

Test Agreement

Test Description: **nbn**TM HFC Traffic Class 2 (TC2)
Customer Trial



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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 this Trial is for **nbn** to perform aspects of business readiness testing for the proposed **nbn**TM Ethernet (HFC) Traffic Class 2 (TC-2) 5 Mbps and 10 Mbps bandwidth profiles and Enhanced Fault Rectification Service (4 hr and 6 hr).
- C. The Trial will allow Test Participant to provide feedback to **nbn** on the:
 - activation of 5 Mbps and 10 Mbps Traffic Class 2 services including Site Qualification;
 - assurance activities in respect of 5 Mbps and 10 Mbps Traffic Class 2 services;
 - processes to query availability of AVC TC-2 services at a location in the footprint of the HFC Network; and
 - processes to request an Enhanced Fault Rectification Service of Enhanced-4, Enhanced-4 24/7, Enhanced-6, Enhanced-6 24/7 at an RTC Premises in the footprint of the HFC Network.

1. Interpretation

In this Test Description:

- (a) any capitalised term used but not defined 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.

2. 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 on-boarded for the supply of **nbn**TM Ethernet by means of the HFC Network
- (e) have on-boarded for the supply of the Traffic Class 2 Product Feature of **nbn**TM Ethernet;
- (f) have sufficient aggregate CVC TC-2 bandwidth capacity in each relevant CSA to support the supply of Eligible **nbn** HFC TC-2 Products as part of the Trial;
- (g) have entered into this Test Description; and
- (h) before any Test Activities are conducted in respect of an Eligible End User, have in place (and maintain at all times during the Test Period) an Eligible End User Contract with that Eligible End User.

3. Documentation changes

nbn may, without limiting clause 5, amend or replace this Test Description or any Supporting Document by giving 10 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 conduct all Test Activities in accordance with:
 - (i) the processes and procedures set out in this Test Agreement and any Supporting Documents; and
 - (ii) **nbn**'s reasonable instructions, policies and procedures regarding the Test Activities that are notified by **nbn** to Test Participant from time to time.
- (b) 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 **nbn** to carry out the Test Activities and use the learnings to develop and enhance its systems, products, services and processes.
- (c) **nbn** may at any time during the Test Period, at its sole discretion:
 - (i) amend, pause or cease Test Activities with respect to one or more Eligible **nbn** HFC TC-2 Products; or
 - (ii) not conduct one or more Test Activities in respect of an Eligible **nbn** HFC TC-2 Product,
 and if **nbn** makes such a determination, it will use reasonable endeavours to provide the Test Participant of reason(s) for this determination.
- (d) In exercising its rights under clause 4.1(c), **nbn** will have regard to:
 - (i) the Test Participant's ability to:
 - (A) continue to meet the considerations in clause 2; and
 - (B) comply with the Test Participant's responsibilities in clause 7;
 - (ii) its capacity to supply, and complexity of, any Eligible **nbn** HFC TC-2 Orders at the relevant time; and
 - (iii) any other matters that **nbn** considers relevant.

4.2 Service Levels

- (a) The parties acknowledge that the Service Levels under the WBA do not apply in respect of the Test Activities.
- (b) No Commercial Rebates will be payable by **nbn** in connection with the Test Activities.

4.3 Charges

- (a) Subject to clauses 4.3(b) to 4.3(d), **nbn** will not charge Test Participant for participation in this Test Agreement or for conducting any Test Activity.
- (b) Test Participant must, in accordance with the WBA including the **nbn**TM Ethernet Price List, pay to **nbn** any applicable charges for all CVC Product Components acquired by Test Participant in connection with the Trial.
- (c) If Test Participant acquires one or more of the following in connection with, but not for use exclusively with the Eligible **nbn** HFC TC-2 Products:
 - (i) NNIs; or
 - (ii) Service Elements of the Facilities Access Service (e.g. the **nbn**TM Building Entry Service),then Test Participant must pay to **nbn** any applicable charges for those Service Elements or Product Components (as the case may be) in accordance with the WBA (including each applicable Price List).
- (d) Upon expiry of the Test Period, any continued supply of the Eligible **nbn** HFC TC-2 Products will be charged in accordance with the WBA (including the **nbn**TM Ethernet Price List) as amended from time to time.

