solution Specification) and Paragraph 9.5 (Product Management) of Schedule 2.4 (Operational Performance) and the NBPCo Solution (and, in particular, Paragraph 1.4.1.1.2 (Premises Database) of Schedule 3.1 (NBPCo Solution – Technical Solution)) and includes, as the context so admits or requires, any part or parts of it.

**Premises Passed**

means:

1. for a wireline network, when a Premises for which the wireline network has a distribution point is sufficiently close to that Premises such that the Minimum Bitstream Wholesale Product can be provisioned for that Premises within the service provisioning targets outlined in Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) and at the Connection Charge; and
2. for a wireless network, when a Premises for which the wireless network has sufficient signal quality for that Premises such that the Minimum Bitstream Wholesale Product can be provisioned for that Premises within the service provisioning targets outlined in Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) at the Connection Charge.

**Premises Passed Map**

has the meaning given to it in Paragraph 1.1.2 (Criteria for Premises Passed) in Appendix 4 (Criteria for Premises Passed) of Schedule 2.3 (Deployment Requirements).

<b>Preventative Maintenance Programme</b>	means the programme prepared, maintained and implemented by NBPco which sets out the planned preventative maintenance activities which shall be used by NBPco to lessen the likelihood of failures occurring in the Network.
<b>Primary Accounting Documentation</b>	means those documents containing the information set out at Paragraphs 6.3 (Accounting Documentation) and 6.6 (Accounting Documentation) of Schedule 5.5 (Accounting Separation).
<b>Priority 1 Strategic Community Point</b>	means the priority 1 strategic community points more particularly identified in the relevant part of Appendix 2 (Strategic Community points for Lot C) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Priority 2 Strategic Community Point</b>	means the priority 2 strategic community points more particularly identified in the relevant part of Appendix 2 (Strategic Community Points for Lot C) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Priority 3 Strategic Community Point</b>	means the priority 3 strategic community points more particularly identified in the relevant part of Appendix 2 (Strategic Community Points for Lot C) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Priority 1 Strategic Community Points Intervention Area Deferred SCP Threshold</b>	means the maximum number of Priority 1 Strategic Community Points permitted in Intervention Area to be deferred at any time, which shall at no point exceed five (5) Priority 1 Strategic Community Points.
<b>Priority 2 Strategic Community Points Intervention Area Deferred SCP Threshold</b>	means the maximum number of Priority 2 Strategic Community Points permitted in Intervention Area to be deferred at any time, which shall at no point exceed five (5) Priority 2 Strategic Community Points.
<b>Priority 3 Strategic Community Points</b>	means the maximum number of Priority 3 Strategic Community Points permitted in Intervention Area to be deferred at any

<b>Intervention Area Deferred SCP Threshold</b>	time, which shall at no point exceed five (5) Priority 3 Strategic Community Points.
<b>Pro-Forma Survey</b>	has the meaning given to it in Paragraph 4.2 (Surveys) of Part 4 (Initial Standard Connections and Initial Non-Standard Connections) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).
<b>Proceeds of Sale Provisions</b>	mean the provisions in the Shareholders Agreement which give effect to the requirements of Paragraph 1.1.4 (Shareholder Agreement Provisions) of Appendix 3 (Shareholders Agreement Provisions) of Schedule 2.7 (NBPCo Requirements) and which, as at the Commencement Date, are set out in clause 13.3 of the Shareholders Agreement.
<b>Procurement Board</b>	has the meaning given to it in Paragraph 1.4.14 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Procurement Complete</b>	means the Achievement of the P4A.A Milestone in accordance with Paragraph 2.8.2 (Milestones) of Schedule 2.3 (Deployment Requirements).
<b>Procurement Documentation</b>	has the meaning given to it in Paragraph 1.4.15 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Procurement Process</b>	has the meaning given to it in Paragraph 1.4.16 (Introduction & Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).
<b>Product Development Process</b>	means the process that NBPCo uses to manage the development and delivery of New Wholesale Products, or changes to existing Wholesale Products, as more particularly described in Appendix 2 (Statement of Requirements and Product Development Processes) of Schedule 2.4 (Operational Performance) and the Service Requirements (and includes, as

	the context so admits or requires, any part or parts of it).
<b>Product Key Performance Indicator</b>	means the parameter associated with the technical performance of a Wholesale Product including delay, Jitter, Packet Loss, Upload Speed and Download Speed.
<b>Product KPI</b>	means Product Key Performance Indicator.
<b>Product Launch</b>	means the set of processes that shall be established by NBPco prior to the launch of each Wholesale Product and which processes NBPco needs to fulfil to satisfy its obligations set out in the relevant Reference Offer.
<b>Programme Level Milestones</b>	means each and all of the Milestones referred to in Paragraph 5.2.2 (Implementation Programme – Requirements) and set out in Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them or any new Programme Level Milestones introduced in respect of a Change pursuant to a Change Authorisation).
<b>Programme Management Team</b>	means the collection of sub-teams responsible for conducting the day to day management and governance of this Agreement.
<b>Prohibited Act</b>	means any of the following: <ol style="list-style-type: none"><li>1. offering, promising, giving or agreeing to give to any person a financial or other advantage, gift or consideration of any kind as an inducement or reward for doing or for having done or forborne to do or done any act in relation to the obtaining, execution or performance of this Agreement or for showing or forbearing to show favour or disfavour to any person in relation to this Agreement or any other agreement with the Minister; or</li></ol>

2. entering into any agreement (including this Agreement) with the Minister in connection with which commission has been paid or agreed to be paid by NBPco or on its behalf, or to its knowledge, unless before such agreement is entered into particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Minister;
3. defrauding or attempting to defraud or conspiring to defraud the Minister; and/or
4. committing any offence:
  - (a) under the Anti-Bribery Laws;
  - (b) under legislation creating offences concerning fraudulent acts;
  - (c) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Minister.

**Project**

means the project described in the Recitals and Service Requirements with respect to the Intervention Area and includes the provision of the Services, Wholesale Products and Network and all other obligations of NBPco under this Agreement during the Contract Term and the financing of such activities (and includes any part or parts of it).

**Project Accounts**

means the summary financial records to be maintained by NBPco and Critical Key Subcontractors in respect of this Agreement, as described in Paragraph 11 (Project Accounts and Financial Records) of Schedule 5.1 (Subsidy Payments) and Paragraph 3 (Project Accounts) of Appendix 5 (Reports) of Schedule 5.1 (Subsidy Payments) (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Project Agreement USB**

means the encrypted USB storage device entitled “*Project Agreement USB*” containing certain Schedules, Appendices and Annexes to the Agreement including:

1. Appendix 1 (Premises Database for Lot C) of Schedule 2.3 (Deployment Requirements);
2. Appendix 2 (Strategic Community Points for Lot C) of Schedule 2.3 (Deployment Requirements);
3. the documents listed in Table 2 of Schedule 3.1 (NBPco Solution – Technical Solution);
4. the documents listed in Table 2 of Schedule 3.2 (NBPco Solution – Reference Offer);
5. the documents listed in Table 2 of Schedule 3.3 (NBPco Solution - Speed of Deployment and Environment);
6. the documents listed in Table 2 of Schedule 3.4 (NBPco Solution – Operational Performance);
7. the documents listed in Table 2 of Schedule 3.5 (NBPco Solution - Wholesale Prices, Wholesale Pricing Rules and Wholesale Product Benchmarking Rules);
8. the documents listed in Table 2 of Schedule 3.6 (NBPco Solution – Communications, Demand Stimulation and Brand Plan);
9. the document entitled “*Appendix\_C3\_D\_Structure*” as provided for in Schedule 3.7 (NBPco Solution – NBPco Requirements);
10. Annex 6A (Form of Duct Mix Report) of Schedule 6.2 (Change Control Procedure);

11. Annex 6B (Form of New Infrastructure Mix Report) of Schedule 6.2 (Change Control Procedure);
12. Part 2 of Annex 6C (Worked Examples) of Schedule 6.2 (Change Control Procedure); and
13. Annex 7A (Map Change Cost Comparison Spreadsheet) of Schedule 6.2 (Change Control Procedure),

the covering of which has been initialled on behalf of each Party for the purpose of identification.

**Project Archaeologist**

means a person with the appropriate qualifications, skills, and experience in archaeology or another relevant discipline to advise NBPco in relation to the treatment, examination, handling and removal of, and appropriate practices for working in the vicinity of, Monuments, Antiquities and Archaeological Objects in accordance with Best Industry Practice.

**Project Capital Expenditure**

means Capital Expenditure that is a Project Cost and is directly related to the deployment of the Network that is required to Pass the Premises in the Intervention Area during the Deployment Period.

**[REDACTED]**

**[REDACTED]**

1. **[REDACTED]**
2. **[REDACTED]**
3. **[REDACTED]**
4. **[REDACTED]**

**[REDACTED]**

**Project Costs**

has the meaning given to it in Paragraph 1 (NBPco Costs and Project Costs) of Appendix 4 (Costs, Permitted Expenditure and Revenues) to Schedule 5.1 (Subsidy Payments).



<b>Project Cost Model</b>	means the Project Cost Model which presents, on a transparent basis, the calculation of the Network related capital and operating costs for the Project and which is an input to the Project Financial Model, as may be revised and substituted from time to time in accordance with Paragraph 3 (Management of Changes to the Project Financial Model and Project Cost Model) of Schedule 5.3 (The Project Financial Model).
<b>Project Documents</b>	means the documents specified in Part 2 (Project Documents) of Schedule 9 (Required Documents) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Project Financial Model</b>	means NBPco's financial model (including the Project Cost Model and the Project Price Book and the assumptions and methodologies that have been agreed between the Parties as at the Effective Date to compute various amounts) for this Agreement, which as at the Effective Date is set out in Appendix 1 (The Project Financial Model) of Schedule 5.3 (The Project Financial Model), as may be revised and substituted from time to time in accordance with Paragraph 3 (Management of Changes to the Project Financial Model and the Project Cost Model) of Schedule 5.3 (The Project Financial Model).
<b>Project Information Memorandum</b>	mean the project information memorandum published by the Department in respect of the National Broadband Plan: State Led Intervention.
<b>Project Lifecycle Expenditure</b>	means Capital Expenditure that is a Project Cost and is directly related to the replacement, renewal, upgrading or maintenance of the Network during the Contract Period.
<b>Project Operational Expenditure</b>	means operating expenditure that is a Project Cost (but not a Project Overhead Cost) and is directly related to Infrastructure Access Costs, the operation of the Network, the provision of the Wholesale Products or the provision

of the Services during the Contract Period.

**Project Overhead Costs**

means those Project Costs that relate to NBPCo's costs of financing (including interest charges) and any corporate overheads that may be allocated and charged to NBPCo but which were not initially and directly borne by NBPCo.

**Project Plan**

means, as the context so admits or requires, any one, more or all of the following:

1. Wholesale Products Launch Project Plan;
2. Deployment Area Project Plan;
3. Operational Environment Project Plan;
4. Network Deployment Plan;
5. Service Provider Engagement Framework Project Plan; and
6. Demand Stimulation Project Plan.

(and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Project Plan Milestones**

means the:

1. Operational Environment Project Plan Milestones;
2. the Service Provider Engagement Framework Project Plan Milestones;
3. the Network Deployment Plan Milestones;
4. the Wholesale Products Launch Project Plan Milestones; and
5. the Demand Stimulation Project Plan Milestones,

(and includes, as the context so admits or requires, any one, more or all of them).

<b>Project Price Book</b>	means the Project Price Book which is required to comply, in particular, with Paragraph 3 of Appendix 6 (Project Financial Model Requirements) of Schedule 5.3 (The Project Financial Model) and which is an input to the Project Financial Model and, as may be revised and substituted from time to time in accordance with Paragraph 3 (Management of Changes to the Project Financial Model and Project Cost Model) of Schedule 5.3 (The Project Financial Model).
<b>Project Revenues</b>	has the meaning given to it in Paragraph 6 (NBPco Revenues and Project Revenues) of Appendix 4 (Costs, Permitted Expenditure and Revenues) of Schedule 5.1 (Subsidy Payments).
<b>Project Specific IPR</b>	means: <ol style="list-style-type: none"><li>1. IPR in items or works created by NBPco (or a Subcontractor or third party on behalf of NBPco) for the purposes of this Agreement and updates and amendments of such items or works; and/or</li><li>2. IPR arising as a result of the performance of NBPco's obligations under this Agreement.</li></ol>
<b>Project Supervisor for the Construction Stage</b>	has the meaning given to it in the Construction Regulations.
<b>Project Supervisor for the Design Stage</b>	has the meaning given to it in the Construction Regulations.
<b>Property Damage Insurance</b>	means a property damage insurance policy which provides "all risks" cover for the assets which are the property of NBPco and/or Buildco or for which they are responsible under the provisions of this Agreement (including the Network) and which complies with the requirements of this Agreement.
<b>Protestor</b>	has the meaning given to it in Paragraph 1.1 (Relief Events) of Schedule 4 (Relief Events).

