

Continuity Agreement

nbn co limited



This document is a Standard Form of Access Agreement for the purposes of Part XIC of the Competition and Consumer Act 2010.

nbn co limited

Continuity Agreement

Version 1.2

Revision history

Version	Description	Effective Date
1.0	Issued 4 September 2015	Execution Date
1.1	HFC Continuity Licences published on 25 May 2016	Execution Date
1.2	LSL Continuity Licences published on 13 October 2017	Execution Date

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Environment

NBN Co asks that you consider the environment before printing this document.

Continuity Agreement

Parties

This Continuity Agreement is entered into between:

- NBN Co Limited (ABN 86 136 533 741) of Level 11, 100 Arthur Street, North Sydney NSW 2060 (**NBN Co**); and
- [Insert full legal name of Customer] (ABN [insert ABN]) of [insert registered address] (**Customer**).

Background

- A. NBN Co and Customer are parties to a WBA which provides for the supply by NBN Co of the NEBS by means of the NBN Co Network.
- B. NBN Co and Customer have entered into an Asset Transfer Agreement. After the transfer of ownership of the Transferred Assets, the Customer requires a licence of certain Network Assets for the purpose of achieving service continuity for Designated Wholesale Customers and End Users.
- C. This Continuity Agreement sets out the terms and conditions on which:
 - (i) NBN Co will grant Continuity Licences to Customer;
 - (ii) NBN Co will continue to provide licences granted to Customer under the Interim Continuity Agreement and the Pre-Transfer Agreement; and
 - (iii) each party's commitments to the other party in respect of the licence grants contemplated in paragraphs (i) and (ii) above; and
 - (iv) certain representations and warranties are given by Customer to NBN Co.

2 Agreement Term

- (a) This Continuity Agreement commences on the date this Continuity Agreement is executed by both parties and continues until the earlier of:
 - (i) two years from the date this Continuity Agreement is executed by both parties;
 - (ii) the date on which this Continuity Agreement has been terminated in accordance with its terms; and
 - (iii) the first date that all of the Continuity Licences granted under this Continuity Agreement expire or are terminated in accordance with this Continuity Agreement,

(Continuity Agreement Term).
- (b) NBN Co may in its sole discretion, terminate this Continuity Agreement and any licence granted under this Continuity Agreement at any time by giving at least 10 Business Days' written notice to Customer.
- (c) Application of perpetuity period:
 - (i) To the extent that an option to acquire or right of pre-emption in respect of an interest in land is granted under this Continuity Agreement, the option or right of pre-emption is not exercisable after the maximum period (if any) permitted under the law of the State or Territory in which the relevant land is located.
 - (ii) To the extent that an option to acquire or right of pre-emption in respect of personal property is granted under this Continuity Agreement, the option or right

of pre-emption is not exercisable after the maximum period (if any) permitted under the law of the State or Territory in which the personal property is located.

3 Uniform terms of supply for Continuity Licences

3.1 Preconditions

- (a) Clause A2.2 of the WBA is incorporated by reference into this Continuity Agreement as if set out in full.
- (b) In addition to any warranties incorporated by reference into this Continuity Agreement, Customer warrants and represents to NBN Co that:
 - (i) immediately prior to the Asset Transfer Date, Customer was the owner and controller of the Customer Legacy Network which is or has been at any time used to provide Allowed Services to a Designated Wholesale Customer or an End User;
 - (ii) immediately prior to the relevant Asset Transfer Date, is a party to the Asset Transfer Agreement that has not expired or terminated; and
 - (iii) is a party to a WBA that has not expired or terminated.
- (c) Each warranty provided by Customer under clause 3.1(b) of this Main Body is deemed to be a Supply Condition for the purposes of clause A2.2 of the WBA.

3.2 General supply conditions

The following conditions apply in respect of each Continuity Licence granted to Customer in accordance with this Continuity Agreement:

- (a) Customer is not entitled to grant any sub-licence of a USL, LSL, VSL or VPL, provided that this will not prevent Customer from providing, or allowing a Designated Wholesale Customer to provide Allowed Services to third parties;
- (b) Customer must provide written notice to NBN Co as soon as reasonably practicable if:
 - (i) Customer cancels a Continuity Licence;
 - (ii) an End User of Customer or a Designated Wholesale Customer cancels an Allowed Service provided by Customer using a Continuity Licence; and
 - (iii) an End User of a Designated Wholesale Customer cancels an Allowed Service provided by Designated Wholesale Customer using a Continuity Licence.

3.3 Status of Continuity Agreement

The parties acknowledge that this Continuity Agreement does not constitute an agreement under which NBN Co or a Related Entity of NBN Co will supply, or Customer will acquire, Wholesale Products.

3.4 Continuity Agreement Principles

Nothing in this Continuity Agreement will replace or affect the terms (including price) upon which NBN Co may provide other products or services (including Wholesale Products) over the National Broadband Network (including the NBN Co Network) to the Customer, other Access Seekers or any other third party.

4 Grant of Continuity Licences

4.1 Grant

NBN Co grants Customer the Continuity Licences on the terms set out in:

- (a) this Main Body;
- (b) Schedule 1 – Copper Continuity Licences; and

- (c) Schedule 2 – HFC Continuity Licences.

4.2 Acknowledgements

- (a) Customer acknowledges and agrees that each Continuity Licence:
- (i) will be a right arising under this Continuity Agreement;
 - (ii) will not create any tenancy between NBN Co and Customer;
 - (iii) must not be subject to any Security Interest that materially adversely affects or, if the Security Interest were to be enforced or any rights under the Security Interest were to be exercised, would materially adversely affect the Continuity Licence; and
 - (iv) does not confer on Customer any proprietary title, proprietary interest or Security Interest or any interest capable of becoming a Security Interest in land, the NBN Co Copper Lines, voiceband spectrum of the NBN Co Copper Lines, the NBN Co HFC Assets, the RF Spectrum within the NBN Co HFC Assets or the other NBN Co Assets.
- (b) Customer may only use the Continuity Licences and, in respect of the RF Combiner Licences, access, occupy and use the RF Combiners, in accordance with this Continuity Agreement and must not use, or permit or facilitate the use of Continuity Licences for any other purpose.

4.3 No sublicensing

- (a) Customer is not entitled under this Continuity Agreement to grant any sub-licence of a USL, LSL, VSL or VPL, provided that this will not prevent Customer from providing, or allowing a Designated Wholesale Customer to provide Allowed Services to third parties in exercising its rights under this Continuity Agreement.

5 Pricing

- (a) Customer must reimburse NBN Co the costs reasonably incurred by NBN Co, plus a reasonable margin, including both ongoing costs and one-off additional costs in connection with the Continuity Licences.
- (b) NBN Co will set out in the Price List the methods specifying how the reasonably incurred costs and reasonable margin referred to in clause 5(a) of this Main Body will be calculated. These costs may include both operational and capital costs, including, where applicable, a return on capital, and a return of capital.
- (c) The Price List will be available on request. NBN Co may update the Price List from time to time by giving notice to Customer.
- (d) To the extent permitted by law, NBN Co will not have any liability to Customer arising out of or in connection with its wilful default or otherwise in undertaking the activities referred to in clause 5(a) - 5(b) of this Main Body.

6 Continuity Operations Manual

6.1 Continuity Operations Manual

NBN Co will provide a Continuity Operations Manual to Customer which will describe the technical and operational processes and procedures that must be followed by NBN Co and Customer in the performance of this Continuity Agreement, including but not limited to:

- (i) Copper Licence Specifications as referred to in clause 7.2 of Schedule 1 and HFC Licence Specifications as referred to in clauses 6.3 and 7.3 of Schedule 2;
- (ii) Interfering and Compatible Services as referred to in clause 7.4 of Schedule 1;
- (iii) CSG Claims as referred to in clause 7.6 of Schedule 1;

- (iv) Fault identification and reporting as referred to in clause 7.8 of Schedule 1 and clause 7.4 of Schedule 2;
- (v) responsibilities and timing (if any) of Customer and NBN Co in relation to Customer Managed Faults, and the circumstances (if any) in which a Customer Managed Fault will arise;
- (vi) handover of in-flight orders and, in relation to the Customer Managed Fault Model, in-flight Trouble Tickets;
- (vii) protocols to access, use and inspect the Customer Legacy Network;
- (viii) occupational health and safety;
- (ix) compliance with the law;
- (x) appropriate personnel and points of contact;
- (xi) installation, maintenance and removal of equipment from NBN Co Assets and NBN Co HFC Assets;
- (xii) fault detection and notification;
- (xiii) physical access procedures to NBN Co Assets and NBN Co HFC Assets; and
- (xiv) the matters referred to in clause 7.11 of Schedule 1 and clause 7.6 of Schedule 2.

7 Common WBA provisions

7.1 Credit Policy

The Credit Policy of the WBA is incorporated by reference into this Continuity Agreement as if set out in full.

7.2 Charges

Module B (excluding clauses B1.1, B1.4(a), B2.3(d), B2.3(e), B2.6, B3.1(c)) of the WBA is incorporated by reference into this Continuity Agreement as if set out in full.

7.3 Operational Management

Module C (excluding clauses C1.1(b), C2, C10.2, C10.3, C10.4, C12.3(a) C13, C16.1) of the WBA is incorporated by reference into this Continuity Agreement as if set out in full, except the reference in clause C15.1(a) to "Faults" is deemed to be a reference to "Faults (other than a Fault that is a Customer Managed Fault)".

7.4 Information & Rights Management

Module D (excluding clauses D1.8, D4, D5.1(b)) of the WBA is incorporated by reference into this Continuity Agreement as if set out in full, except that references in clause D1.2(c)(xi)(A) to:

- (i) "the NBN Co FTTB Network, NBN Co FTTN Network or NBN Co HFC Network" are deemed to be references to "the NBN Co FTTB Network, NBN Co FTTC Network, NBN Co FTTN Network or NBN Co HFC Network"; and
- (ii) "FTTB/FTTN Installation Activities" are deemed to be references to "FTTB/FTTC/FTTN installation activities".

7.5 Risk Management

Module E of the WBA is incorporated by reference into this Continuity Agreement as if set out in full.

7.6 Agreement Management

Module F (excluding clauses F2, F3, F4.1, F4.2, F4.8(c), F4.8(e), F8.3, F9.1, F11, F12.4) of the WBA is incorporated by reference into this Continuity Agreement as if set out in full.

