

Test Agreement

Test Description: **nbn**[™] Co-ordinated Appointments
Customer Trial



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

Test Agreement

Test Description: **nbn**[™] Co-ordinated Appointments Customer Trial

Parties

- nbn co limited (ABN 86 136 533 741) of Level 11, 100 Arthur Street, North Sydney NSW 2060 (**nbn**)
- [Insert full legal name of Test Participant] (ABN [insert ABN]) of [insert registered address of Test Participant] (**Test Participant**)

Background

- A. This Test Description, together with the Standard Test Terms, forms the Test Agreement for the Trial.
- B. The purpose of the Trial is for **nbn** to test and validate **nbn**'s proposed Co-ordinated Appointment processes and capabilities for **nbn**[™] Ethernet services, focusing specifically on Business End Users and appointments which **nbn** makes available to book in specified 'standard hours' timeslots only. The proposed processes aim to enhance end-user experience, and provide more choice and flexibility when it comes to preparing for an installation at their premises.
- C. The Trial will allow Test Participant to provide feedback to **nbn** about the experiences and interactions in relation to Co-ordinated Appointments processes.

1. Conditions

1.1 Participation in the Trial

To participate in the Trial, the Test Participant must:

- (a) be a party to a WBA;
- (b) have entered into the Standard Test Terms;
- (c) be fully compliant with the terms of the WBA (including the Credit Policy);
- (d) have entered into this Test Description; and
- (e) demonstrate to **nbn**'s satisfaction that:
 - (i) Test Participant has an existing product in market targeted at Business End Users utilising **nbn**[™] Ethernet;
 - (ii) Test Participant has mature connection processes for Business End Users and a dedicated business department; and
 - (iii) Test Participant can accurately identify whether an End User is a Business End User and communicate that identification clearly to **nbn**.

1.2 Eligible End Users

Before any Test Activities are conducted in respect of an End User, Test Participant must:

- (a) demonstrate to **nbn**'s satisfaction that the End User is a Business End User; and

- (b) have in place (and maintain at all times during the Test Period) with that End User a contract which:
 - (i) permits **nbn** and Test Participant to conduct the Test Activities; and
 - (ii) includes any necessary consents from the End User to permit the End User's confidential information to be disclosed to and used by **nbn** and its Personnel for the purposes of the Trial,

in which case such an End User will be an **Eligible End User** for the purposes of the Trial.

2. The Trial

2.1 Test Activities

- (a) During the Test Period, **nbn** and Test Participant must participate in the Trial and relevant Test Activities in accordance with the processes and procedures set out in this Test Agreement and any Supporting Documents.
- (b) Subject to other rights and obligations of each party under this Test Agreement, the parties must cooperate with each other and work collaboratively in connection with the Test Activities to enable **nbn** to carry out the Trial and use the learnings to develop and enhance its systems, products, services and processes.
- (c) Test Participant must ensure that Test Activities are only be undertaken in respect of Eligible End Users.
- (d) **nbn** may, and may require Test Participant to, at any time during the Test Period:
 - (i) amend, pause or cease Test Activities which have begun with respect to one or more Eligible End Users; or
 - (ii) elect not to conduct one or more Test Activities in respect of an Eligible End User,and if **nbn** makes such a determination, it will use reasonable endeavours to notify the Test Participant of the reason for this determination.
- (e) In exercising its rights under clause 2.1(d), **nbn** will have regard to:
 - (i) the Test Participant's ability to comply with its obligations in clauses 1 and 3;
 - (ii) the number of Co-ordinated Appointments made by the Test Participant and performed by **nbn**; and
 - (iii) any other matter that **nbn** considers relevant.

2.2 Co-ordinated Appointments

- (a) **nbn** will provide Test Participant with a Supporting Document that sets out the process for how the Test Participant can make a Co-ordinated Appointment. The Supporting Document may include:
 - (i) the process that must be followed by **nbn** and the Test Participant for scheduling, reserving and confirming a Co-ordinated Appointment;
 - (ii) any communication responsibilities in respect of a Co-ordinated Appointment;
 - (iii) the geographic areas in respect of which a Co-ordinated Appointment may be made;
 - (iv) any limits on the number of Co-ordinated Appointments that Test Participant may schedule;
 - (v) any information that Test Participant must provide to **nbn** in respect of a Co-ordinated Appointment;

- (vi) any minimum order lead time that Test Participant must leave between the time the Test Participant makes the Co-ordinated Appointment and the start time of the Co-ordinated Appointment;
- (vii) how and when **nbn** will make Co-ordinated Appointments available to schedule;
- (viii) the last date on which Test Participant may make a Co-ordinated Appointment; and
- (ix) any other matter that **nbn** considers relevant.