<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Provisioning Time</b>	means the time taken by NBPco to Connect an End User Premises.
<b>Public Portal</b>	has the meaning given to it in Paragraph 4.5 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification), the Service Requirements and NBPco Solution (and, in particular, Paragraph 1.4.3 (Public Portal) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).
<b>Public Service Body</b>	has the meaning given to it in section 7 of the Regulation of Lobbying Act 2015.
<b>Publicity Material</b>	means all material released by or on behalf of NBPco, including advertising and promotional material, for public or industry dissemination in relation to the activities of NBPco or in connection with the Project, Services, Network and/or Wholesale Products.
<b>QMI</b>	means Quarterly Management Information.
<b>QMI Category</b>	means a category of Quarterly Management Information as listed in Appendix 4 (Quarterly Management Information) of Schedule 6.7 (Performance Levels).
<b>Quadrant</b>	has the meaning given to it in Paragraph 1.1 (Balanced Scorecard Report) of Part 3 (Balanced Scorecard) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels).
<b>Qualifying Change in Law</b>	means a Change in Law the terms of which apply expressly to:  <ol style="list-style-type: none"><li>1. only the Project and not to similar projects, Services, Wholesale Products or Networks; or</li><li>2. NBPco and not to other persons,</li></ol>

and which comes into effect after the Effective Date and would not have been foreseeable at the Effective Date by an experienced and prudent supplier or service provider active in the Irish electronic communications market and industry (adhering to Best Industry Practice).

<b>Quality of Service (QoS)</b>	means a method for managing multiple types of traffic over a packet network by giving certain traffic types priority over others.
<b>Quarter or Quarterly</b>	means each three (3) month period during the Contract Period from the first day of the first Contract Year onwards with four (4) Quarters in each twelve (12) month period.
<b>Quarterly Management Information</b>	means the reports listed in Appendix 4 (Quarterly Management Information) of Schedule 6.7 (Performance Levels).
<b>RACM (Risk and Control Matrix)</b>	means the tool used by NBPco to identify, rank, and implement control measures to mitigate risks, which serves as a record of the organisation's risk profile and measures the organisation's risks against the formalised actions taken to prevent them from occurring.
<b>Radio Tower and Mast Access</b>	means the provisioning of space on NBPco's radio tower and/or mast for a Service Provider to allow the Service Provider to deploy its own radio equipment on NBPco's infrastructure.
<b>Radio Tower and Mast Access Product</b>	means a product offered by NBPco that provides the Service Provider with access to NBPco's tower and mast infrastructure to deploy its own radio equipment, including antennas, feeders, access points and microwave equipment.
<b>Ramp Up Phase</b>	means the initial phase of the Network Deployment in which NBPco plans and commences execution of Network Deployment in accordance with Paragraphs 5.1.2 (Implementation Programme – Requirements) to 5.1.5

(Implementation Programme – Requirements) (inclusive) of Schedule 2.3 (Deployment Requirements) and completes the requirements of the P4A.0 Milestone.

**[REDACTED]**

**[REDACTED]**

**Rating Agencies**

means the rating agencies listed in Appendix 1 (Rating Agencies) of Schedule 5.7 (Financial Distress) (and includes, as the context so admits or requires, either or both of them).

**Record of Monuments and Places**

means the record of monuments and places established under section 12 of the National Monuments (Amendment) Act 1994 (as amended).

**Rectifiable NBPco Termination Event**

means only the NBPco Termination Events expressly identified in Clause 76.2.2 (Termination by Minister for NBPco Termination Event).

**Rectification Programme**

has the meaning given to it in Clause 76.2.2(A) (Termination by Minister for NBPco Termination Event).

**Reference Download Speed Sample**

is calculated in accordance with Paragraph 1.1 of Part 3 (Product Performance Level Calculations) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).

**Reference Offer**

means, in respect of each Wholesale Product, the reference offer published on the Public Portal by NBPco in respect of the Wholesale Product concerned in accordance with this Agreement, particularly Paragraph 3.2 (Governance) of Schedule 2.2 (Reference Offer Requirements) (and in accordance with which NBPco shall provide the Wholesale Product to Service Providers), comprising the following components as a minimum for each Wholesale Product:

1. Wholesale Product Specifications;
2. Wholesale Product availability timing;

3. operational processes for Service Providers to manage the lifecycle of the Wholesale Product;
4. Wholesale Price; and
5. Service Provider Terms for the Wholesale Product,

the Approved Form of which shall be subject to the Minister's written approval (not to be unreasonably withheld or delayed) following the Commencement Date but prior to them becoming effective or published, as may only be amended by Change Authorisation from time to time (and includes, as the context so admits or requires, the Reference Offer for any, some or all Wholesale Products and any part or part of any, some or all Reference Offers).

### **Refinancing**

means:

- (a) any agreement, variation, novation, supplement or replacement of any Funding Document;
- (b) the exercise of any right, or the grant of any waiver or consent under or the failure to enforce any Funding Document or the termination of any Funding Document;
- (c) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, the Funding Documents or the creation or granting of any other form of benefit or interest in either the Funding Documents or the contracts, revenues or assets of NBPCo whether by way of security or otherwise;
- (d) the raising, issuance or incurrence of any credit facilities, debt securities, private placement or other financing of any description to repay, replace (in full or in part) or supplement the

financing provided for in the Funding Documents from a third party (excluding, for clarity, from any Associated Company); and/or

- (d) any other arrangement put in place by NBPCo or another person which has an effect similar to any of (a)-(d) above or which has the effect of limiting NBPCo's or any Associated Company's ability to carry out any of (a)-(d) above.

<b>Refinancing Notice</b>	has the meaning given to it in Clause 44.12A.4 (Project Documents and Funding Documents).
<b>Refinancing Lock-In Period</b>	means a period of twenty four (24) months starting on the Effective Date.
<b>Refined Detailed Design</b>	has the meaning given to it in Paragraph 8.2.23 (Network Deployment - Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Register of Historic Monuments</b>	means the register of historic monuments established under section 5 of the National Monuments (Amendment) Act 1987 (as amended).
<b>Regulated Entity</b>	means, at a point in time, an Authorised Undertaking that, specifically by virtue of its power on the market, is or can be required by the Regulator (or Law) to comply with or adhere to particular conditions, requirements or similar set (or which may be set) by the Regulator (or Law) in relation to the price and/or product and service performance specification, performance levels and/or other requirements and characteristics of (or other matters related to) an electronic communications product, network or service made available (or required by the Regulator or Law to be made available) by the Authorised Undertaking concerned (and the Regulated Entity, as at the Commencement Date is eircom Limited).
<b>Regulated Price</b>	means, at a point in time, the wholesale fixed price or price cap or ceiling (in euro)



(in respect of any one off and/or recurring components) imposed by the Regulator under Regulation on the Regulated Entity with respect to the relevant Benchmark Reference Product and that is applicable in the Excluded Area (or part or parts of it) at the relevant point in time (and includes, as the context so admits or requires, any one, more or all of them or any one off or recurring components of any one, more or all of them).

**Regulated Specification**

means, at a point in time, the wholesale product and service performance specification, performance levels and other requirements and characteristics, imposed by the Regulator under Regulation on the Regulated Entity with respect to the relevant Benchmark Reference Product and that is applicable in the Excluded Area (or part or parts of it) at the relevant point in time (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Regulation or Regulated**

means where, specifically by virtue of its power on the market, a Regulated Entity is (or can be) required by the Regulator under the Electronic Communications Framework to comply with or adhere to particular conditions, requirements or similar set (or which may be set) by the Regulator (or Law) such as the imposition of a Regulated Price or Regulated Specification for (or other matters related to) an electronic communications product, network or service made available (or required by the Regulator or Law to be made available) by the Authorised Undertaking concerned.

**Regulator**

means the body responsible for regulating the Irish electronic communications market from time to time, which at the Commencement Date is the Commission for Communications Regulation.

**Regulatory Bodies**

means those Government departments and Irish and EU regulatory (including the Regulator), statutory and other entities,

committees and bodies (excluding the Minister and its Department) which, under Law, are entitled to regulate, investigate, audit, monitor or influence the matters dealt with in this Agreement (including the provision by NBPco and financing by NBPco and/or the Minister of the Services, Network and Wholesale Products) or any affairs of the Minister (which shall include anybody required to perform any annual statutory financial audit or any value for money (VfM) audit of the Minister and any successor body) and "**Regulatory Body**" is construed accordingly.

**Regulatory Decision**

means a decision by the Regulator, under the Electronic Communications Framework, requiring NBPco to comply with or adhere to particular conditions or requirements in relation to:

1. access to;
2. the price of; and/or
3. the product and service performance specification, performance levels and/or other requirements and characteristics of,

an electronic communications product, network or service in the Intervention Area (and which, for clarity, excludes a USO Decision).

**Reinstatement Plan**

has the meaning given to it in Clause 69.13.1 (Required Insurance).

**Reinstatement Works**

has the meaning given to it in Clause 69.13.1 (Required Insurance).

**related Deployment Area**

has the meaning given to it in Paragraph 6.2.4 (A - Subcontractor Labour Rates) of Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure).

**Related End User Fault**

means an End User Fault which is not the result of a separate Service Fault, occurring after the original End User Fault has been repaired.

<b>Related Entity</b>	has the meaning given to it in Paragraph 4.1.5 (New Infrastructure in the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).
<b>Related Third Party</b>	means a person which is a party to another contract with the Minister or NBPco or Buildco which is relevant to this Agreement or is otherwise considered by the Minister to be a “Related Third Party” for the purposes of a Dispute.
<b>Release Date</b>	has the meaning given to it in Paragraph 17.5 (Retention) of Part 6 (General) of Schedule 6.9 (Consequences of Termination).
<b>Relevant Codes and Standards</b>	has the meaning given to it in Paragraph 5.1.7 (Future Proofing – Wholesale Network) of Part 1 (Service, Network and Wholesale Future Proofing) of Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing).
<b>Relevant Competition Authority</b>	means, as the case may be, the Competition and Consumer Protection Commission, the Regulator and/or the European Commission.
<b>Relevant Conviction</b>	means a Conviction that is relevant to the nature of the Network, Wholesale Products and/or the Services to be provided and includes any fraud, dishonesty, violence or sexual offence.
<b>relevant Delayed Deployment Payment Milestone</b>	has the meaning given to it in Paragraph 8.6 (Ongoing Capital Payments) of Schedule 5.1 (Subsidy Payments).
<b>Relevant Deployment Area</b>	has, for the purposes of Annex 5 (Post Build Contract Assumptions) of Schedule 6.2 (Change Control Procedure), the meaning given to it in Paragraph 2.2.2 (Transition from Copper to Fibre) of Annex 5 (Post Build Contract Assumptions) of Schedule 6.2 (Change Control Procedure).
<b>Relevant Duct Deployment Area</b>	has the meaning given to it in Paragraph 7.2.2 (Duct Blockages) of Annex 6 (Build Related Contract Assumptions) of

	Schedule 6.2 (Change Control Procedure).
<b>Relevant Event</b>	means: <ul style="list-style-type: none"><li>a) a Compensation Event pursuant to Clause 31 (Compensation Events);</li><li>b) a Qualifying Change in Law pursuant to Clause 25 (Changes in Law);</li><li>c) a Change pursuant to Schedule 6.2 (Change Control Procedure) (unless the relevant provision provides that all or part of any principles applicable to a “<i>Relevant Event</i>” do not apply to it, including in respect of the non-application of the equivalence principle in Clause 1.4 (Definitions and Interpretation));</li><li>d) any other matter in respect of which this Agreement provides that there may be an increase in Subsidy Payments in accordance with this Agreement (unless the relevant provision provides that all or part of any principles applicable to a “<i>Relevant Event</i>” do not apply to it, including in respect of the non-application of the equivalence principle in Clause 1.4 (Definitions and Interpretation)).</li></ul>
<b>Relevant Incident</b>	has the meaning given to it in Clause 69.13 (Required Insurance).
<b>Relevant Insurances</b>	has the meaning given to it in Paragraph 3.6 (Change to Insurances) of Annex 5 (Post Build Contract Assumptions) of Schedule 6.2 (Change Control Procedure).
<b>Relevant Person</b>	means NBPco, each Shareholder, Buildco, each Buildco Shareholder and each of the persons through whom a direct or indirect interest in any of NBPco,

	each Shareholder, Buildco and each Buildco Shareholder are held.
<b>Relevant Proceeds</b>	has the meaning given to it in Clause 69.13.2(B) (Required Insurance).
<b>Relevant Proportion</b>	means thirty percent (30%).
<b>Relevant Requirements</b>	means all applicable Law relating to Prohibited Acts.
<b>Relevant Trainee</b>	has the meaning given to it in Clause 8.5 (Policy Objectives).
<b>relevant Tree Trimming Deployment Area</b>	has the meaning given to it in Paragraph 10.2.2 (Tree Trimming) of Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Relevant Worker</b>	has the meaning given to it in Clause 8.4 (Policy Objectives).
<b>Relevant M3 Deployment Areas</b>	means those Deployment Areas for which the M3 Milestone has been Achieved at the relevant Deployment Contract Viability Check Date.
<b>Relief Event</b>	has the meaning given to it in Paragraph 1.2 (Relief Events) of Schedule 4 (Relief Events).
<b>Relief Notice</b>	means a notice issued by NBPco pursuant to Clause 18 (Relief Event).
<b>Relief End Date</b>	means the relevant date set out in column 2 of the table in Annex 1 (Relevant 2021 Milestone Dates) of Appendix 1 (Deployment Milestone Payments) of Schedule 5.1 (Subsidy Payments).
<b>Remaining Intervention Area</b>	has the meaning given to it in Paragraph 7.2 (Subsidy Increase for Reductions to the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).
<b>Remedial Plan</b>	means a plan to address the impact of, and prevent the reoccurrence of, a Notifiable Event and, where the Notifiable Event is a Delay or a reasonably likely

