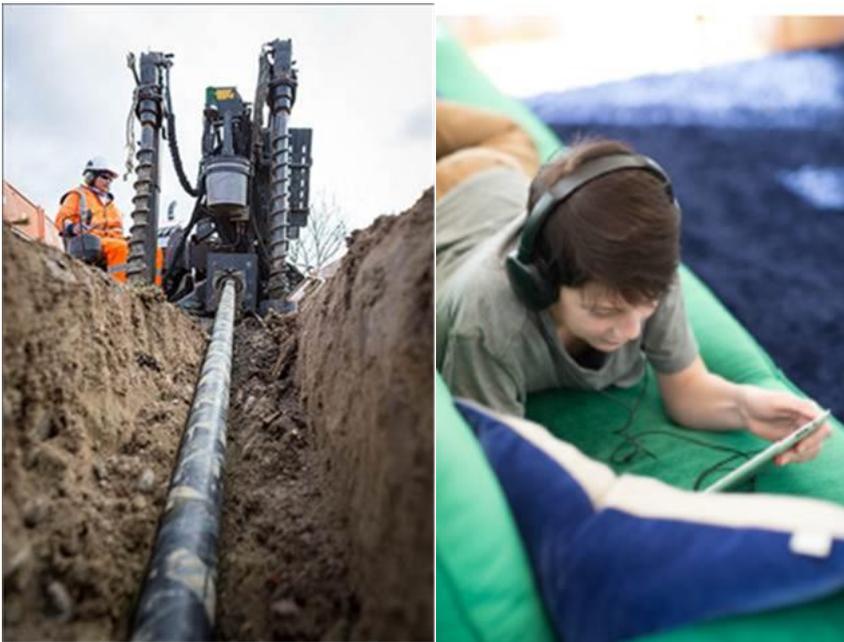




Request for Proposals

Expansion of coverage of Ultra-Fast Broadband (UFB2)



Date of release of RFP: Tuesday 1 September 2015

Deadline for Questions: 4pm (NZ time) on Friday 9 October 2015

Deadline for Proposals: 4pm (NZ time) on Wednesday 28 October 2015

Crown Fibre Holdings Limited
L10 PwC Tower, 188 Quay Street
Auckland Central
PO Box 105 321, Auckland 1143

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Overview of this RFP

The following high level overview is intended to assist Respondents to navigate this Request for Proposal (**RFP**) by briefly explaining the purpose of each of the sections and Appendices.

Respondents should always refer to the relevant section and/or Appendix for a full understanding of any issue.

SECTION 1: Summary of UFB2 Opportunity

This introductory section provides useful background to Ultra Fast Broadband in New Zealand and contains a high level summary of both UFB1 and UFB2. In particular, it sets out details of CFH's existing UFB1 partnerships.

This section includes a summary of what CFH wants to achieve through this RFP and what is important to CFH in this regard.

CFH's role in UFB1 and the partnering arrangements that arose out of UFB1 unavoidably cause probity risks for the UFB2 procurement process. This section discusses these probity issues and the measures that CFH has implemented to manage the risks.

SECTION 2: Key information

This section contains information key to producing and submitting a compliant Proposal, including:

- the timeline for the RFP process;
- the details of our Point of Contact;
- the preferred manner and form of Proposals; and
- the address for submitting Proposals.

SECTION 3: Our Requirements

This section is of prime importance to the development of Proposals, as it describes CFH's key requirements.

Proposals must sufficiently satisfy the Base Requirements set out in this section in order to be considered by the Evaluation Panel. Accordingly, every Respondent will need to closely read this section and refer to it when preparing its Proposal.

Many of the Base Requirements in this section refer to the Appendices to this RFP. Where a Base Requirement refers to an Appendix, either to provide further detail as to CFH's Requirements or to include further relevant documentation, the Appendix must also be closely considered by Respondents.

This section also includes information regarding the Contract that may result from this RFP.

SECTION 4: Our Evaluation Approach

This section sets out the approach CFH will take to evaluating Proposals, which is necessarily complex given the subject matter of this procurement.

In detailing CFH's Evaluation Approach, this section includes the following:

- the extent of Government (non-CFH) involvement;
- CFH's pre-conditions. Proposals that do not meet the pre-condition will be eliminated from further consideration;
- the Evaluation Criteria against which the Evaluation Panel will evaluate Proposals;
- details of further evaluation and due diligence that CFH may undertake; and
- CFH's Negotiation Approach.

SECTION 5: Funding information
As is further explained in this RFP, every Respondent must provide its funding requirements as part of its Proposal. This section sets out the form these funding requirements must take and determines parameters for funding requirements. In submitting its funding requirements, every Respondent must complete both the Proposal Data Template and the BOM Template (as further described in Appendix 11 (Matters to be covered in your Proposal)).
SECTION 6: Our Proposed Contract
This section provides a high level description of the Proposed Contract CFH intends to use for the delivery of the Requirements sought by this RFP. Further information relating to the Proposed Contract is set out in Appendix 2 (Service Levels), which sets out Service Levels Respondents must meet. This section explains the degree to which there is flexibility in the form of the Contract to be agreed with any successful Respondent and describes how Respondents can propose variations to the Proposed Contract.
SECTION 7: RFP Process, Terms and Conditions
This section contains the RFP – Terms which every Respondent will be bound by. These RFP-Terms are substantially based on the MBIE template RFP-Terms, but have been tailored in certain respects to this procurement. This section also includes the Definitions section, which sets out the defined terms used throughout this RFP.
APPENDIX 1: Preferred Commercial Model and Alternative Commercial Model
Proposals must either comply with the Preferred Commercial Model or the Alternative Commercial Model Requirements. This Appendix includes a description of the Preferred Commercial Model and the Alternative Commercial Model Requirements.
APPENDIX 2: Service Levels
This Appendix contains further details of the Service Levels which the Respondent must meet in relation to the build of the UFB2 Network and provision of the O&M Services.
APPENDIX 3: UFB2 Network Requirements
One of the Base Requirements is that Proposals must meet or exceed the UFB2 Network Requirements. This Appendix sets out these requirements.
APPENDIX 4: Product Specifications and Pricing
One of the Base Requirements concerns satisfaction of the Product Specification and Pricing Requirements. This Appendix sets out those requirements.
APPENDIX 5: Regulatory Requirements
One of the Base Requirements is that the UFB2 Network the Respondent proposes to build must meet the Regulatory Requirements. This Appendix sets out those requirements.
APPENDIX 6: Health and Safety Requirements
One of the Base Requirements is that Respondents must meet the Health and Safety Requirements. This Appendix sets out those requirements. Respondents must complete the health and safety questionnaire contained in section 5 of the Schedule to Appendix 11 (Matters to be covered in your Proposal) and CFH will use this to help assess compliance with the Requirements.
APPENDIX 7: Governance
One of the Base Requirements is that Respondents must materially agree with the Governance Requirements. This Appendix sets out those requirements.

APPENDIX 8: Reporting Requirements
One of the Base Requirements is that Respondents must materially agree with the Reporting Requirements. This Appendix sets out those requirements.
APPENDIX 9: Potential UFB2 Candidate Areas and UFB1 Fringe Areas
This Appendix contains the list of the Potential UFB2 Candidate Areas and the UFB1 Fringe Areas. The UFB2 Candidate Area Shapefiles and the UFB1 Fringe Area Shapefiles show the relevant areas geospatially. Respondents can propose minor variations to the Potential UFB2 Candidate Areas and/or include Suggested Alternative Candidate Areas (including UFB1 Fringe Areas) in their Proposals. However, Respondents must do so in accordance with this Appendix.
APPENDIX 10: Marketing and Promotion
One of the Base Requirements is that Respondents must materially agree with the Marketing and PR Requirements. This Appendix sets out those requirements.
APPENDIX 11: Matters to be Covered in Your Proposal
This Appendix includes a number of further matters that Respondents must include in, or with, their Proposals. When forms are to be completed, templates are either included in the Schedule to this Appendix or are accessible via CFH's TenderLink Site.
APPENDIX 12: UFB1 Candidate Areas
This Appendix includes a full list of the UFB1 Candidate Areas (with high level maps) and the cities and towns in which the UFB1 Network is being built.
APPENDIX 13: RFP Response Form
This Appendix contains the Response Form that Respondents are required to populate and use as the covering document for their Proposals. The Response Form requests that Respondents identify where in their Proposals they have provided information to address how they have complied with CFH's Requirements. This will make the Evaluation Panel's task significantly easier. The Response Form also includes a mandatory declaration that all Respondents must complete.

Interpretation
In this RFP, unless otherwise specified:
(a) a reference to a <i>section</i> in the Base RFP, Appendix, or Schedule, is a reference to a section of that Base RFP, Appendix or Schedule as specified;
(b) a reference to a <i>paragraph</i> in a section, Appendix, or Schedule, is a reference to a paragraph of that section, Appendix or Schedule as specified;
(c) a reference to an <i>Appendix</i> is a reference to an appendix of this RFP as specified;
(d) a reference to a <i>Schedule</i> is a reference to a schedule to an Appendix of this RFP as specified;
(e) specifying anything in this RFP after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included unless there is express wording to the contrary;
(f) the singular includes the plural and vice versa; and
(g) references to and expressions used in connection with financial calculations, valuations, accounting or financial reporting fundings or their description in this RFP bear the respective meanings ascribed to like expressions or expressions to similar intent in accordance with NZ IFRS and NZ GAAP.

SECTION 1: Summary of UFB2 Opportunity

1.1 The UFB2 Opportunity

- 1.1.1 The Government has announced that a further investment of between \$152 million and \$210 million (**CFH Capital**) is to be made available to extend UFB to further towns that are not covered by UFB1 Candidate Areas (or that are within UFB1 Candidate Areas but the UFB1 Network is not planned to be built in those towns) and urban areas surrounding UFB1 Candidate Areas, in New Zealand (**UFB2**).
- 1.1.2 A key focus of the Government is to ensure that UFB2 provides Ultra Fast Broadband to the greatest possible proportion of the New Zealand population for the available funding - the objective of UFB2 is to expand the proportion of the New Zealand population that has access to UFB from 75% (the expected population coverage achieved under UFB1) to at least 80% based on 2023 population projections (the **UFB2 Objective**). It is estimated that this will involve passing at least 110,000 Premises based on 2023 population projections with infrastructure that meets the UFB2 Network Requirements (including the delivery of the UFB2 Services (i.e., specified wholesale fibre access services set out in Appendix 3) (the **UFB2 Network**).
- 1.1.3 The Government has appointed Crown Fibre Holdings Limited (**CFH**) to manage the Government's investment in UFB2. CFH is the Crown owned entity established in 2009 to manage the Government's investment in UFB1 (including negotiating the contracts with UFB1 Partners and now managing and monitoring the deployment of the UFB1 Network and the UFB1 Partner contracts). Further information about CFH can be found at www.crownfibre.govt.nz. CFH has considerable telecommunications infrastructure industry experience, including experience gained under UFB1 in the areas of network deployment, operations and sales/marketing, and international relationships, which can assist successful Respondents in UFB2.
- 1.1.4 A key aspect of the UFB2 Objective is to invest the available CFH Capital alongside private sector partners to provide the greatest possible proportion of the New Zealand population with access to the UFB2 Network.
- 1.1.5 Confidential proposals are now invited from all Respondents to partner with the Government (through CFH) in UFB2.

1.2 Background

- 1.2.1 CFH was originally established in 2009 to manage the Government's \$1.345 billion investment in Ultra-Fast Broadband infrastructure (**UFB1**) that meets the UFB1 Network Requirements (**UFB1 Network**). The Government's objective for UFB1 was to accelerate the roll-out of Ultrafast Broadband to 75% of New Zealanders over ten years (by 2019), concentrating in the first six years (by 2015) on priority broadband users such as businesses, schools and health services, plus green field developments and certain tranches of residential areas (the **UFB1 Objective**).
- 1.2.2 To achieve the UFB1 Objective, CFH negotiated agreements with four partners (Chorus Limited (**Chorus**), Enable Services Limited (**ESL**), Northpower Limited (**Northpower**) and Waikato Networks Limited (**WNL**), (together, the **UFB1 Partners**) to co-invest with CFH and deploy the new UFB1

Network across 33 specified areas (**UFB1 Candidate Areas**)¹. These co-investment arrangements with UFB1 Partners were established between late 2010 and mid 2011. Redacted versions of the UFB1 contracts CFH executed with the UFB1 Partners (**UFB1 Agreements**) are available at <http://www.crownfibre.govt.nz/crown-partners/agreements-with-ufb-partners/> (note that these versions of the UFB1 Agreements are in the form originally executed and do not reflect any of the variations the parties may have subsequently agreed).

- 1.2.3 Three Local Fibre Companies (**UFB1 LFCs**) were created as a result and the fourth partnership resulted in a newly formed company (Chorus), which separated from its former parent, Telecom Corporation of New Zealand Limited (now Spark New Zealand Limited). A table setting out CFH's UFB1 Partners, the UFB1 LFCs and the UFB1 Candidate Areas the UFB1 Partners have been contracted to build is shown below²:

UFB1 Partner	UFB1 LFC (if applicable)	UFB1 Candidate Areas contracted to build
Northpower	Northpower Fibre Limited (Northpower Fibre)	Whangarei UFB1 Candidate Area
WNL	Ultrafast Fibre Limited (UFF)	Comprising Hamilton (including Cambridge and Te Awamutu), Tauranga, Tokoroa, New Plymouth, Hawera and Wanganui UFB1 Candidate Areas
ESL	Enable Networks Limited (ENL)	Comprising Christchurch (including Rolleston) and Rangiora UFB1 Candidate Areas
Chorus	N/A	Comprising 24 UFB1 Candidate Areas: Auckland, Waiheke Island, Pukekohe, Waiuku, Rotorua, Taupo, Whakatane, Gisborne, Napier-Hastings, Palmerston North, Fielding, Masterton, Kapiti, Levin, Wellington, Nelson, Blenheim, Greymouth, Ashburton, Timaru, Oamaru, Dunedin, Queenstown and Invercargill

- 1.2.4 By 2020, 75% of New Zealanders will be able to connect to UFB as a result of UFB1. All schools, hospitals and 90% of businesses in the UFB1 Candidate Areas will be able to connect by 2015. The remaining 10% of businesses will be able to connect by no later than the end of 2019.

¹ See Appendix 12 for a full list of the UFB1 Candidate Areas and the cities and towns in which the UFB1 Network is being built. Appendix 12 also includes maps of the UFB1 Candidate Areas.

² See Appendix 12 for a full list of the UFB1 Candidate Areas and the cities and towns in which the UFB1 Network is being built. Appendix 12 also includes maps of the UFB1 Candidate Areas.

UFB1

1.2.5 Deployment of the UFB1 Network started in December 2010 and to date, approximately 12,000 kilometres of fibre-optic cable has been laid, covering approximately 40% of New Zealand's population, meaning the UFB1 Initiative is over 54% completed.³

1.2.6 Map 1 (opposite) depicts the cities and towns in which the UFB1 Network is being deployed by the UFB1 Partners⁴. The UFB1 Network has already been completed in a number of locations including Ashburton, Blenheim, Cambridge, Hawera, Oamaru, Taupo, Te Awamutu, Timaru, Tokoroa, Wanganui, Rolleston and Whangarei.

Map 1: Cities and Towns covered by UFB1



UFB2

1.2.7 As stated by the Hon. Amy Adams (Minister for Communications), in November 2014, “the Government is committed to building world-class fibre infrastructure and the long-term gains it will bring. Faster broadband is critical to growing the economy, driving innovation and improving outcomes in education, health and the not-for-profit sector. The next step is extending UFB from a target of 75% to 80% of New Zealanders, funded from the Future Investment Fund as announced during the election campaign.”

1.2.8 The Hon. Amy Adams has also announced that the “list of additional towns to receive fibre to the home, and the order of roll-out, will be determined following a competitive bid process, which will take into account the cost of deployment, strength of consumer demand, and regulatory and other assistance from local authorities”⁵.

1.2.9 In UFB1, the largest 33 urban areas in New Zealand (by population) were named as being eligible for the UFB1 funding (i.e., the UFB1 Candidate Areas). Appendix 9 contains a list of further urban areas which are eligible for funding under UFB2 (**Potential UFB2 Candidate Areas**) and detailed maps of each Potential UFB2 Candidate Area (which show the specific areas that the UFB2 Network will need to be deployed to if a Proposal for that Potential UFB2 Candidate Area is accepted by CFH⁶) are available as specified in paragraph 3.2.2. If a Respondent thinks that the UFB2 Network should be deployed in an area that is not covered by a Potential UFB2 Candidate

³ As at 30 June 2015

⁴ See Appendix 12 for a full list of the UFB1 Candidate Areas and the cities and towns in which the UFB1 Network is being built. Appendix 12 also includes maps of the UFB1 Candidate Areas.

⁵ September 2014

⁶ See Appendix 9 for rules relating to proposing amendments to the Potential UFB2 Candidate Areas and/or including Suggested Alternative Candidate Areas (including UFB1 Fringe Areas) in Proposals.

Area (**Suggested Alternative Candidate Area**) then the Respondent can include the Suggested Alternative Candidate Area in its Proposal.⁷ The UFB1 Fringe Areas are examples of areas that the Respondent may wish to include (in whole or part) as Suggested Alternative Candidate Areas.

1.2.10 The final list of Potential UFB2 Candidate Areas and Suggested Alternative Candidate Areas that the UFB2 Network will be built in, and the order of the build in those areas, will be determined following this competitive RFP process. It should be noted that the available CFH Capital for UFB2 is limited and, depending on the Proposal or Proposals that are ultimately accepted by CFH, the available CFH Capital is unlikely to be sufficient to build the UFB2 Network in all Potential UFB2 Candidate Areas and UFB1 Fringe Areas (collectively all the Potential UFB2 Candidate Areas and UFB1 Fringe Areas contain approximately 8.2% of population coverage based on 2023 population projections). CFH will seek to award funding for sufficient Potential UFB2 Candidate Areas and Suggested Alternative Candidate Areas (including any relevant UFB1 Fringe Areas) to ensure that at least 5% of the population, based on 2023 population projections, are covered by UFB2.