2.3 Scope and interaction with WBA

- (a) Test Participant must only use Co-ordinated Appointment functionality under this Test Agreement as a substitute or alternative for the functionality provided by an Installation Appointment (excluding any actual installation activities and related matters) under the WBA.
- (b) Any Standard Connection performed, or to be performed, by **nbn** in respect of a Co-ordinated Appointment must be performed under the terms of the WBA with the following amendments:
 - (i) section 21(e) of the **nbn**TM Ethernet Service Levels Schedule will apply to any Standard Connection associated with a Co-ordinated Appointment, provided that a reference to "Customer" or "Appointment" in that section shall be read as a reference to "Test Participant" or "Co-ordinated Appointment" respectively;
 - (ii) any Standard Connection associated with a Co-ordinated Appointment will not be included in the calculation of any Performance Objective or in any Performance Report; and
 - (iii) section 16 of the **nbn**TM Ethernet Service Levels Schedule will not apply in respect of any Co-ordinated Appointments, associated Standard Connections or Test Activities.
- (c) This Test Agreement does not modify WBA provisions regarding ordering or provisioning of an Ordered Product or any installation, connection, activation and other fieldwork undertaken, or to be undertaken, by **nbn** except as expressly specified in this Test Agreement.
- (d) The scope of this Test Agreement and the Trial is limited to Co-ordinated Appointments with 'standard hours' start times in hourly increments between 8:00am – 8:00pm (inclusive) local time at the Premises to which the appointment relates.

2.4 Co-ordinated Appointment Service Level

- (a) The service level to attend a Premises for a Co-ordinated Appointment made by Customer and confirmed by **nbn** is:

Co-ordinated Appointment window	Co-ordinated Appointment Service Level
Attend a Premises at a particular time	Attend premises at that time or within 30 minutes thereafter

- (b) No rebate or compensation of any kind, and no remedy, however described, is available or applicable to any aspect of the performance of Co-ordinated Appointments or the Trial.
- (c) For clarity, rebates, compensation and remedies as set out in the WBA will continue to be available in respect of Standard Connections associated with Co-ordinated Appointments, subject to the amendments in clause 2.3(b).

2.5 Charges

- (a) The first five Co-ordinated Appointments requested by Test Participant will be Free Appointments.

- (b) **nbn** may, in its discretion, notify Test Participant that any subsequent Co-ordinated Appointment requested by Test Participant will be a Free Appointment.
- (c) Except in relation to a Free Appointment under clause 2.5(a) or 2.5(b), Test Participant must pay to **nbn** a charge of \$200 for each Co-ordinated Appointment in respect of which:
 - (i) **nbn** meets the Co-ordinated Appointment Service Level;
 - (ii) Test Participant reschedules or cancels the Co-ordinated Appointment less than 24 hours before the Co-ordinated Appointment start time; or
 - (iii) the relevant Eligible End User (or their authorised representative aged 18 or over) is not in attendance at the Premises when **nbn** arrives for the Co-ordinated Appointment.
- (d) Without limiting clause 2.5(a) or 2.5(b), no charge will be payable for a Co-ordinated Appointment in respect of which:
 - (i) **nbn** fails to meet the Co-ordinated Appointment Service Level; or
 - (ii) **nbn** reschedules or cancels the Co-ordinated Appointment less than 24 hours before the Co-ordinated Appointment start time.
- (e) Clause 5(b) of the Standard Test Terms is of no effect for the purposes of the Trial.
- (f) For clarity, the following Charges under the **nbn**[™] Ethernet Price List will not apply in respect of any Co-ordinated Appointment:
 - (i) Late Cancellation (Site Visit Required);
 - (ii) Missed Appointment;
 - (iii) Late Cancellation (After Hours Installation Appointment); and
 - (iv) Missed Appointment (After Hours Installation Appointment).

2.6 Billing

Module B (Financial Management) of the WBA Head Terms and Module 7 (Billing and Payments) of the WBA Operations Manual will apply to the charges payable under this Test Agreement with such amendments as necessary to give full effect to the intention of the parties set out in clause 2.5.

2.7 Liability exclusion

To the full extent permitted by law and without limiting clause 10.2(a) of the Standard Test Terms, **nbn** excludes all liability to Test Participant in respect of any Loss arising by reason of any acts or omissions of **nbn** as part of the Test Activities or the Trial.