Delay, to eliminate or mitigate the consequences of the Delay or reasonably likely Delay (and any loss or damage resulting from a Notifiable Event, Delay or reasonably likely Delay) (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

<b>Remedial Plan Process</b>	means the process set out in Paragraphs 1 (Notification) to Paragraph 7 (Review in the Event of Material KPI Failure) (inclusive) of Part 2 (Remedial Plan Process) of Schedule 6.8 (Persistent Defaults and Remedial Plan Process).
<b>Remuneration Committee</b>	has the meaning given to it in Paragraph 6.11 (Board of Directors of NBPco) of Schedule 2.7 (NBPco Requirements).
<b>Repeat KPI Failure</b>	has the meaning given to it in Paragraph 3.1 (Repeat KPI Failures) of Part 1 (Performance Indicators and Performance Credits) of Schedule 6.7 (Performance Levels).
<b>Repeat Requests</b>	has the meaning give to it in Paragraph 4.19.1 (Handover Information and Due Diligence) of Part 5 (Change in Ownership and Asset Transfer) of Schedule 6.9 (Consequences of Termination).
<b>Reporting Period</b>	means the period to which the information provided in a Report relates or is to relate, as set out in Paragraph 1.3 (Reports) of Appendix 1 (Reports) of Schedule 6.5 (Reports and Records), which shall be Quarterly unless otherwise stated in respect of a particular Report.
<b>Reporting Systems</b>	means the systems described in Paragraph 4.3.41 of Schedule 2.1 (Technical Solution Specification) and NBPco Solution and, in particular, in Paragraph 1.2 (Universal Wholesale Gateway), Paragraph 1.3 (OSS/BSS Systems), Paragraph 1.4 (Electronic Network Maps, Public Portal and Secure Portal), Paragraph 1.5 (Network Evolution and Future Proofing) and Paragraph 1.6 (Operational Environment

	general requirements) of Schedule 3.1 (NBPco Solution – Technical Solution).
<b>Reports</b>	means the reports listed or referred to in Schedule 6.5 (Reports and Records) (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).
<b>Report Due Date</b>	means the date by which a Report is due to the Minister as set out in Paragraph 1.3 (Reports) of Appendix 1 (Reports) of Schedule 6.5 (Reports and Records).
<b>Representative</b>	means the Minister's Representative or NBPco Representative, as the context admits or requires.
<b>Request for Information</b>	means a request for information under the FOI Act or Environmental Information Regulations.
<b>Required Action</b>	has the meaning given in Clause 73.4 (Step-in Rights).
<b>Required Documents</b>	means the documents specified in Schedule 9 (Required Documents) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Required Insurances</b>	means the insurance policies in respect of the Risks and for amounts and subject to the exclusions and other terms and conditions as set out in Part 1 (Policies To Be Taken Out By NBPco and Maintained During The Deployment Period) and Part 2 (Policies to be Taken Out by NBPco and Maintained During the Operational Period) of Schedule 5.6 (Required Insurance) and Clause 69 (Required Insurance) and any other insurances required under Legal Requirements including the Road Traffic Acts 1961 to 2016 (as amended from time to time).
<b>Requisite Form</b>	means such form of document as is approved by or on behalf of the Minister (acting in its sole discretion) as evidenced by initialling such documents for and on behalf of the Minister (or its nominee(s)) or as recorded as being in requisite form

in email correspondence for and on behalf of the Minister (or its nominee(s)).

**Residential Gateway (RGW)**

means a home networking device, used as a gateway to connect devices in the home to the Internet or other WAN; and in the case when the WCPE and the residential gateway are separate devices, the residential gateway is managed by the Service Provider.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(A) [REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

(iii) [REDACTED]

[REDACTED]

(B) [REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

(iii) [REDACTED]

[REDACTED]

**Residual Premises**

means that part of the Intervention Area and/or Premises within the Intervention Area that were removed pursuant to Paragraph 4.3 (New Infrastructure in the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure) (and includes, as the context so admits or requires, any one, more or all such Premises or any one, more or all such parts of the Intervention Area).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. [REDACTED]



2. [REDACTED]

3. [REDACTED]

[REDACTED]

**Retail Margin Squeeze**

means where a retail margin squeeze has occurred, as determined in accordance with the provisions of Paragraph 2 (Retail Margin Squeeze) of Part 2 (Retail Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Retail Margin Squeeze Test**

means the retail margin squeeze test applied or to be applied in accordance with, and as determined in accordance with, the provisions of Paragraph 2 (Retail Margin Squeeze) of Part 2 (Retail Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Retail Price**

means a price charged by an Associated RSP or, if NBPco is acting as the retailer of last resort pursuant to the provisions of Clause 19 (Wholesale Products), by NBPco to an IA End User in respect of a retail product.

**Retail Pricing Rules**

has the meaning given to it in Paragraph 1.1 (Retail Pricing Rules) of Part 2 (Retail Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Retail Pricing Rules Review**

means a review undertaken by NBPco or by or on behalf of the Minister in accordance with the provisions of Paragraph 5 (Monitoring Compliance with the Retail Pricing Rules) of Part 2 (Retail Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) or the provisions of Part 4 (Review and Compliance) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Retail Product**

means a product that is available to an End User with a performance specification that is greater than or equal to the Product Key Performance Indicators of the Anchor Retail Product set out in Figure 2.1 (Specifications for the Anchor Retail Product) of Paragraph 3.6.2 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification).

**Retail Safeguards**

means the following provisions of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules):

- (A) Retail Margin Squeeze Test set out in Paragraph 2 (Retail Margin Squeeze) of Part 2 (Retail Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules); and
- (B) the requirement not to unreasonably bundle set out in Paragraph 4 (Obligation Not To Unreasonably Bundle) of Part 2 (Retail Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Retail Service Provider**

means an actual or prospective customer of NBPCo or an actual or prospective customer of a WSP:

1. that is an Authorised Undertaking;
2. has completed or will complete the Service Provider Onboarding Process (unless it is a customer of a WSP in which case it will complete the WSP's onboarding process); and
3. whose use or intended use of the Wholesale Products is only for onward direct sale to an IA End User customer of the Authorised

Undertaking with a Premises in the Intervention Area.

<b>Retention</b>	has the meaning given to it in Paragraph 17.1 (Retention) of Part 6 (General) of Schedule 6.9 (Consequences of Termination).
<b>Retention Account</b>	has the meaning given to it in Paragraph 17.1 (Retention) of Part 6 (General) of Schedule 6.9 (Consequences of Termination).
<b>Retention Liability</b>	has the meaning given to it in Paragraph 17.1 (Retention) of Part 6 (General) of Schedule 6.9 (Consequences of Termination).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>RFC</b>	means the final version of a request for comments published by the IETF as an Internet standard.
<b>RGW</b>	means Residential Gateway.
<b>Risk</b>	means a peril, danger or incident which could be the proximate cause for a loss and against which insurance is to be effected and maintained in accordance with the provisions of Clause 69 (Required Insurance) and Schedule 5.6 (Required Insurance).
<b>Rollout Area</b>	has the meaning given to that term in Paragraph 8.1.9 (Network Deployment - Requirements) of Schedule 2.3 (Deployment Requirements) and each of which is more particularly identified in Appendix 6 (Rollout Areas) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them or any part of any one, more or all of them).
<b>Rollout Area Complete</b>	means the Achievement of the M3 Milestone in respect of a Rollout Area provided that all Premises in that Rollout Area (other than Deferred Premises) have been included in a M2 Milestone (Network Deployment Complete).

<b>RoLR</b>	means retailer of last resort (and, in the case of NBPco, subject, in particular, to the provisions of Clause 19 (Wholesale Products)).
<b>RoLR Authorisation Form</b>	means a form executed by the Minister, substantially in the form set out in Appendix 6 of Schedule 2.4 (Operational Performance).
<b>RoLR End User Product</b>	means the Anchor Business Retail Product or Anchor Residential Retail Product identified in a RoLR Authorisation Form which, subject to, and in accordance with, Clause 19.6 (Wholesale Products), NBPco is to procure is provided by an RSP as retailer of last resort to the Named Unserved End User identified in the RoLR Authorisation Form or, failing that, provide as the final retailer of last resort where an NBPco RoLR Authorisation Form is issued to NBPco.
<b>RoLR End User Terms</b>	means the terms and conditions subject to, and in accordance with which, NBPco makes available and, where required to do so pursuant to an RoLR Authorisation Form issued pursuant to Clause 19.6.2 (Wholesale Products) to specified Named Unserved End User concerned, Connect and enable an RoLR End User Product to the Named Unserved End User, the Approved Form of which shall be subject to the Minister's written approval (not to be unreasonably withheld or delayed) following the Commencement Date but prior to them becoming effective or published.
<b>RoLR List</b>	means the list of RSPs maintained by NBPco as the RoLR List subject to, and in accordance with, Clause 19.13 (Wholesale Products).
<b>RSP</b>	means a Retail Service Provider.
<b>RSP Performance Level Agreement</b>	means the performance level agreement incorporated into the RSP Terms which sets out:

1. the specification of the Wholesale Products to be provided to the RSPs by NBPco;
2. the level and standard of performance to be provided to the RSPs by NBPco (including SP Performance Indicators and SP Performance Levels);
3. all processes and procedures for the operation and support of the Wholesale Products to be provided to the RSPs by NBPco; and
4. the consequences (in terms of rebates, credits or otherwise) of NBPco failing to meet the agreed SP Performance Levels,

and the terms of which RSP Performance Level Agreement is required to comply with the Service Requirements and NBPco's Solution, and the Approved Form of which shall be set out in the Approved Form of the Service Provider Terms from time to time.

### **RSP Terms**

means the:

1. terms and conditions;
2. RSP Performance Level Agreement; and
3. Reference Offer,

subject to, and in accordance with which, NBPco makes available, Connects, enables and provides the Wholesale Products to RSPs and which are required to comply with the Service Requirements and NBPco Solution, the Approved Form of which shall be as set out in the Approved Form of the Reference Offer from time to time.

### **RTT**

means the length of time it takes for a packet, or frame, to be sent plus the length of time it takes for an acknowledgement of that packet, or frame, to be received.