1.2.11 It should be noted that:

- (a) Under the UFB1 Agreements, the agreed funding provided by CFH did not extend to building the UFB1 Network in a small number of towns or urban fringe areas included within UFB1 Candidate Areas awarded to UFB1 Partners (for example Ngaruawahia, which was included in the Hamilton UFB1 Candidate Area awarded to WNL) (these areas are referred to as **UFB1 Excluded Areas**).
- (b) In some instances the relevant UFB1 Partner has now agreed to exclude the UFB1 Excluded Areas from the scope of the relevant UFB1 Candidate Areas so those areas can be included in this RFP. Those UFB1 Excluded Areas (for example Ngaruawahia) have been included in this RFP as UFB1 Fringe Areas.
- (c) Some of the UFB1 Fringe Areas are areas that surround (but were not included within) UFB1 Candidate Areas awarded to UFB1 Partners.
- (d) The UFB2 Network does not need to be deployed to state and state-integrated schools and public hospitals and integrated family health centres in the Potential UFB2 Candidate Areas because all state and state-integrated schools and public hospitals and integrated family health centres in the Potential UFB2 Candidate Areas will have access to fibre.

1.2.12 As noted above, a primary objective of this procurement process is to invest the available CFH Capital to achieve the greatest UFB2 Network coverage possible.

1.2.13 The Government considers the expansion of UFB to predominantly rural/regional towns throughout New Zealand as a major opportunity for communities and businesses. UFB expansion is a key enabler for economic growth, facilitating increased business productivity, employment creation and the attraction and retention of residents in the communities selected. UFB will also assist in improving both health and education outcomes in the communities selected and improve connectivity to Iwi through marae and other community facilities.

1.3 What we need

1.3.1 Confidential proposals are now invited from Respondents to partner with the Government (through CFH) in UFB2 to bring UFB to an increased number of towns/urban areas in New Zealand and to achieve the greatest coverage of the UFB2 Network (by population) for the most economic

⁷ See Appendix 9 for rules relating to proposing amendments to the Potential UFB2 Candidate Areas and/or including Suggested Alternative Candidate Areas (including UFB1 Fringe Areas) in Proposals.

cost. Respondents can submit a Proposal (or Proposals) for one or more Proposed Candidate Areas.

- 1.3.2 The criteria by which CFH will evaluate the Proposals received are set out in section 4. Respondents should note that the evaluation initially involves the ranking of individual Proposed Candidate Areas across Proposals, rather than Proposals as a whole being ranked, regardless of the basis on which multiple Proposed Candidate Areas may be included in a Proposal. Respondents may nonetheless submit a Proposal under which they provide pricing on the basis that a certain group of Proposed Candidate Areas is contracted for collectively, provided they also submit a Proposal under which pricing is provided on the basis of Proposed Candidate Areas being contracted for individually.
- 1.3.3 The following are key areas that Respondents should focus on in preparing their Proposals. This section is intended as a guide only and Respondents need to carefully review and understand the Requirements specified throughout this RFP. It should not be assumed that any items mentioned elsewhere in this RFP, and not mentioned in this section, are unimportant.
- 1.3.4 Key areas of focus for Respondents include:
- (a) achieving the maximum amount of End User/population coverage with the UFB2 Network at the earliest possible date in the Proposed Candidate Area(s);
 - (b) minimising the Price (i.e., the total amount of funding that CFH is to provide for each Premises in each Proposed Candidate Area included in the Proposal, noting that CFH will only provide funding for Communal Layer 1 Infrastructure and potentially Layer 1 Backhaul costs - see paragraph 4.2.2 for more information regarding "Price" in the context of UFB2);
 - (c) minimising costs of deploying the UFB2 Network through utilisation of aerial deployment, shallow trenching, directional drilling, utilisation of existing infrastructure (see paragraph 1.3.4(f) below) and selecting appropriate architectures;
 - (d) completing the build of the UFB2 Network to all Premises in each Proposed Candidate Area within 12 months (from the start of build of such Proposed Candidate Area), in order to maximise attractiveness and ease for RSPs to market UFB RSP Services to End Users, and therefore likely uptake of UFB RSP Services;
 - (e) ensuring that the Respondent's Proposal does not include the deployment of the UFB2 Network in any:
 - (i) residential areas (including subdivisions) in which a fibre-to-the-premises network has already been funded and deployed; or
 - (ii) areas that are inside the UFB1 Candidate Areas (subject to paragraph 1.2.11(b)),
(Ineligible Areas);
 - (f) where existing fibre and/or ducts exist in an area (other than an Ineligible Area), consider reaching agreement with the owner of the fibre and/or ducts for those assets to be utilised in the build of the UFB2 Network and avoid overbuilding (provided the existing fibre and/or ducts meet the relevant Requirements set out in this RFP);
 - (g) leveraging existing assets in the telecommunications and utilities sectors, for example existing UFB1 handover points, in order to optimise operational costs and maximise attractiveness of Proposed Candidate Areas for RSPs, and therefore likely uptake of UFB RSP Services;

- (h) ensuring that proposed interfaces with RSPs are consistent with the existing UFB1 interfaces (Layer 2 compliance, on-boarding processes, OSS/BSS interfaces) so as to maximise the ease with which RSPs may commence selling UFB RSP Services in each Proposed Candidate Area and to minimise change and cost impacts on RSPs (for example, leveraging existing UFB1 LFC systems or other telecommunications wholesale providers for operational support);
- (i) meeting the UFB2 Network Requirements which are broadly similar to UFB1 for a fibre-to-the-premises network;
- (j) meeting the Product Specification and Pricing Requirements (including SLA requirements) and the Regulatory Requirements in order to make it attractive and easy for RSPs to market UFB RSP Services;
- (k) meeting Requirements for marketing and promotions as set out in Appendix 10 so as to maximise potential uptake of UFB2 Services and UFB RSP Services; and
- (l) generally aiming to deploy the UFB2 Network so as to ensure the maximum long-term benefit to End Users of UFB RSP Services in the Proposed Candidate Area(s).

1.4 What we don't want

- 1.4.1 CFH does not want to receive Proposals about approaches to deploy UFB to any of Proposed Candidate Areas that do not meet the Requirements.
- 1.4.2 CFH is not seeking Proposals about alternative technologies or for any Proposal other than for a UFB2 Network that complies with the UFB2 Network Requirements (i.e., essentially a "fibre-to-the-premises" network, but noting section 7 (Use of Emerging Copper Technologies) of Appendix 3 (UFB2 Network Requirements)).
- 1.4.3 CFH does not want Proposals that include the deployment of the UFB2 Network in Ineligible Areas. CFH has made efforts to ensure that the Potential UFB2 Candidate Areas and UFB1 Fringe Areas do not include Ineligible Areas, however, some such areas may have been inadvertently included. If a Respondent is aware that an Ineligible Area has been included in any Potential UFB2 Candidate Area or UFB1 Fringe Area that the Respondent is including in its Proposal then the Respondent should highlight that in its Proposal and utilise the mechanisms set out in Appendix 9 (including the Proposed Candidate Areas Change mechanism) to exclude the Ineligible Area(s) from its Proposed Coverage Areas.
- 1.4.4 CFH does not want Proposals that contemplate CFH providing funding for anything other than Communal Layer 1 Infrastructure and potentially Layer 1 Backhaul costs.

1.5 What's important to us

- 1.5.1 CFH is looking to partner with credible infrastructure and/or telecommunications providers who have the capability, experience and infrastructure to deliver UFB2 to the Proposed Candidate Areas included in their Proposal(s). You will need to have a good track record in the management and implementation of significant infrastructure projects, have or have access to proven telecommunications expertise and have effective networks and strong relationships within the relevant local community or communities to help efficiently complete the UFB2 Network deployment and maximise uptake on the UFB2 Network. If you do not possess these proven qualities (or a comprehensive and robust plan to acquire the necessary capability and experience), it is unlikely that you will be successful.
- 1.5.2 CFH is looking to maximise the proportion of New Zealand's population that gets access to the UFB2 Network within the available CFH Capital. Therefore, Proposals that provide for the

Respondent to share with CFH in the funding of the Communal Layer 1 Infrastructure and Layer 1 Backhaul costs will be evaluated more favourably than Proposals that do not provide for the Respondent to provide such funding. CFH expects that such Proposals will enable the available CFH Capital to be spread across an increased proportion of the population, and therefore increase the proportion of New Zealand's population that can have access to the UFB2 Network.

1.5.3 CFH's Requirements are set out in more detail in section 3.

1.6 Why you should bid

1.6.1 This is a unique opportunity to be part of the development of UFB in New Zealand and to assist in expanding the availability of UFB to at least another 5% of New Zealand's population. You will be submitting a Proposal to partner with CFH who will provide a significant part of the capital required to build the UFB2 Network and the benefit of the significant expertise CFH has gained through the successful implementation of UFB1.

1.6.2 The telecommunications market in New Zealand is undergoing significant change – End Users (including businesses, education, health and residential) are increasingly demanding access to UFB and the benefits that it provides. UFB1 has delivered substantial and tangible benefits to New Zealand towns and cities, and this is your opportunity to be involved in an investment that will bring those benefits to more New Zealanders.

1.7 Probity

Government Rules of Sourcing

1.7.1 As a Public Finance Act 1989 Schedule 4A Company, CFH is subject to the Government Rules of Sourcing. Accordingly, CFH is committed to running a procurement process that aligns with the Government Rules of Sourcing, including with regard to:

- (a) following the Principles of Government Procurement;
- (b) the content of this RFP;
- (c) responding to queries from Respondents;
- (d) any changes which CFH may make to this RFP or to the procurement process generally;
- (e) the evaluation of responses;
- (f) awarding the contract;
- (g) the provision of debriefs; and
- (h) dealing with any complaints.

Probity issues

1.7.2 The principal probity risks for the UFB2 procurement process arise as a result of CFH's unique position in the UFB market in New Zealand. As explained above, CFH has already been responsible for the UFB1 procurement process, which resulted in CFH entering into partnering agreements with the UFB1 Partners and co-investing in the UFB1 LFCs. CFH is aware that this commercial framework, which was devised to ensure the best value for money outcome for the Government in respect of its UFB1 Objectives, unavoidably causes probity risks for the UFB2 procurement process.

- 1.7.3 In keeping with its commitment to run a fair and transparent procurement process, CFH believes it is appropriate to make all Respondents aware of the nature of these key probity risks and of the comprehensive management measures CFH intends to implement throughout the procurement process in order to protect the probity and integrity of the process. CFH urges all those interested in submitting a response to this RFP to read and consider this section carefully. Any questions regarding the content of this section are welcome and should be directed to our Point of Contact.

Conflict of interest

- 1.7.4 CFH has a financial interest in the long-term viability of the UFB1 LFCs and Chorus; companies integrally involved in the rollout of UFB to date, who could potentially be involved in submitting responses to this RFP.
- 1.7.5 CFH has been committed to managing this conflict of interest from the commencement of discussions concerning UFB2. Such management has involved seeking legal and probity advice in respect of the conflict of interest, and, in consultation with MBIE, properly testing whether the conflict of interest ought to exclude CFH from running the procurement process.
- 1.7.6 As a result of this consideration, CFH is satisfied that its conflict of interest is manageable and will not materially influence the procurement process. The key reason being that CFH's interest in the UFB1 LFCs and Chorus is far removed from the conventional financial conflict of interest where a decision-maker stands to benefit from favouring a particular bidder. In fact, once the full factual matrix is understood, and the nature of the funding arrangements which define CFH's interest in the UFB1 LFCs and Chorus is appreciated, these probity concerns are reduced considerably.

The key features of CFH's funding arrangements with Chorus and the UFB1 LFCs are summarised below. As mentioned above, the redacted versions of the UFB1 contracts CFH executed with the UFB1 Partners (which includes the shareholding agreements executed in respect of the UFB1 LFCs) are available on CFH's website.

Chorus

- CFH's security holding in Chorus will represent approximately 70% (\$929 million) of the Crown's investment in UFB1 once the UFB1 Objective is complete. The principal feature of CFH's funding arrangement with Chorus is that CFH holds quasi-debt and quasi-equity securities in Chorus.
- The quasi-debt securities are an unsecured debt obligation, which accrues no interest. Chorus is obliged to redeem CFH's quasi-debt securities at intervals defined in the contract; however, the redemption price is capped at NZD\$1, which is the price at which CFH subscribed for quasi-debt securities originally. Accordingly, CFH has no potential for financial gain in respect of the quasi-debt securities.
- The quasi-equity securities are not ordinary shares and afford no dividends to CFH before 2025 (when dividends will only be payable on a proportion of the quasi-equity securities). The quasi-equity securities are redeemable by Chorus at any time for either cash or ordinary shares in Chorus. Again, the redemption price is set at the price at which CFH subscribed for the quasi-equity securities (NZD\$1). The dividend levels on these securities are set to encourage redemption of the securities. Accordingly, this redemption facility means that CFH can only benefit from favouring Chorus in the procurement process to the extent that this would improve the viability of Chorus such that it elects to redeem CFH's quasi-equity securities earlier than it would otherwise – and as these securities carry no coupons or dividends before redemption there is no economic incentive for Chorus to redeem them early.
- CFH also holds "warrants" issued by Chorus, which enable the Crown to receive some return on its investment depending on the level of fibre uptake and the performance of Chorus' shares on the New Zealand Stock Exchange. However, there is no certainty of the warrants becoming exercisable and even if they did the value to CFH would be immaterial in the context of UFB2.

UFB1 LFCs

- CFH holds significant shareholdings in each of the UFB1 LFCs; however, (as with Chorus) CFH does not currently hold any ordinary shares. CFH holds Class A shares in each of the UFB1 LFCs, which afford CFH voting rights but no entitlement to dividends. CFH has a slightly different shareholding arrangement in respect of each UFB1 LFC. However, in essence they are the same in that, for the first ten years from the incorporation of the UFB1 LFCs (**UFB1 Concession Period**), CFH's shares in the UFB1 LFC are purchased by the UFB1 Partner with whom CFH co-invested in respect of each UFB1 LFC. The rate of purchase is either determined by the level of fibre uptake achieved by the UFB1 LFC or at the UFB1 Partner's election. Again, the price at which CFH's shares are purchased by the relevant UFB1 Partner is capped at the price at which CFH subscribed for the shares. Accordingly, if CFH's shares are all purchased in accordance with this buy-back mechanism, CFH has no potential to gain financially.
- Each of the shareholding arrangements in respect of the UFB1 LFCs also include "Call Options" and "Put Options". Where CFH's shareholding is reduced to a beneficial interest in only 25% of the voting shares in that UFB1 LFC, the relevant UFB1 Partner has a Call Option that entitles it to purchase CFH's remaining shares at "fair value". Further, where CFH's shareholding is reduced to a beneficial interest in only 10% of the voting shares in that UFB1 LFC, CFH has a Put Option that entitles it to require the relevant UFB1 Partner to purchase the remainder of CFH's shares for "fair value". Accordingly, CFH does have the potential to benefit if, at the time any of these options are exercised, the "fair value" price of its shares amounts to more than the price it paid for them.
- After the UFB1 Concession Period, CFH's shares will convert to ordinary shares and dividends will then be payable. Accordingly, CFH does have a long-term interest in the viability of the UFB1 LFCs provided it still holds shares in those companies at the end of the UFB1 Concession Period (which it may not).

1.7.7 The potential for CFH's conflict of interest in respect of the UFB1 LFCs to influence the UFB2 procurement process is lessened by the fact that the UFB1 LFCs' only potential involvement in UFB2 will be in a secondary capacity as service providers to successful Respondents. The role of the UFB1 LFCs in the procurement process is discussed further below.

1.7.8 It is also noted that the long-term benefits described above (the payment of dividends in respect of CFH's quasi-equity securities in Chorus and/or a return on the Chorus warrants, and any benefit CFH may obtain as a holder of ordinary shares in the UFB1 LFCs) may not even accrue to the benefit of CFH at all, as the Government's current plan is to dissolve CFH before many of the long-term potential benefits are able to be realised.

1.7.9 It is also relevant that because of the more limited scale and scope of UFB2 (relative to UFB1), any potential benefit to CFH as a result of the UFB1 Partners and/or UFB1 LFCs receiving contracts for UFB2 will not be material.

1.7.10 In any event, CFH is aware that the perception of a conflict of interest may occur, particularly where members of the public do not fully appreciate the nature of CFH's interests. Accordingly, CFH is committed to continuing appropriate management of its conflict throughout the procurement process. CFH's specific intentions in this regard are set out below.

Potential information advantage

1.7.11 Another feature of CFH's relationship with Chorus and the UFB1 LFCs is that two of the CFH senior management, and (in the case of two of the UFB1 LFCs and Chorus) a CFH Board member, are also directors of the UFB1 LFCs and members of the Chorus Steering Committee (a governance committee of Chorus whose role is to meet and consider a number of subjects in relation to the Chorus UFB1 build operations). CFH is alive to the risk that this overlap of personnel could potentially result in the UFB1 Partners gaining knowledge or confidential information about the

UFB2 procurement process, which would place them at an advantage over other Respondents and is managing this risk as set out below.

Role of the UFB1 LFCs as service providers to Respondents

- 1.7.12 As mentioned above, CFH has considered the possibility that the UFB1 LFCs will become involved in the UFB2 procurement process as service providers to Respondents. The fact that the UFB1 LFCs' involvement in the procurement process will only be indirect and in a limited, secondary capacity, reduces the potential benefit available to the UFB1 LFCs, and accordingly, reduces the potential for CFH's conflict of interest to influence the process. However, the obvious risk which arises in respect of the UFB1 LFCs having a service provider role is that the UFB1 LFCs may favour the UFB1 Partners when deciding who (if anyone) to provide services to in respect of UFB2, and on what terms those services will be provided. Accordingly, in governing the UFB1 LFCs' involvement in the procurement process, CFH has ensured that this risk is neutralised by undertaking the following measures.

Management of probity risks

- 1.7.13 In order to front-foot the potential issues created by CFH's relationships with the UFB1 Partners and the UFB1 LFCs as explained above, CFH has implemented or will implement (as appropriate) the following measures.

