

Test Agreement

Test Description: Performance Assurance Trial
(FttN/B)



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Version	Description	Effective Date
1.0	Issued on 21 July 2020	Execution Date

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Environment

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

Test Agreement

Test Description: Performance Assurance Trial (FttN/B)

Parties

- nbn Co Limited (ABN 86 136 533 741) of Level 13, 100 Mount 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 to test the proposed new Performance Assurance process, including:
 - testing the Service Health Summary Tool for identifying and troubleshooting affected Ordered Products in order to determine whether they are eligible for Performance Investigation;
 - determining the appropriate performance thresholds (e.g. stability/dropouts) for what should constitute a Performance Incident that would entitle Test Participant to raise a Performance Assurance Trouble Ticket; and
 - testing an extended triage and monitoring period as part of Performance Assurance.
- C. The Trial will allow Test Participant to work collaboratively with **nbn** to further develop this new process.

1. Interpretation

In this Test Description:

- (a) the singular includes the plural and vice versa;
- (b) any capitalised term used but not defined has the meaning given to that term in the Standard Test Terms; and
- (c) 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.

2. Pre-conditions for participation in the Trial

- (a) To participate in the Trial, the Test Participant must:
 - (i) be a party to a WBA;
 - (ii) have entered into the Standard Test Terms and this Test Description;
 - (iii) have entered into the Service Health Summary Trial Test Agreement and remain a party to that agreement throughout the Test Term;
 - (iv) have completed the relevant on-boarding and certification activities as required by **nbn** for this Trial, including On-boarding processes and activities for **nbn**TM Ethernet (FTTB) and **nbn**TM Ethernet (FTTN); and

- (v) have responded to an EOI and been selected by **nbn** to participate in the Trial through that EOI.
- (b) If Test Participant ceases to comply with any of the conditions in clause 2(a) at any time, **nbn** may immediately do any one or more of the following things:
 - (i) exclude Test Participant from part or all of the Trial;
 - (ii) cease supplying the Test Activities to the Test Participant; or
 - (iii) terminate the Test Agreement.

3. Documentation

- (a) Prior to the commencement of the Trial, **nbn** will provide the Test Participant with any relevant Supporting Documents (including any applicable Test Plans).
- (b) **nbn** may amend or replace any Supporting Documents by giving 5 Business Days' notice to Test Participant.

4. The Trial

4.1 Test Activities

- (a) During the Test Period, **nbn** and Test Participant will participate in the Trial and must carry out the Test Activities, in accordance with the Test Agreement and **nbn**'s reasonable instructions, policies and procedures regarding the Test Activities that are notified by **nbn** to Test Participant from time to time.
- (b) **Test Activities** means all activities to be performed under the Test Agreement, including, subject to clauses 4.1(c) and 4.1(d), the following:
 - (i) Test Participant raising Performance Assurance Trouble Tickets in respect of eligible Performance Issues after:
 - (A) Test Participant has used the Service Health Summary Tool to investigate that Performance Issue; and
 - (B) the Service Health Summary Tool has indicated that the Performance Issue is a Performance Incident; and**nbn** performing Performance Assurance in respect of Performance Incidents that **nbn** determines, in its absolute discretion, to be eligible for Performance Assurance under this Trial.
- (c) **nbn** will not process more than 30 Performance Assurance Trouble Tickets per week unless otherwise notified by **nbn** by giving notice to Test Participant.
- (d) For clarity:
 - (i) nothing in this Test Agreement prevents Test Participant from raising a Trouble Ticket in accordance with the WBA in respect of a Performance Issue that Test Participant considers to be a Service Fault; and
 - (ii) **nbn** is not required to perform Performance Assurance in respect of an Ordered Product if a Trouble Ticket has already been raised in respect of that Ordered Product and that Trouble Ticket has not yet been Closed.

Subject to the rights and obligations of each party under this Test Agreement, the parties will cooperate with each other and work collaboratively in connection with the performance of the Test Activities so as to enable the Test Activities to be carried out and for **nbn** to use the learnings from this Trial to develop and enhance its systems, products, services and processes.