<b>Safety Data Sheet</b>	means a document that contains information on the potential health effects of exposure to chemicals, or other potentially dangerous substances, and on safe working procedures when handling chemical products.
<b>SAIT Discount Rate</b>	means in respect of the State Aid Intensity Test: 1.33%.
<b>SAN</b>	means storage area network.
<b>Satisfaction Survey</b>	has the meaning given to it in Paragraph 2 (Satisfaction Surveys) of Part 3 (Balanced Scorecard) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
	(a) <b>[REDACTED]</b>
	(b) <b>[REDACTED]</b>
	(i) <b>[REDACTED]</b>
	(ii) <b>[REDACTED]</b>
	(iii) <b>[REDACTED]</b>
	(iv) <b>[REDACTED]</b>
	(v) <b>[REDACTED]</b>
	(vi) <b>[REDACTED]</b>
	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>SCP Connection Request</b>	means a request to NBPco from a Service Provider to Connect a Strategic Community Point.
<b>SCP Detailed Design</b>	means the detailed breakdown and representation of all the SCP Network elements for the relevant Priority 1 Strategic Community Points, Priority 2

	Strategic Community Points or Priority 3 Strategic Community Points.
<b>SCP Milestone</b>	has the meaning given to it in Paragraph 8.1.16 (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>SCP Network</b>	means the part of the Network within or related to an Intervention Area (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them) which Passes or Connects Priority 1 Strategic Community Point, Priority 2 Strategic Community Point or Priority 3 Strategic Community Point.
<b>SCP Project Plan</b>	means the detailed project plan for Network Deployment in the Intervention Area that is unique to Priority 1 Strategic Community Point, Priority 2 Strategic Community Point or Priority 3 Strategic Community Point as specified in Paragraphs 8.2.46 (SCP Project Plan Requirements) to 8.2.48 (SCP Project Plan Requirements) of Schedule 2.3 (Deployment Requirements), and as more particularly described in the Service Requirements and NBPco Solution and which is required to be in a format and level of detail substantially similar to that set out in Appendix 3.5.1.1.A of Schedule 3.3 (NBPco Solution – Speed of Deployment and Environment), (and which includes, as the context so admits or requires, any one, more or all of the SCP Project Plans or any part or parts of any one, more or all of them and as amended by any Change made pursuant to a Change Authorisation).
<b>Secondary Accounting Documentation</b>	means those documents containing the information set out at Paragraphs 6.4 (Accounting Documentation) and 6.7 (Accounting Documentation) of Schedule 5.5 (Accounting Separation).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>

	(a) [REDACTED]
	(b) [REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Secure Portal</b>	means a secure website, which is accessible only by the Minister and Service Providers that have successfully completed the Service Provider Onboarding Process using standardised transport technology as described in Paragraph 4 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification), to be designed, developed and maintained by NBPco and which is more particularly described in the Service Requirements and NBPco Solution (and, in particular, Paragraph 1.4.4 (Secure Portal) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).
<b>Security Systems Review Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>Separated Accounts</b>	means those Accounts prepared under the Historic Cost Account (HCA) Convention which are prepared to give effect to the objectives set out in Paragraph 1 (Introduction) and Paragraph 3 (Fundamental Requirements) of Schedule 5.5 (Accounting Separation) and which comply with the requirements set out in Paragraph 4.3 (Reporting and Transparency) of Schedule 5.5 (Accounting Separation) (and includes, as the context so admits or requires, any one, more or all of them or any part or



parts of any one, more or all of them), an example of which is included in Paragraph 4 (Separated Accounts) of Appendix 1 (Consolidated Income Statement) of Schedule 5.5 (Accounting Separation).

**Serious Discrimination Event** means a Discrimination Event to which the Minister assigns a severity level of “serious” in accordance with Appendix 8 (Discrimination Event) of Schedule 6.7 (Performance Levels).

**Serious KPI Failure** is as set out against the relevant Key Performance Indicator in the fifth column of Table 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels) (and includes, as the context so admits or requires, any one, more or all of them).

**Serious PI Failure** is as set out against the relevant Subsidiary Performance Indicator in the fifth column of Table 2 (Subsidiary Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels) (and includes, as the context so admits or requires, any one, more or all of them).

**Service Availability** is calculated in accordance with Paragraph 2 (Service Availability) of Part 3 (Product Performance Level Calculations) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance).

**Service Continuity Period Commencement Date** means the Expiry Date.

**Service Continuity Period** means the period commencing on and continuing immediately after the Service Continuity Period Commencement Date

and expiring on the earlier of the Termination Date and the Service Continuity Period Expiry Date.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Service Continuity Period Expiry Date**

means the date that is ten (10) years from the Service Continuity Period Commencement Date.

**Service Continuity Review**

has the meaning given to it in Paragraph 1.1 (Interpretation) of Schedule 6.12 (Benchmarking and Market Testing).

**Service Downtime**

means any period of time during which any of the Wholesale Products, Services, the Critical Systems of the Operational Environment, the Critical Systems of the Secure Portal, the Critical Systems of the Public Portal, or the Network are unavailable for use.

**Service Fault**

means a failure of an Active Wholesale Product to perform in accordance with the relevant product description or product technical specification in the Reference Offer where the failure is contributed to by a fault in the Network or any other matter for which NBPCo is responsible, except where the failure is directly attributable to Permitted Maintenance.

**Service Provider**

means, as the context so admits or requires, any one, more or all of either an RSP or WSP or both of them (whether or not they are an Associated Service Provider).

**Service Provider Contracts**

means all contracts, agreements, licences, leases or similar between either NBPCo or Buildco and a service provider, supplier, vendor, contractor, consultant or similar and which are or will be unperformed (wholly or partly) as at the Scheduled Ownership Transfer Date (and includes, as the context so admits or requires, any one, more or all of them).

**Service Provider Engagement Framework**

means the framework to be developed and operated by NBPCo to formally engage with, and inform, industry

throughout the Contract Period in accordance with Paragraph 7 (Service Provider Engagement Framework – Requirements) of Schedule 2.3 (Deployment Requirements), the engagement requirements, practices and documentation described in Appendix 4 (Service Provider Engagement Framework) of Schedule 2.4 (Operational Performance), the Service Requirements and NBPco Solution (and, in particular, Paragraph 4.4.2 (Service Provider Engagement Framework) of Schedule 3.4 (NBPco Solution – Operational Performance)) and which includes the establishment and operation of the NBP Industry Council.

**Service Provider Engagement Framework Project Plan**

means the detailed plan that describes the activities that NBPco shall manage, undertake and complete in implementing the Service Provider Engagement Framework as more particularly described in the Service Requirements and NBPco Solution and set out at Appendix 3.5.2.C (Service Provider Engagement Framework Project Plan) of Schedule 3.3 (NBPco Solution – Speed of Deployment and Environment), (and which includes, as the context so admits or requires, any part or parts of it and any Change made to it pursuant to a Change Authorisation).

**Service Provider Engagement Framework Project Plan Milestones**

means the Milestones set out in Appendix 3.5.2.C (Service Provider Engagement Framework Project Plan) of Schedule 3.3 (NBPco Solution - Speed of Deployment and Environmental) which form part of the Service Provider Engagement Framework Project Plan, as agreed between NBPco and the Minister.

**Service Provider Information Database**

means the database where all details of Service Providers are recorded or to be recorded by NBPco including credentials to access secure areas of the Operational Environment systems, as more particularly described in the Service Requirement and NBPco Solution (and, in particular, Paragraph 1.2.1.1.2 (UWG - Design & Architecture) of Schedule 3.1 (NBPco Solution – Technical Solution))

(and includes, as the context so admits or requires, any part or parts of it).

**Service Provider Onboarding Process**

means the Service Provider onboarding process more particularly described in Appendix 3 (Service Provider Onboarding Process) of Schedule 2.4 (Operational Performance) and which is only complete when a Service Provider has completed all phases of it and elements within each phase and which is to be designed, developed and implemented by NBPco in accordance with the Service Requirements and NBPco Solution (and, in particular, Paragraph 4.4.1 (Service Provider On-boarding process) of Schedule 3.4 (NBPco Solution – Operational Performance)) (and includes, as the context so admits or requires, any part or parts of it).

**Service Provider Terms**

means, as the context so admits or requires, either or both the RSP Terms and the WSP Terms.

**Service Provider Verification Facility**

means a test platform providing a partially simulated verification environment comprised of the core components of the Operational Environment and an emulation engine to imitate the behaviour of the remaining components of the Operational Environment, as more particularly described in Paragraph 7.1 (Service Provider Testing and Support Facilities) of Schedule 2.4 (Operational Performance) and NBPco Solution (and, in particular, Paragraph 4.3.1 (Service Provider Verification Facility) of Schedule 3.4 (NBPco Solution – Operational Performance)) (and includes, as the context so admits or requires, any part or parts of it).

**Service Provisioning System**

means the system used by NBPco to set up and activate Wholesale Products and ensure that the Wholesale Products are fully functional when handed over to Service Providers, as more particularly described in the Service Requirements (and, in particular, Paragraphs 4.4.33 (Service Fulfilment: Order Management and Provisioning Systems) to 4.4.40 (Service Fulfilment: Order Management

and Provisioning Systems) (inclusive) of Schedule 2.1 (Technical Solution Specification)) and NBPco Solution (and, in particular, Paragraph 1.3.1.1.5 (Order Management and Provisioning Systems) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).

**Service Requirements**

means the minimum standards, specifications, procedures, processes and other requirements for Services, Network, Network Deployment, Operational Environment, Wholesale Products and Project set out or referred to in this Agreement including:

1. Schedule 2 (Service Requirements) (comprising Schedule 2.1 (Technical Solution Specification) to Schedule 2.8 (Key Subcontractor Provisions));
2. Schedule 5 (Financial Matters) (comprising Schedule 5.1 (Subsidy Payments) to Schedule 5.7 (Financial Distress)); and
3. Schedule 6 (Governance and Key Procedures) (comprising Schedule 6.1 (Contract Liaison Board) to Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process)),

as may be amended or supplemented pursuant to a Change Authorisation from time to time (and includes, as the context so admits or requires, any, some or all of them or any part or parts of any, some or all of them).

**Serviceable Life**

means:

1. in the case of a proprietary manufactured element of the Network or Equipment, the period of time, as declared in writing by the manufacturer, for which the element will continue to perform as intended after incorporation in the Network in a manner, and operating under design conditions, accepted by the

manufacturer, and subject to maintenance in accordance with the manufacturer's written recommendations; and

2. in the case of a non-proprietary element of the Network or Equipment, the period of time for which the element is expected to continue to perform as intended after incorporation in the Network, and subject to design in accordance with the Service Requirements and NBPCo Solution and maintenance in accordance with the Service Requirements and NBPCo Solution.

### **Services**

means the services, works, supplies, duties, functions, activities, responsibilities and tasks to be undertaken, provided and performed by NBPCo pursuant to this Agreement to fully satisfy and comply with the provisions of this Agreement, the Service Requirement and NBPCo Solution including:

1. undertaking and completion of Detailed Design;
2. undertaking and completion of Network Deployment;
3. Demand Stimulation;
4. implementation and completion of the Implementation Programme and Project Plans;
5. compliance with, and implementation and completion of, the Wholesale Product Roadmap, Technology Roadmap and Wholesale Product & Coverage Template;
6. the provision, operation and maintenance of the Network and the Operational Environment;
7. provision of the Wholesale Products; and

8. monitoring and reporting on the Services, Network and Wholesale Products,

and all ancillary or related matters necessary to properly achieve and satisfy the above (and includes, as the context so admits or requires, any, some or all of them or part or parts of any, some or all of them).

**Severe Discrimination Event** means a Discrimination Event to which the Minister assigns a severity level of “severe” in accordance with Appendix 8 (Discrimination Event) of Schedule 6.7 (Performance Levels).

**Severe KPI Failure** is as set out against the relevant Key Performance Indicator in the fifth column of the table in Table 1 (Key Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels) (and includes, as the context so admits or requires, any one, more or all of them).

**Severe PI Failure** is as set out against the relevant Subsidiary Performance Indicator in the fifth column of Table 2 (Subsidiary Performance Indicators) of Part 1 (Key Performance Indicators and Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels) (and includes, as the context so admits or requires, any one, more or all of them).

**Severity 1 Incident** means an Incident categorised as Severity 1 in accordance with Paragraph 3.11 (Fulfilment, Supply Chain and Logistics, and Assurance Performance) of Part 1 (Performance Indicators and Performance Level Requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) (and includes,

as the context so admits or requires, any one, more or all of them).

**Severity 2 Incident**

means an Incident categorised as Severity 2 in accordance with Paragraph 3.11 (Fulfilment, Supply Chain and Logistics, and Assurance Performance) of Part 1 (Performance Indicators and Performance Level Requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).

**Severity 3 Incident**

means an Incident categorised as Severity 3 in accordance with Paragraph 3.11 (Fulfilment, Supply Chain and Logistics, and Assurance Performance) of Part 1 (Performance Indicators and Performance Level Requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).

**Severity 4 Incident**

means an Incident categorised as Severity 4 in accordance with Paragraph 3.11 (Fulfilment, Supply Chain and Logistics, and Assurance Performance) of Part 1 (Performance Indicators and Performance Level Requirements) of Appendix 1 (Performance Level Requirements) of Schedule 2.4 (Operational Performance) (and includes, as the context so admits or requires, any one, more or all of them).

**Shared Services**

means any service obtained by NBPCo from an Associated Company, as outlined in Paragraph 12 (Shared Services) of Schedule 2.7 (NBPCo Requirements).

**Shareholder**

means any person from time to time holding share capital in NBPCo or Holdco, the details of which persons as at the Commencement Date are set out in Schedule 3.12 (Details of Companies) (and includes, as the context so admits or requires, any one, more or all of them).



**Shareholders Agreement**

means, subject to the provisions of this Agreement (including Clause 44 (Project Documents and Funding Documents)), the shareholders agreement in respect of NBPco between NBPco, the Shareholders and the Minister dated on or prior to the Commencement Date (and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page) and which is required to comply with the provisions of Schedule 2.7 (NBPco Requirements).

