

STRATEGIC PARTNERSHIP AGREEMENT

This Strategic Partnership Agreement ("**the Agreement**") is made the 13 day of November 2013 and is entered into between:

- (1) **CITYFIBRE HOLDINGS LIMITED**, a company registered in England and Wales (registration number 07488363) whose registered office is at 53 Chandos Place, London WC2N 4HS ("**CityFibre**");
- (2) **PETERBOROUGH CITY COUNCIL**, whose main office address is Town Hall, Bridge Street, Peterborough PE1 1HQ ("**PCC**"); and
- (3) **BLUE SKY PETERBOROUGH LIMITED**, a company registered in England and Wales (registration number 07781846) whose registered office is at Town Hall, Bridge Street, Peterborough PE1 1HQ ("**Blue Sky**").

CityFibre, PCC and Blue Sky shall be referred to in this Agreement individually as a "**Party**" and collectively as the "**Parties**".

Introduction

- (i) CityFibre builds and operates ultrafast pure fibre networks in certain cities in the UK for connecting service providers to public sector facilities, businesses and consumers in those cities.
- (ii) CityFibre has selected the city of Peterborough as an attractive city for investment in new fibre optic communications infrastructure. CityFibre is planning development of a core fibre metro network and a FTTH/P fibre network subject to market take-up. CityFibre will privately finance this investment through a combination of privately sourced equity and debt financing and rollout the infrastructure on an independent commercial basis. CityFibre will have full ownership and operational responsibility over the fibre infrastructure. CityFibre wishes to demonstrate to PCC its commitment to long term investment in the city of Peterborough and to coordinate with PCC and its strategic partners as its investment in the city develops.
- (iii) PCC and its trading and marketing entity, Blue Sky, are welcoming the investment and wish to ensure the best outcomes from CityFibre's private sector investment for everyone in the city. The investment by CityFibre in fibre infrastructure is complimentary to PCC's strategic priorities for Peterborough, including the objective to be the environmental capital of the UK, to create jobs and economic growth, and to support opportunities for governmental efficiencies and improvement in public services. Neither PCC nor Blue Sky intend to provide any investment to CityFibre and recognise that CityFibre's proposal to invest in Peterborough is based entirely on private financing and rollout on a commercial basis.
- (iv) Due to these factors the Parties are now interested in forming a strategic partnership relating to facilitate effective coordination of CityFibre's capability as an owner and provider of fibre optic infrastructure with PCC's strategic priorities and maximise the benefits of CityFibre's investment for the city of Peterborough ("**the Partnership**").

In consideration of the mutual promises and covenants contained in this Agreement, the Parties agree as follows:

1. Interpretation

1.1 In this Agreement, the following definitions apply:

Business Day	a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.
Commercially Sensitive Information	means Information that has been designated as commercially sensitive by CityFibre;
Contract Year	means a period of 12 months commencing on the Effective Date or on an anniversary of the Effective Date;
Effective Date	means the date when this Agreement is signed;
FOIA	The Freedom of Information Act 2000.
FTTH/P	means either fibre-to-the-home (FTTH) to residents (that is, fibre to the boundary of a home, such as a box on the outside wall of a home) or fibre-to-the-premises (FTTP) to the boundary of commercial premises SMEs over a dense fibre distribution network based on a split fibre architecture.
Information	has the meaning given under Section 84 of the Freedom of Information Act 2000;
Metro	means a core point to point fibre network carrying data traffic on dedicated fibres with significant network capacity
Requests for Information	shall have the meaning set out in the FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term " request " shall apply) and for the purpose of this Agreement shall relate to such a request which the Authority is required to comply with under the FOIA or the Environmental Information Regulations;
Strategic Partnership Board	means the board set up for the purpose of overseeing this Agreement

1.2 In this Agreement, unless there is an alternate meaning indicated in the Agreement a reference to:

- 1.1.1 "**Agreement**" means this document, including all Schedules and appendices hereto together with any document referred to herein;
- 1.1.2 "**costs**" and "**expenses**" include costs, charges outgoings and expenses of every description (including reasonable legal expenses);
- 1.1.3 "**day**" means any period of 24 hours starting at 12.00 pm;
- 1.1.4 "**document**" includes information recorded in any form;
- 1.1.5 "**month**" means a calendar month;

1.1.6 "**property**" includes property, assets, interests and rights of every description wherever situated;

1.1.7 "**person**" includes any individual, partnership, LLP, firm, trust, body corporate, government, governmental body, authority, agency, unincorporated body of persons or association and a reference to a person includes a reference to that person's successors and permitted assigns; "**firm**" or "**partnership**" or "**LLP**" means all of the parties in the firm or partnership as at the date of this Agreement together with all parties who are admitted to the partnership during the continuation of this Agreement on a joint and several basis.

