

Test Agreement

Test Description: 100G NNI Bearer – Business
Readiness Testing



Test Agreement

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Version	Description	Effective Date
1.0	Issued on 12 August 2019	Execution Date

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Environment

nbn asks that you consider the environment before printing this document.

Contents

Parties	4
Background	4
1. Interpretation and definitions	4
1.1 Interpretation	4
1.2 Definitions	4
2. Pre-conditions for participation	5
3. Supply of Test NNI	5
4. Test Participant's Obligations	6
4.1 No supply of Test NNI to End Users	6
4.2 General Obligations	6
4.3 Test Contact	6
4.4 Reports	6
4.5 Test Results	6
5. Charges	7
6. Term, termination and withdrawal	7
6.1 Term and termination	7
6.2 Cancellation by nbn	7
6.3 Cancellations by Test Participant	8
7. Test Participant Acknowledgements	8
Execution	9

Test Agreement

Test Description: 100G NNI Bearer – Business Readiness Testing

Parties

- nbn co limited (ABN 86 136 533 741) of Level 11, 100 Arthur Street, North Sydney NSW 2060 (**nbn**);
- <Company Name> (ABN XX XXX XXX XX) of <Registered Address> (**Test Participant**).

Background

- A. This document constitutes a Test Description for the purposes of the Standard Test Terms.
- B. The purpose of the Test is to enable **nbn** and Test Participant to test the functionality and processes associated with the Test NNI.

1. Interpretation and definitions

1.1 Interpretation

For the purposes of this Test Description:

- (a) any capitalised term used but not defined in this Test Description has the meaning given to that term in the Standard Test Terms unless expressly specified otherwise; and
- (b) any capitalised term used but not defined in this Test Description or the Standard Test Terms has the meaning given to that term in the standard form of access agreement version of the WBA published on the **nbn** website (**WBA SFAA**).

1.2 Definitions

In this Test Description:

Agreement means this Test Description and the Standard Test Terms.

Associated Test Components means any Product Component, Product Feature or Facilities Access Service ordered pursuant to the Test Plan and in accordance with this Agreement.

EOI Request means the document titled '100G NNI Bearer - BRT' dated June 2019.

Standard Test Terms means the agreement entitled "Test Agreement – Standard Test Terms" entered between **nbn** and Test Participant.

Supporting Document means any document notified to Test Participant by **nbn** that details instructions, policies and procedures regarding the Test Activities.

Test Activities means any activities set out in the Test Plan.

Test Contact means each person appointed by each of **nbn** and Test Participant as:

- (a) their single central contact point regarding the Test; and
- (b) any additional people appointed as contact points in relation to specific matters regarding the Test (such as operational or technical issues).

Test Participant has the meaning given to that term in the "Parties" provision of this Agreement.

Test NNI means a 100 Gbps NNI Bearer supplied by **nbn** for the purpose of testing under this Agreement.

Test Term means the term of the Test as determined in accordance with clause 6.1.

WBA means an agreement between **nbn** and Test Participant entitled "Wholesale Broadband Agreement".

WBA SFAA has the meaning given to that term in clause 1.1.

2. Pre-conditions for participation

- (a) To participate in this Test, Test Participant must by the date notified by **nbn**:
 - (i) have responded to the EOI Request and been selected by **nbn** to participate in this Test;
 - (ii) have entered into the Standard Test Terms and this Test Description;
 - (iii) be a party to a WBA;
 - (iv) have established an ODF Termination Point and, if required, a Co-location Connection Point at **nbn**'s nominated Point of Interconnection;
 - (v) have completed the relevant on-boarding and certification activities required by **nbn** for this Test; and
 - (vi) at all relevant times be fully compliant with the terms of the Test Participant's WBA.
- (b) If Test Participant ceases to comply with the any of the conditions in clause 2(a) at any time during the Test Period, **nbn** may immediately do any one or more of the following things:
 - (i) exclude Test Participant from the Test; and
 - (ii) terminate this Agreement.
- (c) **nbn** may, without limiting clause 6, amend or replace this Test Description or any Supporting Document by giving 10 Business Days' notice to Test Participant.

3. Supply of Test NNI

- (a) **nbn** will supply the Test NNI and Associated Test Components during the Test Term in accordance with this Agreement and the Test Plan as updated from time to time.
- (b) The Test NNI is provided on a trial only basis for the purposes set out in this Agreement, and Test Participant must not use the Test NNI for any other purpose.
- (c) **nbn** does not warrant that the Test NNI will be fault free in operation.
- (d) Test Participant acknowledges and agrees that no service levels, performance targets, rebates or compensation is available or applicable to any activity in connection with the Test NNI or Associated Test Components ordered in connection with this Test.
- (e) **nbn** may interrupt, suspend or cancel the supply or performance of the Test NNI and any Associated Test Components, for any reason, by giving Test Participant as much notice as reasonably practicable in the circumstances.

4. Test Participant's Obligations

4.1 No supply of Test NNI to End Users

- (a) Test Participant must not use the Test NNI and any Associated Test Components in connection with supply to Downstream Service Providers or End Users during the Test Term.