7.7 Dispute Management

- (a) Module G (excluding clauses G10.1, G10.2) of the WBA is incorporated by reference into this Continuity Agreement as if set out in full, except that references in Module G to:
- (i) "Approved Dispute Guidelines" are deemed to be references to "the guidelines applicable to disputes under the WBA";
 - (ii) "Approved Panel Terms" are deemed to be references to "the standard terms of appointment applicable to panel members appointed as arbitrators under the WBA";
 - (iii) "Pool" are deemed to be the same pool of arbitrators appointed under the WBA;
 - (iv) "Pool Member" are deemed to be the same arbitrators appointed under the WBA; and
 - (v) "Resolution Advisor" are deemed to be the same resolution advisor appointed under the WBA.
- (b) The parties acknowledge that the appointment and termination of the appointment, of the Resolution Advisor and Pool Members will occur under the WBA without any further action required under this Continuity Agreement.

7.8 General Terms

Module H (excluding clauses H5.1, H5.3) of the WBA is incorporated by reference into this Continuity Agreement as if set out in full.

7.9 Fair Use Policy

Clause 1 of the Fair Use Policy of the WBA is incorporated into this Continuity Agreement by reference as if set out in full.

8 Resolving inconsistencies between parts of this agreement

This Continuity Agreement comprises a number of different documents. If there is any inconsistency between any of these different documents, then that inconsistency will be resolved by giving precedence to documents in the following order:

- (a) the Main Body of this Continuity Agreement including provisions of the Head Terms of the WBA that are incorporated by reference into this Continuity Agreement as if set out in full;
- (b) Schedule 1 – Copper Continuity Licences and Schedule 2 – HFC Continuity Licences;
- (c) the Price List;
- (d) the Credit Policy; and
- (e) the Fair Use Policy.

9 Survival

- (a) The following clauses survive termination or expiry of this Continuity Agreement:
- (i) the following clauses of the WBA that are incorporated by reference into this Continuity Agreement:
 - (A) clause C9 of the WBA (removals and disconnections);

- (B) Module D (excluding clause D1.8) of the WBA (Information & management rights);
 - (C) clauses E1 to E3 (inclusive) of the WBA (Liability and indemnity);
 - (D) clause F9.2 of the WBA (Disconnection and termination by NBN Co);
 - (E) clause F12 (excluding clause F12.4) of the WBA (Effect of expiry or termination of this agreement); and
 - (F) Module G (excluding clauses G10.1 and G10.2) of the WBA (Dispute resolution); and
- (ii) this clause 9 (Survival).
- (b) Termination of this Continuity Agreement by either Customer or NBN Co does not affect the right of either party to enforce its accrued rights against the other party.

10 Definitions and interpretation

10.1 Definitions

In this Continuity Agreement, unless otherwise specified, the definitions in the Dictionary which form part of the WBA apply subject to clause 11 of this Main Body and:

Allowed Services means Carriage Services and Content Services that NBN Co permits Customer to provide to End Users or Designated Wholesale Customers over the Transferred Assets using a Continuity Licence as notified to Customer by NBN Co from time to time.

Allowed Services Transmission Hardware means the equipment owned and used by Customer or Customer HFC Sub-Licensee to inject Allowed Services at the RF Combiner.

Alternative Component means a component or equipment to replace a HFC NME located within an RF Combiner which is not authorised for use in the RF Combiner Specifications.

Asset Transfer Agreement means the agreement entered into by the parties in which the Customer agrees to transfer to NBN Co the Customer's legal and beneficial interest in the physical assets of the Customer Legacy Network and as contemplated by that agreement.

Asset Transfer Date means, in respect of the:

- (a) Customer Copper Network, the date on which legal and beneficial ownership of the Customer Copper Network, or an element of the Customer Copper Network is transferred to NBN Co, as agreed by NBN Co and Customer.
- (b) Customer HFC Network, the date on which legal and beneficial ownership of the Customer HFC Network, or an element of the Customer HFC Network is transferred to NBN Co, as agreed by NBN Co and Customer.

Broadband Licensed Spectrum means the RF Spectrum within the NBN Co HFC Assets allocated to Customer for DOCSIS 1 and DOCSIS 3, as specified in the Spectrum Management Plan.

Broadband Service means a broadband service delivered to an HFC Location located within the Customer HFC Footprint.

Cable means a telecommunications cable.

Compatible Service means a service that uses an existing copper based technology, where NBN Co determines that such technology is compatible with NBN Co's use of a Customer Legacy Network.

Conditioning Devices means a device which improves the transmission characteristics of the Copper Lines for the purposes of providing a Carriage Service.

Conditioning Works means activities which may be undertaken by Customer in respect of a Copper Works Licence from the dates approved by NBN Co, as notified to Customer by NBN Co from time to time.

Continuity Agreement means this Continuity Agreement as executed by NBN Co and Customer.

Continuity Agreement Term has the meaning given in clause 2(a) of this Main Body.

Continuity Licence means each Copper Continuity Licence and HFC Continuity Licence granted in accordance with this Continuity Agreement.

Continuity Operations Manual means the document of that name provided by NBN Co to Customer in accordance with clause 6.1 of this Main Body, as amended by NBN Co from time to time.

Continuity Purpose means the provision of Carriage Services and Content Services using a USL, LSL, VSL or VPL in accordance with this Continuity Agreement.

Copper Continuity Fault means a failure of a Carriage Service within the NBN Co Copper Network resulting in a trouble ticket being raised with NBN Co or by NBN Co, except where the failure is as a result of the activities authorised as part of a Planned Outage or under clause 7.12 of Schedule 1 of this Continuity Agreement.

Copper Continuity Licence means each USL, LSL, VPL, VSL and Copper Works Licence granted to Customer in accordance with this Continuity Agreement.

Copper Continuity Works means the activities in respect of NBN Co Assets and NBN Co Copper Lines which may be undertaken by Customer as notified by NBN Co from time to time.

Copper Lead-In means a Cable that connects, or is intended to connect, a Premises or Other Location to a connection point for the Premises or Other Location on the NBN Co Copper Network.

Copper Licence Specifications means the technical specifications and parameters set out in the Continuity Operations Manual, as updated by NBN Co from time to time.

Copper Lines means copper or aluminium wire based Lines within a Cable.

Copper Works Licence has the meaning given to that term in clause 6 of Schedule 1 of this Continuity Agreement.

CSG Compensation is a credit amount claimed by Customer and calculated in accordance with the Continuity Operations Manual.

Customer Copper Network means a network comprising Copper Lines (as augmented or modified from time to time), including joints, which is or has been at any time used by Customer to provide Carriage Services.

Customer HFC Footprint means the list of HFC Locations prepared by Customer and approved by NBN Co.

Customer HFC Network means a network comprising hybrid fibre coaxial cable (as augmented or modified from time to time) which is or has been at any time used by Customer to provide Carriage Services.

Customer HFC Sub-Licensee has the meaning given to that term in clause 6.2(a) of Schedule 2 of this Continuity Agreement.

Customer Legacy Network means the Customer Copper Network and the Customer HFC Network.

Customer Managed Fault means a Copper Continuity Fault for which responsibility has been allocated to Customer in accordance with the Continuity Operations Manual.

Customer Managed Fault Model means a model, as NBN Co may specify in the Continuity Operations Manual, under which responsibilities between NBN Co and Customer in relation to Subsequent Orders for LSLs and Trouble Tickets may be varied.

Customer Network means the networks, systems and facilities that are owned, used, or are capable of being used, by Customer in relation to the carrying of communications by means of guided or unguided electromagnetic or optical energy.

Customer Sub-Licensee has the meaning given to that term in clause 6.1(b)(iii) of Schedule 1 of this Continuity Agreement.

Customer Works means the works Customer is permitted by NBN Co to perform in relation to NBN Co Assets, as notified to Customer by NBN Co from time to time.

Customer Works Applicable Requirements means the specifications, guidelines and requirements applicable to Customer Works as notified to Customer by NBN Co from time to time.

Designated Wholesale Customer means:

- (a) Direct Wholesale Customer; and
- (b) a person that receives a Carriage Service or Content Service from a Direct Wholesale Customer which the person uses to supply to a third party any Allowed Services.

Direct Wholesale Customer means a person that receives a Carriage Service or Content Service from Customer which the person uses to supply a Carriage Service or Content Service to a third party.

Downstream CSG Standard means a performance standard that applies pursuant to the *Telecommunications (Customer Service Guarantee) Standard 2011*.

Elements means any equipment, or part of a network including but not limited to: an Unconditioned Copper Sub-loop, Lead-In Copper Sub-loop, Voiceband Copper Sub-loop, Voiceband Pass-through, Broadband Licensed Spectrum, Pay TV Licensed Spectrum, HFC Management Services Licensed Spectrum or NBN Co HFC Assets, as notified to Customer by NBN Co, from time to time.

Exchange Building means a building (or any part thereof) which is owned or leased by, or licensed to, Customer or a Related Entity of Customer that houses telecommunications switching equipment or transmission equipment.

Existing Service Order means an order for a specified Continuity Licence in respect of a specified Element, as at the applicable Asset Transfer Date.

Fault means a Service Fault as defined in the WBA, but excludes:

- (a) any failure of a Carriage Service within the NBN Co Copper Network where that failure is as a result of the activities authorised under clause 7.12 of Schedule 1 of this Continuity Agreement; or
- (b) any failure which is a Customer Managed Fault.

FTTC means fibre to the curb access technology.

Full Service Migration means:

- (a) there is either a USL for an Unconditioned Copper Sub-loop or a LSL for a Lead-In Copper Sub-loop;
- (b) a NEBS by means of the NBN Co FTTB Network, NBN Co FTTN Network or NBN Co FTTC Network is ordered for the Unconditioned Copper Sub-loop or Lead-In Copper Sub-loop (as the case may be);
- (c) the NEBS order is completed; and
- (d) in relation to orders for the supply of NEBS by means of the NBN Co FTTB Network or NBN Co FTTN Network only, at the time of the NEBS order, the party ordering the NEBS has not notified NBN Co that it has a continuing requirement for the use of the voiceband spectrum (100Hz to 4kHz) of all or a part of the Unconditioned Copper Sub-loop.

HFC Broadband Licence means each licence to be granted by NBN Co to Customer for Customer to use the Broadband Licensed Spectrum for the applicable Licence Period.

HFC Continuity Licences means the HFC Broadband Licence, the Pay TV Licence, the HFC Management Services Licence and each RF Combiner Licence granted under this Continuity Agreement.