1.2 All references to any statute or statutory provision shall be deemed to include references to any statute or statutory provision which amends, extends consolidates or replaces the same and shall include any orders, regulations codes of practice, instruments or other subordinate legislation (as defined in Section 21(1), Interpretation Act 1978) made under it.

1.3 Any headings to Clauses, Paragraphs, Schedules and/or Appendices together with the front cover and the Index are for convenience only and shall not affect the meaning of this Agreement.

1.4 Words preceding "**include**", "**includes**", "**including**" and "**included**" shall be construed without limitation by the words which follow those words.

1.5 In this Agreement, words importing any particular gender include all other genders.

1.6 Words importing the singular only shall include the plural and vice versa.

2. Strategic Partnership

2.1 The Partnership will explore mutually beneficial opportunities which would result in by the provision of both fibre optic infrastructure and services by CityFibre in the City of Peterborough provided that nothing in this Agreement requires CityFibre to build and operate ultrafast pure fibre networks on behalf of PCC or requires CityFibre to provide goods, services or works to PCC in breach of PCC's standing orders or EU procurement law. Examples of proposed opportunities which would reflect the intended commitment to growth are listed in Schedule 1.

2.2 CityFibre recognises that Blue Sky has the ambition to develop sales leads and Blue Sky recognises that CityFibre has the ambition of rolling out further fibre infrastructure to facilitate the provision of further services within the City of Peterborough as well as within other UK cities, provided that nothing in this Agreement shall be construed as an obligation on PCC or Blue Sky to purchase goods, services or works directly from CityFibre in breach of its standing orders or EU procurement law.

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4. Strategic Partnership Board

4.1 The Parties will establish a Strategic Partnership Board which will meet on a quarterly basis with senior executive representation to:

- (i) monitor the performance of the Partnership;
- (ii) evaluate joint business case proposals;
- (iii) report on the value being delivered to PCC; and
- (iv) drive innovation;

but any decisions including any decisions on business case proposals recommended by the Strategic Partnership Board will be subject to the appropriate governance and approval processes of the Parties provided that nothing in this Agreement shall be construed as an obligation on PCC to purchase goods, services or works directly from CityFibre in breach of its standing orders or EU procurement law.

4.2 The parties agree to work together in a collaborative way to promote the Partnership in accordance with the terms of this Agreement.

4.3 The Strategic Partnership Board will review business cases prepared by CityFibre (at its own cost) for the following opportunities that can be identified at the time of executing this Agreement, however the scope of the Strategic Partnership is not in any way restricted to these specific opportunities:

- (a) PCC connectivity requirements;
- (b) PCC energy and environmental initiatives including Future Cities, Smart Grids and Smart Metering;
- (c) future growth programmes relating to PCC's strategic objectives.

4.4



- 4.5 At each Strategic Partnership Board (and more regularly if requested by PCC or Blue Sky), CityFibre will provide a documented report on the progress in developing its investment in the city of Peterborough..

5. Term and Termination

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- 5.2 This Agreement may be terminated immediately by a Party giving written notice to the other if that other Party commits a material breach of the Agreement and (if such a breach is remediable) fails to remedy that breach within fourteen days of receipt of the said notice, and for the purposes of this clause 5, PCC and Blue Sky shall be deemed to be one Party.

- 5.3 This Agreement may be terminated immediately by a Party giving written notice to the other if:
- (a) the other Party ceases to carry on its business;
 - (b) a receiver, administrative receiver, administrator or similar officer is appointed over all or any part of the assets or undertaking of the other Party and is not discharged within 15 days of such appointment;
 - (c) the other Party makes an assignment for the benefit of, or a composition with, its creditors or another arrangement of similar import;
 - (d) the entity being unable to pay its debts or being deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - (e) if the other Party shall go into liquidation otherwise than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction.

