

Tuatahi First Fibre Services Agreement

Service Level Terms

Input Direct Fibre Access Service
and PONFAS (UFB1 Candidate Areas)

Version 1.0.1

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General

1 Interpretation

1.1 References to clauses or sections are references to clauses or sections in these Input Services Service Level Terms unless expressly provided otherwise. The definitions set out in the Input Services Wholesale Services Agreement General Terms (**General Terms**) and the Operations Manual for PONFAS (**Operations Manual**) apply to these Input Services Service Level Terms unless expressly provided otherwise.

1.2 These Input Services Service Level Terms relate to the provision of the Input Direct Fibre Access Services and Passive Optical Network Fibre Access Services (**PONFAS**).

1.3 Definitions

In these Input Services Service Level Terms, in addition to the definitions set out in the General Terms and the Operations Manual:

Activation Appointment means the date of completion of the Input Services Connection Input Services Connection agreed between the LFC and the Access Seeker or the relevant End User (as applicable);

Connection means, in respect of the Access Seeker, the connection of an Input Service to the Network and an End User Premises;

Consecutive Business Hours means a number of consecutive hours (including fractions of hours) within Business Hours (where the first Consecutive Business Hour in a Business Day is consecutive to the last Consecutive Business Hour in the preceding Business Day);

Core Input Services Service Level means a service level included in Appendix 1 of these Input Services Service Level Terms;

Core Input Services Service Level Default means a failure by the LFC to meet a Core Input Services Service Level;

Core Input Services Service Rebate means the payment to be made by the LFC to the Access Seeker for a Core Input Services Service Level Default, calculated in accordance with these Input Services Service Level Terms;

Coverage Area means all of the LFC's UFB1 areas listed in the LFC's UFB Wholesale Services Agreement;

hour without further definition refers to an ordinary clock hour (i.e. any hour);

Scoping Appointment means the date the LFC agrees with the Access Seeker or the relevant End User for the LFC's technicians to visit the End User Premises or End User Tenancy for the purposes of scoping the installation design for the Connection and securing any necessary consents and approvals from the End User and/or building owner; and

Service Level Commencement Date means 1 January 2020.

2 Scope

- 2.1** These Input Services Service Level Terms:
- (a) set out the quality and performance of the Core Input Services Service Level commitments of the LFC to the Access Seeker for the delivery of the Input Services; and
 - (b) provide for a rebate mechanism where the LFC fails to meet the Core Input Services Service Levels.
- 2.2** These Input Services Service Level Terms may be changed in accordance with the change mechanism set out in the General Terms.

3 Service Levels

- 3.1** The LFC will meet or exceed the Core Input Services Service Levels in accordance with these Input Services Service Level Terms.
- 3.2** The Core Input Services Service Levels will apply from the Service Level Commencement Date.
- 3.3** The LFC must begin measuring and reporting its performance against the Core Input Services Service Levels for completed PONFAS and iDFAS Input Services Connections from the Service Level Commencement Date.
- 3.4** If the Access Seeker updates or changes an Input Services Service Request as per Operations Manual, the Core Input Services Service Levels applicable to that Input Services Service Request (as updated or changed) will be measured from the date that update or change was accepted by the LFC.

4 Extensions and Exclusions

- 4.1** The Core Input Services Service Levels will not apply or, as applicable, Core Input Services Service Rebates will not be payable, where expressly stated in the General Terms or these Input Services Service Level Terms. Further extensions, limitations or exclusions to the LFC's liability in respect of specific Core Input Services Service Levels are set out in Appendix 1.
- 4.2** The Core Input Services Service Levels and Core Input Services Service Rebates set out in these Input Services Service Level Terms will be applied in accordance with the provisions of the Operations Manual.
- 4.3** Where the LFC makes a decision that a Core Input Services Service Level Default has not occurred because one or more of the extensions, limitations or exclusions apply, the details are to be recorded and reported in the LFC's monthly performance report provided in accordance with clause 6.

5 Access Seeker Forecasts

- 5.1** The Access Seeker will provide Forecasts to the LFC in accordance with the Operations Manual. The consequences of the Access Seeker failing to provide a Forecast Report or failing to provide an accurate Forecast Report are set out in the Operations Manual.

