

**SCHEDULE 3.2**

**COMMERCIALLY SENSITIVE INFORMATION**

## VERSION CONTROL

VERSION NUMBER	DATE	COMMENT
0.1	27 July 2016	Preliminary draft template version made available for general comment
0.2	2 September 2016	Uplifted draft, following feedback, made available for final comment
0.3	25 October 2016	Uplifted following local body and supplier feedback
1.0	16 November 2016	Baselined Version 1.0
1.1	26 January 2018	Updated for Next Generation Access Broadband Wales – Phase 2 Procurement

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## **SCHEDULE 3.2 – COMMERCIALY SENSITIVE INFORMATION**

### **1. BACKGROUND**

- 1.1 This Schedule 3.2 sets out the information that the Parties agree be treated as Commercially Sensitive Information for the corresponding purposes identified in Clauses 49 and 50.
- 1.2 For the avoidance of doubt, the content of the table below should not be construed so as to purportedly indicate any extension of the scope of the Welsh Ministers' statutory obligations under FOIA or the Environmental Information Regulations to disclose Information.
- 1.3 Subject to Clauses 49.3 and 50.3, as well as any requirement of Law, the Welsh Ministers shall not disclose information marked with a 'Y' in the final column of the following table to any other Local Body (for the duration specified) for the purposes of Clause 50.6.2.

2. **COMMERCIALLY SENSITIVE INFORMATION**

INFORMATION	BASIS OF COMMERCIAL SENSITIVITY*	PERIOD CLASSED AS COMMERCIALLY SENSITIVE INFORMATION	RESTRICTION ON DISCLOSURE TO OTHER LOCAL BODIES (Cl. 50.6.4) (Y/N plus time period)
1. Details of any new or anticipated Grantee or Sub-Contractor products and services received pursuant to this Agreement which are not launched or otherwise in the public domain.	This information if made public may: (a) give a commercial advantage to competitors; and/or (b) create unintended expectation/reliance by third parties.	The period that the information remains confidential under the terms of this Agreement (i.e. until it falls within Clause 50.2).	N
2. The Project Model, C6 Financial Reports and Project Accounts.  Except that each of the following, whether modelled, actual or forecast for the Project (including for aggregated amounts, then current aggregate amounts at the time concerned, not just final totals), are not in any event Commercially Sensitive Information for the purposes of this table: <ul style="list-style-type: none"> <li>• The Milestone Payments;</li> <li>• Aggregate NGA Network Build Costs;</li> <li>• Aggregate Grantee NGA Network Build Investment;</li> <li>• Aggregate Grantee investment;</li> <li>• Aggregate Clawback amounts;</li> <li>• Aggregate End User Premises passed;</li> <li>• Aggregate Structures per Solution Component</li> <li>• Aggregate End Users connected;</li> <li>• Project Investment Ratios;</li> <li>• Outturn Investment Ratios.</li> </ul>	This information if made public may: (a) give a commercial advantage to the competitors of the Grantee; and/or (b) be damaging to the Grantee's business.	The period that the information remains confidential under the terms of this Agreement (i.e. until it falls within Clause 50.2).	Y - The period that the information remains confidential under the terms of this Agreement (i.e. until it falls within Clause 50.2).  Note: The Programme Authority shall be permitted to collate and circulate to Local Bodies Project Model, C6 Financial Reports and Project Accounts data on an aggregated anonymised basis.
3. Financial Distress Event information	This information if made public may be damaging to the Grantee's reputation/business (incl. share price).	The period that the information remains confidential under the terms of this Agreement (i.e. until it falls within Clause 50.2).	N
4. The Grantee Solution as set out in Schedule 3.1 (excluding the Speed and Coverage Template and any other aspects otherwise specifically provided for within this table).  The Speed and Coverage Template is not Commercially Sensitive Information. If publishing the Speed and Coverage Template or its content, where and to the extent planned roll-out is yet to be completed, the Welsh Ministers shall include a	This information if made public may give a commercial advantage to competitors.	Until the expiry of the Commission Decision.  Information detailing the as-built Network for a Phase shall not be Commercially Sensitive Information from Achievement of the M2 Milestone for that Phase.	Y - Until the expiry of the Commission Decision

