

SCHEDULE 5.5

EXTERNAL FUNDING

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	23 June 2017	Updated Version 1.1
1.2	26 January 2018	Updated for Next Generation Access Broadband Wales – Phase 2 Procurement
1.3	16 March 2018	Updated following minor CQ's
1.4	04 October 2018	Amends to the ERDF maximum sum and inclusion of ERDF project specific conditions – retention of records
1.5	05 October 2018	Paragraph 4 now NOT USED

SCHEDULE 5.5 – EXTERNAL FUNDING

1. BACKGROUND

On 7 August 2018 the Welsh Ministers entered into a grant funding agreement for ERDF Funding with the Welsh Government.

2. GENERAL

2.1 This Schedule contains those additional terms which the Welsh Ministers require the Grantee to comply with relating to the ERDF Funding.

2.2 The Grantee shall provide such assistance and information as the Welsh Ministers may reasonably require in relation to the ERDF Funding.

3. DEFINITIONS

Approved Use	the use of wholesale access infrastructure within the Network as contemplated under this Agreement;
Disposal	the disposal, sale, transfer or the grant of any estate or interest in any Funded Asset including a lease disposal, where relevant in the context, and includes the creation of any charge, legal mortgage, debenture, lien or other encumbrance and any contract for the disposal and "Dispose" shall be construed accordingly;
ERDF Funding	funding claimed from the European Regional Development Fund for use in connection with the Agreement;
ERDF Maximum Sum	the maximum amount of ERDF Funding claimable in respect of Qualifying Capital Expenditure on the ERDF Project being £5,371,122.
ERDF Project	the project to deliver the Deployed Services in the Eligible ERDF Area;
ERDF Project Specific Conditions	those project specific conditions relating to the ERDF Project notified to the Welsh Ministers by the European Commission;
ERDF Publicity Guidelines	the publicity guidance issued at http://gov.wales/funding/eu-funds/2014-2020/wefo-guidance/publicity/?lang=en in respect of the European Regional Development Fund Programme 2014 to 2020;
Funded Asset	any tangible asset acquired, built or improved, financed in whole or in part as at the date of creation or deployment irrespective of its location or ownership with a value of at least five thousand pounds (£5,000);
Publicity Material	all physical and on-line marketing materials under the Agreement including without limitation direct mail, advertisements, brochures and guides, advertisement boards, stationary, letterheads, compliment slips, business cards, site hoardings, informational signs and roadside network boxes;
Useful Economic Life	in respect of any Funded Asset the earlier of: (a) the expiry of the economic life of the asset having regard to the nature of the asset and its depreciation; or (b) the period commencing on the date when the final payment is made in respect of the project to the Grantee and expiring on the seventh

anniversary of that date;

WEFO

Welsh European Funding Office.

4. **NOT USED**

5. **NOT USED**

6. **GRANT CLAIMS**

6.1 **Amount of Grant**

6.1.1 **NOT USED**

6.1.2 If the Welsh Ministers reasonably believe that the total amount of ERDF Funding available to them will be less than the ERDF Maximum Sum then they will promptly inform the Grantee. Upon receipt of such notice the Parties will meet to discuss how best to adjust the scope of the Project Plan, Implementation Plan, Deployed Services, Speed and Coverage Template and Milestone Payments. Such adjustments will be made with a view to keeping the balance of risk and cost to both Parties substantially the same as at the Effective Date, save to the extent the unavailability of ERDF Funding results from a Grantee Default. Any changes to the Agreement will be subject to the Change Control Procedure.

6.1.3 **NOT USED**

6.2 **NOT USED**

7. **ASSETS**

7.1 In accordance with the provisions of clause 37.2 and paragraph 5.1.2 of Schedule 5.1 (Milestone Payments and Claims Procedure), the Grantee shall establish and maintain a record of all Funded Assets.

7.2 Subject to paragraph 7.4 and during the Useful Economic Life of each Funded Asset, the Grantee shall not:

7.2.1 physically remove, decommission or disable any wholesale infrastructure within the Network funded under this Agreement once it has been deployed if that change will materially and permanently degrade the services received by any End User of the Network;

7.2.2 use any Funded Asset for any purpose other than the Approved Use;

7.2.3 cease to use the Funded Asset or any part of the Funded Asset for the Approved Use;

7.2.4 Dispose of any interest in any Funded Asset; and/or

7.2.5 create any charge, legal mortgage, debenture, or lien over any Funded Asset,

without the prior written consent of the Welsh Ministers.

7.3 Where the Grantee Disposes of any interest in any Funded Asset without the prior written consent of the Welsh Ministers, then the proceeds of the Disposal shall be returned to the Welsh Ministers.

7.4 For the avoidance of doubt, nothing in this paragraph 7 shall preclude replacement of Network sub-components as part of Network maintenance, provided that the Grantee updates the record of Funded Assets accordingly.

8. **AUDIT**

8.1 Subject to Clause 50.7, the Welsh Ministers may share (i) the Project Accounts, (ii) the MPC Supporting Documentation and (iii) any other information that has been provided by the Grantee pursuant to a request by the Welsh Ministers under paragraph 6.2 of Schedule 5.1 (Milestone Payments and claims Procedure) with WEFO where required to do so in order to satisfy their audit obligation under the ERDF Grant Funding Agreement pursuant to Clause 50.6.4.

9. **PUBLICITY**

9.1 The Grantee shall at all times comply with:

9.1.1 Articles 115 and Annex XII of Regulation 1303/2013

9.1.2 Commission Implementing Regulation (EU) No 821/2014 of 28 July 2014; and

9.1.3 the ERDF Publicity Guidelines.

9.2 The Grantee shall, in relation to all Publicity Material created and/or used by the Grantee for this Agreement:

9.2.1 display the ERDF Logo;

9.2.2 acknowledge ERDF as a source of funding under this Agreement; and

9.2.3 include the following note in any editorial notes:

"The **Next Generation Access Broadband Wales** Programme is part financed by the European Regional Development Fund Programme 2014 to 2020. The Welsh Government is the managing authority for the European Regional Development Fund Programme, which is one of the funds established by the European Commission to help local areas stimulate their economic development by investing in ERDF Projects. For more information visit <http://gov.wales/funding/eu-funds/?lang=en>."