



1 March 2022

Hello,

## On-Demand Fibre Connection Program

Australians are benefitting from increasingly data-intensive applications, leading more of us to seek higher bandwidth internet plans to support these applications. To meet this demand, **nbn** is continuing to upgrade and invest in the **nbn**<sup>™</sup> network to unlock its potential for more Australians.

Since December 2020, we have been working with RSPs to develop a process under which **nbn** will change the access technology used to serve certain premises, from **nbn**<sup>™</sup> Ethernet (FTTN) or **nbn**<sup>™</sup> Ethernet (FTTC), to **nbn**<sup>™</sup> Ethernet (Fibre). This will allow customers to order retail services powered by **nbn**<sup>™</sup> Ethernet (Fibre) which support higher speeds, more concurrent users, and a wider variety of applications.

This letter agreement sets out the terms and conditions on which **nbn** is offering On-Demand Fibre Connection Waivers in connection with On-Demand Fibre Connections, as further detailed below.

Except as expressly set out below, nothing in this letter agreement affects the application of the Wholesale Broadband Agreement version 4 between **nbn** and your organisation (**WBA**), including with respect to Fair Use Policies, ordering and other operational processes. After the Term of this letter agreement, **nbn** will apply ancillary charges in accordance with the **nbn**<sup>™</sup> Ethernet Price List and any applicable Discounts, Credits, Rebates or Waivers that apply from time to time.

Please request an executable of this letter from [contractmanager@nbnco.com.au](mailto:contractmanager@nbnco.com.au) as soon as possible to take advantage of this offer. Alternatively, if you would like to execute this letter using DocuSign, please request this via email to [contractmanager@nbnco.com.au](mailto:contractmanager@nbnco.com.au).

Your **nbn**<sup>™</sup> account manager is ready to help your organisation with anything contained in this letter. If you have any other questions about this letter, please contact us by email at [contractmanager@nbnco.com.au](mailto:contractmanager@nbnco.com.au).

### A. Definitions

1. Any capitalised term used but not defined in this letter agreement has the meaning given to that term in the WBA.
2. For the purposes of this letter agreement:
  - a. **Downgrade Event Limit** means each of the following:

This document forms part of NBN Co's Wholesale Broadband Agreement, which is a Standard Form of Access Agreement for the purposes of Part XIC of the Competition and Consumer Act 2010 and constitutes nbn's Latest Standard Offer



- i. for the Observation Period commencing on the Program Commencement Date, the amount that is equal to 10% of the Observed Connection Events in that Observation Period; and
  - ii. for each subsequent Observation Period, the amount that is equal to 5% of the Observed Connection Events in that Observation Period.
- b. **Excess Downgrade Events** means, for a given Observation Period, the number of Observed Downgrade Events in that Observation Period in excess of the Downgrade Event Limit for that Observation Period.
- c. **Observation Period** means each of the following:
- i. the 12 month period commencing on the Program Commencement Date; and
  - ii. each subsequent 12 month period commencing on an anniversary of the Program Commencement Date.
- d. **Observed Connection Events** means, for a given Observation Period, the number of On-Demand Fibre Connection Eligible Orders completed by **nbn** during that Observation Period.
- e. **Observed Downgrade Event** means, for a given Observation Period, a Disconnect Order or Downgrade Order for either an Original Fibre Service or Subsequent Fibre Service for which each of the following conditions is met:
- i. the Disconnect Order or Downgrade Order is completed by **nbn** during that Observation Period;
  - ii. the Disconnect Order or Downgrade Order was acknowledged by **nbn** on a date that is less than 12 months after the Connect Order for the Original Fibre Service for that Premises was completed;
  - iii. at the time the Disconnect Order or Downgrade Order is completed:
    - A. **nbn** is not supplying an Other Fibre Service in respect of that Premises; and
    - B. **nbn** is not continuing to supply your organisation with an Original Fibre Service or any Subsequent Fibre Service in respect of that Premises,

where:

- iv. **Disconnect Order** has the meaning given to that term in the WBA;
- v. **Downgrade Order** means a Modify Order for an Ordered Product such that the modified Ordered Product no longer includes a Qualifying Product Component;
- vi. **Original Fibre Service** means an Ordered Product that was connected via an On-Demand Fibre Connection Eligible Order placed by your organisation;



- vii. **Other Fibre Service** means an **nbn™** Ethernet (Fibre) ordered product supplied to an Other RSP;
- viii. **Subsequent Fibre Service** means an **nbn™** Ethernet (Fibre) Ordered Product with a Qualifying Product Component that is not an Original Fibre Service, supplied to your organisation,  
  
provided that if both a Downgrade Order and Disconnect Order are completed by **nbn** for the same Ordered Product, or multiple Downgrade Orders are completed by **nbn** for the same Ordered Product, only the first will constitute an Observed Downgrade Event.