Mandating the role of the UFB1 LFCs

- 1.7.14 A critical feature of the UFB1 LFCs' involvement in the UFB2 procurement process is that they must contract with any (and all) Respondents on substantially the same terms. That is, the UFB1 LFCs must not offer any terms (including pricing or service levels) to the UFB1 Partners that they would not also offer to any other Respondent.
- 1.7.15 This mandate negates the potential for the UFB1 LFCs' involvement to benefit any one Respondent. It also negates the potential for the senior officers of CFH who are also directors of the UFB1 LFCs, to (inadvertently) influence the procurement process to the advantage of any one Respondent, or to the advantage of CFH.
- 1.7.16 CFH is also committed to ensuring that the directors of the UFB1 LFCs who are senior officers of CFH do not share any confidential UFB2 information with the UFB1 LFCs or the UFB1 Partners. Accordingly, CFH has mandated that for the duration of the UFB2 procurement process those directors excuse themselves from UFB1 LFC board discussions regarding UFB2 (subject to the following exception). In practice, this means those directors will only be present during discussions that directly concern the UFB1 LFC's decision to enter into arrangements with a Respondent. The presence of the CFH senior officers during board discussions which only concern the UFB1 LFC's decision to enter into such arrangements will of course be required in order to ensure that the UFB1 LFC is complying with the mandate to negotiate on substantially the same terms.
- 1.7.17 Finally, CFH has also designed its Requirements in this RFP and the Evaluation Criteria to counteract any benefit a Respondent might otherwise have had as a result of their bids incorporating services from the UFB1 LFCs.
- 1.7.18 For the avoidance of doubt, proper discussions between a Respondent and an existing UFB1 LFC or UFB1 Partner relating to services that the UFB1 LFC or UFB1 Partner may provide to the Respondent will not be considered a breach of paragraph 7.16.

Neutralising potential information advantage

- 1.7.19 CFH will ensure that throughout the procurement process, all relevant UFB2 information is shared publicly by CFH in a manner sufficient to neutralise any inside information advantage that may otherwise favour the UFB1 Partners.
- 1.7.20 As mentioned above, CFH has mandated that the senior officers of CFH who are also members of the UFB1 LFC boards of directors must limit their involvement on those boards to discussions necessary to ensure that the UFB1 LFCs are negotiating on substantially the same terms with all Respondents. Further, CFH has also mandated that the senior officers and directors of CFH who are also members of the Chorus Steering Committee must excuse themselves from any business of Chorus that relates to UFB2, including the development of a response to this RFP.
- 1.7.21 CFH has also ensured that all CFH personnel (and in particular those senior officers/directors of CFH who are also directors of the UFB1 LFCs and/or members of the Chorus Steering Committee) are subject to formal confidentiality undertakings that preclude them from relaying any confidential UFB2 information to any of the bid-side organisations (i.e. organisations that may potentially submit proposals), with an emphasis on the UFB1 Partners and the UFB1 LFCs. CFH will also periodically update these undertakings as appropriate.

Appropriate oversight

- 1.7.22 As a further measure to ensure the implementation of CFH's management approach, CFH has designed a procurement process that maintains appropriate oversight from Ministers, MBIE and Treasury throughout the process.
- 1.7.23 CFH has also engaged a Probity Advisor (Bell Gully) and a Probity Auditor (Audit New Zealand) in order to provide on-going monitoring, advice and assurance that CFH is acting fairly and appropriately in its role as the decision-maker for this RFP. This on-going monitoring and input will have a focus on CFH's responsibilities in relation to the management of probity risks.

Participation of UFB1 Partners

- 1.7.24 Paragraph 7.14 of this RFP states that "Each Respondent must complete the Conflict of Interest declaration in the Response Form (contained in Appendix 13) and must immediately inform CFH should a Conflict of Interest arise during the RFP process. A material Conflict of Interest may result in the Respondent being disqualified from participating further in the RFP."
- 1.7.25 For the avoidance of doubt, a UFB1 Partner will not be disqualified from participating in the RFP on the basis of conflicts of interest arising from CFH's existing relationship with the UFB1 Partner (including CFH's financial interest in the long-term viability of the UFB1 Partners).

SECTION 2: Key Information

2.1 Context

- 2.1.1 This RFP is an invitation to suitably qualified Respondents to submit a Proposal (or Proposals) for the opportunity to co-invest with CFH in UFB2 (namely the deployment, operation and ownership of the UFB2 Network in one or more Potential UFB2 Candidate Areas or Suggested Alternative Candidate Areas (which may include UFB1 Fringe Areas) in order to expand UFB access to 80% or more of New Zealand’s population based on 2023 population projections).
- 2.1.2 This RFP is a single stage procurement process.
- 2.1.3 For background, Respondents who are considering submitting a Proposal in response to this RFP should note that MBIE has conducted:
- (a) a “Registration of Interest – Support” (**ROI – Support**) process with regional councils, territorial authorities and unitary councils covering those towns where the UFB2 Network may be deployed. The ROI – Support also relates to the “Rural Broadband Initiative Extension” and the “Mobile Blackspots Fund”. The ROI Support was released on 12 March 2015 and can be accessed at <http://www.mbie.govt.nz/info-services/sectors-industries/technology-communications/fast-broadband/new-initiatives>. The purpose of the ROI – Support was to help “establish which towns, communities and areas may be selected for deployment to meet the objectives of [UFB2]”; and
 - (b) a “Registration of Interest – Supply” (**ROI – Supply**) inviting potential infrastructure suppliers to register their capability and interest in delivering services towards one or more of the UFB2, “Rural Broadband Initiative Extension” and the “Mobile Blackspots Fund” initiatives. The ROI Supply was released on 12 March 2015 and can be accessed at <http://www.mbie.govt.nz/info-services/sectors-industries/technology-communications/fast-broadband/new-initiatives>.
- 2.1.4 Note that a party does not need to have registered interest under the ROI – Support or the ROI-Supply in order to submit a Proposal in response to this RFP.
- 2.1.5 MBIE has considered the responses to the ROIs and has had input in finalising the list of Potential UFB2 Candidate Areas and UFB1 Fringe Areas.
- 2.1.6 MBIE received responses to the ROI-Support from most relevant regional councils, territorial authorities and unitary councils. Respondents are encouraged to contact relevant authorities/councils for information on support they may be prepared to offer to facilitate deployment of the UFB2 Network in their areas.
- 2.1.7 Words and phrases that have a special meaning are shown by the use of capitals e.g. Respondent, which means “*a person, organisation, business or other entity that submits a Proposal in response to the RFP. The term Respondent includes its directors, officers, employees, contractors, consultants, agents and representatives*”. Definitions are at the end of section 7.

2.2 Our timeline

- 2.2.1 Here is our timeline for this RFP.

Steps in RFP process	Time and Date
RFP issued	1 September 2015
Deadline for questions from Respondents	4pm, Friday 9 October 2015
Deadline for CFH to answer the questions submitted by Respondents Meetings with Respondents to have occurred by this date	4pm, Friday 16 October 2015
Deadline for Proposals	4pm, Wednesday 28 October 2015
Ranked PCA List finalised	By end of 2015
Unsuccessful Respondents informed	By end of Q2 2016
Respondents' debriefs	By end of Q2 2016
Anticipated first Contract(s) start date	Q2 of CY 2016

- 2.2.2 All dates and times are dates and times in New Zealand.
- 2.2.3 CFH reserves the right to amend or alter the timeline (see paragraph 7.23.1(b)).
- 2.2.4 CFH also reserves the right to re-tender part or all of the services to be procured under this RFP (for all or some of the Potential UFB2 Candidate Areas, UFB1 Fringe Areas, Suggested Alternative Candidate Areas or other areas) in the event that CFH considers it unlikely that the Proposals received by the Deadline for Proposals will adequately satisfy the UFB2 Objective.

2.3 How to contact us

- 2.3.1 All enquiries must be directed to our Point of Contact. CFH will manage all external communications through this Point of Contact.

2.3.2 Our Point of Contact

Name: James Bishop
Title/role: Legal and Commercial Manager, CFH
Email address: UFB2.JBishop@crowdfibre.govt.nz

2.4 Developing and submitting your Proposal

- 2.4.1 This is an open, competitive tender process. This RFP sets out the step-by-step process and the conditions that apply.
- 2.4.2 Take time to read and understand this RFP. In particular:
- (a) develop a strong understanding of our Requirements, detailed in section 3;
 - (b) in structuring your Proposal, consider how it will be evaluated. Section 4 describes our Evaluation Approach.
- 2.4.3 For helpful hints on tendering and access to a supplier resource centre go to: www.procurement.govt.nz/for-suppliers.
- 2.4.4 If anything is unclear or you have a question, ask us to explain. Please do so before the Deadline for Questions. Email our [Point of Contact](#) or use the electronic RFP management system that CFH is using for this process (i.e., CFH's TenderLink Site).
- 2.4.5 CFH proposes to meet with Respondents during the period after the RFP is issued and prior to the deadline for CFH to answer questions. The purpose of such a meeting will be to give Respondents

an additional opportunity to ensure they fully understand CFH's Requirements and to clarify any aspect of this RFP. A Respondent who wishes to meet with CFH for this purpose should email our Point of Contact prior to 30 September 2015 to request a meeting. A Respondent will be required to provide its agenda 48 hours in advance of the meeting, which will not be more than two hours in duration. CFH will communicate with each Respondent who requests such a meeting regarding who may attend the meeting and what protocols will apply to ensure probity principles are adhered to.

- 2.4.6 In submitting your Proposal, you must use the Response Form contained in Appendix 13 as the covering document. This is in the form of a Microsoft Word document that you can download.
- 2.4.7 You must also complete and sign the declaration at the end of the Response Form.
- 2.4.8 Your Proposal must contain all the populated templates required by the RFP including the:
 - (a) Proposal Data Template; and
 - (b) BOM Template.
- 2.4.9 To assist in evaluation, hard copies of Proposals delivered to CFH should preferably be printed on A4 paper (with no larger fold-out pages included) with a minimum font size of 11. Each hard copy should be in its own labelled A4 lever arch folder. Hard copies of Proposals should be delivered in a package with the Respondent's name clearly printed on the outside of the package. Soft copies of Proposals submitted through CFH's TenderLink Site in accordance with paragraph 2.5 must comply with the following specifications:
 - (a) proposals must be provided in either Microsoft Word (.doc) or Portable Document Format (.pdf) format. If files are .pdf, then they must be searchable (i.e. not a scanned image);
 - (b) geospatial data must be provided in a zipped shape file;
 - (c) any Excel templates included in the RFP (for example the Proposal Data Template and BOM Template) must be completed and provided in Microsoft Office Excel format (.XLSX, .XLSM).
- 2.4.10 Check you have provided all information requested, and in the format and order asked for.
- 2.4.11 Please ensure you get your Proposal to CFH before the Deadline for Proposals.
- 2.4.12 Please allow sufficient time to upload the electronic version of your Proposal through CFH's TenderLink Site. It is up to you to ensure that any delays, for whatever reason, do not result in your Proposal being received after the Deadline for Proposals.

2.5 Address for submitting your Proposal

- 2.5.1 A Proposal in response to this RFP must be delivered in both hard copy and soft copy formats.
- 2.5.2 We require that three (3) hard copies be sent or delivered to the following address:

For Proposals sent by post:

Tender Box – UFB2
Attention: James Bishop, Legal and Commercial Manager
Crown Fibre Holdings Limited
PO Box 105 321
Auckland 1143

For Proposals delivered by hand or courier:

Tender Box – UFB2

Attention: James Bishop, Legal and Commercial Manager

Crown Fibre Holdings Limited

Level 10 PWC Tower, 188 Quay Street

Auckland Central

2.5.3 The soft copy of the Proposal is to be submitted through CFH's TenderLink Site.

2.5.4 Proposals sent by fax or email will not be accepted.

2.5.5 Proposals (both the hard copies and the soft copy) must be received by CFH on or before the Deadline for Proposals. It is the Respondent's responsibility to ensure this occurs.

2.6 Our RFP Process, Terms and Conditions

2.6.1 **Offer Validity Period:** In submitting a Proposal the Respondent agrees that their offer will remain open for acceptance by CFH for six calendar months from the Deadline for Proposals.

2.6.2 The RFP is subject to the RFP – Terms described in section 7.

2.7 Later changes to the RFP or RFP Process

2.7.1 If, after publishing the RFP, we need to change the RFP, or RFP process, or want to provide Respondents with additional information we will let all Respondents know by placing a notice on the Government Electronic Tenders Service (GETS) at www.gets.govt.nz and updating the RFP information on CFH's TenderLink Site.

SECTION 3: Our Requirements

3.1 Background

- 3.1.1 This procurement relates to the delivery of UFB2 and will determine:
- (a) who CFH co-invests with; and
 - (b) which of the Potential UFB2 Candidate Areas or Suggested Alternative Candidate Areas (including any UFB1 Fringe Areas) the UFB2 Network will be built and operated in.
- 3.1.2 This RFP follows CFH successfully contracting for UFB1 with the UFB1 Partners. In broad terms, the technical and operation/commercial concepts used in UFB1 are also used in this RFP for UFB2, albeit with some minor clarifications, amendments and changes.
- 3.1.3 This is not a conventional RFP process. While CFH is the ultimate decision-maker, there are certain stages of the RFP process where MBIE, Treasury and Ministers will have input in the decision-making process. This is elaborated on further in section 4 (Evaluation Approach). It is expected that various factors will be taken into account by MBIE, Treasury and Ministers at these stages including the response to the ROI – Supply and ROI – Support (including digital enablement plans submitted by regional councils, territorial authorities and unitary councils in response to the ROI – Support).

3.2 What is this RFP for and why are we doing it

- 3.2.1 This RFP provides an opportunity for Respondents to submit Proposals to co-invest alongside CFH in the building and operation of the UFB2 Network in Proposed Candidate Areas, thereby extending UFB coverage to at least 80% of New Zealand's population.
- 3.2.2 The Potential UFB2 Candidate Areas are set out in Appendix 9. Detailed maps of each Potential UFB2 Candidate Area, which show the specific areas that the UFB2 Network will need to be deployed to if a Proposal for that Potential UFB2 Candidate Area is accepted by CFH – subject to any agreed variations (in shapefile format) are available to download at CFH's TenderLink Site (**UFB2 Candidate Area Shapefiles**). The UFB1 Fringe Area Shapefiles are also available to download at CFH's TenderLink Site. The UFB2 Candidate Area Shapefiles and the UFB1 Fringe Area Shapefiles at CFH's TenderLink Site are made available to Respondents on the terms set out in the RFP (the UFB2 Candidate Area Shapefiles and the UFB1 Fringe Area Shapefiles contain proprietary information owned by CFH and third parties).

3.3 What we require

- 3.3.1 Key CFH Requirements are set out below and in more detail in Appendices 1 to 10. Appendix 11 sets out specific information that the Respondent is to include in its Proposal (including templates that the Respondent must populate) in order to assist CFH in evaluating the Respondent's compliance with, or ability to comply with, CFH's Requirements. Respondents should note that certain of the Appendices may refer to UFB2 LFCs in a manner that reflects an assumption that the Preferred Commercial Model applies. Where an Alternative Commercial Model Proposal is submitted and no UFB2 LFC is contemplated such references should, where applicable, be taken to refer to the Respondent or Partner.
- 3.3.2 CFH is seeking Proposals that meet the following Requirements.

Funding Models: Preferred Commercial Model and/or Alternative Commercial Models

- 3.3.3 The Respondent may submit a Proposal that complies with the Preferred Commercial Model detailed in Appendix 1 (a **Preferred Commercial Model Proposal**).
- 3.3.4 In addition to, or instead of, submitting a Preferred Commercial Model Proposal a Respondent may submit a Proposal that does not comply with the Preferred Commercial Model (**Alternative Commercial Model Proposal**) provided that the Alternative Commercial Model Proposal complies with the Requirements set out in Appendix 1, paragraphs 2.1 to 2.7 (the **Alternative Commercial Model Requirements**).
- 3.3.5 For the avoidance of doubt, an Alternative Commercial Model Proposal may differ in structure or types of financial instrument from those used in the Preferred Commercial Model.
- 3.3.6 If an Alternative Commercial Model Proposal is submitted, it must be clearly identified as an Alternative Commercial Model Proposal and must be submitted separately to the Respondent's Preferred Commercial Model Proposal (if a Preferred Commercial Model Proposal is also being submitted).
- 3.3.7 CFH reserves its right to consider an Alternative Commercial Model Proposal that fails to meet the Alternative Commercial Model Requirements, including in material respects. Any Respondent who submits such a Proposal should appreciate the risk that its Proposal may not be considered, may be evaluated unfavourably relative to compliant Proposals, or may otherwise be assessed in such manner as CFH, in its absolute discretion (but having regard to the UFB2 Objective and probity principles), considers appropriate.

Base Requirements for Preferred Commercial Model/ Alternative Commercial Model Proposals

- 3.3.8 CFH is seeking Preferred Commercial Model Proposals and Alternative Commercial Model Proposals that sufficiently satisfy the following Requirements:

Potential UFB2 Candidate Areas and Suggested Alternative Candidate Areas

- 3.3.9 The Proposal must be for the build and operation of the UFB2 Network in:
- (a) one or more Potential UFB2 Candidate Areas or Suggested Alternative Candidate Areas (including any UFB1 Fringe Areas); and
 - (b) in relation to any Potential UFB2 Candidate Areas included in the Proposal, the entire specified area for each Potential UFB2 Candidate Area included in the Proposal (subject to paragraph 3.3.10)).
- 3.3.10 The Respondent may include suggested minor variations to the specified areas covered by each Potential UFB2 Candidate Area included in the Proposal provided those changes are within the parameters specified in Appendix 9.
- 3.3.11 Any Suggested Alternative Candidate Areas included in the Proposal must comply with the parameters specified in Appendix 9.

Agreed Premises Databases and Premises

- 3.3.12 CFH requires confirmation that the Respondent agrees that:

- (a) as further described in Appendix 1, paragraph 1.3.12 for the purposes of making payments for Communal Infrastructure under the NIPA (and accordingly, CFH's funding obligations):
 - (i) the maximum number of Premises that the Respondent will be paid for in each Proposed Candidate Area (Applicable N_{Passed}) and the location of each of the Premises (for payment purposes) shall be recorded in an Agreed Premises Dataset (or APD) (using geospatial information);
 - (ii) the Applicable N_{Passed} and location of Premises (for payment purposes) included in an APD will be as currently specified in the UFB2 Candidate Area Shapefiles and UFB1 Fringe Area Shapefiles, subject to:
 - (A) any Proposed Candidate Area Changes ultimately agreed by CFH and the Respondent; and
 - (B) the Applicable N_{Passed} and location of Premises (for payment purposes) for any Suggested Alternative Candidate Areas being agreed by CFH and the Respondent,

in accordance with Appendix 9; and
- (b) the Respondent will agree to execute licence agreement(s) for the use of the APD with CFH and Corelogic Limited on commercially reasonable terms (noting that the APD will contain proprietary information owned by CFH and third parties),

(the **APD Requirements**).

Service Levels

- 3.3.13 CFH requires confirmation that the Respondent will materially agree with the Service Levels set out in Appendix 2 (**Service Levels Requirement**). CFH also requires that the Respondent clearly state any variations it would require to be made to the Service Levels. CFH expects proposed variations to be minimal.