HFC Customer Network Boundary Point means either:

- (a) the customer side of each Wall Outlet at an HFC Location; or
- (b) for each Wall Outlet at an HFC Location where an NBN Co approved HFC RF Splitter has been connected to that Wall Outlet for the supply or potential future supply of a NEBS, the customer side of the HFC RF Splitter. For the avoidance of doubt, for the purposes of this paragraph (b), a reference to 'HFC RF Splitter' does not include any HFC RF Splitter:
 - (i) installed or mounted within or on a HFC PCD or that is otherwise upstream of the customer side of the Wall Outlet; or
 - (ii) downstream of the customer side of a Wall Outlet that was not connected to the Wall Outlet for the supply or potential future supply of a NEBS.

HFC Licence Specifications means the specifications applicable to the HFC Continuity Licences, including the RF Combiner Specifications, as notified to Customer by NBN Co from time to time.

HFC Location means any location, including a Premises.

HFC Management Services means radio frequency leakage, forward or return path sweep and pilot or alignment services.

HFC Management Services Licence means the licence to be granted by NBN Co to Customer for Customer to use the HFC Management Services Licensed Spectrum for the applicable Licence Period.

HFC Management Services Licensed Spectrum means the RF Spectrum within the NBN Co HFC Assets allocated to Customer for the provision by Customer of HFC Management Services, as specified in the Spectrum Management Plan as allocated for HFC Management Services.

HFC Network means the hybrid fibre coaxial networks that are owned, controlled or operated by, or on behalf of, Customer, NBN Co or any of their Related Entities.

HFC NME means forward and return path sweep, pilot/alignment signal and radio frequency leakage equipment installed at an Exchange Building (including any optical transmission hardware exclusively used by those assets) and used by Customer to facilitate the continuity or quality of supply of Carriage Services over NBN Co HFC Assets.

HFC PCD means a premises connection device used to connect in-building cabling to coaxial cable running from an HFC Tap.

HFC RF Splitter means a 2-way low-loss RF cable splitter.

HFC Tap means an access point on coaxial cable to which another coaxial cable (that connects or is capable of connecting to an HFC PCD) connects or is capable of connecting.

Interim FTTN Locations means Premises supported by the NBN Co FTTN Trial Network to which a VPL is available, as notified by NBN Co to Customer from time to time.

Interfering Services means an existing copper based technology which NBN Co determines is interfering with NBN Co's use of a Customer Legacy Network.

Interim Continuity Agreement means any agreement entered into between NBN Co and Customer which provides for the interim provision of continuity of services to the Customer of a provider supplying such a service.

Jumper means a Line that is used to connect two Copper Lines in two separate copper Cables.

Lead-In Copper Sub-Loop means an unconditioned two-wire metallic Line that is an NBN Co Copper Line between an Upstream NBP and the NBN Co Network Boundary Point for that Line.

Lead-In Copper Sub-Loop Licence or **LSL** means each licence to be granted by NBN Co to Customer for Customer to use the Lead-In Copper Sub-loop for the applicable Licence Period to supply, or to allow Designated Wholesale Customers to supply, Allowed Services.

Licence Period means the duration of a Continuity Licence granted under this Continuity Agreement.

LSL Grant means the grant of an LSL for an Allowed Service (other than an LSL that is granted pursuant to an Existing Service Order).

Main Body means clauses 2 to 11 of this Continuity Agreement (inclusive).

National Broadband Network means the national telecommunications network owned or controlled by, or operated by or on behalf of, NBN Co or a Related Entity of NBN Co.

NBN Co Asset means any pillars, joints, blocks or NBN Co FTTC Interconnection Points owned by NBN Co and includes any part of a Cable owned by NBN Co that is located within those pillars, joints, blocks or NBN Co FTTC Interconnection Points and any NBN Co Copper Lines.

NBN Co Copper Line means Copper Lines owned by NBN Co or a Related Body Corporate of NBN Co.

NBN Co Copper Network means the network in Australia, comprising the NBN Co Copper Lines from the NBN Co Network Boundary Point at each location up to the nearest Upstream NBP, over which NBN Co is or will be in a position to exercise control, including NBN Co DPUs and NBN Co FTTC Interconnection Points.

NBN Co DPU means a reverse powered distribution point unit that will connect to an NBN Co FTTC Interconnection Point and be used to supply NEBS.

NBN Co Equipment means any equipment that is owned, operated or controlled by NBN Co (or any Related Entity of NBN Co):

- (a) that is provided by NBN Co (or any Related Entity of NBN Co) to Telstra for use as part of, or in connection with, any Continuity Licence; or
- (b) to which NBN Co (or any Related Entity of NBN Co) permits Telstra to access (or on-grant such access to any Downstream Customers or any End Users) as part of, or in connection with, any Continuity Licence, but does not include any NBN Co DPU, network connection device, Central Splitter, and any Pre-existing Carrier Side MDF, Customer Side MDF or Common MDU Site Equipment.

NBN Co FTTC Interconnection Point means a joint owned or operated on behalf of NBN Co (including a copper interconnection unit or openable joint) which forms part of the NBN Co FTTC Network and which will connect to an NBN Co DPU.

NBN Co FTTC Network means, for the purpose of the supply of Wholesale Products, the fibre network running to an NBN Co DPU, together with the NBN Co Copper Lines from that NBN Co DPU to the NBN Co Network Boundary Point and includes any NBN Co DPU and NBN Co FTTC Interconnection Point, that is owned or controlled by, or operated by or on behalf of, NBN Co (or any related body corporate of NBN Co).

NBN Co HFC Access Assets means the physical assets that form part of the hybrid fibre coaxial cable network that is owned or controlled by, or operated by or on behalf of, NBN Co (or any related body corporate of NBN Co) between the Optical Node Network Boundary Point and the HFC Customer Network Boundary Point which are providing, or are able to provide, Carriage Services or Content Services, but excluding any Other HFC Assets (other than any spare parts used as replacements, if any).

NBN Co HFC Assets means all of the following:

- (a) NBN Co HFC Access Assets; and
- (b) RF Combiners,

that are owned or controlled by, or operated by or on behalf of, NBN Co (or any related body corporate of NBN Co) and includes replacements of the above from time to time, but excluding any Other HFC Assets (other than any spare parts used as replacements, if any).

NBN Co HFC Network means the hybrid fibre coaxial cable network that is owned or controlled by, or operated by or on behalf of, NBN Co (or any related body corporate of NBN Co), excluding any CMTS fibres, Node Fibres or fibres used for purposes other than that hybrid fibre coaxial cable network, for example mobility, wideband and inter exchange transmission.

NBN Co Node means a digital subscriber line access multiplexer used to provide broadband services (or equipment having similar functionality) used by NBN Co or a Related Entity of NBN Co in relation to a licence granted under an Interim Continuity Agreement, but does not include an NBN Co DPU.

NBN Co Network means the NBN Co Fibre Network, the NBN Co FTTB Network, the NBN Co FTTC Network, the NBN Co FTTN Network, the NBN Co HFC Network, the NBN Co Satellite Network, the NBN Co Wireless Network and the NBN Co Equipment.

NBN Co Network Boundary Point means in relation to a location to which NBN Co provides Carriage Services, the location prescribed pursuant to section 22 of the *Telecommunications Act 1997* (Cth).

Network Assets means an Unconditioned Copper Sub-loop, Lead-In Copper Sub-loop, Voiceband Copper Sub-loop, Voiceband Pass-through, Broadband Licensed Spectrum, Pay TV Licensed Spectrum, HFC Management Services Licensed Spectrum, NBN Co HFC Assets, NBN Co Assets or any other Element as notified by NBN Co to Customer from time to time.

Node Fibre means fibres owned by Customer as at the date of the Asset Transfer Agreement that interconnect to form a single path that connects an Optical Node to its associated RF Combiner that used DOCSIS RF Spectrum as at the date of the Asset Transfer Agreement, as upgraded or replaced from time to time

NVPL means a licence granted under an Interim Continuity Agreement in respect of the voiceband spectrum (100Hz to 4Hz) of an NBN Co Copper Line, between:

- (a) the point in a Pillar which an X-pair connecting that Pillar and an NBN Co Node terminate; and
- (b) the point in a Pillar at which a C-pair connecting that Pillar and an NBN Co Node terminates.

Optical Node means equipment forming part of the NBN Co HFC Network, other than in an Exchange Building, that converts communications on a fibre cable to communications on coaxial cable in the forward path (and vice versa in the return path).

Optical Node Network Boundary Point means the place at which fibre terminates on an Optical Node.

Other HFC Assets means any part of the NBN Co HFC Network which, at any time, formed part of a telecommunications network (as defined in the Telecommunications Act) owned by a third party (not being a Related Entity of NBN Co or Customer, as the case requires).

Other Location means a location other than a Premises in a Rollout Region.

Partial Migration means either that:

- (a) the USL has automatically converted to a VSL; or
- (b) a VPL has automatically been granted.

Pay TV Licence means each licence to be granted by NBN Co to Customer for Customer to use the Pay TV Licensed Spectrum for the applicable Licence Period.

Pay TV Licensed Spectrum means the RF Spectrum within the NBN Co HFC Assets allocated to Customer for the carriage of Allowed Services, as specified in the Spectrum Management Plan (as amended from time to time).

Pillar means a pillar that is owned or leased by, or licensed to, Customer or a Related Entity of Customer, and that is intended to accommodate and permit access to copper pairs.

Planned Outage means an outage notified by NBN Co to Customer in advance.

Price List means the document of that name provided by NBN Co to Customer as updated from time to time.

Pre-Transfer Agreement means the Pre-Transfer Agreement entered into between NBN Co and Customer.

Related Entity means, for a person, each related body corporate of that person and any entity which is controlled by that person (within the meaning set out in section 50AA of the *Corporations Act 2001* (Cth)).

RF Combiner means the collective racks at an Exchange Building exclusively responsible for providing bi-directional communication to all Optical Nodes directly connected off that Exchange Building, which, for the avoidance of doubt, includes:

- (a) the optical transmission hardware;
- (b) the cross connect panels; and
- (c) the relevant CSDP within the racks,

but excludes:

- (d) the Allowed Services Transmission Hardware; and
- (e) the HFC NME,

and includes replacements and alterations to the RF Combiner from time to time.

RF Combiner Licence means each licence to be granted by NBN Co to Customer under clause 5.1 of Schedule 2 of this Continuity Agreement for the applicable Licence Period.

RF Combiner Specifications means the technical specifications relating to the RF Combiners, HFC NME and Allowed Services Transmission Hardware as notified to Customer by NBN Co from time to time.

RF Combiner Works means:

- (a) in the case of NBN Co, works on the RF Combiner, including operation of the RF Combiner and connection of optical nodes and RF segments to the RF Combiner; and
- (b) in the case of Customer, operation and maintenance of the Allowed Services Transmission Hardware and the HFC NME.