[REDACTED]

[REDACTED]

**Shareholder Loan**

has the meaning given to Shareholder Loan in the Equity Subscription Agreement up to the maximum amount set out in Schedule 1 (in respect of the Shareholder Loan) of the Equity Subscription Agreement at the Commencement Date and excludes, for clarity, any loan made pursuant to the Standby Shareholder Loan and Rescue Loan (as defined in the Equity Subscription Agreement).

**Share Option**

means the NBPco Share Option and/or, at the Minister's discretion, the Buildco Share Option.

[REDACTED]

[REDACTED]

**Shortlisting Information**

has the meaning given to it in Paragraph 1.4.17 (Introduction and Definitions) of Schedule 6.13 (Ministerial Oversight of Deployment Subcontract Procurement Process).

**Similar Fixed Broadband Service**

means a service which relies on a fixed broadband network whose primary function is to provide high speed broadband services to End Users with a Download Speed (construed for this purpose as if the relevant network were the Network) to specific fixed premises in the Intervention Area of:

- (A) with respect to a relevant project commenced during the first five (5) Contract Years, at least 30 mbps;

- (B) with respect to a relevant project commenced during the period from the sixth (6<sup>th</sup>) Contract Year to (and including) the tenth (10<sup>th</sup>) Contract Year, at least 100mbps; and
- (C) with respect to a relevant project commenced during the period from the eleventh (11<sup>th</sup>) Contract Year to the last day of the Similar Project Period, at the applicable time, at least thirty-three per cent (33%) of the Download Speed of the specification of the Minimum Bitstream Wholesale Product at that time.

[REDACTED]

[REDACTED]

**Similar Project Period**

means the period commencing on the Commencement Date and expiring on the date which is six (6) months prior to the last day of the Contract Period.

**Similarly Efficient Operator**

has the meaning given to it in Paragraph 4.1 (Wholesale Margin Squeeze Test) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**SME Additional Required Wholesale Product**

means an Additional Required Wholesale Product that is developed by NBPco and

	that is tailored to meet the needs of SME type businesses.
<b>SMEs</b>	means a small or medium sized enterprise as defined in (L 124/36) – Commission Recommendation of 6 <sup>th</sup> May 2003 concerning the definition of micro, small and medium-sized enterprises.
<b>Solution Component</b>	means a physical and/or logical component constituting the technology underlying NBPco Solution (and includes, as the context so admits or requires, any one, more or all of them).
<b>SOR and Product Development Forum</b>	means the body, the role and function of which are more particularly set out in Appendix 4 (Service Provider Engagement Framework) of Schedule 2.4 (Operational Performance), which is to be established and operated by NBPco so that it is recognised as the principal engagement point with industry for all matters relating to the SOR Process and Product Development Process.
<b>SOR Process</b>	means the Statement of Requirements Process.
<b>SOR Request</b>	means any request received by NBPco from a Service Provider for a new Wholesale Product or for a change to an existing Wholesale Product in accordance with the SOR Process (and includes, as the context so admits or requires, any one, more or all of them).
<b>SP Performance Credits</b>	means the meaningful performance credits to be provided, in accordance with the SP SLA, by NBPco to a Service Provider in the event that it fails to meet the SP Performance Levels in respect of SP Performance Indicators (and includes, as the context so admits or requires, any one, more or all of them).
<b>SP Performance Indicators</b>	means the key performance indicators in respect of the provision of the Wholesale Products and related matters set out in the SP SLA (and includes, as the context so admits or requires, any one, more or all of them).

<b>SP Performance Levels</b>	means the guaranteed levels of performance by NBPco in respect of the SP Performance Indicators in the provision of the Wholesale Products and related matters (and includes, as the context so admits or requires, any one, more or all of them).
<b>SP SLA</b>	means the service level agreement between a Service Provider and NBPco and which is incorporated into the Service Provider Terms.
<b>Special Engineering Difficulties</b>	means engineering related issues that may arise during the implementation of a Connection that may give rise to higher than expected costs for the Connection.
<b>SSL</b>	means Secure Socket Layer, a protocol used to established a secure (encrypted) link between a browser and a Web server.
<b>Staff</b>	means individuals employed by NBPco or Buildco or individuals employed by any Subcontractors whose work (or any part of it) is work undertaken for the purposes of this Agreement, Network, Wholesale Products or Services or the Project.
<b>Staffing Information</b>	has the meaning given to it in Paragraph 16.1 (Staffing Information) of Part 5 (Change in Ownership and Asset Transfer) of Schedule 6.9 (Consequences of Termination).
<b>Standard Dispute Resolution Timetable</b>	means the timetable for the resolution of a Dispute set out in Appendix 2 (Dispute Resolution Timetable) of Schedule 6.3 (Dispute Resolution Procedure) to be used in accordance with the provisions of Paragraph 10 (Timetable for Dispute Resolution) of Schedule 6.3 (Dispute Resolution Procedure).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Start Date</b>	has the meaning given to it in Paragraph 2.6 (Transition from Copper to Fibre) of Annex 5 (Post Build Contract Assumptions) of Schedule 6.2 (Change Control Procedure).

<b>Start-up Phase</b>	has the meaning given to it in Paragraph 2.2 (Service Requirements) of Schedule 2.7 (NBPco Requirements).
<b>State</b>	means Ireland.
<b>State Aid Decision</b>	means the decision of the European Commission not to raise objections to State aid awarded under the Project on the grounds that it is compatible with the internal market pursuant to Article 107(3)(c) of the Treaty on the Functioning of the European Union.
<b>State Aid Evaluation Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>State Aid Guidelines</b>	means the European Commission (EC) State Aid Guidelines for the application of State aid rules in relation to the rapid deployment of broadband networks (2013/C 25/01) published on 26 January 2013.
<b>State Aid Intensity Test</b>	has the meaning given to the term in Paragraph 2.10 (Subsidy Payments in respect of only Permitted Expenditure and the PE Test) of Schedule 5.1 (Subsidy Payments).
<b>State Aid Notification</b>	means the formal notification, dated 17 October 2019, by the Minister to the European Commission of its intent to proceed with granting of State aid to realise the proposed State intervention to provide High Speed Broadband to those parts of Ireland where the commercial sector has, to date, not had concrete plans to invest.
<b>State Aid Law</b>	means any Law relating to State aid.
<b>State Aid Report</b>	means the report to be provided by NBPco pursuant to Paragraph 4 (State Aid Report – Permitted Expenditure) of Appendix 5 (Reports) of Schedule 5.1 (Subsidy Payments).
<b>State Body</b>	means:

- (A) a Minister of the Government of Ireland;
- (B) an Irish Department of the Government of Ireland;  
or
- (C) a local authority within the meaning of the Local Government Act 2001 (as amended).

**Statement of Compliance**

has the meaning given to it in Paragraph 2.2 (Statement of Compliance) of Part 4 (Review and Compliance) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) and the form of which is included in Appendix 2 (Statement of Compliance) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Statement of Requirements Process**

means the process, the minimum requirements for which are set out in Part 1 (Statement of Requirements Process) of Appendix 2 (Statement of Requirements and Product Development Processes) of Schedule 2.4 (Operational Performance), which enables Service Providers to formally request the introduction of a New Wholesale Product or a change to an existing one as more particularly described in the Service Requirements (and includes, as the context so admits or requires, any part or parts of it).

**Statement of Mean Capital Employed**

means a statement showing the mean of the assets and liabilities of NBPco (or non-NBPco entity as the context so admits or requires) adjusted to amend for certain assets and liabilities which are excluded for regulatory purposes.

**Statutory Accounts**

means the accounts of NBPco, which NBPco is required to prepare pursuant to the Companies Act 2014 (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

<b>Statutory Financial Statements</b>	means the statements prepared pursuant to and in accordance with the requirements set out in the Companies Act 2014 to prepare financial statements and a director's report.
<b>Step 1</b>	has, for the purpose of Schedule 6.2 (Change Control Procedure), the meaning given to it in Paragraph 9.5.1 (Small Changes to the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).
<b>Step 2</b>	has, for the purpose of Schedule 6.2 (Change Control Procedure), the meaning given to it in Paragraph 9.5.2 (Small Changes to the Intervention Area) of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).
<b>Step-In Notice</b>	means a notice issued by the Minister pursuant to Clause 73 (Step-in Rights).
<b>Step-Out Date</b>	has the meaning given in Clause 73.13 (Step-in Rights).
<b>Step-Out Notice</b>	has the meaning given in Clause 73.13 (Step-in Rights).
<b>Step-Out Plan</b>	has the meaning given in Clause 73.14 (Step-in Rights).
<b>Strategic Community Points</b>	means the strategic community points more particularly identified in Appendix 2 (Strategic Community Points) of Schedule 2.3 (Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).
<b>Structured Duct</b>	has the meaning given to it in Paragraph 7.6 (Duct Blockages) of Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure).
<b>Subcontract</b>	means any contract or agreement (other than this Agreement) in which a third party agrees with NBPco or another Subcontractor to provide, licence, lease or make available in connection with the

Project, Wholesale Products, Services or Network any:

- (A) Equipment;
- (B) Third Party Infrastructure; or
- (C) part of the Services, Wholesale Products, Operational Environment or Network,

(and includes, as the context so admits or requires, any one, more or all of them).

**Subcontractor**

means a third party other than NBPco that enters into a Subcontract (and includes, as the context so admits or requires, any one, more or all of them).

**Subcontractor Breakage Costs**

means, without double counting, the Losses that have been or will be reasonably and properly incurred by NBPco or Buildco to a Key Subcontractor in accordance with the terms of a Key Subcontract, as a direct result of the termination of this Agreement but only to the extent that:

- (a) the Losses are incurred solely by NBPco or Buildco directly in connection with the Project and in respect of the Services including any works, materials, licences or leases and/or similar Key Subcontract ordered prior to (but not after) the Termination Date and which cannot be cancelled, terminated or returned without such sums being payable;
- (b) the Losses are incurred by NBPco or Buildco under arrangements and/or agreements that are in connection with, and consistent with, NBPco's obligations pursuant to this Agreement and Buildco's obligations pursuant to the Buildco Key Subcontract and on terms consistent with terms that have been entered into in the ordinary course of business, on an Arm's-Length basis and on reasonable commercial terms;



- (c) the Losses have not arisen as a result of the breach of this Agreement or any Key Subcontract by NBPco, Buildco or NBPco Personnel;
- (d) the Losses are Direct Losses only;
- (e) NBPco, Buildco and the relevant Key Subcontractor has each used all reasonable endeavours to mitigate the Losses; and
- (f) all the provisions of the Key Subcontract relevant to determining the amount of Subcontractor Breakage Costs payable are in the form approved, prior to the termination of the Key Subcontract concerned, in writing by the Minister.

**Subcontractor Breakage Costs Deduction Excess** means the amount (where positive) that equals (A) less (B) where:

(A) means the amount of all Undischarged Subcontractor Breakage Costs at the date the Force Majeure Full Termination Amount was agreed or determined; and

(B) means the amount paid, following the exercise of the Share Option:

(i) by NBPco (or the Minister on its behalf) if the Minister exercised the NBPco Share Option; and

(ii) by Buildco (or the Minister on its behalf) if the Minister exercised the Buildco Share Option,

to any Subcontractors in discharge of Undischarged Subcontractor Breakage Costs.

[REDACTED]

[REDACTED]

Schedule 1 – Definitions  
Redacted Version

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>subject to Indexation</b>	has the meaning given to it in Clause 1.2.27 (Definitions and Interpretation).
<b>Subordinated Funder</b>	means a person who is providing finance under a Subordinated Funding Document or a Buildco Subordinating Funding Document.
<b>Subordinated Funding Documents</b>	means the Equity Subscription Agreement, NBPco Deferred Equity Guarantee and the other agreements listed in Paragraph 1 (Subordinated Funding Documents) of Part 3 (Funding Documents) of Schedule 9 (Required Documents) as at the Commencement Date and for the purpose of identification signed or initialled by or on behalf of each Party on the front and back page.
<b>Subsidiary</b>	has the meaning given to “subsidiary” in section 7 of the Companies Act 2014 (and, notwithstanding any to the contrary stated in this Agreement, this definition does not change in the event of a change to the definition of “subsidiary” in the Companies Act 2014) and “ <b>Subsidiaries</b> ” shall be construed accordingly.
<b>Subsidiary Performance Indicator</b>	means the performance indicators with the acronym “PI” set out in Table 2 (Subsidiary Performance Indicators) of Part 1 (Key Performance Indicators and

Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels).