Network Requirements

- 3.3.14 The UFB2 Network the Respondent proposes to build must meet or exceed the UFB2 Network Requirements (including the provision of Backhaul) set out in Appendix 3 (the **UFB2 Network Requirements**).

Product Specifications and Pricing

- 3.3.15 The Respondent must agree with the product and pricing requirements set out in Appendix 4 (the **Product Specification and Pricing Requirements**).⁸

Regulatory Requirements

- 3.3.16 The UFB2 Network that the Respondent proposes to build must meet the telecommunications regulatory requirements set out in Appendix 5 (the **Regulatory Requirements**).

⁸ Note that the Telecommunications Act 2001 is currently subject to a review by the Government - more information is available at the following URL <http://www.mbie.govt.nz/info-services/sectors-industries/technology-communications/communications/regulating-the-telecommunications-sector/review-of-the-telecommunications-act-2001/?searchterm=telecommunications%20review%2A>

Health and Safety

- 3.3.17 The Respondent must demonstrate that it has appropriate health and safety capability and meets the specific requirements set out in Appendix 6 (the **Health and Safety Requirements**).

Governance

- 3.3.18 The Respondent must materially agree with the governance arrangements set out in Appendix 7 (the **Governance Requirements**). CFH also requires that the Respondent clearly state any variations it would require be made to the Governance Requirements.

Reporting

- 3.3.19 The Respondent must materially agree with the reporting requirements set out in Appendix 8 (the **Reporting Requirements**). CFH also requires that the Respondent clearly state any variations it requests to the Reporting Requirements. The Reporting Requirements are closely based on the reporting arrangements under the UFB1 Agreements and are considered the minimum required to ensure that CFH can adequately monitor and manage the Contract(s) and accurately report to the Government on progress and performance.

Marketing, Promotions Plans and Public Relations

- 3.3.20 The Respondent must materially agree with the marketing, promotional plans and public relations requirements set out in Appendix 10 (the **Marketing and PR Requirements**). CFH also requires that the Respondent clearly state any variations it requests to the Marketing and PR Requirements.

Technical and Commercial Capacity

- 3.3.21 The Respondent must:
- (a) be a credible infrastructure and/or telecommunications provider who has the capability, experience and infrastructure to deliver UFB2 to the Proposed Candidate Areas included in its Proposal;
 - (b) have a good track record in the management and implementation of significant infrastructure projects;
 - (c) have or have access to proven telecommunications expertise and industry relationships; and
 - (d) have effective networks and strong relationships within the relevant local community or communities to help efficiently complete the build of the UFB2 Network and maximise uptake on the UFB2 Network,

(the **Technical and Commercial Capacity Requirements**)

Applicable Laws

- 3.3.22 The Respondent must confirm that:
- (a) the UFB2 Network that it proposes to build will comply with and is capable of operating in accordance with; and
 - (b) the Respondent and its Proposal(s) comply with,

good industry practice and all applicable laws and regulations including the Telecommunications Act 2001, the Health and Safety in Employment Act 1992, the Companies Act 1993, the Crown Entities Act 2004 (including section 97 which sets out rules that will apply to a CFH subsidiary), Civil Defence Emergency Management Act 2002, Telecommunications (Interception Capability and Security) Act 2013 (**TICSA**), relevant TCF codes and TCF UFB OSS/BSS documents (e.g. BIF) and the TCF Ethernet Access Service Description,

(the **Applicable Laws and Regulatory Requirements**).

- 3.3.23 Respondents should make themselves familiar with the requirements of the Government Communications Security Bureau (**GCSB**) and the New Zealand Police. The GCSB has produced a document that provides guidance on the implementation of Part 3 of TICSA (“TICSA Telecommunications (Interception Capabilities and Security) Act 2013 Guidance for Network Operators”). The New Zealand Police have Information for Network Operators on their website. Respondents should make themselves familiar with this information.

3.4 Contract term

- 3.4.1 CFH anticipates that it will execute one or more Contracts with one or more Respondents by the first or second calendar quarter in 2016. Further Contracts with Respondents may be subsequently executed.

- 3.4.2 As noted in section 6, the Contract may consist of a number of different parts. The term of the parts may vary. It is expected that:

- (a) the minimum term of the NIPA will be 10 years (from the date of execution) with 2 yearly renewal terms;
- (b) the Product Specification and Pricing Requirements will apply until 31 December 2025;
- (c) the financing arrangements will be in place for the length of the Concession Period – the default Concession Period is 10 years commencing from the date of commencement of the build of the UFB2 Network by the Respondent. If a Respondent’s Proposal includes an offer to share with CFH in the funding of the Communal Layer 1 Infrastructure, the Respondent may seek an extension in length of the Concession Period (i.e. for longer than 10 years).

- 3.4.3 See section 6 for details relating to the terms of the Contract.

3.5 Key outcomes

- 3.5.1 The following are the key outcomes that are to be delivered in each Contract.

Description	Date for delivery
Commencement of build of the UFB2 Network in one or more of the awarded Proposed Candidate Areas	30 September 2016
Completion of the UFB2 Network build in one or more awarded Proposed Candidate Areas	29 September 2017
Completion of the UFB2 Network build in all awarded Proposed Candidate Areas	20 December 2022

3.6 Other information

3.6.1 CFH will not enter into Contracts that will result in:

- (a) its commitments to fund the build of the UFB2 Network in Potential UFB2 Candidate Areas or Suggested Alternative Candidate Areas (including UFB1 Fringe Areas) being more than the CFH Capital made available to CFH by the Government for UFB2; or
- (b) the build of the UFB2 Network being completed after 20 December 2022.

3.7 Other tender documents

3.7.1 In addition to this RFP, we refer to the following documents. These documents have either been uploaded on CFH's TenderLink Site, or alternatively, a link to the URL for the documents is specified and they are available for all Respondents at that location. These documents form part of this RFP:

- (a) the UFB1 Open Access Deeds executed by Chorus and the UFB1 LFCs. UFB2 LFCs will be required to enter into UFB2 Open Access Deeds – see <http://www.mbie.govt.nz/info-services/sectors-industries/technology-communications/communications/broadband-mobile-initiatives/phase-one-broadband-initiatives>;
- (b) the Chorus Limited, Enable Networks Limited, Ultrafast Fibre Limited and Northpower Fibre Limited Wholesale Services Agreements (including, without limitation, the general terms, services descriptions, service level terms, operations manuals and price list) located at <http://www.crownfibre.govt.nz/crown-partners/retail-service-providers/> (the **Template Wholesale Services Agreement**) – see the Product Specifications and Pricing Requirements for further details.

SECTION 4: Our Evaluation Approach

This section sets out the Evaluation Approach that CFH will be using to assess Proposals.

4.1 Evaluation Approach

CFH Evaluation

- 4.1.1 CFH will establish an evaluation panel with the requisite expertise, knowledge and independence to be able to assess Proposals received in response to this RFP (**Evaluation Panel**).
- 4.1.2 Following the Deadline for Proposals, the Evaluation Panel will assess the Proposals received in accordance with the evaluation model. Based on this assessment, the Evaluation Panel will prepare a list that ranks each Proposed Candidate Area included in one or more Proposals (the **Ranked PCA List**) to be submitted to Cabinet by the Minister for Communications for its consideration. Each Proposed Candidate Area's ranking will be based on the best Proposal received for the Proposed Candidate Area (based on the evaluation model), using only those Proposals where pricing and other features are submitted in respect of Proposed Candidate Areas that may be contracted for individually. Where a Proposed Candidate Area is also the subject of a Proposal that contemplates contracting collectively for a group of Proposed Candidate Areas, this will be noted in the Ranked PCA List and taken into account in the overall evaluation but will not decide the individual ranking determined by the Evaluation Panel in the Ranked PCA List. The Ranked PCA List will:
- (a) identify the highest ranking Proposed Candidate Areas that collectively cover ~5% of the population based on 2023 population projections (**Priority PCAs**) and the next highest ranking Proposed Candidate Areas that collectively cover ~2 to 3% of the population based on 2023 population projections for flexibility in negotiations if needed (**Secondary PCAs**); and
 - (b) note the Respondents that submitted Proposals for each Proposed Candidate Area and specify which Respondent's Proposal ranked the best in respect of each Proposed Candidate Area.
- 4.1.3 It should be noted that, as a general rule:
- (a) CFH will try and negotiate a transaction for the Proposed Candidate Areas that are higher up the Ranked PCA List than those further down the Ranked PCA List and look to negotiate a transaction for a Proposed Candidate Area that is a Secondary PCA once CFH has negotiated satisfactory transactions for the Proposed Candidate Areas that are Priority PCAs. However, it is possible that the Negotiation Approach (see below) and/or developments during the RFP process may necessitate CFH negotiating for and awarding a Proposed Candidate Area that is a Secondary PCA before negotiating and awarding all or any Proposed Candidate Areas that are Priority PCAs. CFH reserves its rights to do this; and
 - (b) CFH is unlikely to elect to negotiate for a Proposed Candidate Area that is not a Priority PCA or a Secondary PCA (noting the ability of Cabinet to amend the Ranked PCA List (see below)).
- 4.1.4 In carrying out its evaluation, the Evaluation Panel will give due consideration to the Government Rules of Sourcing and the principles of probity.
- 4.1.5 The Evaluation Panel will submit the Ranked PCA List to the CFH Board for consideration and approval.

Government Assessment

- 4.1.6 Following the CFH Board's approval of the Ranked PCA List, CFH will provide the Ranked PCA List to MBIE and the Minister for Communications. The Minister for Communications will provide the Ranked PCA List to Cabinet along with advice provided by Government officials in relation to relevant policy matters.
- 4.1.7 Cabinet will review the Ranked PCA List and consider various factors including digital enablement plans submitted to MBIE by regional councils, territorial authorities and unitary councils, Government social economic development priorities and other factors. Cabinet will either confirm the Ranked PCA List in its original form (as prepared by CFH) or provide an amended Ranked PCA List to CFH. In particular, Cabinet may:
- (a) confirm that the Ranked PCA List is acceptable as prepared by CFH;
 - (b) alter the order of the Priority PCAs and/or the Secondary PCAs (and thereby potentially altering the priority that CFH will apply when deciding which negotiations to initiate/ conclude first);
 - (c) move Proposed Candidate Areas between the Priority PCA category and the Secondary PCA category;
 - (d) remove Proposed Candidate Areas from the Priority PCA category and/or the Secondary PCA category and substitute alternative Proposed Candidate Areas from the Ranked PCA List; and/or
 - (e) remove Proposed Candidate Areas from the Priority PCA category and/or the Secondary PCA category and substitute alternative Potential UFB2 Candidate Areas or UFB1 Fringe Areas into those categories that no Proposal has been received for and request that CFH seek to have one or more Respondents add the Potential UFB2 Candidate Area or UFB1 Fringe Area to their Proposal(s).

Negotiation Approach

- 4.1.8 CFH will establish a project team (**Project Team**) with the requisite expertise, knowledge and independence to be able to prepare a Negotiation Approach, conduct and conclude negotiations with Respondents and prepare recommendations to the CFH Board on whether negotiated arrangements should be accepted and executed in order to achieve the UFB2 Objective.
- 4.1.9 The Project Team will consider the Ranked PCA List (as confirmed or amended by Cabinet), including any information in the Ranked PCA List regarding Proposed Candidate Areas that are also the subject of a Proposal that contemplates those areas being contracted for collectively, and develop a Negotiation Approach (including, for example, which Respondent(s) CFH should negotiate with first for Proposed Candidate Areas, or whether CFH should enter into parallel negotiations), which will be subject to CFH Board approval.
- 4.1.10 CFH will elect to negotiate with Respondent(s) in relation to specific Proposed Candidate Area(s) on the basis of the Negotiation Approach – such elections may be subject to the Respondent(s) agreeing to certain negotiation conditions.
- 4.1.11 If CFH elects to negotiate, or ultimately enters into a Contract, with a Respondent in relation to fewer than all of the Proposed Candidate Area(s) included in the Respondent's Proposal then:
- (a) the Applicable CPPP_{L1} included in the Proposal for a Proposed Candidate Area should not increase; but

- (b) CFH accepts that the Applicable CPPP_{BH L1} included in the Proposal for a Proposed Candidate Area may vary provided that the Respondent has expressly identified in its Proposal that the Applicable CPPP_{BH L1} for the Proposed Candidate Area is dependent upon CFH entering into a Contract with the Respondent for other identified Proposed Candidate Areas included in the Proposal and the Respondent can justify the increase to CFH,

and the Respondent must prepare its Proposal on this basis.

- 4.1.12 Following the conclusion of negotiations with an elected Respondent in relation to specific Proposed Candidate Areas, the Project Team will present the transaction to the CFH Board with a recommendation on whether the transaction should be executed. If the CFH Board decides that CFH:
- (a) should execute the transaction, then the Respondent and the Government will be informed and the transaction will be executed; or
 - (b) should not execute the transaction, then the Respondent and the Government will be informed and the transaction will not be executed.

4.2 Evaluation model

4.2.1 Proposals that have:

- (a) complied with the pre-condition set out below in paragraph 4.3; and
- (b) sufficiently satisfied the Requirements set out in paragraph 3.3,

will be evaluated on their merits according to the following evaluation model and criteria. CFH does not intend to apply weightings to the criteria. The criteria are listed in order of importance, with the most important first.

4.2.2 It should be noted that:

- (a) for the purposes of evaluation the “Price” is Applicable CPPP_{CFH} (i.e., the total amount of funding that CFH is to provide for each Premises in each Proposed Candidate Area included in the Proposal for Communal Layer 1 Infrastructure (Applicable CPPP_{L1 CFH}) and (if applicable) Layer 1 Backhaul (Applicable CPPP_{BH L1 CFH}));
- (b) the process under this RFP and the following evaluation criteria contemplate that each Proposed Candidate Area included in a Proposal is individually ranked as opposed to the Proposal as a whole being ranked. This is intended to simplify the evaluation process by facilitating, in the first instance, a comparison of “like with like”;
- (c) the ranking given to an individual Proposed Candidate Area included in a Proposal will not be solely determinative of whether CFH elects to negotiate with the Respondent in relation to that Proposed Candidate Area and/or whether CFH will ultimately enter into a Contract with a Respondent in relation to the Proposed Coverage Area. In particular, in determining who to negotiate with, CFH will also have regard to any information in the Ranked PCA List regarding Proposed Candidate Areas that are also the subject of a Proposal that contemplates those areas being contracted for collectively. Further, it is possible that a highly ranked Proposed Candidate Area included in a Proposal may not be selected for negotiation if CFH determines that its selection would not support the achievement of the overarching UFB2 Objective;

- (d) the Evaluation Approach is necessarily complex, reflecting the subject matter of this procurement and the initial need to rank Proposed Candidate Areas individually (as opposed to ranking Proposals) with a view to CFH entering into Contracts which, collectively, support achievement of the UFB2 Objective. Accordingly, CFH reserves its right to retain a degree of flexibility in how it applies the Evaluation Approach outlined in this section 4, including in response to any unanticipated complexities that arise when assessing Proposals, provided that CFH gives due consideration to principles of probity in doing so and does not materially change its Evaluation Approach except in accordance with paragraph 7.23.1(b).

4.3 Pre-condition

- 4.3.1 Proposals which fail to meet the pre-condition will be eliminated from further consideration.
- 4.3.2 Respondents who are unable to meet the pre-condition should conclude that they will not benefit from submitting a Proposal.

Pre-condition
The Respondent must demonstrate that it has the financial capacity to execute the Respondent's Proposal.

4.4 Evaluation criteria

- 4.4.1 The Evaluation Criteria are listed below in order of importance, **with the most important first**. The Evaluation Criteria set out in this paragraph 4.4.1 **will be given greater priority in the assessment than the Evaluation Criteria set out in paragraph 4.4.2:**

- (a) the lowest Price (i.e., Applicable CPPP_{CFH}) being the total amount of funding that CFH is to provide per Premises Passed (net of any Respondent or other third party funding) in each Proposed Candidate Area included in the Proposal for Communal Layer 1 Infrastructure (Applicable CPPP_{L1 CFH}) and (if applicable) Layer 1 Backhaul (Applicable CPPP_{BH L1 CFH});
- (b) timeframes - a Proposal that provides for early commencement and completion of building the UFB2 Network in each Proposed Candidate Area will be preferred (noting the build of all Proposed Candidate Areas must be completed by 20 December 2022).

- 4.4.2 The remaining Evaluation Criteria are set out below in descending order of importance:

- (a) NPV of funding to CFH for each Proposed Candidate Area (higher NPV to CFH is preferred). In relation to:
- (i) Preferred Commercial Model Proposal: the NPV of CFH's equity investment at the end of the Concession Period discounted to 30 June 2016; or
- (ii) Alternative Commercial Model Proposal: the NPV of CFH's investment in a financial instrument (debt/equity/hybrid/other) discounted to 30 June 2016;
- (b) extent of compliance with the Preferred Commercial Model, including the structure of the Proposed Contract outlined in paragraph 6.1.1 and the Service Levels as set out in Appendix 2 (only applicable to Preferred Commercial Model Proposals);
- (c) extent of compliance with the Alternative Commercial Model Requirements and the Service Levels as set out in Appendix 2 (only applicable to Alternative Commercial Model Proposals);

- (d) extent of compliance with other Requirements set out in this RFP; and
- (e) other factors such as demand expectations.

4.5 Verifying Price and Respondent Funding

- 4.5.1 If a Respondent offers a Price or Respondent Funding that is substantially lower than other Proposals (an abnormally low bid), CFH may seek to verify with the Respondent that the Respondent is capable of fully delivering all of the Requirements and meeting all of the conditions of this RFP for the Price and Respondent Funding submitted.

4.6 Evaluation process and due diligence

- 4.6.1 In addition to the above, CFH *will* undertake the following evaluation and due diligence in relation to Respondents:

- (a) inspect audited accounts for the last three financial years;
- (b) reference check the Respondent organisation and named personnel (CFH reserves the right to request nominated referees to contact and/or require the provision of written references);
- (c) interview Respondents; and
- (d) customer referrals where relevant.

- 4.6.2 The findings of our due diligence will be taken into account in the evaluation process.

4.7 Potential further evaluation and due diligence

- 4.7.1 In addition to the above, we *may* undertake the following evaluation and due diligence in relation to Respondents:

- (a) other checks against the Respondent e.g. Companies Office;
- (b) request Respondents make a presentation;
- (c) arrange site-visits;
- (d) undertake a credit check; and/or
- (e) undertake a Police check for all named personnel.