RF Interconnection Point means the physical location at which the Customer Network, Customer Equipment or Allowed Services Transmission Hardware connects to the NBN Co HFC Network and permits the exchange of traffic.

RF Spectrum means the radio frequency layer of the NBN Co HFC Network and the Customer HFC Network.

Rollout Region means an area designated as a rollout region by NBN Co from time to time.

Security Interest means:

- (a) a mortgage, charge, pledge, lien, hypothecation, or title retention arrangement, a right of set-off or right to withhold payment of a deposit or other money, or a charge arising out of a notice under section 255 of the *Income Tax Assessment Act 1936* (Cth), section 260-5 or section 260-10 of the Tax Act or any similar legislation;
- (b) any:
 - (i) "PPSA security interest" within the meaning of section 51 of the Corporations Act;
 - (ii) "security interest" within the meaning of section 51A of the Corporations Act;
 - (iii) "circulating security interest" within the meaning of section 51C of the Corporations Act;
 - (iv) "possessory security interest" within the meaning of section 51D of the Corporations Act; or

- (v) "security interest" within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth);
- (c) any other interest or arrangement of any kind that secures the payment of money or the performance of an obligation or which gives a creditor priority over other creditors in relation to any property; or
- (d) any agreement to create any of them or to allow any of them to exist.

Service Migration means:

- (a) a Partial Migration (in relation to orders for the supply of NEBS by means of the NBN Co FTTB Network or NBN Co FTTN Network only); or
- (b) a Full Service Migration.

Site Qualification Enquiry has the meaning set out in the Continuity Operations Manual.

Spectrum Management Plan means the spectrum management plan as notified to Customer by NBN Co from time to time.

Subsequent Order means an order by Customer, for a specified Continuity Licence in respect of an Element, after the first Asset Transfer Date to supply an Allowed Service to an End User or a Designated Wholesale Customer.

Transferred Assets means the Elements transferred to NBN Co by Customer under an Asset Transfer Agreement.

Unconditioned Copper Sub-loop means an unconditioned two-wire metallic Line that is an NBN Co Copper Line between the Upstream NBP and the NBN Co Network Boundary Point for that Line.

Unconditioned Copper Sub-loop Licence or **USL** means each licence to be granted by NBN Co to Customer for Customer to use the Unconditioned Copper Sub-loop for the applicable Licence Period to supply, or to allow Designated Wholesale Customers to supply Allowed Services.

Upstream NBP means the point at which the NBN Co Copper Line physically connects or will physically connect to a third party network, as more specifically notified by NBN Co to Customer from time to time.

Voiceband Copper Sub-loop means the voiceband spectrum (100Hz to 4kHz) of an NBN Co Copper Line between the Upstream NBP and the NBN Co Network Boundary Point for that NBN Co Copper Line.

Voiceband Copper Sub-loop Licence or **VSL** means, in relation to orders for the supply of NEBS by means of the NBN Co FTTB Network or NBN Co FTTN Network only, a licence granted by NBN Co to Customer to use the Voiceband Copper Sub-loop.

Voiceband Pass-through means the voiceband spectrum (100Hz to 4kHz) of an NBN Co Copper Line between the tags on the line side blocks on the Customer Side MDF and the UNI used by NBN Co to serve Premises which is part of an MDU Site.

Voiceband Pass-through Licence or **VPL** means a licence granted by NBN Co to Customer to use the Voiceband Pass-through.

VPL Partial Migration Trigger occurs in respect of an NBN Co Copper Line connected to a Premises when there is an order for the supply of a NEBS to the Premises by means of the NBN Co FTTB Network or NBN Co FTTN Network only and at the time of the NEBS order:

- (a) the Premises is serviceable by the NBN Co FTTB Network;
- (b) there is no current USL for that NBN Co Copper Line; and
- (c) the party ordering the NEBS has notified NBN Co that it has a requirement for the use of the voiceband spectrum (100Hz to 4kHz) for supply to the Premises using a Voiceband Pass-through.

Wall Outlet means a HFC wall connection point consisting of an 'F connector' socket mounted on a wall plate that terminates the connecting coaxial cable from the PCD.

WBA means the WBA Access Agreement.

WBA Access Agreement means the document entitled "Wholesale Broadband Agreement" that contains the terms of supply for the NEBS by means of the NBN Co Network entered into between NBN Co and Customer as amended, modified or substituted from time to time.

Wholesale Products means one or more of the product components and product features that NBN Co or a Related Entity of NBN Co makes available to Access Seekers but excludes:

- (a) any product components or product features that are supplied on a trial basis only; and
- (b) any Continuity Licences.

11 Definitions of the WBA incorporated by reference

Capitalised terms used in the modules and clauses of the WBA which are incorporated by reference into this Continuity Agreement, are also incorporated by reference into this Continuity Agreement, except that references to:

"this **Agreement**" are deemed to be references to "this Continuity Agreement".

"**Cable**" are deemed to be references to "Cable" as defined in this Continuity Agreement.

"**Charges**" are deemed to be references to "Charges" as defined in the Price List of this Continuity Agreement.

"**Customer**" are deemed to be references to "Customer" under this Continuity Agreement.

"**Effective Disconnection Date**" are deemed to be references to "the day of termination of this Continuity Agreement".

"**Execution Date**" are deemed to be references to "the date of this Continuity Agreement".

"**Head Terms**" are deemed to be references to "this Continuity Agreement".

"**NBN Co Equipment**" are deemed to be references to "NBN Co Equipment" as defined in this Continuity Agreement.

"**NBN Co Operations Manual**" are deemed to be references to the "Continuity Operations Manual".

"**Ordered Product**" are deemed to be references to "the Continuity Licence".

"**Price List**" are deemed to be references to the Price List as defined in this Continuity Agreement.

"**Product**" are deemed to be references to "Continuity Licence".

"**Product Component**" are deemed to be references to "a component of the Continuity Licence".

"the **Product Description**" are deemed to be references to Schedule 1 or Schedule 2 (as applicable) of this Continuity Agreement.

"**Product Feature**" are deemed to be references to "a feature of the Continuity Licence".

"**Ready for Use Date**" are deemed to be references to "the date of this Continuity Agreement".

"**Site Qualification Enquiry**" are deemed to be references to "Site Qualification Enquiry" under this Continuity Agreement.

"**Term**" are deemed to be references to "Continuity Agreement Term".

"**WBA**" are deemed to be references to "WBA" as defined in this Continuity Agreement.

"**Wholesale Broadband Agreement**" are deemed to be references to "WBA Access Agreement".

Execution

Executed as an agreement

Signed for NBN Co Limited by its authorised representatives:

Signature of authorised representative

Signature of authorised representative

Name of authorised representative

Name of authorised representative

Date of signature

Date of signature

Executed by [**insert full name of Customer**] in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of director / company secretary

Signature of director

Name of director / company secretary

Name of director

Date of signature

Date of signature

Schedule 1 - Copper Continuity Licences

1 Purpose

This Schedule 1 sets out the key terms and limitations applicable to the Copper Continuity Licences granted by NBN Co to Customer.

2 Unconditioned Copper Sub-loop Licence (USL)

2.1 Licence grant and description

- (a) NBN Co will grant to Customer a USL for an Unconditioned Copper Sub-loop where:
- (i) on the Asset Transfer Date for that Unconditioned Copper Sub-loop, it is being used by Customer or a Designated Wholesale Customer to supply an Allowed Service; and
 - (ii) Customer has placed an Existing Service Order for a USL over that Unconditioned Copper Sub-loop in accordance with the processes and procedures for ordering a USL as set out in the Continuity Operations Manual or as otherwise notified to Customer by NBN Co; and
 - (iii) the Existing Service Order is accepted and fulfilled by NBN Co.
- (b) NBN Co will grant to Customer a USL for an Unconditioned Copper Sub-loop where a Subsequent Order for a USL is:
- (i) placed by Customer in accordance with the processes and procedures for ordering a USL as set out in the Continuity Operations Manual or as otherwise notified to Customer by NBN Co; and
 - (ii) accepted and fulfilled by NBN Co.

2.2 Licence duration

The Licence Period for a USL to supply, or to allow a Designated Wholesale Customer to supply, an Allowed Service commences:

- (a) where there is an Existing Service Order for the USL, on and from the Asset Transfer Date for the applicable Unconditioned Copper Sub-loop for that USL; and
- (b) where Customer places a Subsequent Order for the USL, on and from the date that NBN Co notifies Customer that the Subsequent Order is completed,

and continues until the earlier of the date on which:

- (c) this Continuity Agreement expires or is terminated;
- (d) Customer fails to satisfy any of the Supply Conditions;
- (e) there is a Service Migration in respect of that Unconditioned Copper Sub-loop;
- (f) the Customer is not permitted to supply the Allowed Services using that Unconditioned Copper Sub-loop;
- (g) the Customer cancels the USL;
- (h) an End User of the Customer or Designated Wholesale Customer cancels all of the relevant Allowed Services supplied using the USL, in which event the Customer must cancel the USL;
- (i) the parties agree that the Customer will terminate the relevant Allowed Service supplied using the USL;

- (j) the Customer no longer has a need for the USL for a Continuity Purpose, in which event the Customer must cancel the USL.

3 Lead-In Copper Sub-loop Licence (LSL)

3.1 Licence grant and description

- (a) NBN Co will grant to Customer a LSL for a Lead-In Copper Sub-loop where:
- (i) the Upstream NBP for the Lead-In Copper Subloop has been specified in the Copper Licence Specifications;
 - (ii) on the Asset Transfer Date for that Lead-In Copper Sub-loop, it is being used by Customer or a Designated Wholesale Customer to supply an Allowed Service; and
 - (iii) Customer has placed an Existing Service Order for a LSL over that Lead-In Copper Sub-loop in accordance with the processes and procedures for ordering a LSL as set out in the Continuity Operations Manual or as otherwise notified to Customer by NBN Co; and
 - (iv) the Existing Service Order is accepted and fulfilled by NBN Co.
- (b) NBN Co will grant to Customer a LSL for a Lead-In Copper Sub-loop where a Subsequent Order for a LSL is:
- (i) placed by Customer in accordance with the processes and procedures for ordering a LSL as set out in the Continuity Operations Manual or as otherwise notified to Customer by NBN Co; and
 - (ii) accepted and fulfilled by NBN Co.