4.2 Supply of the Service Health Summary Trial Tool

- (a) **nbn** and Test Participant must each comply with the terms of both this Test Agreement and the Service Health Summary Trial Test Agreement in connection with the supply and use of the Service Health Summary Tool.
- (b) If there is any inconsistency between this Test Agreement and the Service Health Summary Trial Test Agreement, this Test Agreement prevails to the extent of that inconsistency.
- (c) If Test Participant proposes to access and use the Service Health Summary Tool via B2B Access using RESTful APIs, Test Participant must take all necessary steps to ensure that it can interface with that form of B2B Access prior to the commencement of the Trial.

4.3 Performance and restrictions on use

The Test Participant acknowledges and agrees that:

- (a) unless otherwise set out in this Test Agreement, no service levels, rebate or compensation of any kind, however described, is available or applicable in connection with this Trial or any of the Test Activities;
- (b) no charges will apply in respect of the Test Activities, though nothing in this Test Agreement limits any liability of Test Participant to **nbn** in respect of any Charges or other amounts payable under the WBA in connection with the supply of Ordered Products; and
- (c) results and output from the Test Activities are not intended to be production quality, and **nbn** gives no warranty in relation to the accuracy or quality of such results or outputs, which must not be relied upon by Test Participant.

5. Test Participant's obligations

5.1 General obligations

- (a) Test Participant must comply with any directions or guidance issued by **nbn** in connection with the Trial.
- (b) Test Participant must ensure Test Contacts comply with any directions or guidance issued by **nbn** in connection with the Trial.

5.2 Review, reporting, co-location and co-design

- (a) Test Participant must, at **nbn**'s request:
 - (i) meet with **nbn** to provide feedback on any process, tooling, associated activity, or integration experience regarding the Trial; and
 - (ii) meet with **nbn** to review and evaluate the performance of the Trial.
- (b) Test Participant must notify **nbn** of any matter which Test Participant considers to be a material error, defect or deficiency in the processes or procedures regarding the Trial, or any matter that may materially impact the Trial, as soon as reasonably practicable after becoming aware of such a matter.
- (c) Test Participant must use its best endeavours to review and rectify any matters identified in clause 5.2(b) within Test Participant's systems and processes within timeframes reasonably required by **nbn**.
- (d) Test participant must provide feedback in relation to the Trial as requested by **nbn** including in relation to the effectiveness of the Test Activities, issues faced or potential improvements.
- (e) Following a request by **nbn**, Test Participant must allow selected **nbn** Personnel reasonable access during Business Hours to Test Participant's operations centres in Australia, for the purpose of observing Test Activities, having face-to-face engagement with Test Contacts, and identifying potential improvements to Performance Assurance process and other Test Activities.

- (f) If requested by **nbn**, Test Participant must participate in co-design sessions and post-trial feedback sessions in connection with the Trial and Test Activities.
- (g) If requested by **nbn**, Test Participant must use all reasonable endeavours to assist **nbn** to directly obtain feedback from Eligible End Users in relation to this Trial.

5.3 Test Participant Acknowledgements

Test Participant acknowledges and agrees that:

- (a) all aspects of the Test Activities for the purposes of this Test Description (including, but not limited to metrics, parameters and thresholds) may be changed or updated by **nbn** at any time;
- (b) **nbn** makes no representation and gives no warranty that **nbn** will proceed to implement any feature of the Test Activities on a full-scale basis or a production basis;
- (c) with respect to the information provided to Test Participant in connection with the Trial:
 - (i) that information is Confidential Information;
 - (ii) **nbn** does not represent or warrant that the information is complete or error-free;
 - (iii) without limiting clause 5.3(c)(ii), where that information relates to the Line Rate, Information Rate, stability or availability of an Ordered Product, the Test Participant must not rely on that information as an accurate measure of the Line Rate, Information Rate, stability or availability of an Ordered Product that might actually be experienced at the UNI used to serve a Premises; and
 - (iv) the information may change throughout the course of the Trial and may not align with other sources of information;
- (d) Test Participant has made and has relied on its own investigations, enquiries, knowledge and expertise in respect of the Trial and this Test Agreement and its own evaluation of any material provided by **nbn** to Test Participant or its Personnel including relevant information and documents before entering into this Test Description;
- (e) **nbn** has not made, and no **nbn** Personnel have made, any warranty as to the performance of the Performance Assurance process provided to Test Participant or its Personnel or other Test Activities; and
- (f) Test Participant is not entering into this Test Description 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 purported to have been made by or on behalf of **nbn** or **nbn** Personnel, other than as expressly set out in this Test Description.