**Subsidised State Aid**

means funding comprising State aid within the meaning of Article 107(i) of the Treaty on the Functioning of the European Union which must equal or exceed the following amounts:

- (A) twenty million euro (€20,000,000) in respect of any single Similar Project;
- (B) twenty million euro (€20,000,000) in respect of a number of Smaller Similar Projects which individually fall below the threshold in (A) but which cumulatively over a five year period during the Similar Project Period meet or exceed that amount;

**Subsidy Payment Adjustment Provisions**

means:

1. Clause 25 (Changes in Law) and Annex 4 (Qualifying Changes in Law) of Schedule 6.2 (Change Control Procedure),
2. [Not used];
3. Clause 1.5 (Definitions and Interpretation), and Annex 5 (Post Build Contract Assumptions) of Schedule 6.2 (Change Control Procedure),
4. Clause 31 (Compensation Events);
5. Paragraph 3.2 (Specific Types of Changes) of Part 1 (General) of Schedule 6.2 (Change Control Procedure) and Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure); and
6. Clause 1.5 (Definitions and Interpretation) and Annex 6 (Build

Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure),

(and includes, as the context so admits or requires, any one, more or all of them).

**Subsidy Payments**

means the Deployment Milestone Payments, Additional Connection Milestone Payments, Connection Milestone Payments and Ongoing Capital Payments (and includes, as the context so admits or requires, any one, more or all of them).

**Substantially Similar Reports**

has the meaning given to it in Paragraph 6.3 (Substantially Similar Reports) of Schedule 6.5 (Reports and Records).

**Supplementary Product Benchmarking Process**

means the process, set out in Appendix 1 (Supplementary Product Benchmarking Process) of Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing), used by the Minister, as an additional safeguard to the provisions set out in Schedule 5.2 ((Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) and Schedule 6.4 (Service, Network and Wholesale Product Compliance and Future Proofing), to ensure the Minimum Required Wholesale Products and Additional Required Wholesale Products are kept in line with developments in the Excluded Area.

**Supply Chain and Logistics**

means those business processes and activities used by NBPco to control the interactions required by NBPco with suppliers and partners, who are involved in maintaining the supply chain as more particularly described in the Service Requirements (and includes, as the context so admits or requires, any part or parts of them).

**Support Desk**

means the support desk set up and operated by NBPco for the purposes of this Agreement.

**Support Desk Opening Hours**

means the period from 08:00 to 20:00.

<b>Support Desk Response Time</b>	means the time taken for an NBPco operative to contact a Service Provider operative after an initial contact has been made by the Service Provider using the Support Desk, measured from the time of the initial contact by the Service Provider operative.
<b>Supporting Evidence</b>	has the meaning given to it in Paragraph 1.2.3 (Application) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements).
<b>Surety</b>	means, with respect to a Performance Bond, such surety acceptable to the Minister in accordance with the provisions of this Agreement and that is named as the surety or issuer in that Performance Bond (and includes, as the context so admits or requires, any one, more or all of them).
<b>Take Up</b>	means the legal subscription by any IA End User, with a Premises in the Intervention Area, to retail products delivered on the Network in the Intervention Area using the Wholesale Products.
<b>Take Up Profile</b>	means Take Up assumptions for each category of customer IA End User (residential, business, etc.) in the Intervention Area.
<b>Take Up Target Period</b>	means the period commencing on the Effective Date and ending on the tenth (10) anniversary of the Effective Date.
<b>Target Performance Level</b>	means the minimum level of performance for a Performance Indicator which is required by the Minister, as set out against the relevant Performance Indicator in the tables in Part 1 (Key Performance Indicators, Subsidiary Performance Indicators Tables) of Appendix 1 (Key Performance Indicators, Subsidiary Performance Indicators and Balanced Scorecard Report) of Schedule 6.7 (Performance Levels).
<b>Tax</b>	means all forms of tax, duties, imposts, levies or other charge including income

tax, corporation tax, corporation profits tax, advance corporation tax, capital gains tax, capital acquisitions tax, rates, residential property tax, VAT, customs and other import and export duties, excise duties, stamp duty, capital duty, social insurance, social welfare or other similar contributions and other amounts corresponding to them and any interest, surcharge, penalty or fine in connection with them, in force at the Commencement Date or which come into force at any time during the Contract Period and whether imposed by a local, governmental or other Competent Authority in Ireland and the words “**Taxation**”, “**taxation**”, “**tax**” and “**taxes**” are construed accordingly.

**Tax Clearance Certificate**

means a clearance certificate with respect to tax issued by the Irish Revenue Commissioners (including any appropriate clearance certificate or statement with respect to tax issued by the Irish Revenue Commissioners with respect to non-resident entities) pursuant to Law.

**TCP/IP**

means Transmission Control Protocol/Internet Protocol, a suite of communication protocols used to interconnect devices on the Internet.

**Technical Solution**

means NBPco’s technical solution which is to meet the requirements of Schedule 2.1 (Technical Solution Specification) and is set out in Schedule 3.1 (NBPco Solution – Technical Solution).

**Technology Roadmap**

has the meaning given to it in Paragraph 5.4.1 (Network Requirements for Wholesale Products) of Schedule 2.1 (Technical Solution Specification) to be designed, developed and maintained by NBPco in accordance with the Service Requirements and NBPco Solution and in a substantially similar format to Figure 1.5.1.2-5 (Technology & Product Roadmap) of Schedule 3.1 (NBPco Solution – Technical Solution) (and includes, as the context so admits or requires, any part or parts of it).

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Tender</b>	means the final tender dated 18 September 2018 submitted by the NBPco Bidder to the Minister’s department in response to the ITSFT.
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Termination</b>	means termination of this Agreement in accordance with the provisions of Clauses 76 (Termination by Minister for NBPco Termination Event) to 78 (Non-Default Termination) (inclusive), but excluding, unless the context otherwise requires, a Partial Termination.
<b>Termination Date</b>	means the Contract Term Expiry Date or such earlier date on which the termination of this Agreement takes effect in accordance with its terms.
<b>Termination Notice</b>	means a notice of termination issued in accordance with this Agreement.
<b>Termination Rates Recommendation</b>	means the rules, recommendations and/or guidance from time to time of the European Commission in relation to voice termination rates which, as at the Commencement Date, are set out in Commission Recommendation of 7 May 2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU.
<b>Termination Suspension Notice</b>	means a notice issued by the Minister pursuant to Clause 75.1 (Termination by Minister for NBPco Termination Event).
<b>Test</b>	means a test performed by NBPco in respect of a Test Item, in accordance with the Test Strategy and Paragraph 10.3.3 (Milestone Achievement and Testing - Requirements) of Schedule 2.3

(Deployment Requirements) (and includes, as the context so admits or requires, any one, more or all of them).

**Test Item**

means an item or Service (or part of a Service) or Network (or part of a Network) or Equipment (or part or component of Equipment) or Wholesale Product (or part of a Wholesale Product) identified in the Test Strategy as being subject to Testing (and includes, as the context so admits or requires, any one, more or all of them or any part or parts or component or components of any one, more or all of them).

**Test Room**

means a test facility which is connected to the live Network and replicates the transport access of the Network as far as reasonably possible, as more particularly described in Paragraph 7.3 (Service Provider Testing and Support Facilities) of Schedule 2.4 (Operational Performance) and which NBPco is required to provide in accordance with the Service Requirements and NBPco Solution (and, in particular, Paragraph 4.3.2 (Interconnect Test Facilities and Test Rooms) of Schedule 3.4 (NBPco Solution – Operational Performance)) (and includes, as the context so admits or requires, any part or parts of it).

**Test Strategy**

means, at a given point in time, the most recent version of the strategy for Testing that shall be maintained by NBPco in accordance with Paragraph 10 (Milestone Achievement and Testing – Requirements) of Schedule 2.3 (Deployment Requirements), the Service Requirements and NBPco Solution (and, in particular, Appendix-3-4-1 (Test Strategy Document) of Schedule 3.3 (NBPco Solution - Speed of Deployment and Environmental), the then most current version provided as at the Commencement Date being set out Appendix-3-4-1 (Test Strategy Document) of Schedule 3.3 (NBPco Solution - Speed of Deployment and Environmental) (and includes, as the



	context so admits or requires, any part of parts of it).
<b>Test Success Criteria</b>	means the test success criteria for each Test as specified in the Test Strategy (and includes, as the context so admits or requires, any one, more or all of them).
<b>Testing</b>	means the performance of Tests in accordance with Paragraph 10 (Milestone Achievement and Testing – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Theoretical Network Model</b>	has the meaning given to it in Paragraph 1.1.5 (Criteria for Premises Passed) of Appendix 4 (Criteria for Premises Passed) of Schedule 2.3 (Deployment Requirements).
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>[REDACTED]</b>	<b>[REDACTED]</b>
<b>Third Party Active Infrastructure</b>	means any electronic communications network, product, service or Infrastructure that is powered by the Infrastructure Access Provider.
<b>Third Party Infrastructure</b>	means all Infrastructure (whether Third Party Active Infrastructure or Third Party Passive Infrastructure) owned by a person other than NBPCo (whether or not an Associated Company of NBPCo or Associated Service Provider) and which NBPCo intends to or does access, use, licence or lease or interconnect to in order to provide, perform and/or provide the Services, Wholesale Products and/or Network.
<b>Third Party Passive Infrastructure</b>	means any Infrastructure that is not powered by the Infrastructure Access Provider including ducts, sub-ducts, pipes, masts, radio towers, dark fibre, cabling, poles and pylons (and, where the context so admits or requires, includes any one, more or all of it or any part or parts of any one, more or all of it).
<b>Third Party Premises InterConnect Product</b>	means a type of the InterConnect Product which extends the active PoH to an agreed Service Provider PoP by placing

NBPco network termination equipment in the Service Provider PoP and providing physical connectivity between the PoH and the Service Provider PoP as more particularly described in Paragraph 4.2.67 (Wholesale Product Specifications) of Schedule 2.2 (Reference Offer Requirements).

<b>Tier 1 Achievement</b>	has the meaning given to it in Paragraph 8.2.1(A) (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Tier 2 Achievement</b>	has the meaning given to it in Paragraph 8.2.1(B) (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Tier 1 Report</b>	means the reports listed or referred to as such in Paragraph 1.3 (Reports) of Appendix 1 (Reports) of Schedule 6.5 (Reports and Records) (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).
<b>Tier 2 Report</b>	means the reports listed or referred to as such in Paragraph 1.3 (Reports) of Appendix 1 (Reports) of Schedule 6.5 (Reports and Records) (and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).
<b>Tier 2 Report Request</b>	has the meaning given in Paragraph 4.1 (Tier 2 Reports) of Schedule 6.5 (Reports and Records).
<b>TISPAN</b>	means Telecoms & Internet converged Services & Protocols for Advanced Networks, a standardization body of ETSI, specializing in fixed networks and Internet convergence
<b>TM Forum</b>	means the non-profit industry association for service providers and their suppliers in the telecommunications industry.
<b>TMF Shared Information Data Model</b>	is an information model developed by the TM Forum and which provides standard definitions for all the information and data

that flows between service providers and their business partners.

**Top Tier Key Personnel**

has the meaning given to it in Paragraph 5.1 (Top Tier Key Personnel) of Schedule 2.7 (NBPco Requirements).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**Total (EIR) Duct Mix Rental Annual Report**

means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).

**Total number of Deferred Premises Threshold**

means the aggregate maximum number of Deferred Premises permitted in the Intervention Area and which shall not exceed:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

(c) [REDACTED]

(d) [REDACTED]

(e) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

	(c) [REDACTED]
	(d) [REDACTED]
	(e) [REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Transit Area</b>	means any part of the Excluded Area through which signals are transmitted in order to provide a Wholesale Product to a Service Provider in the Intervention Area.
<b>Transferee</b>	means a person that acquires some or all of the Assets from NBPco following the termination or partial termination of this Agreement other than by operation of Part 6 (General) of Schedule 6.9 (Consequences of Termination) or any other provision of this Agreement.
[REDACTED]	[REDACTED]
<b>Transmission Capacity</b>	means the speed in Mbit/s of the Transmission Product.
<b>Transmission Control Protocol</b>	means the IETF standard that defines how to establish and maintain a network connection via which applications can exchange data.
<b>Transmission Product</b>	means a data communication link provided between a Service Provider's PoP and NBPco's PoH, which link shall be symmetrical, point-to-point, based on Ethernet technology and with a guaranteed Committed Information Rate (CIR) as more particularly described in Paragraphs 4.2.59 (Wholesale Product Specifications) to 4.2.65 (Wholesale Product Specifications) (inclusive) of Schedule 2.2 (Reference Offer Requirements).