3.2 Licence duration

The Licence Period for a LSL to supply, or to allow a Designated Wholesale Customer to supply, an Allowed Service commences:

- (a) where there is an Existing Service Order for the LSL, on and from the Asset Transfer Date for the applicable Lead-In Copper Sub-loop for that LSL; and
- (b) where Customer places a Subsequent Order for the LSL, on and from the date that NBN Co notifies Customer that the Subsequent Order is completed,

and continues until the earlier of the date on which:

- (c) this Continuity Agreement expires or is terminated;
- (d) Customer fails to satisfy any of the Supply Conditions;
- (e) there is a Service Migration in respect of that Lead-In Copper Sub-loop;
- (f) the Customer is not permitted to supply the Allowed Services using that Lead-In Copper Sub-loop;
- (g) the Customer cancels the LSL;
- (h) an End User of the Customer or Designated Wholesale Customer cancels all of the relevant Allowed Services supplied using the LSL, in which event the Customer must cancel the LSL;
- (i) the Customer no longer has a need for the LSL for a Continuity Purpose, in which event the Customer must cancel the LSL.

3.3 LSL for Other Locations

- (a) Except as set out in this clause 3.3, NBN Co shall not be required to grant an LSL in respect of an Other Location.

- (b) Either party may give notice to the other that it requires amendments to this Agreement to allow Customer to order an LSL in respect of Other Locations if NBN Co notifies Customer that it intends to acquire Customer assets that serve an Other Location.
- (c) The parties will act reasonably and negotiate any such amendments that are necessary to allow Customer to order an LSL in respect of Other Locations.

4 Voiceband Copper Sub-loop Licence (VSL)

4.1 Licence grant and description

- (a) When a VSL Partial Migration Trigger occurs in respect of an Unconditioned Copper Sub-loop:
 - (i) Customer will be deemed to have cancelled its order for the USL for that Unconditioned Copper Sub-loop and to have substituted that order with an order for a VSL; and
 - (ii) the USL for that Unconditioned Copper Sub-loop will automatically convert to a VSL granted by NBN Co in favour of Customer.
- (b) NBN Co will grant to Customer a VSL for a Voiceband Copper Sub-loop where a Subsequent Order for a VSL is:
 - (i) placed by Customer in accordance with the processes and procedures for ordering a VSL in the Continuity Operations Manual or as otherwise notified to Customer by NBN Co; and
 - (ii) accepted and fulfilled by NBN Co.
- (c) For the purposes of this Continuity Agreement, if, on the Asset Transfer Date, Customer has been granted a NVPL under an Interim Continuity Agreement:
 - (i) each NVPL granted in respect of the Interim Continuity Agreement is deemed to be a VSL granted under this Continuity Agreement;
 - (ii) all rights, activities and processes undertaken in respect of those NVPLs will be supplied or continue pursuant to and subject to the provisions of this Continuity Agreement without further action required by NBN Co or Customer;
 - (iii) all amounts payable for a VSL on and from the Asset Transfer Date will be payable in accordance with clause 5 of the Main Body; and
 - (iv) Customer and NBN Co may continue to exercise rights accrued under the Interim Continuity Agreement to the extent that the exercise of those accrued rights is required to give effect to this Continuity Agreement as contemplated by the parties, including in relation to access to premises, disclosure of confidential information and the grant of intellectual property rights under the Interim Continuity Agreement.
- (d) Customer acknowledges and agrees that clause 4.1(c) of this Schedule 1 does not constitute a withdrawal of a NVPL under a standard form of access agreement for the purposes of the *Competition and Consumer Act 2010* (Cth).

4.2 Licence duration

The Licence Period for a VSL for a Voiceband Copper Sub-loop commences on and from the date the VSL is granted in accordance with clause 4.1 of this Schedule 1 and continues until the earlier of the date on which:

- (a) this Continuity Agreement expires or is terminated;
- (b) Customer fails to satisfy any of the Supply Conditions;

- (c) Customer is not permitted to supply the Carriage Services or Content Services which Customer, or a Designated Wholesale Customer, supplies using that Voiceband Copper Sub-loop;
- (d) Customer cancels the VSL; and
- (e) an End User of Customer or Designated Wholesale Customer cancels the Allowed Service being supplied using that VSL, in which event Customer must cancel the VSL.

5 Voiceband Pass-through Licence (VPL)

5.1 Licence grant and description

- (a) When a VPL Partial Migration Trigger occurs in respect of an NBN Co Copper Line:
 - (i) Customer will be deemed to have placed an order for a VPL; and
 - (ii) NBN Co will automatically grant to Customer a VPL.
- (b) NBN Co will grant to Customer a VPL for a Voiceband Pass-through where a Subsequent Order for a VPL is:
 - (i) placed by Customer in accordance with the processes and procedures for ordering a VPL as set out in the Continuity Operations Manual or as otherwise notified to Customer by NBN Co; and
 - (ii) accepted and fulfilled by NBN Co.
- (c) For the purposes of this Continuity Agreement, if, at the time this Continuity Agreement is executed by both Parties, Customer has been granted a VPL granted by NBN Co under an Interim Continuity Agreement:
 - (i) each VPL granted in respect of the Interim Continuity Agreement is deemed to be a VPL granted under this Continuity Agreement;
 - (ii) all rights, activities and processes undertaken in respect of those VPLs will be supplied or continue pursuant to and subject to the provisions of this Continuity Agreement without further action being required by NBN Co or Customer;
 - (iii) all amounts payable for a VPL on and from the date of this Continuity Agreement will be payable in accordance with clause 5 of the Main Body; and
 - (iv) Customer and NBN Co may continue to exercise rights accrued under the Interim Continuity Agreement to the extent that the exercise of those accrued rights is required to give effect to this Continuity Agreement as contemplated by the parties, including in relation to access to premises, disclosure of confidential information and the grant of intellectual property rights under the Interim Continuity Agreement.
- (d) Customer acknowledges and agrees that clause 5.1(c) of this Schedule 1 does not constitute a withdrawal of a VPL under a standard form of access agreement for the purposes of the *Competition and Consumer Act 2010* (Cth).

5.2 Licence duration

The Licence Period for a VPL for a Voiceband Pass-through commences on and from the date the VPL is granted in accordance with clause 5.1 of this Schedule 1 and continues until the earlier of the date on which:

- (a) this Continuity Agreement expires or is terminated;
- (b) Customer fails to satisfy any of the Supply Conditions;
- (c) the Customer is not permitted to supply the Carriage Services or Content Services which it or a Designated Wholesale Customer supplies using that Voiceband Pass-through;

- (d) the Customer cancels the VPL; and
- (e) an End User of the Customer or Designated Wholesale Customer cancels the Allowed Service being supplied using that VPL.

6 Copper Works Licence

6.1 Copper Works Licence

- (a) NBN Co grants Customer a Copper Works Licence:
 - (i) for the Customer Equipment, to occupy the area in the applicable NBN Co Asset which either:
 - (A) the Customer Equipment occupied immediately prior to the applicable Asset Transfer Date; or
 - (B) in the case of an NBN Co FTTC Interconnection Point, the Customer Equipment occupied immediately following the installation of that NBN Co FTTC Installation Point; and
 - (ii) to access and use only that part of the applicable NBN Co Asset in which Customer Equipment is located to undertake the relevant Customer Works, only for the Continuity Purpose on the terms of this Continuity Agreement.
- (b) Customer acknowledges and agrees that each Copper Works Licence:
 - (i) does not confer on Customer any relevant approval, permission or consent from third parties or any permission from NBN Co to undertake any activity in relation to any third party asset;
 - (ii) only confers a right on Customer to access the land on which any NBN Co Asset is situated if NBN Co:
 - (A) has legal and beneficial title to that land; and
 - (B) is able to provide physical access to Customer to that land; and
 - (iii) Customer may only sub-license the Copper Works Licence to such persons with NBN Co's consent (**Customer Sub-Licensee**) and on such terms and conditions as specified by NBN Co. Without limiting any other terms and conditions imposed by NBN Co under this clause 6.1, Customer must ensure that each Customer Sub-Licensee complies with the terms of the Copper Works Licence.
- (c) The parties acknowledge and agree that the Copper Works Licence is not a listed carriage service or a service that facilitates the supply of a listed carriage service for the purposes of section 152AL of the *Competition and Consumer Act 2010* (Cth). The inclusion or supply of the Copper Works Licence under this Continuity Agreement published on NBN Co's website does not have the effect of making the Copper Works Licence a declared service for the purposes of Part XIC of the *Competition and Consumer Act 2010* (Cth).

6.2 Licence duration

The Licence Period for the Copper Works Licence in respect of an NBN Co Asset commences:

- (a) on and from the Asset Transfer Date for the relevant NBN Co Asset; and
- (b) where an NBN Co Asset is not acquired from Customer, the Asset Transfer Date for the Rollout Region in which the NBN Co Asset is located,

and continues until the date on which all USLs, LSLs, VSLs and VPLs granted to Customer have expired or been terminated.

6.3 Customer Works

- (a) The Copper Works Licence authorises Customer to undertake:
 - (i) the Copper Continuity Works for the term of this Continuity Agreement; and
 - (ii) the relevant Conditioning Works from the date approved by NBN Co.
- (b) In undertaking the Customer Works, Customer must comply with:
 - (i) the NBN Co technical specifications and procedures applicable to the Customer Works, as notified by NBN Co to Customer from time to time;
 - (ii) the risk management plan and quality plan applicable to the Customer Works, as prepared by Customer and approved by NBN Co (subject to change by NBN Co by notifying Customer from time to time);
 - (iii) any work instruction and technical specifications and procedures notified by NBN Co to Customer from time to time.
- (c) Customer must not conduct Customer Works until the risk management plan and the quality plan referred to in clause 6.3(b)(ii) of this Schedule 1 are approved by NBN Co.
- (d) Customer must when undertaking Customer Works comply with the requirements specified in the Continuity Operations Manual applicable to the Customer Works.
- (e) Unless otherwise agreed between the parties, Customer must not enter subcontracts for the performance of the Customer Works.

6.4 NBN Co right to audit

- (a) NBN Co may attend and inspect any Customer Works that are being undertaken by Customer (or, if permitted by NBN Co, on behalf of Customer) for the purposes of monitoring Customer's compliance with its obligations under this Continuity Agreement.
- (b) Customer must comply with any directions given by NBN Co arising from or in connection with NBN Co attending and inspecting any Customer Works.
- (c) Following the completion of any Customer Works, NBN Co may audit the construction quality of those Customer Works to ensure they comply with the Customer Works Applicable Requirements. If NBN Co identifies any material non-compliance with the Customer Works Applicable Requirements, it may give notice to Customer to rectify the material non-compliance and Customer must remedy any material non-compliance within the timeframes specified in the quality plan approved by NBN Co under clause 6.3(b)(ii) of this Schedule 1. To the extent that Customer fails to do so, NBN Co may rectify any remaining non-compliance in accordance with the Customer Works Applicable Requirements on Customer's behalf.