- 5.4 PCC may forthwith terminate this Agreement if CityFibre or anyone acting on its behalf (whether with or without the knowledge of CityFibre) shall have:
- (a) offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward in respect of the Agreement or any other agreement for doing or for bearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Agreement or any other agreement with PCC;
 - (b) shown or forborne to show any favour or disfavour to any person in relation to the Agreement or any other agreement with PCC;
 - (c) committed an offence under the Bribery Act 2010; or
 - (d) given any fee or reward which is an offence under s.117(3) of the Local Government Act 1972.

- 5.5 If this Agreement is terminated by a Party, any separate contract in effect between the Parties at the date of such termination shall be unaffected by such termination other than as, and to the extent expressly provided for, in that contract.

- 5.6 Any termination or the expiration of this Agreement shall not affect, and shall be without prejudice to the rights and remedies of the Parties accrued at the date of termination or expiration and also shall not affect any provision which is expressly or impliedly intended to continue in force after such expiration or termination.

5.7 The provisions of clauses 5, 6, 7, 9 and 10 shall survive the termination of this Agreement.

5.8

6. Intellectual Property Rights and Confidentiality

6.1 No intellectual property rights shall transfer from one Party to the other under this Agreement or any subsequent related agreement between the Parties and nothing in this Agreement shall be construed as an obligation to transfer or license any right or interest in the other Party's intellectual property.

6.2 The Parties anticipate that it may be necessary for a Party to transfer to the other information of a proprietary nature. Each of the Parties agrees that it will use the same reasonable efforts to protect such information as are used to protect its own proprietary information. Without prejudice to clause 6.3, there shall be no disclosure to any third party, without the necessary prior written consent. The Parties shall agree to comply with any confidentiality obligations set out in any confidentiality agreement in force between them.

6.3 Each Party shall be permitted to share the contents of this Agreement with its professional advisers and potential investors, subject always to such Parties being bound by standard terms of confidentiality and non-disclosure.

7. Freedom of Information

7.1 CityFibre acknowledges that PCC is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with PCC (at CityFibre's expense) to enable PCC to comply with these information disclosure requirements.

7.2 CityFibre shall and shall procure that its sub-contractors shall:

7.2.1. transfer the Request for Information to PCC as soon as practicable after receipt and in any event within two Business Days of receiving a Request for Information;

7.2.2. provide PCC with a copy of all Information in its possession or power in the form that PCC requires within five Business Days (or such other period as PCC may specify) of PCC requesting that Information; and

7.2.3 provide all necessary assistance as reasonably requested by PCC to PCC to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

7.3 PCC shall be responsible for determining at its absolute discretion whether Commercially Sensitive Information and/or any other Information:

7.3.1 is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations; and/or

7.3.1 is to be disclosed in response to a Request for Information.

7.4 In no event shall CityFibre respond directly to a Request for Information unless expressly authorised to do so by PCC.

7.5 CityFibre acknowledges that PCC may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:

7.5.1 without consulting with CityFibre; or

7.5.2 following consultation with CityFibre and having taken its views into account,

provided always that where clause 7.5.1 applies PCC shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give CityFibre advanced notice, or failing that, to draw the disclosure to CityFibre's attention after any such disclosure.

7.6 CityFibre shall ensure that all Information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit PCC to inspect such records as requested from time to time.

7.7 CityFibre acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with this clause 7.

8 Marketing and Publicity

8.1 The Parties will cooperate with each other in joint marketing and promotional activities including press releases and interviews.

8.2 Blue Sky will support the overall growth and sales leads of the Partnership by hosting site visits and attending conferences, roadshows and prospective clients to take part in discussions and/or presentations with CityFibre. In particular, Blue Sky will provide at least the following level of support in return for which CityFibre will be responsible for Blue Sky's reasonable expenses and travel costs:

- (i) CityFibre generated client reference site visits that take place on PCC Sites;
- (ii) two CityFibre generated external client presentations (as part of a formal tendering process CityFibre is engaged in) per annum;
- (iii) four CityFibre external client meetings per annum.

