

Test Agreement

Test Description: Cell Site Access Service (CSAS)



This Agreement is a Standard Form of Access Agreement for the purposes of Part XIC of the Competition and Consumer Act 2010 (Cth) where one is required for NBN Co to supply a Test Product.



NBN Co Limited

Test Agreement

Test Description: Cell Site Access Service (CSAS)

Version	Description	Effective Date
1.0	Issued on 1 st July 2016	Execution Date

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Environment

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

Parties

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

Background

- This Test Description, together with the Standard Test Terms, forms the Test Agreement for the CSAS Test.
- The purpose of the CSAS Test is to enable NBN Co and Test Participant to test the performance of a test version of NBN Co's proposed cell site access service, which is intended to enable the supply of public mobile telecommunications services by the Test Participant or its customers.
- To conduct the CSAS Test, NBN Co will supply the CSAS Test Product in respect of one agreed Cell Site subject to this Agreement until 1 July 2017, unless extended or terminated in accordance with this Agreement.

1 Pre-conditions

- To participate in the CSAS Test and before NBN Co supplies the CSAS Test Product to Test Participant, Test Participant must, by a date determined by NBN Co:
 - have entered into a WBA;
 - have entered into the Standard Test Terms;
 - have undertaken on-boarding and certification activities prescribed by NBN Co for the CSAS Test; and
 - be providing, to itself or another person, a transmission service that connects the agreed Cell Site to a carrier or carriage service provider's core network.
- If Test Participant ceases to comply with the conditions in clause 1(a) NBN Co may immediately:
 - exclude Test Participant from the CSAS Test;
 - cease supplying the CSAS Test Product to Test Participant; and
 - terminate this Agreement.

2 Supply of Test Product

2.1 CSAS Test Service

- The **CSAS Test Product** is a Test Product comprised of the Components described in sections 2.2 to 2.4, supplied by NBN Co to Test Participant on a test basis to enable Test Participant to supply public mobile telecommunications services (as that term is defined in the *Telecommunications Act 1997* (Cth)) at and from an agreed Cell Site.
- Subject to this Agreement, NBN Co will supply Test Participant with the CSAS Test Product in respect of the agreed Cell Site.

2.2 Access Virtual Circuit (AVC)

- An **Access Virtual Circuit** or **AVC** is an Ethernet-based Layer 2 virtual connection on the NBN Co Fibre Network that carries Test Participant's traffic between an NNI and UNI.
- Test Participant must order an AVC for the agreed Cell Site, in each traffic class and bandwidth profile agreed with NBN Co.

2.3 User Network Interface (UNI)

- The **User Network Interface** or **UNI** is a physical port on an NTD, to which NBN Co supplies the CSAS Test Product in respect of the agreed Cell Site.



- (b) NBN Co will determine the type and model of NTD installed for the purpose of providing Test Participant with access to the UNI.
- (c) A UNI will be supplied as a bundle with each AVC, and Test Participant does not need to separately order the UNI.

2.4 Network-Network Interface (NNI)

- (a) A **Network-Network Interface** or **NNI** is the interface at a POI where the CSAS Test Product is handed over to Test Participant.
- (b) Test Participant must order the NNI at the POI which NBN Co notifies to Test Participant is the POI associated with the agreed Cell Site.

2.5 Use of a CSAS Test Product

- (a) Clause 2(e) of the Standard Test Terms does not apply to the extent necessary to give effect to clause 2.1(a) of this Test Description, provided that:

- (i) Test Participant ensures that it has sufficient redundancy;
- (ii) NBN Co is not Liable for any Claim from any person; and
- (iii) subject to clause 2.5(b), Test Participant must pay to NBN Co on demand an amount equal to all Losses suffered or incurred by NBN Co, any related Body Corporate of NBN Co, or their respective Personnel in connection with any Claim from any person,

in connection with use of the CSAS Test Product.

- (b) Clause 2.5(a)(iii) does not apply to the extent that a claim is caused or contributed to by any criminal act, fraud, wilful misconduct or misrepresentation by NBN Co, any Related Body Corporate of NBN Co, or their respective Personnel.

3 Ordering

- (a) Test Participant must only use the web portals or business-to-business interfaces specified by NBN Co to order the AVC and NNI.
- (b) Test Participant must, to the extent specified by NBN Co, acquire:
 - (i) facilities access, under a WBA or other agreement between NBN Co or Test Participant, for the POI at which

NBN Co supplies the NNI for the CSAS Test Product;

- (ii) a Network Extension, under this Agreement, a Technology Choice Agreement or other agreement between NBN Co and Test Participant, to the agreed Cell Site; and
- (iii) facilities access, under a Tower Sharing Agreement or other agreement between NBN Co and Test Participant, if Test Participant locates or intends to locate the agreed Cell Site at an NBN Co site or facility.