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
<b>Trespasser</b>	has the meaning given to it in Paragraph 1.1 (Relief Events) of Schedule 4 (Relief Events ).
<b>Trouble Ticket</b>	means a file, contained within NBPco’s Trouble Ticketing System, which contains information about support interventions made by NBPco Personnel, or third parties on its behalf, used by NBPco to track the detection, reporting, and resolution of problems including but not limited to End User Faults, Service Faults and Network Faults. Each ticket shall have a unique reference number to allow NBPco to quickly locate, add to, or communicate the status of the ticket when required by Service Providers or the Minister.
<b>Trouble Ticketing System</b>	means the trouble ticketing system to be designed, operated and maintained by NBPco pursuant to Paragraphs 4.4.45 (Operational Environment Requirements) to 4.4.50 (Operational Environment Requirements) (inclusive) of Schedule 2.1 (Technical Solution Specification), the Service Requirement and NBPco Solution (and, in particular, Paragraph 1.3.1.1.7 (Trouble Ticketing System) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).
<b>True and Fair View</b>	means that the financial statements are free from material misstatements and faithfully represent the assets, liabilities, financial performance and position of the entity as at the end of the financial year, and the profit or loss, for the financial year.

<b>TUPE Regulations</b>	mean the European Communities (Protection of Employees' Rights on Transfer of Undertakings) Regulations 2003 (S.I. No 131/2003).
<b>TV Longstop Date</b>	has the meaning given to it in Paragraph 17.4 (Over-Subsidy Claw-Back: Terminal Value) of Schedule 5.1 (Subsidy Payments).
<b>TWDM PON</b>	means time and wave division multiplexing passive optical network and is a passive optical network technology which is suitable for providing an Unbundled Fibre Access Product.
<b>[REDACTED]</b>	<b>[REDACTED]</b> <ol style="list-style-type: none"><li>1. <b>[REDACTED]</b></li><li>2. <b>[REDACTED]</b></li><li>3. <b>[REDACTED]</b></li><li>4. <b>[REDACTED]</b></li><li>5. <b>[REDACTED]</b></li></ol>
<b>Type 1 Connection</b>	means the Connection of a Passed Existing Premises which existed prior to the Commencement Date in a given area and is Connected to the Network at the same time as the Network is rolled out (pre-built).
<b>Type 1 Premises</b>	means an Existing Premises identified within the Intervention Area prior to the Commencement Date and available for Detailed Design in advance of Network being rolled out (pre-design build).
<b>Type 2 Connection</b>	means the Connection of a Passed Existing Premises which existed prior to the Commencement Date in a given area and is Connected to the Network after the Network is rolled out in that area (on demand).
<b>Type 2 Premises</b>	means an Existing Premises within the Intervention Area not identified prior to the Commencement Date and subsequently identified on the most recent Quarterly GeoDirectory release relevant to the Intervention Area prior to its respective Deployment Area Network rollout commencement date.

<b>Type 3 Connection</b>	means the Connection of a Passed New Premises which did not exist prior to the Commencement Date but which has been built before the Network was rolled out in a given area and Connected to the Network at the same time as the Network is rolled out (pre-built).
<b>Type 3 Premises</b>	means a New Premises identified in the End User Information Management Data Sources as at the date six (6) months prior to the date that NBPco is due to complete Detailed Design for the relevant Deployment Area as notified by NBPco to the Minister in a timely manner.
<b>Type 4 Connection</b>	means the Connection of a Passed New Premises which did not exist prior to the Commencement Date but which was built before or after the Network was rolled out in a given area and Connected to the Network after the Network is rolled out (on demand).
<b>Type 4 Premises</b>	means a New Premises identified in the End User Information Management Data Sources as at the date six (6) months prior to the date that NBPco substantially commences any build, lay, rollout or installation activity of Network Deployment in the relevant Deployment Area, in accordance with the Detailed Design for the Deployment Area.
<b>Unaccrued OCPs</b>	<p>means all OCPs that would, but for the termination of this Agreement, have fallen due for payment after, as applicable, the Termination Date or Partial Termination Date pursuant to the provisions of this Agreement on the basis of (only) the Milestones Achieved as at (but not after) the date of issue of, as applicable, the Termination Notice or Partial Termination Notice (as provided for in the most recent version of the Project Financial Model as at the date the, as applicable, Termination Notice or Partial Termination Notice is issued) on the assumption and basis that:</p> <p>(a) no sums are payable as a Subsidy Payment by the Minister as a result of the application of any of</p>

the Subsidy Payment Adjustment Provisions in respect of any circumstances prevailing or anticipated to prevail after, as applicable, the Termination Date or Partial Termination Date (including any financial impact such as any increase in NBPco's Project Costs and/or reduction in Project Revenue in respect of the period after, as applicable, the Termination Date or Partial Termination Date) so that any such sums are disregarded in determining the Unaccrued OCPs payable by the Minister by reducing the Unaccrued OCPs accordingly; and

(b) any decrease in or refund of the Subsidy Payments as a result of the application of:

1. any of the Subsidy Payment Adjustment Provisions; and/or
2. Clause 1.7 (Definitions and Interpretation) and Annex 6 (Infrastructure Access Pricing Refund) of Schedule 6.2 (Change Control Procedure),

that has not been applied or refunded as at, as applicable, the Termination Date or Partial Termination Date by application of the aforementioned provisions at, as applicable, the Termination Date or Partial Termination Date (including where it would, but for termination, have been applied or refunded by application of those provisions after, as applicable, the Termination Date or Partial Termination Date) in accordance with those provisions so that such decrease and/or refund is taken into account in determining the Unaccrued OCPs by reducing the Unaccrued OCPs accordingly.



**Unaccrued Subsidy Payments**

means all Subsidy Payment (as provided for in the most recent version of the Project Financial Model as at the date the Termination Notice is issued) that would, but for the termination of this Agreement, have fallen due for payment after the Termination Date pursuant to the provisions of this Agreement on the assumption and basis that:

- (a) NBPco has Achieved Network Deployment Complete for one hundred percent (100%) of Premises in the Intervention Area; and
- (b) no sums are payable as a Subsidy Payment by the Minister as a result of the application of any of the Subsidy Payment Adjustment Provisions in respect of any circumstances prevailing or anticipated to prevail after the Termination Date (including any financial impact such as any increase in NBPco's Project Costs and/or reduction in Project Revenue in respect of the period after the Termination Date) so that any such sums are disregarded in determining the Unaccrued Subsidy Payments payable by the Minister and the Unaccrued Subsidy Payments are reduced accordingly; and
- (c) any decrease in or refund of the Subsidy Payments as a result of the application of any of the Subsidy Payment Adjustment Provisions that has not been applied as at the Termination Date by application of the aforementioned provisions at the Termination Date (including where it would, but for termination, have been applied by application of those provisions after the Termination Date) in accordance with those provisions so that such decrease and/or refund is taken into account in determining the Unaccrued

Subsidy Payments and the Unaccrued Subsidy Payments are reduced accordingly.

**Un-Avoidable Costs**

has the meaning given to it in Paragraph 2.5 (Avoidable and Un-Avoidable Costs) of Appendix 4 (Costs, Permitted Expenditure and Revenues) of Schedule 5.1 (Subsidy Payments).

**Unbundled Fibre Access Product**

means where an:

1. RSP;
2. WSP's retail service provider; or
3. WSP,

gains direct physical access, typically via an Optical Distribution Frame, to a fibre that is connected between the first point of active aggregation (e.g. in an exchange building or other access PoP) in its network to the End User's Premises.

**[REDACTED]**

**[REDACTED]**

(a) **[REDACTED]**

(b) **[REDACTED]**

**UNI**

means User Network Interface.

**Uninsurable**

means in relation to a Risk or a class of insurance, either that:

- (a) insurance is not available to NBPco in respect of the Project in the worldwide insurance market with reputable insurers of good standing in respect of that Risk or class of insurance; or
- (b) the insurance premium payable for insuring that Risk or class of insurance is at such a level that the Risk or class of insurance is generally not being insured against in the worldwide insurance market with reputable insurers of good standing by contractors in Ireland,

and “**Uninsurability**” is construed accordingly.

**Union Emblem**

means EU emblem.

**Universal Service Regulations**

means the European Communications (Electronic Communications Network and Services) (Universal Services and Users’ Rights) Regulations 2011 (S.I. No. 337/2011).

**Universal Wholesale Gateway**

means NBPco’s set of systems to ensure that Wholesale Products are provided to Service Providers on an EoI basis, and which is more particularly described in Paragraph 5.1 (Operational Environment) of Schedule 2.4 (Operational Performance) and NBPco Solution (and, in particular, Paragraph 1.2.1 (Universal Wholesale Gateway) of Schedule 3.1(NBPco Solution - Technical Solution)).

**Unpaid Accrued Subsidy Payments**

means any Subsidy Payments payable, in accordance with the provisions of Schedule 5.1 (Subsidy Payments), pursuant to a DMPC, CMPC, ACMPC or OCPC that was submitted prior to the Termination Date or, as applicable Partial Termination Date and which have not been paid as at, as applicable, the Termination Date or Partial Termination Date (and, for clarity, excludes any Subsidy Payments that would have fallen due for payment in accordance with the provisions of Schedule 5.1 (Subsidy Payments) after, as applicable, (a) the Termination Date but for the Termination of this Agreement or (b) the Partial Termination Date but for the Partial Termination of this Agreement).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(i) [REDACTED]

(ii) [REDACTED]

[REDACTED]

(a) [REDACTED]

(b) [REDACTED]

**Unstructured Duct**

has the meaning given to it in Paragraph 7.6 (Duct Blockages) of Annex 6 (Build Related Contract Assumptions) of Schedule 6.2 (Change Control Procedure).

**Unsuitable Third Party**

means a person:

(a) who has a material interest in the production, distribution or sale of arms or weapons;

(b) who has been convicted of a criminal offence relating to the conduct of its business;

(c) who has committed an act of grave professional misconduct in the course of its business or profession;

(d) to whom any of the circumstances or descriptions in Regulation 57(1) of the European Union (Award of Public Authorities' Contracts) Regulations 2016 (S.I. No. 284/2016) apply;

(e) who has failed to comply with material obligations relating to the payment of non-minor sums of taxes or social security contributions; or

(f) whose activities, in the reasonable opinion of the Minister, pose or could pose a threat to national security.

**Unused Subsidy**

means, at a given time, the aggregate euro value of any decreases in total Subsidy Payments (if any) from that set out in the Project Financial Model as at the Effective Date arising from changes to the Intervention Area made pursuant to Change Authorisations, as determined in accordance with the provisions of Annex 3 (Changes to the Intervention Area) of Schedule 6.2 (Change Control Procedure).

[REDACTED]

[REDACTED]

<b>Updated DA Forecast Cost</b>	has the meaning given to in Paragraph 8.2.21 (Network Deployment – Requirements) of Schedule 2.3 (Deployment Requirements).
<b>Updated Deployment Area Cost Template</b>	means an updated version of the Deployment Area Cost Template containing NBPco's forecast and/or actual costs for a Deployment Area as at the point in time the Updated DA Forecast Cost and/or the DA Actual Cost (as applicable) is prepared.
<b>Upload Speed</b>	means the data speed that can be transmitted and measured between two specific points in the Network which is measured in the direction away from the End User taking into account any contention built into the Network and/or the Service Provider's Network (as appropriate) and:  (A) for Active Wholesale Products, the Upload Speed is measured between the WCPE and NNI at the PoH; and  (B) in the context of Retail Products, Upload Speed is measured between the End User Residential Gateway and the Internet Demarcation Point.
<b>User Datagram Protocol (UDP)</b>	means the communications protocol that facilitates the exchange of messages between computing devices as defined in IETF RFC 768.
<b>User Network Interface</b>	means an End User and Network interface and denotes the Demarcation Point between the Wholesale Product and the retail service at the End User Premises.
<b>USO Decision</b>	means a decision by the Regulator, under the Electronic Communications Framework, determining the scope of the universal service (or similar public service) obligation for the Irish market and designating NBPco (or any person in the NBPco Economic Group) as a universal service provider and requiring

	NBPco (or any person in the NBPco Economic Group) to comply with or adhere to particular requirements or conditions relating to the performance of the universal service obligation.
<b>UTP Restricted CiO</b>	means a Change in Ownership restricted by the provisions of Clause 63.9.1 (Change in Ownership and of Control).
<b>UWG</b>	means Universal Wholesale Gateway.
<b>UWG Release</b>	means a UWG system change/update organised and implemented or to be organised and implemented by NBPco in accordance with Paragraph 5.1 (Operational Environment) of Schedule 2.4 (Operational Performance) and the Service Requirements (and includes, as the context so admits or requires, any one, more or all of them).
<b>VAT</b>	means Value-Added Tax as referred to in the VAT Consolidation Act 2010, as amended, and associated regulations.
<b>Verge</b>	has the meaning given to it in Paragraph 3.6 (Accuracy of Duct Mix) of Annex 6 (Build Related Contract Assumptions) to Schedule 6.2 (Change Control Procedure).
<b>Virtual LAN</b>	means a broadcast domain in a computer network that is partitioned at the data link layer.
<b>Virtual Unbundled Access</b>	means an Active Wholesale Product provided in the wholesale broadband access market from the WCPE to a local PoH.
<b>Vitiating Act</b>	has the meaning given to it in Paragraph 2.3 (Multiple Insured / Non-Vitiation Clause) of Part 3 (Endorsements) of Schedule 5.6 (Required Insurance).
<b>VLAN</b>	means Virtual LAN.
<b>VUA</b>	means Virtual Unbundled Access.
<b>Warranties</b>	means the representations and warranties referred to or contained at Appendix 1 (NBPco Asset Option

Warranties) to Appendix 4 (Buildco Share Option Warranties) (inclusive) of Schedule 6.9 (Consequences of Termination) and “**Warranty**” is construed accordingly.