6.5 Rectification of Copper Continuity Faults arising out of the Customer Works

- (a) NBN Co retains the right to remedy or rectify at its discretion any Copper Continuity Faults in the NBN Co Copper Network or NBN Co Assets arising out of any Customer Works undertaken by or, if permitted by NBN Co, on behalf of Customer.
- (b) For the avoidance of doubt, Customer is responsible for the ongoing repair and maintenance of any Customer Equipment located within the NBN Co Copper Network in accordance with the Customer Works Applicable Requirements.

6.6 Representations and warranties

- (a) To the extent the access, operation, occupation or use of NBN Co Assets are made available to Customer under this Copper Works Licence, Customer acknowledges and agrees that Customer accesses, operates, uses and occupies the NBN Co Assets at its own risk and NBN Co accepts no liability whatsoever arising out of or in connection with any access, operation, occupation or use by Customer or any NBN Co Assets.

- (b) To the extent permitted by applicable law, NBN Co makes no warranty or representation (express or implied) in respect of any access, operation, occupation or use by Customer of any NBN Co Assets including no warranty or representation:
 - (i) as to the condition or contents of any NBN Co Assets;
 - (ii) as to the suitability or functionality of the NBN Co Assets for any purpose whatsoever;
 - (iii) in relation to the nature or scope of rights which any party other than Customer has in relation to the NBN Co Assets;
 - (iv) in relation to the nature or scope of NBN Co's rights in relation to any surrounding areas to any NBN Co Asset.
- (c) Customer may only access, occupy and use the NBN Co Assets in accordance with the Copper Works Licence and must not access, occupy or use, or permit or facilitate the access, occupation or use of, the NBN Co Assets for any other purpose.
- (d) Nothing in this Copper Works Licence affects or limits NBN Co's rights to take any actions or proceedings against Customer in respect of any access, occupation or use by Customer of the NBN Co Assets which is not authorised under the Copper Works Licence.

7 Operational requirements for Copper Continuity Licences

7.1 Licence grant, modify and cancel orders

NBN Co will specify in the Continuity Operations Manual the means by which Customer is able to:

- (a) place an Existing Service Order for a USL or LSL in respect of a Customer Legacy Network;
- (b) place a Subsequent Order in respect of a USL, LSL, VSL or VPL;
- (c) modify any USL, LSL, VSL or VPL; and
- (d) cancel any USL, LSL, VSL or VPL.

7.2 Copper Licence Specifications

- (a) NBN Co will provide Copper Continuity Licences to Customer in accordance with any specifications set out in the Continuity Operations Manual.
- (b) Customer must comply with the Copper Licence Specifications in the exercise of Customer's rights under this Continuity Agreement.
- (c) The Customer acknowledges that the provision of the VSL or a VPL will require a permanent disablement of certain Carriage Services being provided over the Customer Jumper that is removed by NBN Co in order to effect the grant of a VSL or a VPL.

7.3 Conditioning Devices

Unless otherwise agreed between the parties, Customer must not have installed (including prior to the date of this Continuity Agreement) or maintain any Conditioning Devices.

7.4 Interfering and Compatible Services

- (a) NBN Co may from time to time notify Customer of an Interfering Service or a Compatible Service, with effect from 30 Business Days after notification.
- (b) Customer must follow any processes set out in the Continuity Operations Manual in respect of Interfering Services and Compatible Services.

7.5 Responsibility for Power

Customer is responsible for providing any electrical power required to supply a service using a Continuity Licence, unless otherwise agreed by the parties.

7.6 CSG Claims

The Continuity Operations Manual will set out the processes that NBN Co and Customer must follow in relation to CSG Compensation, as required, including but not limited to:

- (a) the steps that Customer and NBN Co must take to mitigate liability to pay CSG Compensation;
- (b) the liability of NBN Co and Customer to each other to pay CSG Compensation;
- (c) any rights that NBN Co or Customer may have to audit any CSG Compensation paid or payable; and
- (d) the methods by which CSG Compensation will be calculated.

7.7 Downstream CSG and Priority Assistance services

- (a) Customer must notify NBN Co that it uses a USL or LSL as an input into the supply of a Priority Assistance service or a service to which a Downstream CSG Standard applies.
- (b) Customer must notify NBN Co that it uses the USL, LSL, VSL or VPL (as applicable) as an input into the supply of a Priority Assistance service or a service to which a Downstream CSG Standard applies at the time that Customer:
 - (i) makes an Appointment in respect of any USL, LSL, VSL or VPL; or
 - (ii) submits a Trouble Ticket in respect of any USL, LSL, VSL or VPL.

7.8 Fault identification and reporting

- (a) Customer will provide a means for Direct Wholesale Customers and Customer's End Users to report Faults to Customer.
- (b) NBN Co will not be responsible for providing a means for any Downstream Customer or End Users to report Faults and is not obliged to accept Fault reports from Designated Wholesale Customers, Customer's End Users or any other Downstream Customer or End Users.
- (c) Customer will conduct testing and diagnostics on the Customer Network and NBN Co Copper Network to identify the location of the Fault where Customer:
 - (i) identifies a Fault; or
 - (ii) receives a Fault report from a Direct Wholesale Customer or a Customer's End User.

7.9 Fault Management

- (a) Where Customer reasonably determines that a Fault is located on an NBN Co Copper Line and that Fault is not a Customer Managed Fault, Customer will submit a Trouble Ticket for the Fault to NBN Co and NBN Co will be responsible for Fault rectification of the Fault in accordance with the Continuity Operations Manual.
- (b) Customer is responsible for maintaining the Customer Network and repairing Faults associated with the Customer Network.
- (c) Customer will be responsible for maintaining the Customer Copper Network and NBN Co will be responsible for maintaining the NBN Co Copper Network, except to the extent the Customer Managed Fault Model provides otherwise.
- (d) Except as otherwise provided under this Continuity Agreement, or as otherwise provided by law, each party will bear its own costs associated with Fault identification, reporting, management and Fault rectification.

7.10 NBN Co embargo

- (a) NBN Co may provide reasonable notice to Customer of a period during which Customer and its Related Entities, Downstream Customers, End Users and their respective Personnel are

not permitted to perform work on or access certain parts of the NBN Co Network pursuant to their rights under any Continuity Licence.

- (b) Customer must:
 - (i) comply and must ensure its Personnel, Related Entities and their respective Personnel comply; and
 - (ii) must use reasonable endeavours to ensure that Downstream Customers, End Users and their respective Personnel comply,with notice given by NBN Co pursuant to this clause 7.10.

7.11 Ordering, Site Qualification and Fault Management Systems

NBN Co will specify in the Continuity Operations Manual the means by which Customer is able to:

- (a) undertake a Site Qualification Enquiry;
- (b) submit orders, and receive notification of completion for modifications (where applicable);
- (c) request, confirm and manage the rectification of any failed grant of a new USL or LSL;
- (d) receive reports on the status and repair of Network Faults in the NBN Co Copper Network which affect multiple USLs, LSLs, VSLs or VPLs;
- (e) be advised of, and (where available) receive progress updates in relation to, Planned Outages and Emergency Outages in relation to the NBN Co Copper Network which affect USLs, LSLs, VSLs or VPLs;
- (f) submit Trouble Tickets, receive Trouble Ticket acknowledgment, receive resolution and closure of Trouble Tickets; and
- (g) make Trouble Ticket Appointments.

7.12 Temporary interruption for installation and activation activities

- (a) NBN Co may temporarily interrupt the provision of a USL, LSL or VSL in respect of a Premises, Other Location or MDU Common Area (as applicable) in order for NBN Co (or any of its Personnel or other persons authorised by NBN Co) to perform any work that is:
 - (i) in connection with a LSL Grant or under or in connection with an order placed under the Wholesale Broadband Agreement, an Other Wholesale Broadband Agreement or other supply arrangements with Customer or any other Access Seekers in connection with the NBN Co FTTC Network;
 - (ii) required in relation to installation, activation, relocation and any activities reasonably incidental to installation, activation and relocation (including interconnecting or replacing an NBN Co DPU); and
 - (iii) occurring in relation to that Premises, Other Location or MDU Common Area or another Premises, Other Location or MDU Common Area that shares a Copper Lead-In or NBN Co DPU with the first Premises, Other Location or MDU Common Area.
- (b) Customer acknowledges that the activities contemplated in clause 7.12(a) of this Schedule 1 may involve NBN Co (or any of its Personnel or other persons authorised by NBN Co):
 - (i) adding, removing or relocating NBN Co Equipment; or
 - (ii) relocating End User Equipment, Customer Equipment or Downstream Customer Equipment.
- (c) NBN Co will use reasonable endeavours where practicable in the circumstances to minimise any interruption to a USL, LSL or VSL caused by the activities contemplated in clause 7.12(a) of this Schedule 1.

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- (d) The parties acknowledge and agree that nothing in clause 7.12(a) of this Schedule 1 is intended to affect or limit a party's rights or obligations under clauses C12 (except clause C12.3(a)), C14 or C15 of the WBA, as incorporated into this Continuity Agreement under clause 7.3 of the Main Body.

7.13 Site Qualification

- (a) This clause 7.13 only applies to a USL or LSL that is the subject of a Subsequent Order for a USL or LSL (as the case may be).
- (b) If a USL or LSL is the subject of a Subsequent Order, then following a Site Qualification Enquiry NBN Co may, in its absolute discretion, determine that a USL in respect of a particular Premises or Other Location or LSL in respect of a particular Premises cannot be granted.
- (c) If, following a Site Qualification Enquiry, NBN Co determines that a USL or LSL (as the case may be) can be granted, NBN Co will notify Customer in accordance with the Continuity Operations Manual.
- (d) If, following a Site Qualification Enquiry, Customer places a Subsequent Order in respect of a USL or LSL at a particular Premises or Other Location and NBN Co determines a USL or LSL (as the case may be) cannot be granted in respect of that Premise or Other Location, NBN Co will notify Customer in accordance with the Continuity Operations Manual.

Schedule 2 - HFC Continuity Licences

1 Purpose

This Schedule 2 sets out the key terms and limitations applicable to the HFC Continuity Licences granted by NBN Co to Customer.