4 Cell Sites

- (a) Subject to the parties entering into and performing each applicable agreement described in clause 3(b), NBN Co will make the CSAS Test Service available in respect of the Cell Site located at the mobile complex in Beaudesert, 4285 (with full address to be provided by NBN Co to Test Participant) (**Designated Cell Site**).
- (b) On request from Test Participant, NBN Co may, at its sole discretion and subject to any conditions it specifies, supply the CSAS Test Product to Test Participant at an alternative Cell Site (**Alternative Cell Site**).

5 Test Participant's obligations

5.1 General obligations

Test Participant will, in accordance with any Solution Design:

- (a) provide, or procure the provision of, access to the agreed Cell Site in accordance with clause 7 of the Standard Test Terms to the extent necessary or desirable, including for the purpose of carrying out any activity reasonably required for design and installation of NBN Co equipment in respect of the CSAS Test;
- (b) at NBN Co's request, assist NBN Co to install and provision an NTD provided by NBN Co at the agreed Cell Site;
- (c) not place any order to modify a Component to include features that do not conform to the features specified by NBN Co for the purpose of the CSAS Test;
- (d) at NBN Co's request, make the relevant CSAS Contact available at the agreed Cell Site to assist NBN Co in respect of NBN



Co's rights or Test Participant's obligations under this Test Agreement, including in respect of design, installation, fault investigation and resolution, disconnection and removal; and

- (e) only use the CSAS Test Product for the CSAS Test.

5.2 CSAS Test feedback

As part of the CSAS Test, Test Participant must provide to NBN Co at NBN Co's request information and feedback regarding performance, usage and interoperability of the CSAS Test Product and all ancillary matters including summary level call and packet data reporting and such other information as may be described in any Solution Design.

5.3 CSAS Test review and report

At regular monthly intervals during the CSAS Test and within 10 Business Days of completion of the CSAS Test, the Test Participant will, at NBN Co's request:

- (a) meet with NBN Co to review and evaluate the performance of the CSAS Test Product; and
- (b) use reasonable endeavours to obtain and assist NBN Co to directly obtain additional feedback from any relevant third parties regarding the performance of the CSAS Test Product, the NBN Co Fibre Network and NBN Co's relevant processes and procedures.

6 Service performance and fair use

- (a) Test Participant acknowledges and agrees that no service level, rebate or compensation of any kind, however described, is available or applicable to any aspect or component of the supply of the CSAS Test Product.
- (b) This Test Description incorporates, as if set out in full:
 - (i) the Fair Use Policy under the WBA; and
 - (ii) the provisions of section 13 (Speeds, performance and availability) of the Product Description for the NBN Co Ethernet Bitstream Service under the WBA,

which are taken to apply to the CSAS Test Product to the extent applicable, in addition to all other qualifications,

conditions and limitations in this Agreement, subject to the following:

- (iii) clause 2.1(b)(i) of the Fair Use Policy does not apply to the extent it prohibits the use of the CSAS Test Product for backhaul to mobile base stations;
 - (iv) references to "Customer" or "Customers" are to be read as "Test Participant" or "Test Participants";
 - (v) references to "Ordered Product" or "Ordered Products" are to be read as "Test Product" and "Test Products";
 - (vi) references to "Product Description" are to be read as "this Test Description"; and
 - (vii) references to "NEBS" are to be read as "the CSAS Test Product".
- (c) NBN Co may amend this Test Description to give effect to any new, varied or replacement Fair Use Policy.

7 Title and risk in NTD(s)

- (a) Nothing in this Test Description gives Test Participant any right, title or interest in any part of the NTD(s) made available by NBN Co to Test Participant or used by Test Participant.
- (b) Each NTD made available by NBN Co to Test Participant or used by Test Participant is NBN Co Equipment and the Tangible Property of NBN Co for the purposes of the Standard Test Terms.

8 Charges

8.1 General

NBN Co will not charge Test Participant for the CSAS Test Product, except for:

- (a) charges that are payable (if any) by Test Participant pursuant to clause 8.2(b); and
- (b) any goods and services described in clause 3(b), which, subject to clauses 8.2 to 8.5, will be payable under the applicable agreement for such goods and services.

8.2 Network Extension to the Designated Cell Site

- (a) NBN Co will provide Test Participant with a quotation for the construction of any Network Extension to the Designated Cell Site (**Network Extension Quotation**).



- (b) If, at any time (including after the termination or expiry of this Test Agreement), Test Participant acquires a cell site access service in connection with the Designated Cell Site and offered by NBN Co on a non-test basis, Test Participant must pay to NBN Co all amounts set out in the Network Extension Quotation.

8.3 Network Extension to Alternative Cell Site

If, pursuant to clause 4(b), NBN Co supplies the CSAS Test Product to Test Participant at an Alternative Cell Site:

- (a) NBN Co will provide Test Participant with a quotation for the construction of any Network Extension to that Alternative Cell Site; and
- (b) Test Participant must pay the quotation and any other amounts payable in connection with the Network Extension,

under an applicable Technology Choice Agreement.

8.4 Facilities access charges at the POI

To the extent that NBN Co supplies facilities access under a WBA for the POI at which NBN Co supplies the NNI for the CSAS Test Product, NBN Co will waive the applicable charges under the WBA for the duration of the CSAS Test.