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8.4 No Party shall make an announcement or publicity release in respect of the subject matter of this Agreement or about any potential opportunity, nor make use of the other Party's name or brand, without the other Party's prior written consent, which approval shall not be unreasonably withheld.

9. General

9.1 This Agreement is not and is not meant to be an exhaustive and complete list of the terms that will be discussed between the Parties and included in any relevant further agreement(s). The Parties shall add such other terms as are necessary and agreed so as to give effect to the intentions expressed in this Agreement.

9.2 This Agreement is non-assignable by any Party.

9.3 Irrespective of the fact that this Agreement is referred to as a "Partnership", no Party shall act as an agent for, or partner of, the other Party for any purpose and nothing in this Agreement shall be construed to grant a Party the right to make commitments or undertakings of any kind for or on behalf of the other Party, without the prior written consent of the other Party.

9.4 This Partnership is non-exclusive and does not restrict any Party from making similar arrangements with any third party.

9.5 No variation or modification to the Agreement is valid unless it is in writing and signed by CityFibre, PCC and Blue Sky.

10 Governing Law and Jurisdiction

10.1 This Agreement and any agreements referred to in this Agreement shall be governed by the laws of England and Wales and the Parties shall submit to the exclusive jurisdiction of the English courts.

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Schedule 1

Commitment to Growth Opportunities

CityFibre will carry out the following activities to support the objectives of the Partnership.

Job Creation – Within six calendar months of the Effective Date employ a minimum of one locally based account management resource person from the employment pool within Peterborough, with potential to increase over time;

Support Local Businesses – Within three calendar months of the Effective Date, implement a policy to use local sub-contractors and suppliers through the build phase where economically viable;

Impact Study – Within twelve calendar months of the Effective Date, initiate and fund an “Impact Study” of a fibre network in Peterborough, focussed on Environmental and/or Smart / Future City initiatives with possible tracking of GVA implications;

PCC Commercial Property – To operate a policy of utilising PCC owned commercial properties for CFH points of presence locations where operationally and economically feasible, such properties to be occupied on market benchmarked commercial rates.

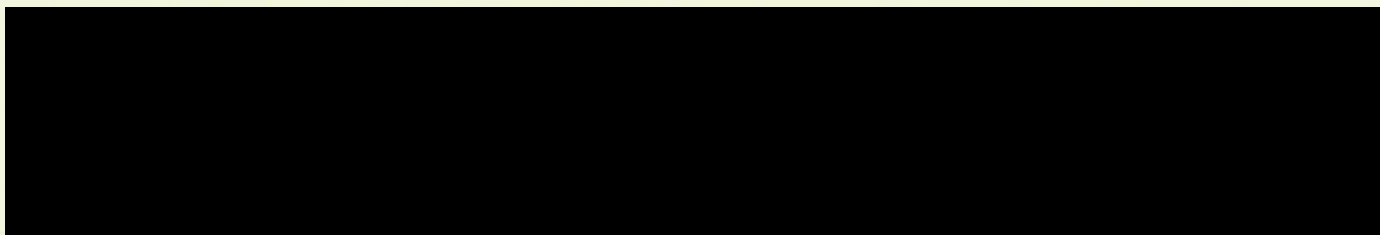
Marketing & Communications – Extensive promotion of Peterborough as a “Gigabit City” and environment capital of the UK and PCC as a proactive and foresighted Council;

Supporting Peterborough’s Business Community – Marketing and build of transformational fibre infrastructure to key Commercial & Development Zones enabling commercially viable gigabit internet connectivity to businesses and supporting Voucher Schemes;