2 HFC Broadband Licence

2.1 Licence grant and description

- (a) On and from the first Asset Transfer Date, NBN Co will grant to Customer a HFC Broadband Licence to use the Broadband Licensed Spectrum within all NBN Co HFC Assets upstream of the HFC Locations in the Customer HFC Footprint, in accordance with the Broadband Use Rights (including any new Broadband Use Rights granted from time to time).
- (b) NBN Co will grant to Customer a right to use the HFC Broadband Licence granted under clause 2.1(a) of this Schedule 2 solely to supply Broadband Services to a HFC Location where the following apply:
 - (i) the HFC Location is identified in an Existing Service Order and on the first Asset Transfer Date for the Rollout Region in which the HFC Location is located, some of the NBN Co HFC Assets in that Rollout Region are being used by Customer to supply a Broadband Service to that HFC Location; or
 - (ii) the HFC Location is identified in a Subsequent Order placed by Customer in accordance with the processes and procedures for ordering a Broadband Use Right set out in this Continuity Agreement or as otherwise agreed in writing by the parties and the Subsequent Order is accepted and fulfilled by NBN Co.

2.2 Licence duration

- (a) The Licence Period for the HFC Broadband Licence commences when that HFC Broadband Licence is granted under clause 2.1(a) of this Schedule 2 and continues until the earlier of the date on which:
 - (i) this Continuity Agreement expires or is terminated; or
 - (ii) Customer fails to satisfy any of the Supply Conditions.
 - (b) Customer's right to exercise a Broadband Use Right in respect of Broadband Services to a particular HFC Location commences when that Broadband Use Right is granted under clause 2.1(b) of this Schedule 2 and continues until the earlier of the date on which:
 - (i) this Continuity Agreement expires or is terminated;
 - (ii) Customer fails to satisfy any of the Supply Conditions;
 - (iii) Customer is no longer permitted to supply the Broadband Services to the HFC Location;
 - (iv) Customer cancels the Broadband Use Right; or
 - (v) an End User of Customer or a Customer HFC Sub-Licensee cancels the Broadband Services be supplied using that HFC Broadband Licence, in which case Customer must cancel the HFC Broadband Licence.
-

3 Pay TV Licence

3.1 Licence grant and description

- (a) On and from the first Asset Transfer Date, NBN Co will grant to Customer the Pay TV Licence to use the Pay TV Licensed Spectrum within all NBN Co HFC Assets upstream of the

HFC Locations in the Customer HFC Footprint, in accordance with the Pay TV Use Rights (including any new Pay TV Use Rights granted from time to time).

- (b) NBN Co will grant to Customer a right to use the Pay TV Licence granted under clause 3.1(a) of this Schedule 2 solely to supply Allowed Services to an HFC Location where the following apply:
- (i) the HFC Location is identified in an Existing Service Order and on the first Asset Transfer Date for the Rollout Region in which the HFC Location is located, some of the NBN Co HFC Assets in that Rollout Region are being used by Customer or its Related Entities to supply an Allowed Service to that HFC Location; or
 - (ii) the HFC Location is identified in a Subsequent Order placed by Customer in accordance with the processes and procedures for ordering a Pay TV Use Right set out in this Continuity Agreement or as otherwise agreed in writing by the parties and the Subsequent Order is accepted and fulfilled by NBN Co.

3.2 Licence duration

- (a) The Licence Period for the Pay TV Licence commences when that Pay TV Licence is granted under clause 3.1(a) of Schedule 2 and continues until the earlier of:
- (i) the date on which this Continuity Agreement expires or is terminated;
 - (ii) the date on which Customer fails to satisfy any of the Supply Conditions; or
 - (iii) until such time as NBN Co reasonably considers that Customer no longer requires the Pay TV Licence.
- (b) Customer's right to exercise a Pay TV Use Right in respect of the supply of Allowed Services to a particular HFC Location commences when that Pay TV Use Right is granted under clause 3.1(b) of this Schedule 2 and continues until the earlier of the date on which:
- (i) this Continuity Agreement expires or is terminated;
 - (ii) Customer fails to satisfy any of the Supply Conditions;
 - (iii) NBN Co reasonably considers that Customer no longer requires the Pay TV Licence;
 - (iv) Customer is not permitted to supply the Allowed Services using that Pay TV Use Right;
 - (v) Customer cancels that Pay TV Use Right, in which event Customer will notify NBN Co of that cancellation;
 - (vi) an End User of Customer cancels all Allowed Services at the HFC Location supplied using the Pay TV Use Right, in which case Customer must cancel the Pay TV Use Right and notify NBN Co of that cancellation; or
 - (vii) the parties agree that the Customer will terminate the relevant Allowed Service supplied using the Pay TV Use Right.

4 HFC Management Services Licence

4.1 Licence grant and description

- (a) On the Asset Transfer Date NBN Co will grant to Customer an HFC Management Services Licence to use the HFC Management Services Licensed Spectrum within all NBN Co HFC Assets.
- (b) Customer must use the HFC Management Services Licence solely to supply the HFC Management Services.

4.2 Licence duration

The Licence Period for the HFC Management Services Licence commences from the Asset Transfer Date for the NBN Co HFC Assets that are the subject of that HFC Management Services Licence and continues until the date on which Customer otherwise ceases to use the HFC Broadband Licence to deliver Broadband Services over the NBN Co HFC Assets.

5 RF Combiner Licence

5.1 Licence grant and description

- (a) On and from the Asset Transfer Date for each RF Combiner, NBN Co will grant to Customer a licence to access, occupy and use that RF Combiner solely to:
- (i) receive the benefit of the Pay TV Licence and the HFC Management Services Licence granted under this Schedule 2;
 - (ii) where Allowed Services Transmission Hardware or HFC NME is located within that RF Combiner as at the Asset Transfer Date (or where an RF Combiner is upgraded, moved, merged or replaced and Allowed Services Transmission Hardware and/or HFC NME is installed within that RF Combiner):
 - (A) occupy the relevant space within that RF Combiner with the Allowed Services Transmission Hardware and HFC NME until the Asset Transfer Date for that HFC NME; and
 - (B) within that RF Combiner, access the Allowed Services Transmission Hardware and HFC NME until the Asset Transfer Date for that HFC NME,

for the purposes of operating and maintaining the Allowed Services Transmission Hardware and HFC NME; and
 - (iii) terminate Node Fibres and the CMTS fibres within that RF Combiner as set out in the RF Combiner Specifications.

5.2 Licence duration

The Licence Period for each RF Combiner Licence commences from the Asset Transfer Date for the RF Combiner that is the subject of the RF Combiner Licence and continues until the earlier of the date on which:

- (i) this Continuity Agreement expires or is terminated;
- (ii) Customer fails to satisfy any of the Supply Conditions; or
- (iii) NBN Co reasonably considers that Customer no longer requires the RF Combiner Licence.

5.3 RF Combiner Works

- (a) In performing RF Combiner Works on any RF Combiner forming part of the NBN Co HFC Assets:
- (i) the parties must comply at all times with the RF Combiner Specifications;
 - (ii) Customer must not physically access any part of the RF Combiner other than the parts that Customer is permitted to access under the RF Combiner Specifications; and
 - (iii) Customer must comply, and must ensure that their Personnel and Related Entities comply, with:
 - (A) the Continuity Operations Manual, NBN Co technical specifications and procedures applicable to the RF Combiner Works, as notified by NBN Co to Customer from time to time;

- (B) the risk management plan and quality plan applicable to the RF Combiner Works, as prepared by Customer and approved by NBN Co (subject to change by NBN Co by notifying Customer from time to time);
 - (C) any work instruction and technical specifications and procedures notified by NBN Co to Customer from time to time;
 - (D) NBN Co's policies and processes in relation to such access, including (without limitation) in respect of occupational health and safety and security; and
 - (E) any reasonable direction of NBN Co in relation to such access.
- (b) Customer must not conduct RF Combiner Works until the risk management plan and the quality plan referred to in clause 5.3(a)(iii)(B) of this Schedule 2 are approved by NBN Co.
 - (c) Customer must not insert an Alternative Component into an RF Combiner or use an Alternative Component in undertaking RF Combiner Works except in accordance with the Continuity Operations Manual.
 - (d) Unless otherwise agreed between the parties or in accordance with clause 6.2 of this Schedule 2, Customer must not enter subcontracts for the performance of RF Combiner Works.

5.4 General obligations

The parties must:

- (a) act in accordance with the standard that can reasonably be expected of a competent contractor;
- (b) repair (at the relevant party's own cost), any damage caused by it, its Personnel or its Related Entity to any Allowed Services Transmission Hardware, HFC NME, RF Combiner or other NBN Co HFC Asset (other than Minor Damage), any third party asset or the surrounding area to those assets, as a result of performing the RF Combiner Works or exercising its rights under the RF Combiner Licence, except that a party is not required to repair any such damage if the damage arose as a result of or in relation to:
 - (i) a breach by the other party of this Continuity Agreement; or
 - (ii) any negligent act or omission of the other party, or a Related Entity of the other party;
- (c) not significantly interrupt or significantly interfere physically or electronically with:
 - (i) the delivery of telecommunications service supply by the other party or a third party;
 - (ii) any equipment of a third party;
 - (iii) the integrity of, or confidentiality of communications within the other party's existing network;
 - (iv) the use by NBN Co of any NBN Co HFC Asset; or
 - (v) the use by Customer of any Allowed Services Transmission Hardware, HFC NME or any NBN Co HFC Asset in accordance with this Continuity Agreement,
 - (vi) unless, and then only to the extent, that the interruption or interference arises out of the carrying out of the RF Combiner Works and other activities in accordance with the terms of this Continuity Agreement or is otherwise expressly agreed with or authorised by the other party.

5.5 NBN Co right to audit

- (a) NBN Co may attend and inspect any RF Combiner Works that are being undertaken by Customer (or, if permitted by NBN Co, on behalf of Customer) for the purposes of monitoring Customer's compliance with its obligations under this Continuity Agreement.
- (b) Customer must comply with any directions given by NBN Co arising from or in connection with NBN Co attending and inspecting any RF Combiner Works.
- (c) Following the completion of any RF Combiner Works, NBN Co may audit the construction quality of those RF Combiner Works to ensure they comply with the HFC Licence Specifications. If NBN Co identifies any material non-compliance with the HFC Licence Specifications, it may give notice to Customer to rectify the material non-compliance and Customer must remedy any material non-compliance within the timeframes specified by NBN Co. To the extent that Customer fails to do so, NBN Co may rectify, at Customer's cost, any remaining non-compliance in accordance with the HFC Licence Specifications on Customer's behalf.