8.5 Charges generally

The terms of:

- (a) Module B (Financial Management) of the WBA; and
- (b) the "Billing and Payments" module of the NBN Co Operations Manual,

will apply to any charges payable pursuant to clause 8.2(b) as if they were set out in full in this document, but with the following changes:

- (c) references to "Charges" will be read as references to the amounts payable pursuant to clause 8.2(b); and
- (d) references to "Customer" are to be read as "Test Participant".

9 Term, termination and withdrawal

- (a) This Test Description will terminate on 1 July 2017, unless extended by NBN Co and notified to Test Participant or terminated in accordance with clauses 9(b), 9(c) or 9(d)(i).

- (b) NBN Co may issue a Cancellation Notice at any time in accordance with the Standard Test Terms to terminate:
 - (i) this Test Description;
 - (ii) the CSAS Test; and/or
 - (iii) the supply of the CSAS Test Product at any agreed Cell Site.
- (c) Test Participant may terminate this Test Description or withdraw from the CSAS Test by giving 10 Business Days' written notice to NBN Co.
- (d) If Test Participant enters into an agreement with NBN Co for the supply of a cell site access service on a non-test basis, NBN Co may, in its sole discretion:
 - (i) terminate this Test Description and the CSAS Test by issuing a Cancellation Notice in accordance with the Standard Test Terms; or
 - (ii) continue supplying the CSAS Test Product as a "Cell Site Access Service" described in and subject to the terms of that agreement, by giving notice to Customer.
- (e) Upon termination or expiry of this Agreement, Test Participant must take all steps directed by NBN Co (if any) to disconnect the Components to the extent necessary to give effect to this clause 9.
- (f) Clauses 8.2(b) and 8.5 survive the termination or expiry of this Agreement in addition to any other provision of this Agreement that survives such termination or expiry pursuant to the Standard Test Terms.

10 Contact points

- (a) NBN Co and Test Participant will each appoint a person as a contact point in relation to process issues (if any) arising from the CSAS Test and, in addition, Test Participant will appoint a person as a contact person in respect of the agreed Cell Site to provide access to and assistance in accordance with this Agreement (each, a **CSAS Contact**).
- (b) NBN Co and Test Participant will provide telephone and email contact details of their CSAS Contacts to each other on or before the commencement of the CSAS Test.



11 Interpretation and definitions

In this Test Description, the singular includes the plural and vice versa, and any capitalised term used but not defined in the Test Description:

- (a) has the meaning given to that term in the Standard Test Terms; and
- (b) that isn't defined in the Standard Test Terms has the meaning given to that term in the WBA, and:

Alternative Cell Site has the meaning given in clause 4(b).

AVC or Access Virtual Circuit has the meaning given in clause 2.2(a).

Cell Site means a site owned, controlled or occupied by Test Participant which houses infrastructure comprising radio access network equipment and mountings that enable communication between end user equipment and a cellular telephony network.

Component means each of the components of a CSAS Test Product, as described in sections 2.2 to 2.4.

CSAS Contact has the meaning given in clause 10(a) of this Test Description.

CSAS Test means the supply by NBN Co to Test Participant of the CSAS Test Product together with the performance of ancillary obligations set out in this Test Description (including the provision of feedback and reports by Test Participant to NBN Co) in accordance with this Test Agreement.

CSAS Test Product means the Test Product described in clause 2.1(a).

Designated Cell Site has the meaning given to that term in clause (a).

NEBS means the NBN Co Ethernet Bitstream Service supplied by means of the NBN Co Fibre Network under the WBA.

Network Extension means an extension to a fibre network owned or operated by NBN Co pursuant to a "Technology Choice Agreement".

Network Extension Quotation means a quotation provided by NBN Co pursuant to clause 8.2(a).

NNI or Network-Network Interface has the meaning given in clause 2.4(a).

NTD means a network termination device provided by NBN Co for the purposes of the CSAS Test.

POI means a point of interconnection between the NBN Co Network and the Test Participant Network, as NBN Co notifies to Test Participant from time to time.

Solution Design means technical details which NBN Co may provide to Test Participant for a CSAS Test, which may include details regarding a POI, a Cell Site, equipment specifications for the Test Participant Network and interconnection requirements. For the purposes of this Test Description, references in the Standard Test Terms to "Test Plan" are to be read as references to "Solution Design".

Standard Test Terms means the agreement entitled "Test Agreement – Standard Test Terms" entered into between NBN Co and Test Participant.

Test Description means this document, which is issued by NBN Co under the Standard Test Terms.

Test Participant Network means the networks, systems and facilities used or capable of being used by Test Participant in relation to the carrying of communications by means of guided or unguided electromagnetic or optical energy (and which are not part of the NBN Co Network).

UNI or User Network Interface has the meaning given in clause 2.3(a).

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

Signed for **[insert full name of Test Participant]** 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

[Insert execution blocks for any further related bodies corporate also acquiring services as parties in their own right]