**Note:** A service transfer of an **nbn™** Ethernet (Ordered Product) to an Other Gaining RSP is not an Observed Downgrade Event.

- f. **On-Demand Fibre Connection Waiver** has the meaning given to that term in paragraph 4.
- g. **Program Commencement Date** means 22 March 2022.
- h. **Qualifying Product Component** means an **nbn™** Ethernet (Fibre) AVC TC-4 Product Component that has a bandwidth profile of:
  - i. Home Fast or higher, if the Original Access Technology at the relevant Premises was the FTTN Network; or
  - ii. Home Superfast or higher, if the Original Access Technology at the relevant Premises was the FTTC Network.
- i. **Term** has the meaning given to that term in paragraph 24.

## B. On-Demand Fibre Connection Eligible Order Lead Times

- 3. The Order Lead Time for any On-Demand Fibre Connection Eligible Order is the greater of the period notified by **nbn** and:
  - a. for a Premises originally served by **nbn™** Ethernet (FTTN), 10 Business Days; or
  - b. for a Premises originally served by **nbn™** Ethernet (FTTC), 15 Business Days.



**Important:** If your organisation places a Connect Order associated with an On-Demand Fibre Connection, it will be treated as an order for a Standard Connection for the purposes of the WBA.

## C. On-Demand Fibre Connection Waiver



This On-Demand Fibre Connection Waiver applies to **nbn™** Ethernet (FTTN) and **nbn™** Ethernet (FTTC).



- Subject to paragraphs 5 to 7, for each On-Demand Fibre Connection Eligible Order that is completed by **nbn** during the Term, **nbn** will apply a full Waiver of any Subsequent Installation and Initial Non Standard Installation Charges that would have, but for this letter, applied to that On-Demand Fibre Connection Eligible Order (each an **On-Demand Fibre Connection Waiver**).



**Important:** An On-Demand Fibre Connection Eligible Order is:

- for a Premises served by **nbn**<sup>™</sup> Ethernet (FTTN), a Connect Order for an AVC TC-4 with a bandwidth profile of Home Fast or higher for which **nbn** performs an On-Demand Fibre Connection; and
- for a Premises served by **nbn**<sup>™</sup> Ethernet (FTTC), a Connect Order for an AVC TC-4 with a bandwidth profile of Home Superfast or higher for which **nbn** performs an On-Demand Fibre Connection.

## D. Downgrade and Disconnection Limits

- If, across a given Observation Period, the number of your organisation's Observed Downgrade Events exceed the applicable Downgrade Event Limit, **nbn** may recover, and your organisation must repay, an amount calculated in accordance with the following formula:

<b>Recoverable amount</b>	=	<b>\$200 x Excess Downgrade Events</b>
---------------------------	---	--

***Example:** During an Observation Period that is not an Observation Period commencing on the Program Commencement Date, your organisation experiences **1,000** Observed Connection Events and **150** Observed Downgrade Events. Your organisation's Downgrade Event Limit for this Observation Period is **50**, being 5% of 1,000.*

*Accordingly, your organisation experienced **100** Excess Downgrade Events, and pursuant to paragraph 5 must pay to **nbn** an amount equal to  $100 \times \$200 = \$20,000$  (subject to paragraph 6).*

- Your organisation's aggregate liability to **nbn** under paragraph 5 will not exceed the aggregate amount of the Charges for an Initial Non Standard Installation or Subsequent Installation that would have applied in connection with any Excess Downgrade Events but for the On-Demand Fibre Connection Waivers provided to your organisation under this letter agreement.
- For clarity, the quotation process set out in section 4.6.4 of the WBA Operations Manual will not apply for any Charges for the Installation that is performed in connection with any On-Demand Fibre Connection Eligible Order.

## E. Aggregate comparison to **nbn**<sup>™</sup> Ethernet Price List charges

- Your organisation may raise a Billing Dispute if your organisation considers that any amounts it is required to repay to **nbn** pursuant to paragraph 5 exceed the aggregate liability limit specified in paragraph 6.
- If a Billing Dispute under paragraph 8 is resolved in your organisation's favour, **nbn** will adjust your organisation's invoice (or credit a future invoice) by an amount equal to the excess



repayments charged to your organisation above the aggregate liability limit specified in paragraph 6.

## F. Service Levels and Performance Objectives

10. The Service Levels for On-Demand Fibre Connection Eligible Orders from the time of Order Acknowledgement are:

Original Access Technology at Premises	Location of Premises and Service Level (Business Days)				
	Urban Area	Major Rural Area or Minor Rural Area	Remote Area	Isolated Area	Limited Access Area
FTTN Network	19	24	24	N/A	N/A
FTTC Network	25	29	29	N/A	N/A

11. **nbn** will aim to achieve the following Performance Objectives in connection with the Service Levels set out in this section F:

Relevant Service Level	Performance Objective
On-Demand Fibre Connections	80% or more

12. The Performance Objective in paragraph 11 will become “90% or more” with effect from 12 months after the Program Commencement Date.
13. Despite anything in the WBA, if **nbn** does not achieve the Performance Objective in paragraph 11 during the first 12-month period after the Program Commencement Date, **nbn** is not required to undertake the actions in section 19.1 of the **nbn**™ Ethernet Service Levels Schedule in connection with that non-achievement.