6 Reporting on Service Levels

- 6.1** The LFC will provide the Access Seeker with a performance report each month reporting on its performance against the Core Input Services Service Levels for the Access Seeker's Input Services Service Orders during the relevant month, beginning with a report on the first full month in which these Input Services Service Level Terms apply. The performance report will clearly identify whether the Core Input Services Service Levels are being met. The performance report will be delivered or made available to the Access Seeker within 10 Business Days after the end of each relevant calendar month in electronic format. The performance report will detail the LFC's performance against each of the Core Input Services Service Levels over the preceding month.

7 Reporting on Core Input Services Service Level Defaults

- 7.1** In the event of any Core Input Services Service Level Default, the LFC will detail in its report to the Access Seeker under clause 6 the cause of and procedure for correcting such Core Input Services Service Level Default and will provide updates on the steps taken by the LFC to remedy any on-going Core Input Services Service Level Default until such Core Input Services Service Level Default is remedied.
- 7.2** If the Access Seeker reasonably believes that the LFC has not reported on performance against Core Input Services Service Levels in a manner that clearly identifies whether the Core Input Services Service Levels are being met:
- (a) the Access Seeker will notify the LFC; and
 - (b) if acting reasonably the LFC agrees that there is a reporting failure, remedy the failure promptly, but in any event within 10 Business Days following the Access Seeker's notice, by providing a new report for the same period.

8 Core Input Services Service Rebates

- 8.1** Subject to clauses 4, 8.2 and 10, in the event of a Core Input Services Service Level Default, the Access Seeker will receive a Core Input Services Service Rebate from the LFC in accordance with clause 6.5 of the General Terms. The Core Input Services Service Rebate will be as set out in Appendix 2.
- 8.2** Notwithstanding clause 8.1, following the Service Level Commencement Date, the LFC will be liable to pay Core Input Services Service Rebates for a failure to meet the Core Input Services Service Levels set out in Appendix 1 of these Input Services Service Level Terms.
- 8.3** Core Input Services Service Rebates reflect the reduced value of the relevant part of the Input Services affected by the Core Input Services Service Level Default during the relevant period and are neither liquidated damages nor the Access Seeker's sole and exclusive remedy in respect of the Core Input Services Service Level Defaults or the consequences of such defaults.

9 Reconciliation of Core Input Services Service Rebates

- 9.1** Within 10 Business Days after the end of each calendar month (the Relevant Month), the LFC will provide a summary report to the Access Seeker that will detail the total amount of Core Input Services Service Rebates imposed for Core Input Services Service Level Defaults in accordance with clause 8.1 during the Relevant Month, detailed by Core Input Services Service Level and the relevant Input Services Service Request(s).

10 End-User No-Show Offset

- 10.1** If:
- (a) the Access Seeker or End User is not available at the agreed location (e.g. Premises, End User Tenancy) and/or on the date and/or time agreed with the LFC (or their agent); and
 - (b) the LFC is unable to undertake the intended works (e.g. scoping visit, service activation) (No-Show),
- the LFC will, subject to the provisions of this clause 10, apply an offset to the value of 1 month's rental fee for the Input Services (specified in the order) (No-Show Offset).
- 10.2** For the first 12 months from the Service Level Commencement Date, the LFC will deduct 20% from the No-Show Offset associated with residential orders only (Adjusted No- Show Offset). 12 months from the Service Level Commencement Date (i.e. from month 13 onwards) the 20% deduction shall reduce to 10%.
- 10.3** For the avoidance of any doubt, the No-Show Offset will not be adjusted for orders that are not residential.
- 10.4** Each month prior to paying any Core Input Services Service Rebates to the Access Seeker the LFC will deduct the Adjusted No-Show Offset from the total Core Input Services Service Rebate (Adjusted Core Input Services Service Rebate).
- 10.5** If the Adjusted Core Input Services Service Rebate is:
- (a) greater than \$0, then the Adjusted Core Input Services Service Rebate will be the Core Input Services Service Rebate payable for that month; or
 - (b) less than \$0, then the Adjusted Core Input Services Service Rebate will be \$0.
- 10.6** The LFC will report on No-Shows and No-Show Offsets in the Core Input Services Service Level report issued by the LFC under clause 6.
- 10.7** Prior to applying any No-Show Offset, the LFC will provide evidence (if requested by the Access Seeker) for the Access Seeker to verify such No-Show. The evidence to be supplied and associated process(es) will be agreed with the Access Seeker and documented by the LFC.