<b>Watercourse</b>	means a brook, stream, or artificially constructed water channel.
<b>WCPEs</b>	means wholesale customer premises equipment, that is the network termination device located in the End User Premises that is used to terminate NBPco’s Access Network and is the physical network termination point for the Wholesale Service Provider’s network and to which the Service Provider’s equipment is directly connected. The output of the WCPE provides the Demarcation Point between NBPco’s Network and Service Provider’s equipment.
<b>Web Self Service</b>	has the meaning given to it in Paragraph 4.3.12 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification) and which is to be provided by NBPco in accordance with the Service Requirements and NBPco Solution (and, in particular, Paragraph 1.2.1.1.2.2 (Web Self Service – Use Cases & Process) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).
<b>WEEE Regulations</b>	means the European Union (Waste Electrical and Electronic Equipment) Regulations 2014 (S.I No. 149/2014) and Directive 2012/19/EU.
<b>Weekend</b>	means the period from 00:01 (Saturday) to 06:00 (Monday).
<b>Wholesale Product and Pricing Report</b>	means the report to be provided by NBPco pursuant to Paragraph 1.3 (Reports) of Appendix 1 (Reports) and Annex 1 (Report Details) of Schedule 6.5 (Reports and Records).
<b>Wholesale Margin Squeeze</b>	has the meaning given to it in Paragraph 4 (Wholesale Margin Squeeze Test) of

Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Wholesale Price Change**

has the meaning given to it in Paragraph 1.1.1 (General Principles) of Appendix 3 (Wholesale Price Control Procedure and Wholesale Product Control Procedure) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Wholesale Price Control Procedure**

means the procedure set out in Appendix 3 (Wholesale Price Control Procedure and Wholesale Product Control Procedure) to Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) which govern Wholesale Prices Changes.

**Wholesale Price List**

means the price lists for Wholesale Products set out in Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) (as amended from time to time pursuant to a Change Authorisation).

**Wholesale Prices**

means the prices set out in Appendix 1 (Benchmark Reference Price, Benchmark Reference Product and Others) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) at a relevant point in time in respect of the Wholesale Products as may be amended from time to time in accordance with the Wholesale Price Control Procedure (and not otherwise) and which includes all one-off (including connection charges) and recurring charges charged by NBPco in respect of a Wholesale Product (and which includes, as the context so admits or requires, any one, more or all of them or any part or parts of them in respect of any one, more or all of the Wholesale Products). References to Wholesale Prices in Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale



Product Benchmarking Rules) are construed in accordance with Paragraph 1.2 (Wholesale Pricing Rules) and Paragraph 1.3 (Wholesale Pricing Rules) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Wholesale Pricing Rules**

has the meaning given to it in Paragraph 1.1 (Wholesale Pricing Rules) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Wholesale Pricing Rules Review**

means a review undertaken by NBPco or by or on behalf of the Minister in accordance with the provisions of Paragraph 8 (Monitoring the Benchmark Reference Price and Compliance with the Wholesale Pricing Rules) of Part 1 (Wholesale Pricing Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) or the provisions of Part 4 (Review and Compliance) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).

**Wholesale Product & Coverage Template**

means the template populated and maintained by NBPco setting out the availability of High Speed Broadband at each and every Premises throughout the entire Intervention Area (and includes, as the context so admits or requires, any part or parts of it).

**Wholesale Product & Price Rules**

means the Wholesale Pricing Rules and Wholesale Product Benchmarking Rules (and includes, as the context so admits or requires, any part or parts of them or any or all of them).

**Wholesale Product Benchmarking**

means the procedure set out in Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules)

	in relation to the benchmarking of Wholesale Products.
<b>Wholesale Product Benchmarking Rules</b>	has the meaning given to it in Paragraph 1.1 (Wholesale Product Benchmarking Rules) of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).
<b>Wholesale Product Benchmarking Rules Review</b>	means a review undertaken by NBPco or by or on behalf of the Minister in accordance with the provisions of Paragraph 5 (Monitoring Compliance with the Wholesale Product Benchmarking Rules) of Part 3 (Wholesale Product Benchmarking Rules) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules) or the provisions of Part 4 (Review and Compliance) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).
<b>Wholesale Product Catalogue</b>	means a system which, in accordance with the Service Requirements, contains the required information on all Wholesale Products to be offered by NBPco to Service Providers and which is to be designed, operated and maintained by NBPco in accordance with the Service Requirement and NBPco Solution (and, in particular, Paragraph 1.2.1.1.2.1 (Wholesale Product Catalogue) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).
<b>Wholesale Product Category</b>	means the Minimum Required Wholesale Products, Additional Required Wholesale Products, Other Permitted Wholesale Products and Excluded Area Products (and includes as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).
<b>Wholesale Product Change</b>	has the meaning given to it in Paragraph 1.1.1 (General Principles) of Appendix 3 (Wholesale Price Control Procedure and

	<p>Wholesale Product Control Procedure) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules).</p>
<b>Wholesale Product Control Procedure</b>	<p>means the procedure set out in Appendix 3 (Wholesale Price Control Procedure and Wholesale Product Control Procedure) of Schedule 5.2 (Wholesale Prices, Price Benchmarking Rules and Wholesale Product Benchmarking Rules), which, together with Schedule 6.2 (Change Control Procedure), govern Wholesale Products Changes.</p>
<b>Wholesale Product Launch Project Plan</b>	<p>means the detailed plan that describes the activities that NBPco shall manage, undertake and complete in implementing the Wholesale Products as more particularly described in the Service Requirements and NBPco Solution and as set out at Paragraph 3.5.3.5.3 (Wholesale Product Launch Project Plan Milestone Achievement) of Schedule 3.3 (NBPco Solution – Speed of Deployment and Environment) (and which includes, as the context so admits or requires, any part or parts of it and any Change made to it pursuant to a Change Authorisation).</p>
<b>Wholesale Product Roadmap</b>	<p>has the meaning given to it in Paragraph 3.5 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification) and which NBPco is required to design, develop and maintain in accordance with the Service Requirements (including Paragraph 3.5 (Product Requirements, Evolution and Roadmap) of Schedule 2.1 (Technical Solution Specification)) and NBPco Solution and which is set out in Figure 1.5.1.2-5 (Technology &amp; Product Roadmap) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).</p>
<b>Wholesale Product Specification</b>	<p>means, in respect of a particular Wholesale Product, the wholesale product specification set out in the Reference Offer for that Wholesale Product including the:</p>

1. Wholesale Product functionality, specifications and other characteristics;
2. Wholesale Product performance levels and indicators;
3. Wholesale Product availability timing; and
4. Wholesale Product performance operational processes for Service Providers to manage the lifecycle of the Wholesale Product,

(and includes, as the context so admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Wholesale Products**

means:

- (a) the Minimum Required Wholesale Products;
- (b) the Additional Required Wholesale Products;
- (c) the Other Permitted Wholesale Products; and
- (d) if applicable, any RoLR End User Product which NBPco is required to provide as the final retailer of last resort pursuant to the provisions of Clause 19 (Wholesale Products) and an NBPco RoLR Authorisation Form,

together with all relevant services (and which includes, as the context admits or requires, any one, more or all of them or any part or parts of any one, more or all of them).

**Wholesale Products Launch Project Plan Milestones**

means the Milestones contained in the Wholesale Product Launch Project Plan component of the Project Plan (and includes, as the context so admits or requires, any one, more or all of them).

**Wholesale Service Provider**

means an actual or prospective customer of NBPco in respect of Wholesale

Products and that is required to satisfy the following, namely:

1. it is an Authorised Undertaking;
2. as a part of the Service Provider Onboarding Process, it enters into the WSP Terms with NBPCo before any Wholesale Products are provided to it; and
3. its use of the Wholesale Products is for resale to an Authorised Undertaking operating at the retail level and whose use of the Wholesale Products is for direct onward sales to its own IA End User customers with a Premises in the Intervention Area,

and includes, as the context so admits or requires, any one, more or all of them from time to time.

**Wide Area Network (WAN)**

means a network that exists over a large-scale geographical area, used to inter-connect different smaller networks including LANs.

**Withheld Subsidy Payments for Deployment Performance Bond**

has the meaning given to it in Clause 39.6 (Performance Bond).

**Withheld Subsidy Payments for Expiration Performance Bond**

has the meaning given to it in Clause 39.5 (Performance Bond).

**Worked Example**

has the meaning given to it in Part 1 (Worked Examples) of Annex 6C (Worked Examples) of Schedule 6.2 (Change Control Procedure).

**Worked Example Spreadsheet**

has the meaning given to it in Part 1 (Worked Examples) of Annex 6C (Worked Examples) of Schedule 6.2 (Change Control Procedure).

**Workforce Management System**

has the meaning given to it in Paragraph 4.4.9 (Operational Environment Requirements) and Paragraph 4.4 (Operational Environment Requirements) of Schedule 2.1 (Technical Solution Specification) which is to be designed, developed and operated by NBPCo in

accordance with the Service Requirements and NBPco Solution (and, in particular, Paragraph 1.3.1.1.3 (Workforce Management System) of Schedule 3.1 (NBPco Solution – Technical Solution)) (and includes, as the context so admits or requires, any part or parts of it).

**Working Day**

means a day other than a Saturday, Sunday or public holiday in Dublin, Ireland.

**Wrong Pocket Asset**

has the meaning given to it in Paragraph 8.5 (Transfer of Assets) of Part 5 (Change in Ownership and Asset Transfer) of Schedule 6.9 (Consequences of Termination) (and includes, as the context so admits or requires, any one, more or all of them).

**WSP**

means a Wholesale Service Provider.

**WSP Performance Level Agreement**

means the performance level agreement incorporated into the WSP Terms which sets out:

1. the specification of the Wholesale Products to be provided to the WSPs by NBPco;
2. the level and standard of performance to be provided to the WSPs by NBPco;
3. all processes and procedures for the operation and support of the Wholesale Products to be provided to the WSPs by NBPco;
4. the consequences (in terms of rebates, credits or otherwise) of NBPco failing to meet the agreed performance levels,

and the terms of which WSP Performance Level Agreement are required to comply with the Service Requirements and NBPco's Solution, and the Approved Form of which shall be set out in the Approved Form of the Service Provider Terms from time to time.

**WSP Terms**

means the:

1. terms and conditions;
2. WSP Performance Level Agreement;  
and
3. Reference Offer,

subject to, and in accordance with which, NBPco makes available, Connects, enables and provides the Wholesale Products to WSPs and which are required to comply with the Service Requirements and NBPco Solution, the Approved Form of which shall be as set out in the Approved Form of the Reference Offer from time to time.

**1<sup>st</sup> Tier Key Subcontractor**

means a Key Subcontractor that has entered into a Key Subcontract with NBPco (and includes, as the context so admits or requires, any one, more or all of them).

**2021 Milestone Dates**

means, as the context requires:

- (a) in respect of the Milestones contained therein, the relevant date set out in column 3 of the table in Annex 1 (Relevant 2021 Milestone Dates) of Appendix 1 (Deployment Milestone Payments) of Schedule 5.1 (Subsidy Payments); and
- (b) in respect of P4C.0 Milestone to P4C.11 Milestone (inclusive), the relevant date set out in subparagraphs (D) to (H) of Paragraph 2.13.1 (P4C Milestone (Premises Passed for (x)% of Premises in the Intervention Area)) of Appendix 3 (Milestone Achievement Criteria) of Schedule 2.3 (Deployment Requirements),

in each case, if the relevant date falls on a day that is not a Working Day,

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the relevant 2021 Milestone Date shall be deemed to be the next Working Day. References in this Agreement and the Schedules to "Milestone Dates" occurring in 2021 shall be deemed to refer to the 2021 Milestone Dates.

**2<sup>nd</sup> Tier Key Subcontractor**

means a Key Subcontractor that has entered into a Key Subcontract with a 1<sup>st</sup> Tier Key Subcontractor (and includes, as the context so admits or requires, any one, more or all of them).

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**[REDACTED]**

**3GPP**

means the 3<sup>rd</sup> Generation Partnership Project.