3. Test Participant's Responsibilities

Test Participant must:

- (a) support and assist **nbn** with the conduct of Test Activities, including by:
 - (i) scheduling Co-ordinated Appointments;
 - (ii) undertaking relevant activities (including manual processes) in timeframes specified by **nbn** (acting reasonably);

- (iii) providing dedicated resources to work with **nbn** operation managers, case managers or jeopardy managers to resolve issues that may arise during the Trial;
 - (iv) working collaboratively with **nbn** to refine the Test Activities; and
 - (v) providing feedback, including the feedback of Eligible End Users, for process improvement purposes;
- (b) manage the Eligible End User relationship during the Test Period, including by, if reasonably requested by **nbn**:
- (i) delivering communications related to Test Activities to Eligible End Users;
 - (ii) making any necessary arrangements for attendance at the Eligible Premises to carry out the Test Activities;
 - (iii) managing interactions with the Eligible End User in respect of the Test Activities; and
 - (iv) doing all things reasonably required to facilitate the conduct of the Test Activities; and
- (c) notify **nbn** of any matter which Test Participant considers to be a material error, defect or deficiency in **nbn**'s processes or procedures regarding the Test Activities, as soon as reasonably practicable following becoming aware of that material error, defect or deficiency.

4. Term, termination and withdrawal

- (a) This Test Description will commence once executed by both parties and terminate on the Expiry Date unless terminated earlier in accordance with clauses 4(b) or 4(c) (**Test Period**).
- (b) **nbn** may issue a Cancellation Notice at any time in accordance with the Standard Test Terms to terminate one or both of:
- (i) this Test Description; and
 - (ii) part or all of the Test Activities.
- (c) Test Participant may terminate this Test Description or withdraw from the Trial by giving 10 Business Days' written notice to **nbn**.
- (d) If this Agreement is terminated **nbn** and Test Participant must:
- (i) complete any Test Activities in relation to an Eligible End User commenced prior to termination, including where Test Participant has scheduled a Co-ordinated Appointment but **nbn** has not yet confirmed or performed that Co-ordinated Appointment; and
 - (ii) not conduct any Test Activities for which **nbn** receives a request after termination.
- (e) Without limiting clause 15(f) of the Standard Test Terms, clauses 2.5 and 2.6 will survive the termination or expiry of this Agreement.

5. Changes to Test Description

nbn may, without limiting clause 4, amend or replace this Test Description by giving 10 Business Days' notice to Test Participant.

6. Contact points

- (a) **nbn** and Test Participant must each appoint a person as a contact point in relation to process issues (if any) arising from the Test Activities (each, a **Test Contact**).

- (b) **nbn** and Test Participant must each designate a suitable leader (or leaders) to represent their small and medium business unit and their large and enterprise business unit (as applicable), to allocate resources to the Test Activities, to provide strategic input and to act as an escalation point (**Test Leader**).
- (c) **nbn** and Test Participant must each provide telephone and email contact details of their Test Contacts and Test Leaders to the other party before Test Activities commence.

7. Interpretation and definitions

In 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; 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 WBA, and:

Business End User means an End User that **nbn** determines is:

- (a) a small to medium business; or
- (b) an enterprise business or governmental agency.

Co-ordinated Appointment means a form of premium appointment offering:

- (a) where the start time of the appointment can be selected by Test Participant in accordance with the terms of this Test Agreement; and
- (b) that is made, or is to be made, for the purpose of **nbn** undertaking a Standard Connection for **nbn**TM Ethernet (Fibre, FTTN, FTTB, FTTC or HFC) under the WBA in respect of an Eligible End User.

Co-ordinated Appointment Service Level means the service level set out in clause 2.4(a).

Eligible End User has the meaning set out in clause 1.2.

Expiry Date means 20 March 2019 or such other date as notified by **nbn** to Test Participant.

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

Supporting Document means any document notified to Test Participant by **nbn** that details instructions, policies and procedures regarding the Trial, as updated or replaced by **nbn** from time to time.

Test Activities means the following activities in respect of Eligible End Users conducted by **nbn** and Test Participant in accordance with the Supporting Documents:

- (a) order forecast and planning activities;
- (b) capture and verification of additional End User information;
- (c) ordering co-ordinated appointments that include an appointment start time;
- (d) "before-the-day" and "on-the-day" peering with the goal of facilitating timely delivery of co-ordinated appointments and work completed as required;
- (e) proactive identification of heritage and cultural protections;

- (f) testing of additional or varied End User communications regarding the order, information capture, pre-scoping activities or co-ordinated appointment timing and expectations;
- (g) enhanced order management to monitor orders end-to-end and own the resolution of any issues; and
- (h) proactive issue mitigation for high risk probability potential issues, as identified by **nbn**.

Test Agreement means this Test Description together with the Standard Test Terms.

Test Contact has the meaning given in clause 6(a).

Test Leader has the meaning given in clause 6(b).

Test Period has the meaning given in clause 4(a).

Trial means the performance of Test Activities in accordance with this Test Agreement and has the meaning of the term "Test" for the purposes of the Standard Test Terms.

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 legal 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