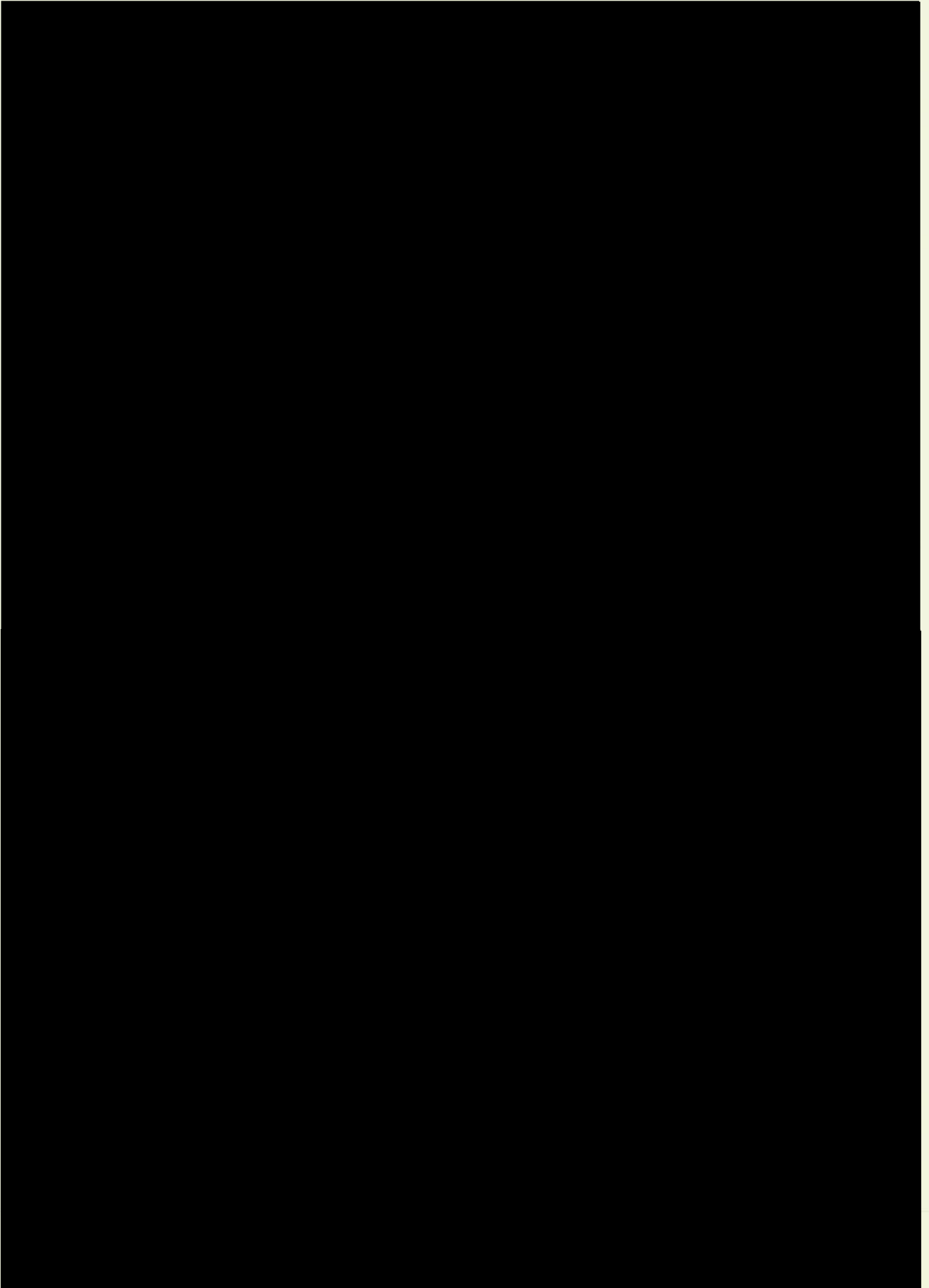
Fibre to New Developments – To run a FTTH/P pre-registration scheme, targeted to a minimum of 3,000 homes in a (to be) defined area selected by CityFibre, followed by a FTTH network deployment in that conditional upon a minimum take up rate to be defined by CityFibre;