4.2 General Obligations

Test Participant must:

- (a) perform any integration and acceptance testing activities as required by **nbn** from time to time; and
- (b) support and assist **nbn** with the conduct of this Test including by:
 - (i) undertaking Test related activities (including manual processes) in timeframes determined by **nbn** (acting reasonably) and notified to Test Participant;
 - (ii) providing dedicated resources to work with **nbn** to resolve issues that may arise during this Test;
 - (iii) working collaboratively with **nbn** to refine this Test;
 - (iv) notifying **nbn** of any matter which Test Participant considers to be a material error, defect or deficiency in the processes or procedures the subject of this Test, as soon as reasonably practicable after becoming aware of that material error, defect or deficiency;
 - (v) without limiting clause 4.2(b)(iv), providing feedback for the purposes of improving the processes or procedures the subject of this Test;
 - (vi) participate in weekly meetings with **nbn** to review test findings; and
 - (vii) performing any other activities as required by the Test Plan.

4.3 Test Contact

- (a) Whenever requested by **nbn**, Test Participant must make its Test Contacts available to meet with **nbn's** Test Contacts (either in person or by videoconference) to discuss any matters relating to this Test.
- (b) **nbn** and Test Participant will provide telephone and email contact details of their Test Contacts to each other prior to the start of this Test and maintain and provide updates to these contact details for the duration of the Test Term.

4.4 Reports

- (a) Test Participant must provide **nbn** with feedback and reporting in the form, and at the times, defined in the Test Plan.
- (b) Test Participant must, where reasonably requested by **nbn** by giving 5 Business Days' notice meet with **nbn** to review and evaluate performance and results of the testing under this Agreement.

4.5 Test Results

- (a) Test Participant must provide information and feedback to **nbn** regarding the Test by:
 - (i) providing information directly to **nbn** as requested by **nbn**;

- (ii) immediately notifying **nbn** if Test Participant becomes aware of any actual or likely unexpected or unintended impact of this Test, including in respect of any person not actively participating in this Test.

5. Charges

- (a) Subject to clauses 5(c) and 6.1(c), no charges will apply to this Test, the supply of the Test NNI or the supply of Associated Test Components.
- (b) Each party to this Agreement will bear its own costs of participating in this Test.
- (c) If Test Participant acquires one or more Service Elements of the Facilities Access Service in connection with, but not for use exclusively with the Test NNI (e.g. **nbn**TM Building Entry Service), then Test Participant must pay to **nbn** any applicable charges for those Service Elements in accordance with the WBA, including the Facilities Access Service Price List.

6. Term, termination and withdrawal

6.1 Term and termination

- (a) Supply of the Test NNI under this Test Description will start on the date specified in the Test Plan unless amended by **nbn** by giving Test Participant 5 Business Days written notice and will end in accordance with clause 4 of the Standard Test Terms.
- (b) This Test Description will expire on 27 September 2019 unless:
 - (i) terminated earlier in accordance with this Agreement; or
 - (ii) extended by **nbn** by giving notice in writing to Test Participant prior to expiry, in which case this Test Description will expire on that extended date.
- (c) Test Participant acknowledges and agrees that, upon the expiry or termination of this Test Description, **nbn** may, at its discretion:
 - (i) cease supplying and disconnect the Test NNI and Associated Test Components ordered in connection with the Test NNI under this Agreement and either:
 - (A) require Test Participant to disconnect and remove equipment used in this Test as soon as is reasonably practicable after the expiry or termination of this Test Description; or
 - (B) allow the Test Participant to leave equipment used in this Test in situ until such later date as **nbn** may notify to the Test Participant at its discretion; or
 - (ii) continue supplying the Test NNI and any Associated Test Components under corresponding terms under the WBA and commence billing applicable Charges in accordance with the WBA Price Lists as amended from time to time.

6.2 Cancellation by **nbn**

Without limiting **nbn**'s rights under the Standard Test Terms, if Test Participant breaches any provision of this Agreement during the Test Term (including failing to comply with any condition in clause 2), **nbn** may immediately:

- (a) cancel Test Participant's participation in any Test or any part of any Test under this Test Description;
- (b) cease supplying to Test Participant under this Test Description;
- (c) terminate this Test Description; and

- (d) terminate this Agreement.

6.3 Cancellations by Test Participant

- (a) Subject to clause 6.3(b), Test Participant may cancel the testing under this Agreement by giving **nbn** at least 10 Business Days' written notice.
- (b) If Test Participant cancels testing under clause 6.3(a), Test Participant will:
 - (i) inform **nbn** of the reason for the cancellation; and
 - (ii) use reasonable endeavours to assist **nbn** to mitigate any impact of the cancellation of the testing.

7. Test Participant Acknowledgements

Test Participant warrants and agrees that:

- (a) Test Participant has made and has relied on its own investigations, enquiries, knowledge and expertise in respect of all Tests, the Test NNI and this Agreement and its own evaluation of any material provided by **nbn** to Test Participant or its Personnel including before the date of this Agreement;
- (b) as part of its investigations and enquiries in respect of all Tests, the Test NNI and this Agreement, Test Participant or its representatives have had access to all documents and information they have requested from **nbn** or its Personnel;
- (c) Test Participant has had the benefit of independent legal, financial and technical advice relating to its proposed participation in this Test and its entry into this Agreement;
- (d) **nbn** has not made, and no Personnel of **nbn** have made, any warranty as to the performance of any Test NNI provided to Test Participant or its Personnel before the date of this Agreement; and
- (e) Test Participant is not entering into this Agreement in reliance on, and it may not rely on, any statement of opinion, statement of intention or any other warranty, representation or other statement made or purporting to be made by or on behalf of **nbn** or its or their Personnel, other than as expressly set out in this 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

Signed for **<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