11 Retail Service Quality Codes

- 11.1** The proposed changes to the Telecommunications Act 2001 include:
- (a) a role for the Commerce Commission in reviewing industry retail service quality codes (Industry Code) and making recommendations to the Telecommunication Carriers Forum (TCF) in relation to an Industry Code; and
 - (b) an ability for the Commerce Commission to issue its own retail service quality code (Regulated Code) if it believes that the Industry Code does not achieve the purpose of improving retail service quality for End Users.
- 11.2** The LFC agrees to engage in good faith with the Access Seeker and other service providers to review the Core Input Services Service Levels in the context of any Commerce Commission recommendations in relation to an Industry Code and any Access Seekers' obligations under a Regulated Code, as those may apply to Input Services, with any resulting changes agreed to the Input Services Service Level Terms to be implemented in accordance with any recommendations or otherwise as soon as is reasonably practicable.

APPENDIX 1: Core Input Services Service Levels

1 Layer 1 Provisioning Service Levels

1.1 The Core Input Services Service Levels set out in this clause 1 of Appendix 1 do not apply to Premises which are not Passed by Communal Infrastructure.

1.2 APPOINTMENT COMMITMENT SERVICE LEVELS

- (a) Scoping Appointment: Each scoping visit must be completed on the date agreed with the Access Seeker or the relevant End User or the MDU owner (or their agent) (as applicable).
- (b) Activation Appointment: Each installation of an Input Services Connection must be completed on the date agreed with the Access Seeker or the relevant End User (as applicable).
- (c) If the LFC, or its agents, reschedule a Scoping or Activation Appointment then this will be a Core Input Services Service Level Default and the applicable Core Input Services Service Rebate set out in Appendix 2 will apply.
- (d) The Core Input Services Service Levels stipulated in clauses 1.2(a) and 1.2(b) of Appendix 1 will not apply or, as applicable, Core Input Services Service Rebates will not be payable, where the cause of the service level failure includes, but is not limited to the following:
 - (i) the End User or the Access Seeker reschedules the time and/or date of their Scoping Appointment and/or Activation Appointment;
 - (ii) the End User or Access Seeker wants to make a change to install method;
 - (iii) the Access Seeker wants to cancel their Input Services Service Order;
 - (iv) the Premises and/or site not ready for install;
 - (v) the LFC is unable to gain access to the Premises (e.g. comms room/ install space);
 - (vi) the End User or the Access Seeker requires the LFC to complete the install outside of normal working hours;
 - (vii) the End User or the Access Seeker had to leave during the Scoping Appointment and/or Activation Appointment;
 - (viii) the End User or the Access Seeker is not ready to allow the LFC to proceed with the required installation works;
 - (ix) the Access Seeker wants to change their Input Services Service Order;
 - (x) the Scoping Appointment and/or Activation Appointment was brought forward (for any reason); and
 - (xi) the existence of a hazardous condition or health and safety issue.

- (e) Prior to applying one or more service level exclusions, the LFC and Access Seeker will agree a complete list of service level exclusions and when they should apply.
- (f) 12 months from the date these Input Services Service Level Terms become effective the LFC will review the Core Input Services Service Levels detailed in clause 1.2(a) and 1.2(b) of Appendix 1 with the intention of measuring within a more granular time window (e.g. am and pm).

1.3 MEDIAN CYCLE TIME SERVICE LEVELS AND JEOPARDY MANAGEMENT

- (a) In this clause 1.3 of Appendix 1:
 - (i) Complex Order is a New Build Order and does not qualify as a Simple Order.
 - (ii) Cycle Time Region means one or more Coverage Areas grouped for the purposes of measuring and reporting median cycle times. At a minimum the LFC will measure and report median cycle times for the Waikato, Bay of Plenty and Taranaki regions separately, though the Access Seeker and LFC may agree alternative Cycle Time Regions.
 - (iii) Jeopardy Management means the LFC will determine and publish the critical path for applicable Simple Orders and Complex Orders that records individual milestones required to achieve Input Services Connection of those orders. Each order and associated milestones will be tracked and managed at regular operational meetings between the LFC and its field services partners and may include if requested engagement of the Access Seeker.
 - (iv) New Build Order is a properly completed order from the Access Seeker to provision an Input Services Connection to a Premises or End User Tenancy that has not previously been connected.
 - (v) Order Date means the date on which the LFC has received a properly completed Input Services Service Request from the Access Seeker.
 - (vi) Simple Order is a New Build Order and:
 - (a) the Premises being Connected is a Residential or Business SDU; and/or
 - (b) is to a Premises located on a ROW that has the LFC Communal Infrastructure fully installed within the ROW; and/or
 - (c) is to an End User Tenancy within a MDU that has the horizontal reticulation fully installed within the MDU; and/or
 - (d) does not require consent, design and/or a quote to proceed; and/or
 - (e) does not require the provision of diversity; and/or
 - (f) is an aerial lead-in and the third party pole does not need replacement; and/or
 - (g) is not part of a Bulk Input Services Service Request.
- (b) The LFC will target that the median time between the Order Date and completion of the installation in each Cycle Time Region is no greater than:

- (i) 20 days for Simple Orders; and
 - (ii) 50 days for Complex Orders.
- (c) Orders where there is an existing intact Input Services Connection to the Premises will not be considered in calculating the medians in clause 1.3(b) of this Appendix 1.
 - (d) The LFC will report on Median Cycle Time Service Levels in accordance with the timelines stated in clause 6.
 - (e) The targets set out in clause 1.3(b) of this Appendix 1 are based on all Access Seekers aggregated volume being no more than the Deemed Forecast as determined in the Operations Manual.
 - (f) During any period of increased cycle time the LFC will consult in good faith with all Access Seekers to determine whether a new cycle time regime is required and what other actions can be taken to get cycle times back below the medians set out in clause 1.3(b) of this Appendix 1.
 - (g) Simple Orders that have not reached the Service Given milestone within 40 days of the Order Date and Complex Orders not completed within 75 days of the Order Date shall be subject to Jeopardy Management, except where the Access Seeker has requested an Activation Date at a date later than 40 days for Qualifying Orders and 75 days for Complex Orders.
 - (h) If the LFC does not achieve the targets in clause 1.3(b) of this Appendix 1 (as amended under clause 1.3(g) of this Appendix 1), for 2 consecutive months the Access Seeker can request a cycle time management plan detailing specific actions the LFC will take which may include utilising “flying squad” field resource to cover temporary peaks, redeploying field service resource from other work types, and shifting field service resource from low demand areas to high demand areas.
 - (i) If the LFC is still failing to achieve the targets in clause 1.3(b) of this Appendix 1 (as amended under clause 1.3(g) of this Appendix 1) by the date 3 months from the date on which the LFC identified that those targets had been missed for 2 consecutive months, the Access Seeker can request an urgent remediation plan and that plan be published to all Access Seekers and CIP.
 - (j) For the avoidance of any doubt, where the LFC does not achieve the targets in clause 1.3(b) of this Appendix 1 (as amended under clause 1.3(g) of this Appendix 1) this will not be considered to be a Core Input Services Service Level Default and the LFC is not required to pay any Core Input Services Service Rebates.

2 Fault Restoration

2.1 In this clause 2 of Appendix 1:

- (a) Enterprise Services mean Input Direct Fibre Access and PONFAS Feeder Fibre Wholesale Services.
- (b) PONFAS DF Services mean PONFAS Distribution Fibre Wholesale Services.

2.2 The LFC must ensure that:

- (a) PONFAS DF Services are restored by the end of the day following the day on which Downtime is reported to the LFC (PONFAS DF Restoration SLA); and

- (b) Enterprise Services are restored within 6 hours from the time the Downtime is reported to the LFC (Enterprise Restoration SLA).
- 2.3** Prior to reporting Downtime to the LFC, Access Seeker must reasonably ascertain that the fault lies within the Network, including ensuring that the Access Seeker confirms that its equipment supporting the relevant Input Service is powered up. If the Access Seeker fails to do so and the fault is not found within the Network, the Access Seeker will be liable for a no fault found fee specified in the Input Services Price List.
- 2.4** The Enterprise Restoration SLA will be available 7am to 7pm, 7 days a week. For example, if the Access Seeker reports the Downtime at 4:00pm on Monday then the applicable Wholesale Service must be restored by 10:00am in Tuesday to meet the Enterprise Restoration SLA.
- 2.5** The LFC will provide an enhanced Core Input Services Service Level of a prioritised response (Critical Response SLA) with a technician on site (either an exchange, cabinet or customer site) within 2 hours (metro Coverage Areas only) and within 4 hours (non- metro Coverage Areas only) of a fault being logged by the Access Seeker with the LFC. This Critical Response SLA is available 24 hours, 7 days a week, upon request by the Access Seeker.
- 2.6** The Critical Response SLA will be at the charge set out in the Price List. For the avoidance of any doubt, the PONFAS DF Restoration SLA, Enterprise Restoration SLA and the associated Core Input Services Service Rebates set out in Appendix 2 will continue to apply.
- 2.7** The LFC will publish on its website the classification of metro and non-metro Coverage Areas.