6. Term, termination and withdrawal

- (a) This Test Agreement will commence on the date this Test Description is executed by both parties and will expire on the Expiry Date unless:
 - (i) terminated earlier in accordance with this Test 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,

(Test Period).
- (b) The Trial will commence on 27 July 2020 (or such other date as notified by **nbn** to Test Participant) and end on the Expiry Date, unless cancelled earlier or extended by **nbn**.
- (c) **nbn** may issue a Cancellation Notice at any time in accordance with the Standard Test Terms to terminate either or both of:

- (i) this Test Description; and
 - (ii) part or all of the Trial.
- (d) Test Participant may terminate this Test Description or withdraw from the Trial by giving 5 Business Days' written notice to **nbn**.
- (e) If this Test Agreement is terminated, **nbn** will:
- (i) complete any Test Activities commenced prior to termination; and
 - (ii) not commence conducting any new Test Activities after termination.

7. Test Contacts

- (a) Prior to the Trial commencing, Test Participant must make relevant Test Contacts available to **nbn** for the purposes of this Test Description and provide **nbn** with telephone and email contact details.
- (b) Test Participant must ensure that Test Contacts designate resources to participate in the Test Activities including to participate in co-design activities and provide feedback and strategic input in connection with the Trial and Test Activities.

8. Definitions

For the purposes of this Test Description:

Eligible End User means the Contracted End User (or that person's authorised representative) in respect of a "Customer Product" or "Downstream Product", as those terms are defined under the WBA.

EOI means the expressions of interest process run by **nbn** and more fully described in the document titled, 'Complex Assurance Trial – FTTN/FTTB Request for Expressions of Interest' dated February 2020, and any subsequent expressions of interest processes run by **nbn** relating to the Trial.

Expiry Date means 30 November 2020.

Performance Assurance means the end-to-end assurance process as determined by **nbn** from time to time for triaging, diagnosing, and monitoring Performance Incidents, including performing Performance Investigations.

Performance Assurance Trouble Ticket means a trouble ticket that Test Participant may raise, in accordance with this Test Agreement, in respect of a Performance Incident.

Performance Incident means a Performance Issue that:

- (a) is not a Service Fault; and
- (b) meets the applicable criteria for a "Performance Incident" as determined by **nbn** from time to time.

Performance Investigation means the process, as determined by **nbn** from time to time, to investigate, triage and seek to resolve a Performance Incident, which may include reviewing telemetry data and conducting long run testing and pattern detection.

Performance Issue means an issue on the **nbn**TM Network that:

- (a) adversely affects the performance of an **nbn**TM Ethernet (FTTB) or **nbn**TM Ethernet (FTTN) Ordered Product; and
- (b) is not an issue for which Test Participant or an Eligible End User is responsible under the terms of the WBA.

Service Health Summary Tool has the meaning given to that term in the Service Health Summary Trial Test Agreement.

Service Health Summary Trial Test Agreement means the agreement entitled “Service Health Summary Trial”, as provided by nbn.

Supporting Document means any document notified to Test Participant by **nbn** that details reasonable instructions, policies and procedures regarding the Test Activities, including relevant Test Plans, as updated by **nbn** from time to time.

Test Activities has the meaning given in clause 4.1(b).

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

Test Contact means each person appointed by Test Participant as:

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

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

Trial means the conducting of Test Activities undertaken in accordance with this Test Agreement and the Supporting Documents and has the meaning given to the term “Test” in the Standard Test Terms.

Execution

Executed as an agreement

Signed for **nbm 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