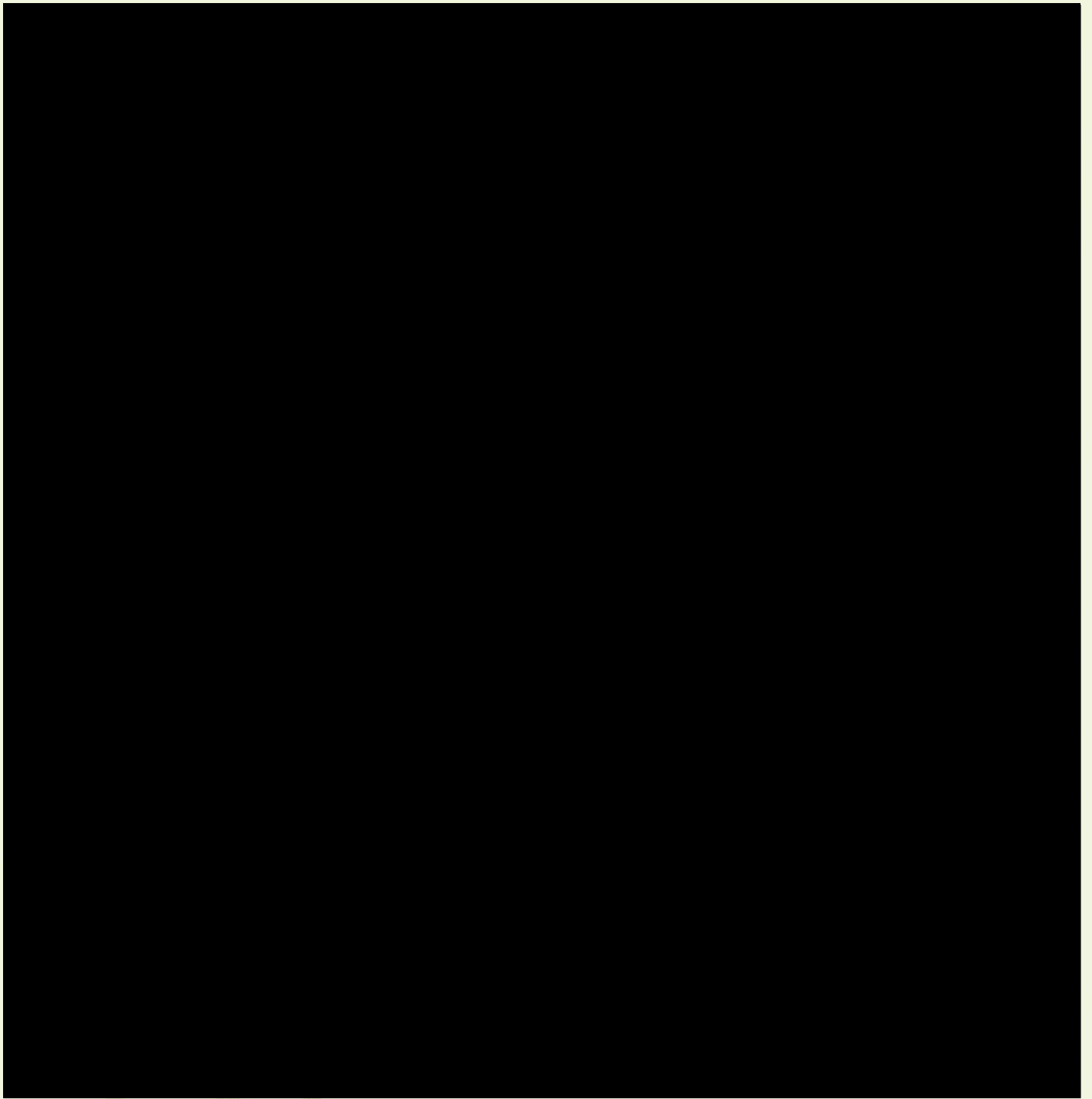
Business Cases for Wider Community Benefits – Develop business cases to extend the fibre network to wider communities in and around Peterborough, including rural areas following completion of initial build;

Business Cases for Innovation – Together with Blue Sky and PCC, develop business cases to drive further innovations and benefits including, but not limited to, Smart Meter / Grid, Social ISP services, Smart Transport, Innovation Centres, Education / Digital Careers;



Schedule 2





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This Agreement has been executed as a DEED and is DELIVERED and takes effect on the date stated at the beginning of it.

EXECUTED under the Common Seal of

PETERBOROUGH CITY COUNCIL

In the presence of



.....


Duly Authorised Officer



EXECUTED as a Deed by

CityFibre Holdings Limited acting by

.....

..... a director, in the presence of:


Signature of witness:

Name: (in block capitals)

Mark Collins

Address:


5, 197 Queens Gate London

Occupation:

Director

EXECUTED as a Deed by

Blue Sky Limited acting by

.....

..... a director, in the presence of:

Signature of witness:

Name: (in block capitals)

RICHARD GODFREY

Address:

TOWN HALL

Occupation:

ICT MANAGER