- 4.7.2 The findings of our due diligence will be taken into account in the evaluation process. Should CFH decide to undertake any of these steps, CFH will give Respondents reasonable notice (to the extent the step requires that the Respondent undertake some work or preparation).

4.8 Expected approval process

- 4.8.1 Once the Project Team concludes negotiations with a Respondent (or Respondents), the CFH Board will need to approve any proposed transaction before a Contract can be entered into with the successful Respondent (or Respondents).

4.8.2 CFH will advise Ministers and/or Cabinet and Government officials (including MBIE, Treasury and Department of Prime Minister and Cabinet) of any transactions approved by the CFH Board.

SECTION 5: Funding information

5.1 Funding information to be provided by Respondents

- 5.1.1 Respondents are to provide their funding requirements as part of their Proposal. In submitting their funding requirements, the Respondent must meet the following:
- (a) Subject to paragraph 5.1.1(g), Respondents must complete and submit the Proposal Data Template and the BOM Template.
 - (b) The Proposal Data Template and BOM Template specify the breakdown of all allowable costs, fees, expenses and charges associated with the full delivery of the Requirements over the whole-of-life of the Contract and consequently the total Contract price exclusive of GST. No other costs, fees, expenses and charges are allowed (other than GST, if any).
 - (c) Where the funding, or part of the funding, is based on fee rates, all rates are to be specified, either hourly or daily or both as required.
 - (d) In preparing their Proposal, Respondents are to consider all risks, contingencies and other circumstances relating to the delivery of the Requirements and include adequate provision in the Proposal and its funding requirements to manage such risks and contingencies.
 - (e) Respondents are to document in their Proposal all assumptions and qualifications made about the delivery of the Requirements, including in the financial funding information. Any assumption that CFH or a third party will incur any cost related to the delivery of the Requirements is to be stated, and the cost estimated if possible.
 - (f) Funding should be tendered in NZ\$. Unless otherwise agreed, CFH will arrange contractual payments in NZ\$. If there are foreign exchange implications then those will be at the Respondent's risk.
 - (g) Where a Respondent is submitting an Alternative Commercial Model Proposal which has an alternative method of funding (i.e. a funding approach that is inconsistent with the Proposal Data Template) the Respondent can submit a modified form of the Proposal Data Template to reflect the terms of the Alternative Commercial Model Proposal.
 - (h) Where two or more Respondents intend to lodge a joint or consortium Proposal the Proposal Data Template is to include all costs, fees, expenses and charges chargeable by all Respondents.

SECTION 6: Our Proposed Contract

6.1 Proposed Contract

6.1.1 The following is a summary of the Proposed Contract that CFH intends to use for the delivery of the Requirements. Note that the Proposed Contract reflects the Preferred Commercial Model (see below for provisions relating to Alternative Commercial Model Proposals). The Proposed Contract is comprised of the following parts:

- (a) the UFB2 LFC Constitution governing the UFB2 LFC's objectives and activities;
- (b) the Shareholders' Agreement governing the respective obligations of the UFB2 LFC's shareholders;
- (c) the Network Infrastructure Project Agreement governing the UFB2 Network build and operation; and
- (d) the Management Services Agreement, governing the provision of management services (if any) provided to the UFB2 LFC.

6.1.2 If the Respondent is submitting an Alternative Commercial Model Proposal that does not provide for a UFB2 LFC structure, we may consider a bespoke contract structure. However, the NIPA will still govern the UFB2 Network build and operation under any Alternative Commercial Model, with such additional provisions or arrangements as CFH requires to account for the absence of the UFB2 LFC structure.

6.1.3 The Service Levels, which will be incorporated into the NIPA, are set out in Appendix 2.

6.1.4 CFH requires that the Respondent clearly state:

- (a) whether the Respondent proposes excluding any of the parts of the Proposed Contract set out in paragraph 6.1.1;
- (b) whether the Respondent proposes including any agreements or other documentation in the Proposed Contract that are not set out in paragraph 6.1.1; and
- (c) any proposed amendments to the Service Levels.

CFH expects such variations to be kept to a minimum.

6.1.5 The form and content of any bespoke contracts will be discussed with a Respondent as part of any election to negotiate with that Respondent.

6.1.6 CFH will provide the NIPA, UFB2 LFC Constitution, Shareholders' Agreement and Management Services Agreement (as contemplated by paragraph 6.1.1) to the Respondents CFH elects to negotiate with. The Response Form (at Appendix 13) contains a section for you to state your position on the issues set out in paragraph 6.1.4. If you do not state your position you will be deemed to have accepted in full the structure of the Proposed Contract set out in paragraph 6.1.1 and the Service Levels attached as Appendix 2.

6.1.7 The structure of the Proposed Contract has been based on the UFB1 Agreements (used for UFB1 with the UFB1 Partners). It should be noted that the existing agreement between CFH and Chorus does not contain a shareholders' agreement due to the structure of that arrangement and the

existing NIPA between CFH and Chorus contains additional provisions and arrangements to account for the absence of the UFB1 LFC structure. CFH expects that the NIPA, Constitution, Shareholders' Agreement and Management Services Agreement prepared by CFH for the UFB2 Initiative will be closely based on the UFB1 Agreements (subject to modifications necessary to make them consistent with the terms and Requirements set out in this RFP and to reflect CFH's experience in managing the UFB1 Agreements).

- 6.1.8 See paragraph 1.2.2 for details of how the Respondent can access redacted versions of the UFB1 Agreements.

SECTION 7: RFP Process, Terms and Conditions

Note to Respondents

- In managing this procurement, CFH will endeavour to act fairly and reasonably in all of its dealings with Respondents, and to follow due process which is open and transparent.
 - This section is based on the Government's standard RFP Process, Terms and Conditions.
-

Standard RFP process

Preparing and submitting a proposal

7.1 Preparing a Proposal

7.1.1 Respondents are to use the Response Form contained in Appendix 13 as the covering document for Proposals and include all information requested by CFH in relation to the RFP.

7.1.2 By submitting a Proposal the Respondent accepts that it is bound by the RFP-Terms contained in this section 7.

7.1.3 Each Respondent will:

- (a) examine the RFP and any documents referenced in the RFP and any other information provided by CFH;
- (b) consider all risks, contingencies and other circumstances relating to the delivery of the Requirements and include adequate provision in its Proposal to manage such risks and contingencies;
- (c) document in its Proposal all assumptions and qualifications made about the delivery of the Requirements, including any assumption that CFH or a third party will deliver any aspect of the Requirements or incur any cost related to the delivery of the Requirements;
- (d) ensure that funding information (including the Price) is quoted in NZ\$ exclusive of GST;
- (e) if appropriate, obtain independent advice before submitting a Proposal; and
- (f) satisfy itself as to the correctness and sufficiency of its Proposal, including the proposed funding and the sustainability of the funding.

7.2 Offer Validity Period

7.2.1 Proposals are to remain valid and open for acceptance by CFH for the Offer Validity Period.

7.3 Respondents' Deadline for Questions

- 7.3.1 Each Respondent should satisfy itself as to the interpretation of the RFP. If there is any perceived ambiguity or uncertainty in the RFP document(s) Respondents should seek clarification before the Deadline for Questions.
- 7.3.2 All requests for clarification must be made by email to CFH's Point of Contact. CFH will endeavour to respond to requests in a timely manner, but in any event no later than the deadline for CFH to answer Respondents' questions specified in paragraph 2.2.1.
- 7.3.3 If CFH considers a request to be of sufficient importance to all Respondents, it may provide details of the question and answer to other Respondents. In doing so CFH may summarise the Respondent's question and will not disclose the Respondent's identity. The question and answer may be posted on GETS and/or CFH's TenderLink Site and/or emailed to participating Respondents. A Respondent may withdraw a request at any time.
- 7.3.4 In submitting a request for clarification a Respondent is to indicate, in its request, any information that is commercially sensitive. CFH will not publish such commercially sensitive information. However, CFH may modify a request to eliminate such commercially sensitive information, and publish this and the answer where CFH considers it of general significance to all Respondents. In this case, however, the Respondent will be given an opportunity to withdraw the request or remove the commercially sensitive information.

7.4 Submitting a Proposal

- 7.4.1 Each Respondent is responsible for ensuring that its Proposal is received by CFH at the correct address on or before the Deadline for Proposals. CFH will acknowledge receipt of each Proposal.
- 7.4.2 CFH intends to rely on the Respondent's Proposal and all information provided by the Respondent (e.g. correspondence and negotiations). In submitting a Proposal and communicating with CFH, each Respondent should check that all information it provides to CFH:
 - (a) is true, accurate and complete, and not misleading in any material respect; and
 - (b) does not contain Intellectual Property that will breach a third party's rights.
- 7.4.3 Where CFH requires the Proposal to be delivered in hard and soft copies, the Respondent is responsible for ensuring that both the hard and soft copies are identical.

Assessing Proposals

7.5 Evaluation Panel

- 7.5.1 CFH will convene an Evaluation Panel comprising members chosen for their relevant expertise and experience. In addition, CFH may invite independent advisors (including, without limitation, Government officials from MBIE, Treasury and Department of the Prime Minister and Cabinet) to evaluate any Proposal, or any aspect of any Proposal.

7.6 Third party information

- 7.6.1 Each Respondent authorises CFH to collect additional information, except commercially sensitive pricing information, from any relevant third party (such as a referee or a previous or existing client) and to use that information as part of its evaluation of the Respondent's Proposal.

- 7.6.2 Each Respondent is to ensure that all referees listed in support of its Proposal agree to provide a reference.
- 7.6.3 To facilitate discussions between CFH and third parties, each Respondent waives any confidentiality obligations that would otherwise apply to information held by a third party, with the exception of commercially sensitive pricing information.

7.7 CFH's clarification

- 7.7.1 CFH may, at any time, request from any Respondent clarification of its Proposal as well as additional information about any aspect of its Proposal. CFH is not required to request the same clarification or information from each Respondent.
- 7.7.2 The Respondent must provide the clarification or additional information in the format requested. Respondents will endeavour to respond to requests in a timely manner. CFH may take such clarification or additional information into account in evaluating the Proposal.
- 7.7.3 Where a Respondent fails to respond adequately or within a reasonable time to a request for clarification or additional information, CFH may cease evaluating the Respondent's Proposal and may eliminate the Proposal from the RFP process.

7.8 Evaluation

- 7.8.1 CFH will base its initial evaluation on the Proposals submitted in response to the RFP. CFH may adjust its evaluation of a Proposal following consideration of any clarification or additional information as described in paragraphs 7.6 and 7.7.
- 7.8.2 In deciding where each Proposed Candidate Area will appear on the Ranked PCA List CFH will take into account the results of the evaluations of each Proposal in accordance with section 4.
- 7.8.3 The preparation of the final Ranked PCA List also involves input from Government officials and Ministers as further set out in section 4.
- 7.8.4 In deciding which Respondent(s) to negotiate with, CFH may take into account any of the following additional information:
- (a) the results from reference checks, site visits, product testing and any other due diligence;
 - (b) the ease of contracting with a Respondent based on that Respondent's feedback on the Proposed Contract (to the extent not already captured by the assessment against the Evaluation Criteria);
 - (c) any matter that materially impacts on CFH's trust and confidence in the Respondent;
 - (d) any other relevant information that CFH may have in its possession.
- 7.8.5 Having a Proposal that includes a Proposed Candidate Area that is ranked as a Priority PCA or Secondary PCA does not constitute acceptance by CFH of the Respondent's Proposal, or imply or create any obligation on CFH to enter into negotiations with, or award a Contract to the Respondent(s). At this stage in the RFP process, CFH will not make the Ranked PCA List public.
- 7.8.6 CFH will inform a Respondent that its Proposal has been unsuccessful in the event that:

- (a) a Contract or Contracts have been signed with other Respondent(s) in relation to all the Proposed Candidate Areas included in the relevant Proposal; or
- (b) the Proposal was not evaluated on its merits in accordance with paragraph 4.2.1 because the Proposal did not comply with the pre-condition set out in paragraph 4.3 and/or did not sufficiently satisfy the Requirements set out in paragraph 3.3.

7.9 Negotiations

- 7.9.1 CFH may invite a Respondent to enter into negotiations with a view to agreeing a Contract. Where the outcome is unsatisfactory, CFH may discontinue negotiations with a Respondent and may then initiate negotiations with another Respondent.
- 7.9.2 CFH may initiate concurrent negotiations with more than one Respondent. In concurrent negotiations CFH will treat each Respondent fairly, and:
 - (a) advise each Respondent that it wishes to negotiate with, that concurrent negotiations will be carried out;
 - (b) hold separate negotiation meetings with each Respondent.
- 7.9.3 Each Respondent agrees that the structure of any legally binding contract entered into between the Respondent and CFH arising in relation to a Preferred Commercial Model Proposal will be materially in the form described in paragraph 6.1.1 and it will include Service Levels materially in the form described in Appendix 2.
- 7.9.4 Each Respondent agrees that any legally binding contract entered into between the Respondent and CFH arising in relation to an Alternative Commercial Model Proposal will include a Network Infrastructure Project Agreement incorporating Service Levels that are materially in the form described in Appendix 2.

7.10 Respondent's debrief

- 7.10.1 CFH will offer all unsuccessful Respondents a debrief. When a Respondent requests a debrief, CFH will provide the debrief within 30 Business Days of the date of the request, or of the date the Contract or Contracts have been signed in relation to all the Proposed Candidate Areas included in the relevant Respondent's Proposal(s), whichever is later.
- 7.10.2 The debrief may be provided by letter, email, phone or at a meeting. The debrief will:
 - (a) provide the reasons why the Proposal was or was not successful;
 - (b) explain how the Proposal performed against the pre-conditions (if applicable) and the evaluation criteria;
 - (c) indicate the Proposal's relative strengths and weaknesses;
 - (d) explain, in general terms, the relative advantage(s) of the successful Proposal;
 - (e) seek to address any concerns or questions from the Respondent;
 - (f) seek feedback from the Respondent on the RFP and the RFP process.

7.11 Notification of outcome

7.11.1 At any point after conclusion of negotiations in relation to a Proposed Candidate Area but no later than 30 Business Days after the date the Contract is signed in relation to that Proposed Candidate Area, CFH will inform all unsuccessful Respondents of the name of the successful Respondent, if any. CFH may make public the name of the successful Respondent and any unsuccessful Respondent(s). Where applicable, CFH will publish a Contract Award Notice on GETS.

7.12 Issues and complaints

7.12.1 A Respondent may, in good faith, raise with CFH any issue or complaint about the RFP, or the RFP process at any time.

7.12.2 CFH will consider and respond promptly and impartially to the Respondent's issue or complaint.

7.12.3 Both CFH and Respondent agree to act in good faith and use their best endeavours to resolve any issue or complaint that may arise in relation to the RFP.

7.12.4 The fact that a Respondent has raised an issue or complaint is not to be used by CFH to unfairly prejudice the Respondent's ongoing participation in the RFP process or future contract opportunities.

7.12.5 Audit New Zealand will be providing probity assurance to CFH over the conduct of the RFP selection process. This probity assurance is designed to assist CFH in ensuring that the procurement process is conducted in accordance with good procurement practice and the issue of probity is appropriately addressed to ensure the integrity and consistency of the process, so that no parties are unfairly treated. Should any queries in relation to probity arise, respondents may contact Audit New Zealand's representative directly to discuss their concerns. Contact details are as follows:

Lyn Daken
Associate Director Specialist Audit and Assurance Services
Audit New Zealand Mana Arotake Aotearoa
Level 6, 280 Queen Street, PO Box 1165, Auckland, 1140
ph: 021 222 8602 Fax: 09 366 0215
lyn.daken@auditnz.govt.nz

7.12.6 If a Respondent addresses a probity complaint to CFH directly then CFH will forward the complaint to the Probity Auditor.

7.12.7 All complaints will be handled in accordance with the Government Rules of Sourcing.

Standard RFP conditions

7.13 CFH's Point of Contact

7.13.1 Subject to paragraph 7.12.5, all enquiries regarding the RFP must be directed by email to CFH's Point of Contact. Respondents must not directly or indirectly approach any representative of CFH, or any other person, to solicit information concerning any aspect of the RFP.

7.13.2 Subject to paragraph 7.12.5, only the Point of Contact, and any authorised person of CFH, are authorised to communicate with Respondents regarding any aspect of the RFP. CFH will not be bound by any statement made by any other person.

7.13.3 CFH may change the Point of Contact at any time. CFH will notify Respondents of any such change. This notification may be posted on GETS or CFH's TenderLink Site or sent by email.

7.13.4 Where a Respondent has an existing contract with CFH, business as usual communications, for the purpose of managing delivery of that contract, will continue using the usual contacts. Respondents must not use business as usual contacts to lobby CFH, solicit information or discuss aspects of the RFP.

7.14 Conflict of Interest

7.14.1 Each Respondent must complete the Conflict of Interest declaration in the Response Form (contained in Appendix 13) and must immediately inform CFH should a Conflict of Interest arise during the RFP process. A material Conflict of Interest may result in the Respondent being disqualified from participating further in the RFP.

7.15 Ethics

7.15.1 Respondents must not attempt to influence or provide any form of personal inducement, reward or benefit to any representative of CFH in relation to the RFP.

7.15.2 A Respondent who attempts to do anything prohibited by paragraphs 7.13.1, 7.13.4 and 7.15.1 may be disqualified from participating further in the RFP process.

7.15.3 CFH reserves the right to require additional declarations, or other evidence from a Respondent, or any other person, throughout the RFP process to ensure probity of the RFP process.

7.16 Anti-collusion and bid rigging

7.16.1 Respondents must not engage in collusive, deceptive or improper conduct in the preparation of their Proposals or other submissions or in any discussions or negotiations with CFH. Such behaviour will result in the Respondent being disqualified from participating further in the RFP process. In submitting a Proposal, the Respondent warrants that its Proposal has not been prepared in collusion with a Competitor.

7.16.2 CFH reserves the right, at its discretion, to report suspected collusive or anti-competitive conduct by Respondents to the appropriate authority and to give that authority all relevant information including a Respondent's Proposal.

7.17 Confidential Information

7.17.1 CFH and Respondent will each take reasonable steps to protect Confidential Information and, subject to paragraphs 7.17.2, 7.17.3 and 7.17.4 and without limiting any confidentiality undertaking agreed between them, will not disclose Confidential Information to a third party without the other's prior written consent.