INFORMATION	BASIS OF COMMERCIAL SENSITIVITY*	PERIOD CLASSED AS COMMERCIALY SENSITIVE INFORMATION	RESTRICTION ON DISCLOSURE TO OTHER LOCAL BODIES (Cl. 50.6.4) (Y/N plus time period)
suitable caveat acknowledging that this roll-out may be subject to change.			
5. Appendix 4 to Schedule 4.1 - Survey Assumptions	This information if made public may give a commercial advantage to competitors.	The period that the information remains confidential under the terms of this Agreement (i.e. until it falls within Clause 50.2).	Y - Until the expiry of the Commission Decision
6. The Project Plan (not the Implementation Plan).  This shall not restrain disclosure of any phased roll out information to be published in coverage maps, post code checkers or equivalent.	This information if made public may: (a) give a commercial advantage to competitors; and/or (b) create unintended expectation/reliance by third parties.	Up to the Full Service Commencement Date.	Y - Up to the Full Service Commencement Date.
7. Wholesale Access Prices Benchmarking data, including identifying which Benchmark Data has been identified against which Wholesale Access Products and Services in this Agreement.  Unless and to the extent such information may need to be published to meet transparency requirements under the Commission Decision and/or may need to be disclosed as part of responding to a formal State aid complaint.	This information if made public may give a commercial advantage to the competitors of the Grantee.	The period that the information remains confidential under the terms of this Agreement (i.e. until it falls within Clause 50.2).	N
8. The Grantee ITT Response to the extent falling within the classification of Commercially Sensitive Information identified in the above rows of this table.	See applicable row(s) above.	See applicable row(s) above.	See applicable row(s) above.
9. Grantee information concerning its economic and financial standing, technical and professional ability and compliance with legislation and standards, as provided as part of the Grantee ITT Response.	This information if made public may be damaging to Grantee's reputation/business (incl. share price).	The period that the information remains confidential under the terms of this Agreement (i.e. until it falls within Clause 50.2).	Y
10. The Schedule 6.4 reports, subject to the following:  C1, C2 and C9 reports – Commercially Sensitive Information except this shall not, for the avoidance of doubt, vary the classification status of the Implementation Plan or any of the other matters specifically excluded from being Commercially Sensitive Information in this table; C3 report – not Commercially Sensitive Information save to the extent of (i) take-up data specified to the level of individually	This information if made public may: (a) give a commercial advantage to competitors; and/or (b) create unintended expectation/reliance by third parties.	Term	N

INFORMATION	BASIS OF COMMERCIAL SENSITIVITY*	PERIOD CLASSED AS COMMERCIALY SENSITIVE INFORMATION	RESTRICTION ON DISCLOSURE TO OTHER LOCAL BODIES (Cl. 50.6.4) (Y/N plus time period)
<p>identified End User Premises; or (ii) fully comprehensive or other large scale release of take-up data identified against Structure for the Network (noting that it is recognised that the Welsh Ministers are likely to release ad hoc single or Structure cluster take-up details as part of publicity or marketing efforts);</p> <p>C4 report – Commercially Sensitive Information unless and to the extent that such activities are publically funded;</p> <p>C5 report – Commercially Sensitive Information save to the extent of data included in this report on Structures at capacity that are causing Service Levels to be exceeded (along with timescales to add additional capacity);</p> <p>C6 – see row 2 above;</p> <p>C7 – Commercially Sensitive Information unless and to the extent such information may need to be published to meet transparency requirements under the Commission Decision and/or may need to be disclosed as part of responding to a formal State aid complaint;</p> <p>C8 – only the identities of the SMEs is treated as Commercially Sensitive Information;</p> <p>C11 – see row 7 above.</p>			
<p>11. Records of governance discussions and other written information obtained by the Welsh Ministers pursuant to the Agreement but only to the extent to which they comprise (i.e. include) Commercially Sensitive Information identified in the above rows of this table.</p>	<p>See applicable row(s) above.</p>	<p>See applicable row(s) above.</p>	<p>See applicable row(s) above.</p>

\*Note: In the event that any information noted in this table enters the public domain, it will no longer represent Commercially Sensitive Information for the purposes of this Agreement – accordingly the classification period noted above would no longer apply and there would be no restriction on disclosure to other Local Bodies.