

AGREEMENT

between

**THE SCOTTISH MINISTERS
(hereinafter referred to as the “Scottish Ministers”)**

and

Amey Infrastructure Services Limited

having its registered office at

**Langmuir Way
Bargeddie
Glasgow
G69 7RW**

**(hereinafter referred to as the “Operating
Company”)**

WHEREAS by invitation to tender dated 29 April 2005 the Scottish Ministers invited tenders in respect of the provision of management and maintenance of the South West Unit (the extent of such Unit being defined in Clause 1.1.1 of Schedule 1) and having considered tenders received have decided to accept the Tender submitted by the Operating Company in respect of the South West Unit

NOW THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS

1 INTERPRETATION

1.1 In this Agreement

1.1.1 “Contract” means and shall consist of this Agreement and the following documents attached hereto which shall be deemed to form and to be read and to be construed as part of the Contract namely

- (i) Volume 1 Schedule 1 the Conditions of Contract
- (ii) Volume 2 Schedule 2 the Method of Measurement and Schedule of Rates and Prices
- (iii) Volume 3 to 4 Schedules 3 to 8 the Scottish Ministers’ Requirements
- (iv) Volume 5 Schedule 9 the Specification
- (v) Volume 6 Schedule 10 which includes such clarifications issued during the period between the issue of the invitation to Tender by the Scottish Ministers and the 19 December 2005 and
- (vi) Volume 7 Schedule 11 which includes documentation submitted by the Operating Company as relevant parts of its Tender submission

together with other relevant documentation and correspondence between the parties to this Agreement subsequent to such submission.

1.1.2 “Schedule” means a schedule to the Contract.

2 APPOINTMENT AND STATUS OF THE OPERATING COMPANY

2.1 The Scottish Ministers hereby authorise the Operating Company in accordance with the provisions of Paragraph 2 of the Trunk Road Functions (Contracting Out) (Scotland) Order 1996 No 878 (S99) made under Section 69 of the Deregulation and Contracting Out Act 1994 to carry out such statutory functions of the Scottish Ministers as roads authority as are specified in Annex 3.9/A of Part 9 of Schedule 3 (as from time to time amended by virtue of Clause 2.4.2 of Schedule 1) all in terms of the Roads (Scotland) Act 1984.

2.2 The Operating Company shall execute the Operations in accordance with and shall be bound in all respects by the terms and conditions and other requirements specified in the Contract.

2.3 In carrying out its obligations under the Contract, including without prejudice to the generality of the foregoing in entering into any agreement contract or arrangement of whatsoever nature relative to or arising out of or in connection with the carrying out of the Operations, the Operating Company shall be acting as the principal and not as the agent of the Scottish Ministers.

Accordingly,

- (i) the Operating Company shall not (and shall ensure and procure that its agents, employees and representatives do not) say or do anything which might lead another person to believe that the Operating Company is acting as agent of the Scottish Ministers and

- (ii) nothing in the Contract shall impose any liability on the Scottish Ministers in respect of any liability incurred by the Operating Company to any other person, but this shall not be taken to exclude or limit any liability of the Scottish Ministers to the Operating Company that may arise by virtue of a Default on the part of the Scottish Ministers or their employees.

3 PAYMENT

In consideration for the actual provision and performance by the Operating Company of the Operations and all other obligations incumbent upon the Operating Company under the Contract the Scottish Ministers shall pay to the Operating Company the sums specified as being payable to it in the Contract at the times specified in and otherwise in accordance with the terms and conditions specified therein.

4 JOINT AND SEVERAL LIABILITY

The companies firms and other organisations which together make up the Operating Company shall be bound jointly and severally to perform the Operations and to comply with all other obligations incumbent upon the Operating Company under the Contract.

5 MANAGEMENT OF THE CONTRACT

5.1 The Operating Company hereby appoints Gordon Allan to act as the Operating Company's Representative all in terms of Clause 2.5.3.1 of Schedule 1. The Operating Company's Representative shall not be changed without the prior written consent of the Scottish Ministers all in terms of Clause 2.5.3.3 of Schedule 1.

5.2 The Operating Company's Representative shall have full authority to act as agent of the Operating Company in relation to all matters arising out of or in connection with the Contract and the Scottish Ministers shall use the Operating Company's Representative as their point of contact in relation to the Contract all in terms of Clause 2.5.3.1 of Schedule 1. Without prejudice to the generality of the foregoing all communications between the Scottish Ministers and the Operating Company or any of its members shall be made through the Operating Company's Representative.

6 CONFLICT OR INCONSISTENCY IN THE CONTRACT

6.1 Subject to the provisions of Clause 6.2 of this Agreement in the event of any conflict or inconsistency between any of the Schedules to the Contract and this Agreement the provision in the Schedules shall prevail over that conflicting or inconsistent provision of this Agreement the latter being deemed to be pro non scripto to the extent that it is in conflict or inconsistent with the Schedules to the Contract.

6.2 Notwithstanding the provisions of the foregoing Clause 6.1 of this Agreement the provisions of Clause 1.1, Clause 2, and Clause 5 of this Agreement shall prevail over any conflicting or inconsistent provision of the Schedules to the Contract the latter being deemed to be pro non scripto to the extent that it is in conflict or inconsistent with such provision of this Agreement.

6.3 The provisions of Clauses 3.1.1 to 3.1.3 inclusive of Schedule 1 shall apply in relation to any conflict or inconsistency between provisions of the Contract and in relation to any conflict or inconsistency between any documents supplied by the Operating Company.

IN WITNESS WHEREOF, these presents, consisting of this and the preceding three pages together with the Schedules and the documents forming the Contract and annexed hereto are executed in duplicate as follows

subscribed for and on behalf of the said Amey Infrastructure Services Limited by

....., being the proper and duly authorised officer, at Edinburgh on 12 January 2006 before the following witness

.....

..... (Signed)

..... (Witness)

and they are subscribed by John Howison

being an officer of the Scottish Ministers, at Edinburgh on 12 January 2006

before the following witness

Raymund Johnstone

SCOTTISH EXECUTIVE

VICTORIA QUAY

EDINBURGH

EH6 6QQ

.....

(Signed)

.....

(Witness)