7.17.2 CFH and Respondent may each disclose Confidential Information to any person who is directly involved in the RFP process on its behalf, such as officers, employees, consultants, contractors, professional advisors, Evaluation Panel members, partners, principals or directors, but only for the purpose of participating in the RFP.

7.17.3 CFH may disclose the Respondent's Confidential Information to Government officials (including officials from the MBIE, the Treasury and the Department of the Prime Minister and Cabinet) and Ministers of the Crown and/or Cabinet for purposes relating to the RFP including making decisions relating to the RFP process.

7.17.4 Respondents acknowledge that CFH's obligations under paragraph 7.17.1 are subject to requirements imposed by the Official Information Act 1982 (OIA), the Privacy Act 1993, parliamentary and constitutional convention and any other obligations imposed by law. CFH will not be in breach of its obligations if Confidential Information is disclosed by CFH to the appropriate authority because of suspected collusive or anti-competitive tendering behaviour. Where CFH receives an OIA request that relates to a Respondent's Confidential Information, CFH will consult with the Respondent and may ask the Respondent to explain why the information is considered by the Respondent to be confidential or commercially sensitive.

7.18 Confidentiality of RFP information

7.18.1 For the duration of the RFP, to the date of the announcement of all the successful Respondent(s), or the end of the RFP process, the Respondent agrees to keep the RFP strictly confidential and not make any public statement to any third party in relation to any aspect of the RFP, the RFP process or the award of any Contract without CFH's prior written consent.

7.18.2 A Respondent may disclose RFP information to any person described in paragraphs 7.17.2 and 7.17.3 for the purposes described in those paragraphs. The Respondent must take reasonable steps to ensure that such recipients do not disclose Confidential Information to any other person or use Confidential Information for any purpose other than responding to the RFP.

7.19 Costs of participating in the RFP process

7.19.1 Each Respondent will meet its own costs associated with the preparation and presentation of its Proposal and any negotiations and no such costs will be included in or attributed to the Price or any aspect of the funding to be provided by the Respondent under a Contract, nor shall the Respondent recover, or attempt to recover, such costs from CFH or any other party in any other manner.

7.20 Ownership of documents

7.20.1 The RFP and its contents remain the property of CFH. All Intellectual Property rights in the RFP remain the property of CFH or its licensors. CFH may request the immediate return or destruction of any or all RFP documents and any copies. Respondents must comply with any such request in a timely manner.

7.20.2 All documents forming the Proposal will, when delivered to CFH, become the property of CFH. Proposals will not be returned to Respondents at the end of the RFP process.

7.20.3 Ownership of Intellectual Property rights in the Proposal remain the property of the Respondent or its licensors. However, the Respondent grants to CFH a non-exclusive, non-transferable, perpetual licence to retain, use, copy and disclose information contained in the Proposal for any purpose related to the RFP process.

7.21 No binding legal relations

7.21.1 Neither the RFP, nor the RFP process, creates a process contract or any legal relationship between CFH and any Respondent, except in respect of:

- (a) the Respondent's declaration in its Proposal;
- (b) the Offer Validity Period;

- (c) the Respondent's statements, representations and/or warranties in its Proposal and in its correspondence and negotiations with CFH;
- (d) the standard RFP conditions set out in paragraphs 7.13 to 7.26;
- (e) the Shapefile Licence signed by the Respondent.

7.21.2 Each exception in paragraph 7.21.1 is subject only to CFH's reserved rights in paragraph 7.23.

7.21.3 Except for the legal obligations set out in paragraph 7.21.1, no legal relationship is formed between CFH and any Respondent unless and until a Contract is entered into between those parties.

7.22 Elimination

7.22.1 CFH may exclude a Respondent from participating in the RFP if CFH has evidence of any of the following, and this is considered by CFH to be material to the RFP:

- (a) the Respondent has failed to provide all information requested, or in the correct format, or materially breached a term or condition of the RFP;
- (b) the Proposal contains a material error, omission or inaccuracy;
- (c) the Respondent is in bankruptcy, receivership or liquidation;
- (d) the Respondent has made a false declaration;
- (e) there is a serious performance issue in a historic or current contract delivered by the Respondent;
- (f) the Respondent has been convicted of a serious crime or offence;
- (g) there is professional misconduct or an act or omission on the part of the Respondent which adversely reflects on the integrity of the Respondent;
- (h) the Respondent has failed to pay taxes, duties or other levies;
- (i) the Respondent represents a threat to national security or the confidentiality of sensitive Government information; and/or
- (j) the Respondent is a person or organisation designated as a terrorist by New Zealand Police.

7.23 CFH's additional rights

7.23.1 Despite any other provision in the RFP CFH may, on giving due notice to Respondents:

- (a) amend, suspend, cancel and/or re-issue the RFP, or any part of the RFP; and/or
- (b) make any material change to the RFP (including any change to the timeline, Requirements or Evaluation Approach) on the condition that Respondents are given a reasonable time within which to respond to the change.

7.23.2 Despite any other provision in the RFP CFH may:

- (a) accept a late Proposal if it is CFH's fault that it is received late;

- (b) in exceptional circumstances, accept a late Proposal where it considers that there is no material prejudice to other Respondents. CFH will not accept a late Proposal if it considers that there is risk of collusion on the part of a Respondent, or the Respondent may have knowledge of the content of any other Proposal;
- (c) in exceptional circumstances, answer a question submitted after the Deadline for Questions, if applicable;
- (d) accept or reject any Proposal, or part of a Proposal;
- (e) accept or reject any non-compliant, non-conforming or alternative Proposal;
- (f) decide not to accept the lowest priced conforming Proposal;
- (g) decide not to enter into a Contract with any Respondent;
- (h) liaise or negotiate with any Respondent without disclosing this to, or doing the same with, any other Respondent;
- (i) provide or withhold from any Respondent information in relation to any question arising in relation to the RFP. Information will usually only be withheld if it is deemed unnecessary, is commercially sensitive to a Respondent, is inappropriate to supply at the time of the request or cannot be released for legal reasons;
- (j) amend the Proposed Contract at any time, including during negotiations;
- (k) waive irregularities or Requirements in or during the RFP process where it considers it appropriate and reasonable to do so; and/or
- (l) otherwise run this RFP process as it sees fit.

7.23.3 For the avoidance of doubt, CFH's additional rights in paragraphs 7.23.1 to 7.23.2 above do not override or derogate from any right of CFH otherwise reserved elsewhere in this RFP.

7.24 New Zealand law

7.24.1 The laws of New Zealand shall govern the RFP and each Respondent agrees to submit to the exclusive jurisdiction of the New Zealand courts in respect of any dispute concerning the RFP or the RFP process.

7.25 Disclaimer

7.25.1 CFH will not be liable in contract, tort, equity, or in any other way whatsoever for any direct or indirect damage, loss or cost incurred by any Respondent or any other person in respect of the RFP process.

7.25.2 Nothing contained or implied in the RFP, or RFP process, or any other communication by CFH to any Respondent shall be construed as legal, financial or other advice. CFH has endeavoured to ensure the integrity of such information. However, it has not been independently verified and may not be updated.

7.25.3 To the extent that liability cannot be excluded, the maximum aggregate liability of CFH, its agents and advisors is \$1.

7.26 Precedence

7.26.1 Any conflict or inconsistency in the RFP shall be resolved by giving precedence in the following descending order:

- (a) section 7 (RFP-Terms);
- (b) all other sections of this RFP document; and
- (c) any additional information or document provided by CFH to Respondents through CFH's Point of Contact, GETS or CFH's TenderLink Site.

7.26.2 If there is any conflict or inconsistency between information or documents having the same level of precedence, the later information or document will prevail.

Definitions

In relation to the RFP the following words and expressions have the meanings described below.

A Shares	Means the A shares issued by a UFB2 LFC having the rights described in Appendix 1, paragraph 1.2.8.
Access Services	Means the services set out in Appendix 4, Schedule 1, Table A.
Actual Costs	Means the reasonable actual direct expenses or direct costs incurred by the Respondent, inclusive of the respondent's project specific overheads but exclusive of the Respondent's non-project specific overheads and profit.
Additional Service	Means any access fibre Telecommunications Service, or any service supporting an access fibre Telecommunications Service, in addition to the UFB2 Services.
Adjoining Greenfield Site	Means a subdivision of a defined geographical site adjoining a UFB2 Coverage Area which is evidenced by a certificate of title after the Contract Date and located in a private or public property subdivision, complex or community, but excludes Infill Premises and Infill Greenfield Sites.
ADS Template	Means the Annual Deployment Schedule template set out in Appendix 11, Schedule, section 3 and available for the Respondent to download on CFH's TenderLink Site.
Advance Notice	A notice published by CFH on GETS in advance of publishing the RFP. An Advance Notice alerts the market to a contract opportunity. Where used, an Advance Notice forms part of the RFP.
Alternative Commercial Model	Means an alternative commercial model to that set out in the PCM and meeting the requirements set out in Appendix 1, section 2.
Alternative Commercial Model Proposal	Means a proposal containing an Alternative Commercial Model.
Alternative Commercial Model Requirements	Means the requirements for the Alternative Commercial Model set out in Appendix 1, section 2.
Amended UFB2 Candidate Area Shapefile	Has the meaning given to that term in Appendix 9, paragraph 2.1(a).
Ancillary Charge	Means the charge for an Ancillary Service.
Ancillary Services	Means the services and equipment which support the supply of the Access Services, as further described in Appendix 4, section 4.
Annual Deployment Schedule or ADS	Means the annual deployment schedule in respect of the build of the UFB2 Network, as further described in Appendix 11, paragraph 4.2.
APD	Means the agreed premises dataset agreed by CFH and the Respondent in respect of the relevant Proposed Candidate Areas, comprising geospatial

	shaped files for the relevant Proposed Candidate Area boundaries, locations of Premises, unique Premises IDs and number of End Users for the relevant Proposed Candidate Areas.
APD Requirements	Has the meaning given to that term in the Base RFP, paragraph 3.3.12.
Applicable CPC	Means the CPC for the Applicable Network Stage.
Applicable CPPP_{BH CAP}	Means the CPPP _{BH CAP} for the Applicable Network Stage.
Applicable CPPP_{BH L1}	Means the CPPP _{BH L1} for the Applicable Network Stage.
Applicable CPPP_{BH L1 CFH}	Means the CPPP _{BH L1 CFH} for the Applicable Network Stage.
Applicable CPPP_{BH L1 P}	Means the CPPP _{BH L1 P} for the Applicable Network Stage.
Applicable CPPP_{BH L2}	Means the CPPP _{BH L2} for the Applicable Network Stage.
Applicable CPPP_{CFH}	Means the Applicable CPPP _{L1 CFH} + Applicable CPPP _{BH L1 CFH} .
Applicable CPPP_{Greenfield}	Means the cost per Premises Passed to be paid in respect of Communal Infrastructure for Infill Greenfield Sites, as further described in Appendix 1, paragraph 1.4.41.
Applicable CPPP_{L1}	Means the CPPP _{L1} for the Applicable Network Stage.
Applicable CPPP_{L1 CAP}	Means the CPPP _{L1 CAP} for the Applicable Network Stage.
Applicable CPPP_{L1 CFH}	Means the CPPP _{L1 CFH} for the Applicable Network Stage.
Applicable CPPP_{L1 P}	Means the CPPP _{L1 P} for the Applicable Network Stage.
Applicable CPPP_{L2}	Means the CPPP _{L2} for the Applicable Network Stage.
Applicable CPPP_{Paid}	Means any CPPP _{L1} or CPPP _{L2} payment that has already been received by the Partner, or which the Partner is entitled to receive under the Contract, in relation to the relevant Premises Passed ⁹ on an Infill Greenfield Site.
Applicable Laws and Regulatory Requirements	Has the meaning given to that term in the Base RFP, paragraph 3.3.22.
Applicable Network Stage	Means the Network Stage in respect of which the relevant payment calculation is being conducted.
Applicable N_{Passed}	Means the N _{Passed} for an Applicable Network Stage.
ATA	Means analogue terminal adaptor, used to provide voice services over a data network.
B Shares	Means the B shares issued by a LFC having the rights described in Appendix 1,

⁹ In the context of an Infill Greenfield Site, a “Premises” shall be deemed to exist if, after the Contract Date, a certificate of title has been issued for the relevant site which comprises part of the Infill Greenfield Site, notwithstanding that no building or structure may yet have been built on such a site.

	paragraph 1.2.8.
Backhaul	Means Layer 1 Backhaul and Layer 2 Backhaul.
Base Requirements	Means the set of requirements set out in the Base RFP, paragraphs 3.3.8 to 3.3.23.
Base RFP	Means sections 1 to 7 of the RFP.
Best Industry Practice	Means the exercise of the skill, care, diligence, prudence, foresight and judgement, as determined by reference to good national and international practice generally applied in the UFB1 project, and other fibre access projects in OECD countries, which would be expected from a highly skilled and experienced person under the same or similar circumstances to those applicable under the Contract.
Bill of Materials or BOM	Means the bill of materials set out in the BOM Template, which sets out the various cost information in relation to the components of the proposed UFB2 Network build to be undertaken by the Respondent.
Bitstream Services	Means the bitstream services that are listed in Appendix 4, Table A, part 1.
BOM Template	Means the Excel spreadsheet named “BOM Template” available for the Respondent to download on CFH’s TenderLink Site.
Build Commencement Conditions	Means the following conditions: <ul style="list-style-type: none"> (a) completion of the design of the UFB2 Network in accordance with the Requirements and the other requirements of the Contract; (b) the Respondent having entered into agreements with all required subcontractors in respect of the build of the Communal Infrastructure for the relevant Network Stage; (c) the Respondent having a health and safety management system in place in respect of the build of the Communal Infrastructure and the End-User Specific Infrastructure for the relevant Network Stage; and (d) the Respondent issuing a certificate to the UFB2 LFC certifying that the conditions in paragraphs (a) and (c) above have been satisfied.
Build Complete Milestone	Means the “Build Complete Milestone” described in Appendix 11, Schedule, paragraph 1.1.
Build Complete Milestone Date	Means the date by which the Respondent must achieve the Build Complete Milestone for the relevant Network Stage as set out in the MDP and Annual Deployment Schedule (as applicable).
Build Period	Means the period from the date of the Contract until 20 December 2022.
Build Progress Milestone	Means the “Build Progress Milestone” described in Appendix 11, Schedule, paragraph 1.1.
Build Progress Milestone Date	Means the date by which the Respondent must achieve the Build Progress Milestone for the relevant Network Stage as set out in the MDP and Annual Deployment Schedule (as applicable).

Build Start Milestone	Means the “Build Start Milestone” described in Appendix 11, Schedule, paragraph 1.1.
Build Start Milestone Date	Means the date by which the Respondent must achieve the Build Start Milestone for the relevant Network Stage as set out in the MDP and Annual Deployment Schedule (as applicable).
Business Day	Any week day in New Zealand, excluding Saturdays, Sundays, New Zealand (national) public holidays and all days from Boxing Day up to and including the day after New Year’s Day.
Business Case	Means a business case put forward by the Respondent to the UFB2 LFC Board in respect of potential expenditure by the UFB2 LFC or entry into any other arrangement.
Business Plan	Means the business plan for the UFB2 LFC as described in Appendix 1, paragraphs 1.6.1 to 1.6.4.
C Shares	Means the C shares issued by an UFB2 LFC having the rights described in Appendix 1, paragraph 1.2.8.
Central Office or CO	Means the facilities that house the equipment for terminating the dark fibres, and the equipment needed to provide the Bitstream Services (for example, the OLT and / or an EAS). The Central Office is the point at which an RSP will connect to the Dark Fibre Access Services.
Central Office Termination Point or CO Termination Point	Means the SC or LC connector that connects the fibre from the End User Premises (or NBAP) to either: <ul style="list-style-type: none"> (a) the termination of the fibre on the Central Office main distribution frame; or (b) the OLT or Ethernet switch at a Central Office site; or (c) the RSP’s equipment at the Central Office co-location site; or (d) the Backhaul equipment at the Central Office site.
CFH	Means Crown Fibre Holdings Limited (a registered limited liability New Zealand company, with Company Number: 2346751).
CFH Board	Means the board of directors of Crown Fibre Holdings Limited.
CFH Capital	Has the meaning given to that term in Base RFP, paragraph 1.1.1.
CFH Initial Capital	Means the initial capital to be provided by CFH in respect of the issue of A Shares, as described in Appendix 1, paragraph 1.2.8.
CFH’s TenderLink Site	Means https://www.tenderlink.com/crownfibre/
Chorus	Means Chorus Limited.
Churn – Monthly	Means the measure of the loss of Connections on the UFB2 Network in a particular month being, the number of Connected End Users that cancel their UFB2 Service and do not place an order for Connection at another location within the UFB2 Network (and does not include End Users that move between

RSPs or change Premises).

Commerce Commission Means the New Zealand Commerce Commission.

Commission Means, in relation to the UFB2 Network generally, the successful completion of all commissioning testing processes such that the UFB2 Network and its components are connected, registered and operational in accordance with the Contract, and are capable of providing the Dark Fibre Services and Bitstream Services to End Users, and **Commissioned** will be construed accordingly.

Communal Infrastructure Means the Communal Layer 1 Infrastructure, the Communal Layer 2 Infrastructure, the Layer 1 Backhaul and the Layer 2 Backhaul.

Communal Layer 1 Infrastructure Means all passive (i.e. unpowered) infrastructure between (and including) the Central Office and the E-NNI, (where the E-NNI is within the same Network Stage as the CO) and the Premises Boundary Termination Point, and includes, without limitation, any of the following within the Network Stage:

- (a) interconnection points;
- (b) Central Offices;
- (c) FFPs;
- (d) fibre connecting the interconnection points, Central Offices and/or cabinets;
- (e) distribution fibre running along each Road;
- (f) feeder fibre running from Central Offices to cabinets or fibre cross connection points;
- (g) associated ducts and other fixed civil infrastructure required to deploy fibre; and
- (h) passive optical equipment installed in the UFB2 LFC's FFP.

Communal Layer 2 Infrastructure Means all active (i.e. powered) infrastructure between (and including) the Central Office (and the E-NNI, where the E-NNI is within the same Network Stage as the CO) and the Premises Boundary Termination Point, and includes, without limitation, any of the following within the Network Stage:

- (a) OLT;
- (b) EAS;

If the E-NNI is in a different Network Stage, then Communal Layer 2 Infrastructure excludes any incremental active infrastructure (for example WDM or an SFP), used to provide Backhaul.

Companies Act Means the New Zealand Companies Act 1993.