3 Service Level Extensions

- 3.1** Subject to clause 3.2 of this Appendix 1, the Core Input Services Service Level response times set out in this Appendix 1 shall be extended in the following circumstances:
- (a) satisfaction of the Core Input Services Service Level is prevented as a direct result of a serious health and safety issue outside of the LFC's control;
- (b) satisfaction of the Core Input Services Service Level is prevented as a direct result of a delay in the provision of materials or information to be supplied by the Access Seeker, required to complete the service;
- (c) acts or omissions of Access Seekers that prevent the LFC from meeting a Core Input Services Service Level (unless the Access Seeker has received the LFC's prior approval for such act or omission);
- (d) acts or omissions of the Access Seeker and/or End User that prevent the LFC from meeting a Core Input Services Service Level (unless the Access Seeker and/or End User has received the LFC's prior approval for such act or omission);
- (e) in relation to a first MDU Input Services Service Order, and in the following circumstances:
- (i) acts or omissions of the MDU owner(s) or their agents that prevent the LFC from meeting the applicable Core Input Services Service Level (unless the MDU owner(s) have received the LFC's prior written approval for such act or omission); and
- (ii) any person of extension requested by the relevant MDU owner(s);

- (f) any period of extension agreed with the Access Seeker and/or the relevant End User; and
- (g) a Force Majeure Event prevents satisfaction of the applicable Core Input Services Service Level, including, for the avoidance of any doubt, any Force Majeure Event affecting a contractor or supplier of the LFC which, if it occurred in relation to the LFC, would have been a Force Majeure Event (as referenced in clause (g) of the definition of “Force Majeure” in the General Terms),

each an Input Service Impairment.

3.2 Any Core Input Services Service Level extension under clause 3.1 of this Appendix 1:

- (a) will be limited to the time that the Input Service Impairment continues to prevent or make illegal the LFC's performance of the applicable Core Input Services Service Level;
- (b) is subject to the LFC promptly taking all reasonable steps, in accordance with Best Industry Practice, to eliminate or avoid the Input Service Impairment and mitigate its effect; and
- (c) in relation to any Core Input Services Service Level extension under clauses 3.1(a) to (g) of this Appendix 1 only, any such extension will not be given to the extent the Input Service Impairment is caused or contributed to by the LFC or its contractors' acts or omissions, the acts or omissions of any supplier of the LFC, or any person within the control or under the responsibility of the LFC.

APPENDIX 2: Core Input Services Service Rebates

The following table specifies the Core Input Services Service Rebates payable by the LFC.

Service Level (references are to clauses in Appendix 1)	Core Input Services Service Rebates
Layer 1 Provisioning Core Input Services Service Levels	
1.2(a) – ScopingAppointment	1 month’s rental fee for the relevant service(s) (specified in the order) each time the Core Input Services Service Levels is not achieved.
1.2(b) – ActivationAppointment	1 month’s rental fee for the relevant service(s) (specified in the order) each time the Core Input Services Service Levels is not achieved.
1.3(b)(i) – Median CycleTime – Simple Orders	n/a.
1.3(b)(ii) – Median CycleTime - Complex Orders	n/a.
1.3(g) – Median Cycle Time - Simple Orders (Jeopardy Management)	n/a.
1.3(g) – Median Cycle Time - Complex Orders (Jeopardy Management)	n/a.
Fault Restoration Core Input Services Service Levels	
2.2(a) – PONFAS DF Restoration SLA	1 month’s rental fee for the relevant service(s) each time a PONFAS DF Restoration SLA is not achieved.
2.2(b) – EnterpriseRestoration SLA	10% of the applicable monthly rental fee for the service per complete hour of Downtime over the Enterprise Restoration SLA (capped at one month’s rental).
2.5 – Critical Response SLA	The LFC will not charge the Access Seeker the relevant price in the Input Services Price List for the Critical Response SLA.