## G. Safe and timely access for On-Demand Fibre Connection Eligible Orders

14. Your organisation acknowledges and agrees that:
- nbn** may, before any scheduled Appointment, perform inspections and works at a Premises in connection with an On-Demand Fibre Connection Eligible Order; and
  - clause C11 of the WBA Head Terms applies in respect of such inspections and works.
15. **nbn** may contact the relevant Contracted End User for the purposes of **nbn** or its Personnel performing, before any scheduled Appointment, any inspections and works in relation to the supply of an Ordered Product to a Premises that is the subject of an On-Demand Fibre Connection Eligible Order.



## H. Fair use consistent with the Objective of this letter

16. Your organisation acknowledges that the objective of the On-Demand Fibre Connection Waiver is to encourage eligible Contracted End Users to order and acquire retail services to which **nbn**<sup>™</sup> Ethernet (Fibre) is an input for the purpose of facilitating higher speeds over the long term (the **Objective**).
17. Your organisation must act in a manner that is consistent with the Objective and in good faith in connection with **nbn**'s provision of the On-Demand Fibre Connection Waiver.
18. **nbn** may elect to reduce the amount of any On-Demand Fibre Connection Waiver (whether previously provided or to be provided to your organisation) or not provide any On-Demand Fibre Connection Waiver to your organisation if **nbn** considers, acting reasonably, that your organisation's ordering practices (including service transfers to or from Related Bodies Corporate) or other activities reflect a purpose or achieve an outcome that is inconsistent with the Objective (or otherwise reflects a different objective).
19. **nbn** will use reasonable endeavours to discuss the circumstances with your organisation and any proposed election by **nbn** under paragraph 18 before making such an election. **nbn** will provide at least 10 Business Days' notice of any such election.

## I. How nbn will provide On-Demand Fibre Connection Waivers

20. **nbn** will provide On-Demand Fibre Connection Waivers by applying a waiver to, or omitting a charge from, an invoice issued to your organisation without your organisation needing to make a claim.
21. **nbn** may invoice your organisation for any amounts recoverable pursuant to paragraph 5 in any invoice issued after the relevant Observation Period.
22. If **nbn** elects under paragraph 18 to reduce the amount of any On-Demand Fibre Connection Waiver or to not provide any On-Demand Fibre Connection Waiver to your organisation, **nbn** may adjust an invoice issued to your organisation accordingly or require repayment of any amount to the extent necessary to give effect to that election.
23. For clarity:
  - a. the invoices referred to in paragraphs 20 and 21 may be an invoice for a Billing Period other than the Billing Period to which the relevant On-Demand Fibre Connection Waiver relates; and
  - b. clauses B2.3(d) and B2.5(a) of the WBA Head Terms do not apply to any recoverable amounts referred to in paragraphs 20 to 22.



## J. Term, changes and eligibility

24. This letter agreement commences on the date that a signed version is returned by your organisation to **nbn** and terminates on the earlier of:
  - a. termination by **nbn** on 3 months' notice to your organisation; or
  - b. the date of expiry of the WBA,  
(the **Term**).
25. **nbn** may amend this letter agreement:
  - a. where that change is consequential upon, or so as to give effect to, any change made to the WBA by including the consequential change in the same notice as is required for the original change or a separate notice given at or around the same time;
  - b. to make an RSP Favourable Change, by giving 1 months' notice to your organisation; or
  - c. to make any other change to this letter agreement, by giving 3 months' notice to your organisation.
26. If **nbn** amends this letter agreement under paragraph 25, your organisation may elect to terminate this letter agreement by giving 10 Business Days' notice to **nbn**.
27. To be eligible to receive any On-Demand Fibre Connection Waiver, your organisation must sign and return a copy of this letter agreement to **nbn** before the end of the Term.

## K. General

28. RSP agrees to **nbn** using and disclosing details Ordered Products supplied to RSP to administer **nbn's** "On-Demand Fibre Connection" program.
29. Unless otherwise specified, capitalised terms used in this letter agreement have the meanings given to those terms in the WBA.
30. Except as expressly specified, this letter agreement does not vary the WBA.
31. Nothing in this letter affects the accrued rights and liabilities of either party under the WBA.
32. Clauses H4.10 (Governing law and jurisdiction), H4.13 (Severability) and H4.15 (Waiver) of the WBA Head Terms are incorporated into this letter agreement as though set out in full with references to "Agreement" being read as references to this letter agreement.

Yours sincerely

Jane Witter  
General Manager, Wholesale Supply