Competitors Any other business that is in competition with a Respondent either in relation to the goods or services sought under the RFP or in general.

Concession Period Means the period during which CFH will not require a return on its funding being the period of ten years (or such longer period as may be agreed by CFH and the Respondent) commencing from the date of commencement of the build of the UFB2 Network by the Respondent and as further described in

Confidential Information

Means information that:

- (a) is by its nature confidential;
- (b) is marked by either CFH or a Respondent as 'confidential', 'commercially sensitive', 'sensitive', 'in confidence', 'top secret', 'secret', 'classified' and/or 'restricted';
- (c) is provided by CFH, a Respondent, or a third party in confidence;
- (d) CFH or a Respondent knows, or ought to know, is confidential.

Confidential information does not cover information that is in the public domain through no fault of either CFH or a Respondent.

Conflict of Interest

A Conflict of Interest arises if a Respondent's personal or business interests or obligations do, could, or be perceived to, conflict with its obligations to CFH under the RFP or in the provision of the goods or services. It means that the Respondent's independence, objectivity or impartiality can be called into question. A Conflict of Interest may be:

- (a) actual: where the conflict currently exists;
- (b) potential: where the conflict is about to happen or could happen; or
- (c) perceived: where other people may reasonably think that a person is compromised.

Connection

Means in respect of each End User in a Premises:

- (a) the cable from the Premises Boundary Termination Point, in the case of an underground connection, or from the Nearest Pole in the case of an aerial connection to the ETP of the Premises; and
- (b) the cable joining the ETP to the ITP within the Premises (noting that an ETP may not be provided in an MDU); and
- (c) all other infrastructure (excluding Communal Infrastructure) necessary to enable the provision of the Dark Fibre Services and Bitstream Services to the relevant End User, including without limitation:
 - (i) the ITP and/or UNI (if provided) being active and configured in accordance with the RSP order request; and
 - (ii) the ITP being located in the Premises at the point of highest data usage such as the location of the main TV, a wiring closet, an existing DSL router, or such other location as reasonably requested by the End User; and
- (d) includes the Standard Installation Requirements as will be set out in the Design and Build Schedule,

and **Connected** will be construed accordingly.

Contract

Means the written contract or contracts entered into by CFH and successful Respondent/s in respect of delivery of the UFB2 Objective.

Contract Award Notice

Government Rules of Sourcing, Rule 45 requires CFH to publish a Contract Award Notice on GETS when it has awarded a contract that is subject to the

	Rules.
Contract Date	Means the date on which a Contract is entered into.
Contractor Testing	Means where pursuant to the Contract the Respondent tests the UFB2 Network and certifies it meets the specifications and requirements set out in Appendix 3.
CPC	Means the cost per Connection.
CPPP	Means the cost per Premises Passed, being the average cost per Premises to build each component of the Communal Infrastructure in each Proposed Candidate Area.
CPPP_{BH L1}	Means the cost per Premises Passed for Layer 1 Backhaul.
CPPP_{BH L1 CFH}	Means the amount of CPPP _{BH L1} to be funded by CFH.
CPPP_{BH L1 P}	Means the amount of CPPP _{BH L1} to be funded by the Partner.
CPPP_{BH L2}	Means the cost per Premises Passed for Layer 2 Backhaul which is to be funded solely by the Respondent.
CPPP_{L1}	Means the cost per Premises Passed in respect of Communal Layer 1 Infrastructure.
CPPP_{L1 CFH}	Means the amount of CPPP _{L1} to be funded by CFH.
CPPP_{L1 P}	Means the amount of CPPP _{L1} to be funded by the Partner.
CPPP_{L2}	Means the cost per Premises Passed in respect of Communal Layer 2 Infrastructure.
Crown	Means Her Majesty the Queen acting in right of New Zealand.
Dark Fibre Services	Means the dark fibre services that are listed in Appendix 4, Table A, part 1.
Deadline for Proposals	Means the deadline by which Proposals are to be delivered or submitted to CFH as stated in the Base RFP, paragraph 2.2.1.
Deadline for Questions	Means the deadline by which Respondents are to submit questions to CFH as stated in the Base RFP, paragraph 2.2.1.
Design and Build Schedule	Means the schedule to the NIPA describing the planning, design, development, build, testing and Commissioning of the UFB2 Network.
Developer Levy	Means the relevant developer contribution from the developer of any Infill Greenfield Site, which must not exceed \$900.
Downtime	Means the length of time that an End User is without a UFB2 service, measured from the time that a fault is detected (either RSP-reported or system-reported) to the time that the UFB2 Service is restored and excludes: (i) user initiated service interruptions; (ii) CPE outages due to power failures; (iii) the exclusions set out in the Service Levels (e.g. excluding ONT failures).

Downtime per end user (Average)	Means the sum of the Downtime for all End Users within a UFB2 Coverage Area or Network Stage divided by the number of End Users in the UFB2 Coverage Area or Network Stage, measured separately for Dark Fibre Services and Bitstream Services
Drag Shareholder	Has the meaning given to that term in Appendix 1, paragraph 1.2.25.
Dragged Shareholder	Has the meaning given to that term in Appendix 1, paragraph 1.2.25.
DWDM	Means dense wave division multiplexing and has the same meaning as WDM.
EAS	Means ethernet aggregation switch as defined by the TCF in the TCF ELAS document, and provides the E-NNI interface.
End User	Means the recipient of a service that is dependent on a UFB2 Service.
End User Connection	Means a Connection to an End User in the UFB2 Coverage Area.
End User-Specific Infrastructure	<p>Means all passive (i.e. unpowered) and active (i.e. powered) infrastructure between the Premises Boundary Termination Point and the ITP (inclusive) for passive infrastructure, or UNI (inclusive) for active infrastructure, in a Premises, and includes the following:</p> <ul style="list-style-type: none"> (a) fibre from a Premises to the Communal Infrastructure already in place outside the Premises Boundary; (b) any fibre, electronic and/or optical equipment the UFB2 LFC may be required to install on Premises; (c) associated ducts and other fixed civil infrastructure required to deploy these End User-specific fibre assets; (d) any capitalised investment directly associated with each marginal End User (for example, the value of any software licences that might be supplied to the UFB2 LFC on a “per End User” basis); and (e) any active electronic equipment installed in a Premises required to provide the Bitstream Services, <p>but excludes all Communal Infrastructure;</p>
ENNI or E-NNI	Means External Network to Network Interface as defined in the TCF ELAS Document and the WSA.
Equivalence of Inputs or EOI	<p>Means that the UFB2 LFC will be able to:</p> <ul style="list-style-type: none"> (a) provide each RSP and the UFB2 LFC itself with the same Subsequent Services (excluding Backhaul); (b) deliver that Subsequent Service (excluding Backhaul) to each RSP and to the UFB2 LFC itself on the same timescales and on the same terms and conditions (including price and service levels); (c) use the same systems and processes (including operational support processes) to deliver the Subsequent Services (excluding Backhaul) to each RSP and the UFB2 LFC itself; (d) provide the RSP and the UFB2 LFC itself with the same information about the Subsequent Services (excluding Backhaul), systems and

	<p>processes; and</p> <p>(e) ensure each RSP is able to use in the same way, and with the same degree of reliability and performance as the UFB2 LFC itself, the Subsequent Services (excluding Backhaul), systems and processes that are used by the UFB2 LFC, and</p> <p>for the avoidance of doubt, will include:</p> <p>(f) providing enough fibres to ensure each Premises can be served by two Layer 2 RSPs and, where a point-to-multipoint network architecture is adopted, either accommodation for a second RSP's splitters or tie cables to an RSP's splitter housing; and</p> <p>(g) regardless of architecture chosen, Central Office co-location facilities, allowing for alternative RSPs (provided that in the case of a PON network these do not need to be provided until the Subsequent Period).</p>
Establishment Costs	Means the establishment costs in respect of the UFB2 LFC, as further described in Appendix 1, paragraphs 1.6.5 to 1.6.7.
Ethernet	Means Ethernet as defined by IEEE802.3.
ETP or External Access Point	Means a suitable fibre termination facility located as an attachment to an external structure located at the End User's Premises, or at the NBAP. It is not mandatory for the fibre to be broken and terminate at that point, although it will serve as an access point for breaking and testing should the need arise.
Evaluation Approach	The approach used by CFH to evaluate Proposals as described in the Base RFP, sections 4 and 7.
Evaluation Criteria	The criteria against which Proposals that have complied with the pre-condition and sufficiently satisfied the Requirements set out in the Base RFP, paragraph 3.3, will be evaluated by the Evaluation Panel, as set out in the Base RFP, paragraph 4.4.
Evaluation Panel	Means the evaluation panel established by CFH in accordance with the Base RFP, paragraph 4.1.1.
Exclusive Boundary	Means the area on which the relevant Premises is physically located and, in respect of which, the occupier of such Premises has an exclusive ownership, leasehold or other occupation interest, and excludes any area in respect of which the occupier has a non-exclusive ownership, leasehold, or other occupation or access interest.
Experienced Wholesale Telecommunications Operator	<p>Means an entity that:</p> <p>(a) meets the requirements set out in the Base RFP, paragraph 3.3.21;</p> <p>(b) currently provides Telecommunication Services to RSPs or has a related company or companies (as defined in the Companies Act 1993) that currently provide Telecommunications Services to RSPs; and</p> <p>(c) in its last full financial year, along with any related companies, had combined gross revenues of at least \$2 million from the provision of Telecommunication Services to retail service providers.</p>

Fibre Access Point or FAP	Has the same meaning as Premises Boundary Termination Point.
Fibre Flexibility Point or FFP	Means the passive infrastructure used to provide the connection between the feeder duct and fibre infrastructure, and the distribution duct and fibre infrastructure. The FFP houses the splitters and the fibre cross connection points and may also house and manage the air blown fibre tubes if ABF is used in the distribution.
Final Completion	Means all of the Premises in the relevant Network Stage are: <ul style="list-style-type: none"> (a) Premises Completed for which UAT certificates have been issued; and (b) completion certificates have been issued for all Premises in the Network Stage.
Financial Year	Means the 12 month period ending 30 June each calendar year.
FTTB	Means fibre to the basement.
FTTP	Means fibre to the Premises.
GETS	Government Electronic Tenders Service available at www.gets.govt.nz
Governance Requirements	Has the meaning given to that term in the Base RFP, paragraph 3.3.18.
Government	Means the Government of New Zealand;
Government Share	Means the share to be issued to the Government, as further described in Appendix 1, paragraphs 1.2.10 to 1.2.18.
Government Shareholder	Means Her Majesty the Queen in right of New Zealand acting by and through the Minister of Finance.
GPON	Means Gigabit Passive Optical Networking and is defined by the ITU in the G.984 series of recommendations.
Greenfield Sites	Means an Adjoining Greenfield Site or an Infill Greenfield Site.
GST	Means the goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.
Hand Over	Means the hand over of Commissioned Premises, with test readiness certificates to CFH for the commencement of UAT.
Health and Safety Management Plan	Means the health and safety management plan to be prepared by Respondents, as more particularly described in Appendix 6, section 2.
Health and Safety Milestone	Means the health and safety operational readiness milestone, as further described in Appendix 11, Schedule, paragraph 1.2.
Health and Safety Questionnaire	Means the health and safety questionnaire set out in Appendix 11, Schedule, section 5 and available for the Respondent to download on CFH's TenderLink Site.

Health and Safety Requirements	Has the meaning given to that term in the Base RFP, paragraph 3.3.17.
Ineligible Area	Has the meaning given to that term in the Base RFP, paragraph 1.3.4(e).
Infill Greenfield Site	Means a subdivision of a defined geographical site in a UFB2 Coverage Area evidenced by a certificate of title, into greater than four defined geographical sites which are evidenced by certificates of title created after the Contract Date, and located in a private or public property subdivision, complex or community, but excludes Infill Premises and Adjoining Greenfield Sites.
Infill Premises	Means Premises which are constructed after the Contract Date in the UFB2 Coverage Area on land which is subdivided into four or less defined geographical sites which are evidence by a certificate of title, or leased or subleased from, or otherwise comprises land surrounding, a Premises existing at the Contract Date, but excludes Infill Greenfield Sites and Adjoining Greenfield Sites;
In-Home Services	Has the meaning given to that term in Appendix 3, paragraph 3.10.5.
Initial Business Plan	Means the initial Business Plan of the UFB2 LFC, as further described in Appendix 1, paragraph 1.6.4.
Integrated Test Facility or ITF	Means that technical infrastructure environment which substantially replicates the configuration and sizing of the UFB2 Network and which is, or is to be, used to: <ul style="list-style-type: none"> (a) test the UFB2 Network functionality, operation and performance during UAT and subsequently in respect of changes to the UFB2 Network approved by the UFB2 LFC in writing that are made or are to be made to the UFB2 Network; and (b) allow RSPs to test and modify their Telecommunications Services to work on the UFB2 Network.
Integrated Test Facility Milestone	Means the “Integrated Test Facility Milestone” described in Appendix 11, Schedule, paragraph 1.2.
Integrated Test Facility Milestone Date	Means the date by which the Respondent must achieve the Integrated Test Facility Milestone for the UFB2 Network as set out in the MDP and Annual Deployment Schedule (as applicable).
Intellectual Property	All intellectual property rights and interests, including copyright, trademarks, designs, patents and other proprietary rights, recognised or protected by law.
Interoperability	Means the ability for the UFB2 Network to interoperate successfully with interconnected networks.
IRU	Means an exclusive, unrestricted, and indefeasible right granted by a third party to the UFB2 LFC to use certain components of Communal Infrastructure for the purposes of delivering UFB2 Services over the UFB2 Network, as further described in Appendix 1, paragraphs 1.3.5 to 1.3.10.
ITP	Means the internal termination point and is the SC or LC connector that terminates the Dark Fibre Services inside the End User’s Premises, and plugs

	into the ONU/ONT or the RSPs equipment.
KPI	Means key performance indicator.
Layer 1 Backhaul	Means all passive (i.e. unpowered) infrastructure between the Central Office (inclusive) and the ENNI, where the ENNI is in a different Network Stage to the CO.
Layer 1 Central Office Termination Point	Has the meaning given to that term in Appendix 3, paragraph 3.4.2.
Layer 2 Backhaul	Means all active (i.e. powered) infrastructure required to provide connectivity between a Central Office and an ENNI, where the ENNI is located outside the Network Stage. This includes SFPs that plug into an EAS or OLT chassis, and WDM equipment (but would not include the OLT chassis, the EAS chassis, or the ENNI which form part of the Communal Layer 2 Infrastructure).
LC Connector	Means an LC Angle Polished Connector (APC) conforming to Grade B insertion Loss and Grade 1 return loss performance as per IEC 61755-1.
Management Services	Means management services which may be provided to the UFB2 LFC, as further described in Appendix 1, paragraph 1.6.15 to 1.6.19.
Management Services Agreement	Means the agreement to be entered into between the UFB2 LFC and the Respondent, an associated company of the Respondent or a third party in relation to the Management Services.
Management Service Charges	Means the charges payable by the UFB2 LFC for the Management Services, as further described in Appendix 1, paragraph 1.6.16.
Marketing and PR Requirements	Has the meaning given to that term in the Base RFP, paragraph 3.3.20.
Marketing and Promotions Plan	Means the Respondent's marketing and promotions plans for the Proposed Candidate Areas, as further described in Appendix 10, section 1.
Marketing and Promotions Plan Template	Means the marketing and promotions template set out in Appendix 11, Schedule, section 5 and available for the Respondent to download on CFH's TenderLink Site.
Master Deployment Plan or MDP	Means the master deployment plan in respect of the build of the UFB2 Network, as further described in Appendix 11, section 4.
Master Deployment Plan Template or MDP Template	Means the MDP template set out in Appendix 11, Schedule, section 2 and available for the Respondent to download on CFH's TenderLink Site.
Maximum Price	Has the meaning given to that term in Appendix 4, paragraph 2.1.
MBIE	Means The Ministry of Business, Innovation and Employment.
MDU	Means a multi-dwelling unit or multi tenancy unit.
Milestone Completion	Means a certificate provided to CFH and the UFB2 LFC certifying completion of

Certificate	a Build Milestone or Build Progress Milestone in the MDP.
Milestone Date	Means the date by which a Milestone must be achieved.
Milestones	Means the milestones for the build of the UFB2 Network or operational readiness, as set out in Appendix 11, Schedule, section 1.
Mobile Blackspot Initiative	Means the Government’s proposed plan to create a \$50 million fund to extend mobile coverage into black spot areas of main highways and key tourist areas, as further explained in the ROI – Supply and the ROI – Support.
Nearest Pole	Means, in respect of aerial deployment, the pole closest to the Premises Boundary on the same side of the Road as the Premises.
Negotiation Approach	Means the approach CFH will adopt and develop to govern the negotiation process with one or more Respondents.
NESTF	Means the National Environmental Standards for Telecommunications Facilities.
Network Build Commencement Date	Means the date on which the build of the UFB2 Network by the Respondent must have commenced.
Network Compliant	Means compliance with the requirements of the RFP and the NIPA.
Network Infrastructure Project Agreement or NIPA	Means the network infrastructure project agreement to be entered into between the UFB2 LFC, the Respondent and CFH in relation to the build of the UFB2 Network.
Network Stage	Means each Proposed Candidate Area awarded to a successful Respondent, which forms a stage of the design and build and will be set out in the Master Deployment Plan and the relevant Annual Deployment Schedule.
Non-Building Access Point or NBAP	Means a location for a Connection that does not have a physical address (e.g. a bus shelter or lamp post) other than a location that is a concentration point for a regulated backhaul service (for example, a fibre to the node cabinet owned or controlled by Spark New Zealand Trading Limited).
Non Standard Installation or NSI	Has the meaning given to that term in Appendix 3, paragraph 3.11.1.
N_{passed}	Means the agreed number of Premises in a UFB2 Coverage Area and excludes forecasted Infill Premises, Infill Greenfield Sites and Adjoining Greenfield Sites.
NPV	Means net present value.
O&M Service Charges	Means the charges payable by the UFB2 LFC to the Respondent in respect of the provision of O&M Services, as further described in Appendix 1, paragraph 1.6.9.
O&M Services	Means those operational services and maintenance services to be provided by the Respondent relating to the UFB2 Network, as further described in Appendix 1, paragraphs 1.6.8 to 1.6.14.