6 Licence details

6.1 Acknowledgements

- (a) Customer acknowledges and agrees that each HFC Continuity Licence does not confer on Customer any relevant approvals, permissions or consent from third parties or any permission from NBN Co to undertake any activity in relation to any third party asset.
- (b) The parties acknowledge that Carriage Services and Content Services may be distributed through the Broadband Licensed Spectrum, the Pay TV Licensed Spectrum and the HFC Management Services Licensed Spectrum:
 - (i) outside the Customer HFC Footprint throughout the HFC Network; and
 - (ii) into any asset which is not an NBN Co HFC Asset.
- (c) Provided that Customer does not accept a customer order to supply an Allowed Service to an HFC Location outside the Customer HFC Footprint using the Broadband Licensed Spectrum, the Pay TV Licensed Spectrum and the HFC Management Services Licensed Spectrum, the distribution of Carriage Services and Content Services through the Broadband Licensed Spectrum, the Pay TV Licensed Spectrum and the HFC Management Services Licensed Spectrum referred to in clause 6.1(b) of this Schedule 2 does not, in and of itself, constitute a breach of this Continuity Agreement by Customer.

6.2 Sublicensing

- (a) Subject to clauses 6.2(b) to 6.2(f) (inclusive) of this Schedule 2, Customer may sub-license to a Related Entity of Customer the HFC Continuity Licences and the rights of interconnection set out in clause 6.3(a) of this Schedule 2 on the same terms as those granted to Customer under this Continuity Agreement (except that clause 6.2(a) of this Schedule 2 will not apply) (**Customer HFC Sub-Licensee**).
- (b) Customer must ensure that each Customer HFC Sub-Licensee complies with the terms of this Continuity Agreement that relate to the sub-licence granted by Customer to the Customer HFC Sub-Licensee under clause 6.2(a) of this Schedule 2.
- (c) If a Customer HFC Sub-Licensee who is granted a sub-licence under clause 6.2(a) of this Schedule 2 ceases to be a Related Entity of Customer:
 - (i) the sub-licence under clause 6.2(a) of this Schedule 2 will terminate; and
 - (ii) Customer must immediately notify NBN Co.
- (d) Customer will be liable to NBN Co for those acts or defaults of a Customer HFC Sub-Licensee or any employees, officers, contractors (in their capacity as contractors of that Customer HFC Sub-Licensee) and agents (in their capacity as agents of that Customer HFC Sub-Licensee) of that Customer HFC Sub-Licensee which does or would result in a Claim by

NBN Co against Customer if they were the acts or defaults of Customer or the Personnel of Customer, as if those acts or defaults had been the acts or defaults of Customer.

- (e) Each sub-licence or resupply to a Customer HFC Sub-Licensee under clause 6.2(a) of this Schedule 2 is:
- (i) non-transferable; and
 - (ii) does not prevent NBN Co from granting to any other person other licences, or similar rights, in respect of the NBN Co HFC Network or RF Spectrum (other than the Pay TV Licensed Spectrum, Broadband Licensed Spectrum and HFC Management Services Licensed Spectrum for the period that spectrum is licensed to Customer) as the rights Customer has under the Pay TV Licence (including the Pay TV Use Rights).
- (f) Customer will not be entitled under this Continuity Agreement to grant any sub-licence of an HFC Continuity Licence other than in accordance with clause 6.2 of this Schedule 2.

6.3 Interconnection

- (a) Subject to clauses 6.3(b) and 6.3(c) of this Schedule 2:
- (i) NBN Co will permit Customer to maintain existing interconnections between Customer and the Customer HFC Sublicensee's facilities and NBN Co's facilities in place within an NBN Co HFC Asset as at the Asset Transfer Date for that NBN Co HFC Asset;
 - (ii) where Customer installs Node Fibre to replace Node Fibre that Customer declares has reached its end of life, NBN Co will permit Customer to implement new interconnections between the Node Fibre and the NBN Co HFC Assets to which the replaced Node Fibre was interconnected;
 - (iii) where NBN Co changes the location of an existing RF Interconnection Point between Customer or the Customer HFC Sublicensee's facilities and NBN Co's facilities, NBN Co will permit Customer to implement new interconnections between NBN Co's facilities and Customer or the Customer HFC Sublicensee's facilities at the relocated RF Interconnection Points designated by NBN Co; and
 - (iv) where NBN Co provides prior consent, Customer may implement new interconnections between NBN Co's facilities and Customer or the Customer HFC Sublicensee's facilities at the RF Interconnection Points designated by NBN Co from time to time.
- (b) The interconnections referred to in clause 6.3(a) of this Schedule 2 must be made and maintained in accordance with the HFC Licence Specifications and the terms of this Continuity Agreement.
- (c) Customer must ensure that the interconnections referred to in clause 6.3(a) of this Schedule 2 must be for the purpose of enabling Customer to exercise its Broadband Use Rights, Pay TV Use Rights and/or use its HFC Management Services Licence and must be made at:
- (i) each applicable Optical Node Network Boundary Point;
 - (ii) the RF Combiners; or
 - (iii) the relocated RF Interconnection Points designated by NBN Co.

7 Operational requirements for HFC Continuity Licences

7.1 Site qualification

- (a) If a Pay TV Use Right or Broadband Use Right is the subject of a Subsequent Order, then following a Site Qualification Enquiry NBN Co may, in its absolute discretion, determine that

a Pay TV Use Right or Broadband Use Right (as the case may be) cannot be granted in respect of a particular HFC Location.

- (b) If, following a Site Qualification Enquiry, NBN Co determines that a Pay TV Use Right or Broadband Use Right (as the case may be) can be granted, NBN Co will notify Customer in accordance with the Continuity Operations Manual.
- (c) If, following a Site Qualification Enquiry, Customer places a Subsequent Order in respect of a Pay TV Use Right or Broadband Use Right at a particular HFC Location and NBN Co determines a Pay TV Use Right or Broadband Use Right (as the case may be) cannot be granted in respect of that HFC Location, NBN Co will notify Customer in accordance with the Continuity Operations Manual.

7.2 Licence grant, modify and cancel orders

NBN Co will specify in the Continuity Operations Manual the means by which Customer is able to:

- (a) place a Subsequent Order in respect of a Pay TV Use Right or Broadband Use Right;
- (b) modify any Pay TV Use Right or Broadband Use Right; and
- (c) cancel any Pay TV Use Right or Broadband Use Right.

7.3 HFC Licence Specifications

- (a) The parties must comply with the Spectrum Management Plan. For the avoidance of doubt, a party is not required to use any of the RF Spectrum that has been allocated to it under the Spectrum Management Plan.
- (b) NBN Co will provide HFC Licence Specifications to Customer in accordance with any specifications set out in the Continuity Operations Manual.
- (c) Customer must comply with the HFC Licence Specifications in the exercise of Customer's rights under this Continuity Agreement.

7.4 Fault identification and reporting

- (a) Customer will provide a means for Customer's End Users to report Faults to Customer.
- (b) NBN Co will not be responsible for providing a means for any End User to report Faults and is not obliged to accept Fault reports from Customer's End Users.
- (c) Customer will conduct testing and diagnostics on the Customer Network and NBN Co HFC Network to identify the location of the Fault where Customer:
 - (i) identifies a Fault; or
 - (ii) receives a Fault report from an End User of Customer or Customer HFC Sub-Licensee.
- (d) NBN Co may notify Customer of a fault with HFC NME prior to the Asset Transfer Date for that HFC NME or Allowed Services Transmission Hardware at any time.
- (e) Customer may notify NBN Co of a fault with a RF Combiner.

7.5 Fault Management

- (a) Where Customer reasonably determines that a Fault is located in any part of the NBN Co HFC Network other than any NBN Co HFC Asset, Customer will be responsible for Fault rectification of the Fault in accordance with the Continuity Operations Manual.
- (b) Where Customer reasonably determines that a Fault is located in an NBN Co HFC Asset Customer will submit a Trouble Ticket for the Fault to NBN Co and NBN Co will be responsible for Fault rectification of the Fault in accordance with the Continuity Operations Manual.

- (c) A party receiving notice of a fault under clause 7.4(d) or 7.4(e) of this Schedule 2 must use reasonable endeavours to remedy the fault as soon as possible and in any event within two Business Days of the notice.
- (d) If the party receiving notice of a fault under clause 7.4(d) or 7.4(e) of this Schedule 2 does not remedy the fault within two Business Days of receipt of the notice, the party sending the notice may, after giving notice to the other party, access the RF Combiner, HFC NME or Allowed Services Transmission Hardware the subject of the notice to the extent necessary to remedy the fault.
- (e) Except as otherwise provided under this Continuity Agreement, or as otherwise provided by law, each party will bear its own costs associated with Fault identification, reporting, management and Fault rectification.

7.6 Ordering, Site Qualification and Fault Management Systems

NBN Co will specify in the Continuity Operations Manual the means by which Customer is able to:

- (a) undertake a Site Qualification Enquiry;
- (b) submit orders, and receive notification of completion for modifications (where applicable);
- (c) request, confirm and manage the rectification of any failed grant of a new Pay TV Use Right or Broadband Use Right;
- (d) receive reports on the status and repair of Network Faults in the NBN Co HFC Network which affect multiple Pay TV Use Rights and/or Broadband Use Rights;
- (e) be advised of, and (where available) receive progress updates in relation to, Planned Outages and Emergency Outages in relation to the NBN Co HFC Network which affect Pay TV Use Rights and/or Broadband Use Rights;
- (f) submit Trouble Tickets, receive Trouble Ticket acknowledgment, receive resolution and closure of Trouble Tickets; and
- (g) make Trouble Ticket Appointments.

7.7 Temporary interruption for installation and activation activities

- (a) NBN Co may temporarily interrupt the provision of a Broadband Use Right or Pay TV Use Right in respect of a particular HFC Location in order for NBN Co (or any of its Personnel or other persons authorised by NBN Co) to perform any work required in relation to installation, activation, relocation and any activities reasonably incidental to installation, activation and relocation (including installing an amplifier):
 - (i) in connection with the grant of a Broadband Use Right or Pay TV Use Right; or
 - (ii) under or in connection with the WBA or other supply arrangements with Customer or any other Access Seekers,occurring at that HFC Location or another HFC Location that shares a HFC PCD or HFC Lead-In with the first HFC Location.
- (b) Customer acknowledges that the activities contemplated in clause 7.7(a) of this Schedule 2 may involve NBN Co (or any of its Personnel or other persons authorised by NBN Co):
 - (i) adding, removing or relocating NBN Co Equipment; or
 - (ii) relocating End User Equipment, Customer Equipment or Downstream Customer Equipment.
- (c) NBN Co will use reasonable endeavours where practicable in the circumstances to minimise any interruption to a Broadband Use Right or Pay TV Use Right caused by the activities contemplated in clause 7.7(a) of this Schedule 2.

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- (d) The parties acknowledge and agree that nothing in clause 7.7 of this Schedule 2 is intended to affect or limit a party's rights or obligations under clause C15 of the WBA, as incorporated into this Continuity Agreement under clause 7.3 of the Main Body.