

SCHEDULE 4.3

RELIEF EVENTS

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 plus 11 November 2016 minor edits	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
1.2	09 October 2018	Proposed additional relief event 7
1.3	12 October 2018	Proposed updated wording – relief event 7

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SCHEDULE 4.3 – RELIEF EVENTS

1. BACKGROUND

This Schedule 4.3 sets out details of the Relief Events and should be read in conjunction with Clause 19.

2. RELIEF EVENTS

2.1 Subject to Clause 19, an event shall qualify as being a Relief Event only where and to the extent it both:

2.1.1 concerns an activity or responsibility of the Welsh Ministers relating to this Agreement upon which the Grantee is dependent in order to provide the Deployed Services or which otherwise directly impacts the Deployed Services; and

2.1.2 is described in the Appendix to this Schedule 4.3 or is otherwise expressly identified as a Relief Event in the Agreement (excluding any Relief Event only identified within the Grantee Solution).

3. QUALIFYING PERIOD

The Grantee shall not be eligible to apply for relief in accordance with Clause 19 if and to the extent the relevant Relief Event occurs outside of the relevant qualifying period set out in the table in the Appendix to this Schedule 4.3.

APPENDIX – RELIEF EVENTS

ID	RELIEF EVENT DESCRIPTION	QUALIFYING PERIOD (e.g. duration of Term, Network Deployment phase only)	EXPECTED IMPACT OF RELIEF EVENT	EXPECTED GRANTEE MITIGATION / WORKAROUND (IF APPLICABLE)
1	<p>Any legal challenge, action and/or formal investigation relating to the Network Deployment which is commenced and/or upheld prior to the completion of the Network Deployment and which is brought:</p> <p>(a) before the EU General Court or a national court or by the European Commission under the EU State aid rules including against the Welsh Ministers; or</p> <p>(b) against the Welsh Ministers for breach of statutory duty including the duty owed under Regulation 89 of the Public Contracts Regulations 2015,</p> <p>which materially affects either the delivery of the project and/or the viability of the public funds (in whole or part as appropriate) used to help pay for delivery of the project.</p>	Network Deployment	Suspension of Network Deployment implementation and provision of related Deployed Services (in whole or part as appropriate) by the Grantee for the Coverage Area or the part of the Coverage Area materially affected by such Relief Event. 'Materially affected' means any risk arising of impact on the validity of payments for deploying the whole or part of the Network or undertaking other Deployed Services.	<p>The Parties shall within three (3) Working Days of becoming aware of such matter convene a Governance Board meeting to discuss:</p> <p>a) the potential materiality of such legal challenge, action and/or investigation;</p> <p>b) the potential impact of the same on the Agreement; and</p> <p>c) likely relief options to be applied (if any are available),</p> <p>following which a Relief Notice (if still required) will be provided by the Grantee to the Welsh Ministers as soon as reasonably practicable (in accordance with the format set out in Clause 19.2). The Parties will then, for the avoidance of doubt, apply the process set out in Clause 19.3 to Clause 19.7 of the Agreement.</p>
2	<p>Where:</p> <p>(a) a Local Planning Authority or Local</p>	Term	Change in timescales Reduction in coverage	The actions set out in Clause 19.3 of the Agreement. Further steps to mitigate in accordance with Good

	<p>Highways Authority within the Coverage Area fails to provide any relevant consent, decision or response within the statutory or published time period; and</p> <p>(b) the Welsh Ministers have (and had at the relevant time) the ability to manage and control the processing of such consent, decision or response within such time period,</p> <p>provided that the Grantee ensured that the application was submitted in a timely fashion, was of an accurate and high standard and was presented in such a way as to allow prompt determination.</p>		<p>Reduction in broadband speed</p> <p>Increased cost</p>	Industry Practice.
3	Strike by Welsh Ministers and/or Other Beneficiary personnel, which directly delays surveying, planning, or deployment.	Term	<p>Change to timescales</p> <p>Increased cost</p>	The actions set out in Clause 19.3 of the Agreement. Further steps to mitigate in accordance with Good Industry Practice.
4	<p>Without prejudice to the operation of Clause 5, any requirement for permits, consents or notices from the Welsh Ministers (or anyone acting on the Welsh Ministers' behalf) where details were provided as part of the ITT but have subsequently changed from what was provided including:</p> <p>(a) any classification of works as major works under the Construction (Design and Management) Regulations 2015; and/or</p> <p>(b) any classification as traffic sensitive, Road Category 0-2, or major works pursuant to any permit scheme under the Traffic Management Act 2004,</p>	Term	<p>Change in timescales</p> <p>Reduction in coverage</p> <p>Reduction in Speed</p> <p>Increased cost</p>	The actions set out in Clause 19.3 of the Agreement. Further steps to mitigate in accordance with Good Industry Practice.

	provided that the Grantee has taken reasonable steps to ensure that applications under the relevant permit, consent and/or notice applications (as applicable) are submitted in a timely fashion, are of an accurate and high standard, and presented in such a way which will allow prompt determination of the relevant application/request.			
5	Welsh Ministers delays and/or refusals in granting wayleaves on reasonable terms (being consistent with those terms the Welsh Ministers otherwise set for commercial deployments) where the wayleaves are required from the Welsh Ministers, provided that the Grantee has taken reasonable steps to ensure that requests for wayleaves are submitted in a timely fashion, are of an accurate and high standard, and presented in such a way which will allow prompt determination of the relevant request.	Term	Change in timescales Reduction in coverage Reduction in Speed Increased cost	The actions set out in Clause 19.3 of the Agreement. Further steps to mitigate in accordance with Good Industry Practice.
6	Acts or omissions of third parties directly impacting delivery of the project, where these are: (i) under the direct control of the Welsh Ministers; and (ii) not under the control of the Grantee, save where such acts or omissions reflect steps being taken by the Welsh Ministers to comply with Law and/or its duties as a public body.	Term	Increased cost Reduced coverage Reduced broadband speed Change to timescales	The actions set out in Clause 19.3 of the Agreement. Further steps to mitigate in accordance with Good Industry Practice.
7	XXXREDACTEDXXX	XXXREDACTEDXXX	XXXREDACTEDXXX	XXXREDACTEDXXX