Offeree	Has the meaning given to that term in Appendix 1, paragraph 1.2.25.
Offer Validity Period	The period of time when a Proposal (offer) is held open by the Respondent for acceptance by CFH as stated in the Base RFP, paragraph 2.6.1.
OLT	Means optical line termination as defined in the ITU-T G.984 series specifications and is device that is located in the Central Office and is the endpoint of a PON.
ONT	Means the optical network termination, and generally denotes the end-point of a GPON network on an End User's Premises.
ONU	Means the optical network unit, and generally denotes the end-point of a point-to-point Bitstream Service on an End User's Premises.
Open Access Requirements	Means the requirements set out in Appendix 5 and in the UFB2 Open Access Deed.
Operational and IT Plan	Has the meaning given to that term in Appendix 11, paragraph 7.5.
Operational Processes Milestone	Means the operational processes milestone, forming part of the Operational Readiness Milestones, as further described in Appendix 11, Schedule, paragraph 1.2.
Operational Readiness Milestones	Means the operational readiness milestones in respect of the UFB2 Network, as further described in Appendix 11, Schedule, paragraph 1.2.
OSS/BSS	Means the operational support system and the business support system.
OSS/BSS B2B Milestone	Means the OSS/BSS B2B milestone which is an Operational Readiness Milestone, as further described in Appendix 11, Schedule, paragraph 1.2.
OSS/BSS B2B Milestone Date	Means the date by which the Respondent must achieve the OSS/BSS B2B Milestone for the UFB2 Network as set out in the MDP and Annual Deployment Schedule.
OSS/BSS Funding Milestone	Means the OSS/BSS funding milestone which is an Operational Readiness Milestone, as further described in Appendix 11, Schedule, paragraph 1.2.
OSS/BSS Funding Milestone Date	Means the date by which the Respondent must achieve the OSS/BSS Funding Milestone for the UFB2 Network as set out in the MDP and Annual Deployment Schedule (as applicable).
OSS/BSS Portal Milestone	Means the OSS/BSS portal milestone which is an Operational Readiness Milestone, as further described in Appendix 11, Schedule, paragraph 1.2.
OSS/BSS Portal Milestone Date	Means the date by which the Respondent must achieve the OSS/BSS Portal Milestone for the UFB2 Network as set out in the MDP and Annual Deployment Schedule.
OTDR	Means optical time domain reflectometer.
Partner	Means a successful Respondent who enters into a Contract with CFH.

Partner Initial Capital	Means the initial capital to be provided by the Respondent in respect of the issue of A Shares, as further described in Appendix 1, paragraph 1.2.8.
Partner Obligations	Has the meaning given to that term in Appendix 1, paragraph 1.3.9.
Passed	Means when a Premises has been passed with Communal Infrastructure and is capable of Connection from the Premises Boundary Termination Point without further civil works required on the Communal Infrastructure, or outside the Premises Boundary.
Payment Milestones	Means a Stage 1 Payment, a Stage 2 Payment or a Stage 3 Payment.
PCBU	Means a Person Conducting a Business or Undertaking, as that term is defined in the Health and Safety Reform Bill.
Performance Milestone	Means a Milestone in respect of which liquidated damages are payable (under the Contract) if the Respondent fails to achieve the Milestone by the Performance Milestone Date
Performance Milestone Date	Means the date by which the Respondent must achieve the Performance Milestone, as set out in the MDP and/or the Annual Deployment Schedule (as applicable).
POI	Means Point of Interconnection that meets the Network Requirements.
Point of Contact	Means CFH and each Respondent are required to appoint a Point of Contact. This is the channel to be used for all communications during the RFP process. CFH's Point of Contact is identified in the Base RFP, paragraph 2.3.2. The Respondent's Point of Contact is to be identified in its Proposal.
PON	Means a passive optical network.
Potential UFB2 Candidate Areas	Has the meaning given to that term in the Base RFP, paragraph 1.2.9.
Preferred Commercial Model or PCM	Means the preferred commercial model summarised in Appendix 1, section 1.
Premises	Premises means a single building or structure or Retirement and Business Complex located on a defined geographical site (such as may be evidenced by a certificate of title), which has a unique physical address recognised by NZ Post, and is occupied by or could readily be occupied by a potential End User and, for the avoidance of doubt, a premises does not include a NBAP, and a multi-tenanted building, unit or structure only constitutes a single Premises.
Premises Boundary	Means: <ul style="list-style-type: none"> (a) in respect of individual Premises located down and accessed by a ROW or a Retirement and Business Complex, the point where the public road adjoins the entrance to the ROW or the Retirement and Business Complex (as applicable); and (b) in respect of all other Premises, that part of the Exclusive Boundary of an individual Premises which is adjoining the nearest Road to such Premises.

Premises Boundary Termination Point

Means the point where the Communal Layer 1 Infrastructure connects to the End User-Specific Infrastructure. This is:

- (a) for underground deployment, or where the Connection is an underground Connection, the point where the duct or fibre is left at the Premises Boundary; or
- (b) for aerial deployment, the Nearest Pole to the Premises Boundary; or
- (c) in the case of a hybrid deployment (i.e. a mixture of underground and aerial deployment), this includes the fibre or duct between the Nearest Pole and the Premises Boundary.

Premises Completed

Means the Premises in the relevant Network Stage, as determined in accordance with the APD, which are:

- (a) completed with Communal Layer 1 Infrastructure, Communal Layer 2 Infrastructure and Backhaul; and
- (b) Commissioned during the relevant calendar month in respect of which a payment is being made.

Premises Handed Over

Means Premises that have passed contractor testing by the Partner and have been handed to CFH for UAT testing.

Price

Has the meaning given to that term in the Base RFP, paragraph 4.2.2(a)

Price List

Means the list of UFB2 Services and Maximum Prices set out in Appendix 4, Schedule, Table A, Part 1.

Priority PCAs

Has the meaning given to that term in the Base RFP, paragraph 4.1.2.

Product Specification and Pricing Requirements

Has the meaning given to that term in the Base RFP, paragraph 3.3.15.

Project Control Group or PCG

Means the project control group which will oversee the build of the UFB2 Network by the Respondent pursuant to the Contract, and as further described in Appendix 7 (Governance).

Project Team

Has the meaning given to that term in the Base RFP, paragraph 4.1.9.

Property Estate

Means:

- (a) a residential private gated housing community, estate or subdivision;
- (b) any other form of private property residential or commercial subdivision, complex or community; or
- (c) a private right of way, driveway, laneway, service lane or alleyway, the entrance of which adjoins a public road, and which has more than ten Premises down it which are accessed by such private right of way, driveway, laneway, service lane or alleyway,

but excludes a Retirement and Business Complex.

Proposal

Means the response a Respondent submits in reply to the RFP. It comprises the Response Form, the Respondent's bid, financial and pricing information

	and all other information submitted by a Respondent.
Proposal Data Template	Means the Excel spreadsheet named “Proposal Data Template” available for the Respondent to download on CFH’s TenderLink Site.
Proposed Candidate Area Changes	Has the meaning given to that term in Appendix 9, paragraph 2.1.
Proposed Candidate Areas	means the Potential UFB2 Candidate Areas and Suggested Alternative Candidate Areas included in a Proposal.
Proposed Contract	Means the Contract terms and conditions proposed by CFH for the delivery of the UFB2 Objective as described in the Base RFP, section 6.
Public Relations Plan	Means the Respondent’s public relations plan for the Proposed Candidate Areas, as further described in Appendix 10, section 2.
Ranked PCA List	Has the meaning given to that term in the Base RFP, paragraph 4.1.2.
RBI2 Initiative	Means the planned phase 2 of the Government’s rural broadband initiative as further explained in the ROI – Support and ROI – Supply.
Registration of Interest	Means a formal request by CFH asking potential respondents to register their interest in a procurement. It is the first step in a multi-step tender process.
Regulatory Requirements	Has the meaning given to that term in the Base RFP, paragraph 3.3.16.
Reporting Requirements	Has the meaning given to that term in the Base RFP, paragraph 3.3.19.
Request for Proposal or RFP	Means the Advance Notice (where used), the Registration of Interest (where used), this RFP document (including the RFP-Terms) and any other schedule, appendix or document attached to this RFP, and any subsequent information provided by CFH to Respondents through CFH’s Point of Contact or GETS.
Requirements	Means the requirements set out in the Base RFP, paragraph 3.3, including the Base Requirements, and all other requirements contained in this RFP.
Residential Gateway or RGW	Means End User Premises equipment, provided by the RSP.
Respondent	Means a person, organisation, business or other entity that submits a Proposal in response to the RFP. The term Respondent includes its directors, officers, employees, contractors, consultants, agents and representatives.
Respondent Funding	The extent of funding that the Respondent is proposing to provide (for example, for Connection costs (CPC) and operating costs).
Response Form	Means the form and declaration prescribed by CFH and used by a Respondent to respond to the RFP in the form set out in Appendix 13, duly completed and submitted by a Respondent as part of the Proposal.
Retail Service Provider	Means an entity that has a contractual relationship with the UFB2 LFC for use of all or part of the UFB2 Network and that has, or is to have, a contractual

or RSP	relationship with End Users for the provision of UFB2 Services.
Retirement and Business Complex	Means: (a) a retirement village or complex; or (b) a business park or complex which is located wholly on a single certificate of title.
RFP-Terms	Means the Request for Proposal – Process, Terms and Conditions as described in the Base RFP, section 7. These may be varied subsequent to the release of the RFP by CFH on giving notice to Respondents.
Road	Means: (a) a public road; (b) a private road; (c) a paper road; (d) a laneway, service lane or alleyway; (e) all public roads, private roads, paper roads, laneways, service lanes, alleyways, right of ways and driveways within a Property Estate; (f) any other area which is analogous to any of those set out above, and, (g) for the avoidance of doubt, includes any footpath and/or berm area next to or associated with such areas, but (h) excludes a ROW or a private road, paper road, laneway, service lane, alleyway, right of way or driveway within a Retirement and Business Complex.
ROI – Supply	Has the meaning given to that term in the Base RFP, paragraph 2.1.3(b).
ROI – Support	Has the meaning given to that term in the Base RFP, paragraph 2.1.3(a).
ROW	Means a private road, right of way, driveway, laneway, service lane or alleyway, the entrance of which adjoins a public road, and which has between two to ten Premises located down it which are accessed by such private road, right of way, driveway, laneway, service lane or alleyway, but excludes a private road, right of way, driveway, laneway, service lane or alleyway forming part of a Property Estate.
SC Connector	Means an SC Angle Polished Connector (APC) conforming to Grade B insertion Loss and Grade 1 return loss performance as per IEC 61755-1.
Secondary PCAs	Has the meaning given to that term in the Base RFP, paragraph 4.1.2.
Service Levels	Means the service levels which the Respondent must meet in relation to the build of the UFB2 Network and provision of the O&M Services, as set out in Appendix 2.
SFP	Means small form-factor pluggable, a compact, hot-pluggable transceiver used for both telecommunication and data communications applications. The SFP transceiver is not standardized by any

	official standards body, but rather is specified by a multi-source agreement among competing manufacturers.
Shareholders' Agreement	Means the shareholders' agreement to be entered into by the UFB2 LFC, the Respondent and CFH (and any guarantor of the Respondent) in relation to the operation and management of the UFB2 LFC.
Shares	Means the shares in the capital of the UFB2 LFC at the relevant point in time.
Stage 1 Payment_{Backhaul} CFH	Has the meaning given to that term in Appendix 1, paragraph 1.4.34.
Stage 1 Payment_{Backhaul} Partner	Has the meaning given to that term in Appendix 1, paragraph 1.4.35.
Stage 1 Payment_{Communal} CFH	Has the meaning given to that term in Appendix 1, paragraph 1.4.15.
Stage 1 Payment_{Communal} Partner	Has the meaning given to that term in Appendix 1, paragraph 1.4.16.
Stage 2 Payment_{Backhaul} CFH	Has the meaning given to that term in Appendix 1, paragraph 1.4.34.
Stage 2 Payment_{Backhaul} Partner	Has the meaning given to that term in Appendix 1, paragraph 1.4.35.
Stage 2 Payment_{Communal} CFH	Has the meaning given to that term in Appendix 1, paragraph 1.4.15.
Stage 2 Payment_{Communal} Partner	Has the meaning given to that term in Appendix 1, paragraph 1.4.16.
Stage 3 Payment_{Backhaul} CFH	Has the meaning given to that term in Appendix 1, paragraph 1.4.34.
Stage 3 Payment_{Backhaul} Partner	Has the meaning given to that term in Appendix 11, paragraph 1.4.35.
Stage 3 Payment_{Communal} CFH	Has the meaning given to that term in Appendix 1, paragraph 1.4.15.
Stage 3 Payment_{Communal} Partner	Has the meaning given to that term in Appendix 1, paragraph 1.4.16.
Standard Installation	Has the meaning given to that term in Appendix 3, paragraphs 3.10.2 to 3.10.4.
Subsequent Period	Means the period commencing on 1 January 2026 and continuing thereafter.
Subsequent Services	Means the services described in Appendix 4, Schedule 1, Table B.
Suggested Alternative Candidate Area	Has the meaning given to that term in the Base RFP, paragraph 1.2.9.

Table A	Means Appendix 4, Schedule, table A, which sets out the Access Services and the Maximum Prices of such services.
Table B	Means Appendix 4, Schedule, table B, which sets out the Subsequent Services.
Tag Shareholder	Has the meaning given to that term in Appendix 1, paragraph 1.2.25.
TCF	Means the New Zealand Telecommunications Carrier Forum.
TCF ELAS Document	Means the TCF's Ethernet line access service document, available to Respondents at the TCF web site.
Technical and Commercial Capacity Requirements	Has the meaning given to that term in the Base RFP, paragraph 3.3.21.
Telecommunications Services	Means the telecommunications service as defined in the Telecommunications Act 2001.
Template Wholesale Services Agreement	Has the meaning given to that term in the Base RFP, paragraph 3.7.1(b).
UAT Complete Milestone	Means the "UAT Complete Milestone" described in Appendix 11, Schedule, paragraph 1.1.
UAT Complete Milestone Date	Means the date by which the Respondent must achieve the UAT Complete Milestone for the relevant Network Stage as set out in the MDP or Annual Deployment Schedule (as applicable).
UFB RSP Services	Means telecommunications services offered by RSPs to End Users utilising the UFB2 Network and UFB2 Services.
UFB1	Has the meaning given to that term in the Base RFP, paragraph 1.2.1.
UFB1 Agreements	Has the meaning given to that term in the Base RFP, paragraph 1.2.2.
UFB1 Candidate Area	Has the meaning given to that term in the Base RFP, paragraph 1.2.2.
UFB1 Excluded Areas	Has the meaning given to that term in the Base RFP paragraph 1.2.11.
UFB1 Fringe Area	Has the meaning given to that term in Appendix 9, paragraph 4.
UFB1 Fringe Area Shapefiles	Means a shapefile showing the boundary of a UFB1 Fringe Area and available for the Respondent to download on CFH's TenderLink Site.
UFB1 LFC Board	Means the board of directors of a UFB1 LFC.
UFB1 LFCs	Means each local fibre company established by CFH and certain UFB1 Partners in order to fulfil the UFB1 Objective.
UFB1 Network	Has the meaning given to that term in the Base RFP, paragraph 1.2.1.
UFB1 Network Requirements	Means the requirements for UFB1 networks.

UFB1 Objective	Has the meaning given to that term in the Base RFP, paragraph 1.2.1.
UFB1 Open Access Deeds	Has the meaning given to that term in Appendix 5, paragraph 2.3.
UFB1 Partners	Has the meaning given to that term in the Base RFP, paragraph 1.2.2.
UFB1 WSAs	Means the WSAs of the UFB1 LFCs.
UFB2	Has the meaning given to that term in the Base RFP, paragraph 1.1.1.
UFB2 Candidate Area Shapefiles	Has the meaning given to that term in the Base RFP, paragraph 3.2.2.
UFB2 Coverage Area	Means the sum of the Proposed Candidate Areas awarded to a successful Respondent and all Adjoining Greenfield Sites approved by the UFB2 LFC Board.
UFB2 Initiative	Means the Government's initiative to extend the coverage of UFB1 by at least 5% of the population of New Zealand.
UFB2 LFC	Means the limited liability company that may be established by a successful Respondent and CFH jointly to own and operate the UFB2 Network in the Proposed Coverage Area(s) for which the successful Respondent is selected to deploy the UFB2 Network.
UFB2 LFC Board	Means the board of directors of the UFB2 LFC.
UFB2 LFC Constitution	Means the constitution to be approved for the UFB2 LFC.
UFB2 Network	Has the meaning given to that term in the Base RFP, paragraph 1.1.2.
UFB2 Network Requirements	Means the requirements for the UFB2 Network as set out in Appendix 3.
UFB2 Objective	Has the meaning given to that term in the Base RFP, paragraph 1.1.2.
UFB2 Open Access Deed	Means a deed that the Respondent or UFB2 LFC (as applicable) will be required to give in favour of the Crown under the Telecommunications Act 2001 (as amended) which will set out the requirements for open access on the UFB2 Network and be in the same form as the existing UFB1 Open Access Deeds.
UFB2 Services	Means the Access Services and the Ancillary Services.
UFB2 Services Period	Means the period from and including the Contract Date to 31/12/2025.
Ultra Fast Broadband or UFB	Means a fibre to the Premises network that can provide an uncontended bandwidth of 100Mbps downstream and 50Mbps upstream to every End User and is capable of upgrades to at least speeds of 1Gbps downstream and 500Mbps upstream for mass market End Users and up to speeds of 10Gbps symmetrical to business, school and hospital End Users.

UNI	Means User Network Interface and is either the voice port or the Ethernet port of the ONT that complies with the requirements of the WSA.
User Acceptance Testing or UAT	Means user acceptance testing and encompasses all or any acceptance testing of the UFB2 Network in accordance with the processes and procedures for that kind of testing as set out in the Contract.
WDM	Means wavelength division multiplexing as defined by the ITU-T and includes Dense Wave Division Multiplexing (DWDM) and Course Wavelength Division Multiplexing (CWDM).
Wholesale Services Agreement or WSA	Means the standard wholesale services agreement general terms of the UFB2 LFC, together with any particular terms relating to a specific UFB2 Service, which has been approved by CFH.
Wholesale Services Agreement Milestone	Means the “Wholesale Services Agreement Milestone” described in Appendix 11, Schedule, paragraph 1.2.
Wifi	Means a wireless network complying with the IEEE 802.11 standards.
Working Capital	Means the working capital requirements of the UFB2 LFC from time to time to ensure that the UFB2 LFC remains solvent and can perform its obligations under the Contracts, the WSAs and any other contractual commitments.