4.4 Liability exclusion

To the fullest extent permitted by law, **nbn** excludes all liability to Test Participant in respect of any Loss however arising in connection with the Test Activities, this Trial or this Test Agreement.

4.5 Confidential Information

The parties acknowledge and agree that in connection with the Test Activities performed in relation to an Eligible End User:

- (a) a party may disclose, to that Eligible End User, the other party's Confidential Information relating to the Test Activities for that Eligible End User but only to the extent required for those Test Activities;
- (b) Test Participant must inform the Eligible End User that the Eligible End User will be receiving Confidential Information of **nbn** and the Test Participant as part of the performance of the Test Activities; and
- (c) Test Participant must procure that each Eligible End User:
 - (i) only uses **nbn**'s Confidential Information for the purposes of the Test Activities in relation to that Eligible End User;
 - (ii) does not disclose **nbn**'s Confidential Information; and
 - (iii) if requested by **nbn**, returns, destroys or deletes **nbn**'s Confidential Information except to the extent it is impractical to do so, or necessary to comply with the Eligible End User's internal governance processes, or any applicable law.

5. Term, termination and withdrawal

- (a) This Test Description commences once executed by both parties and terminates on the Expiry Date unless terminated earlier in accordance with clauses 5(c) or 5(d) (**Test Period**).
- (b) The Trial will commence on the date notified by **nbn** to Test Participant and end on the Expiry Date (unless extended by **nbn** by written notice to Test Participant).
- (c) **nbn** may issue a Cancellation Notice at any time in accordance with the Standard Test Terms to terminate any or all of:
 - (i) this Test Description; and
 - (ii) part or all of the Test Activities.
- (d) Test Participant may terminate this Test Description or withdraw from the Trial by giving 10 Business Days' written notice to **nbn**.
- (e) Upon expiry or termination of this Test Description:
 - (i) the parties will complete any Test Activities in relation to an Eligible **nbn** HFC TC-2 Order received prior to the date of expiry or termination;
 - (ii) the parties will not conduct any Test Activities in relation to any Eligible **nbn** HFC TC-2 Order received after the date of expiry or termination; and
 - (iii) unless Test Participant indicates to the contrary, Test Participant will be taken to have elected for **nbn** to continue supplying any Eligible **nbn** HFC TC-2 Product already being supplied under corresponding terms under the WBA, as amended from time to time.

6. Test Contacts

- (a) **nbn** and Test Participant will 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 will each designate a suitable leader (or leaders) to represent their business units serving the small and medium business market segment and the large and enterprise market segment (or both), to allocate resources to the Test Activities, to provide strategic input and to act as an overall escalation point for the Trial (**Test Leader**).
- (c) **nbn** and Test Participant will provide telephone and email contact details of their Test Contacts and Test Leaders to each other before Test Activities commence and maintain and provide updates to these contact details for the duration of the Test Period.

7. Test Participant's Responsibilities

During the Test Period, the Test Participant must:

- (a) support and assist **nbn** with the conduct of Test Activities as requested by **nbn** from time to time, including by:
 - (i) undertaking relevant activities (including manual processes) in timeframes determined by **nbn** (acting reasonably);
 - (ii) providing appropriate Personnel to resolve issues that may arise during the Test Activities;
 - (iii) working collaboratively with **nbn** to refine the Test Activities; and

- (iv) providing feedback, including the feedback of Eligible End Users, for process improvement and feasibility assessment.
- (b) manage the Eligible End User relationship during the Test Period, including, if reasonably requested by **nbn**:
- (i) arranging for **nbn** Personnel to access the Premises of Eligible End Users in a timely manner to conduct relevant Test Activities;
 - (ii) deliver communications related to Test Activities to Eligible End Users during the Test Period as reasonably requested by **nbn**; and
 - (iii) support **nbn** to communicate directly with Eligible End Users for the purposes of the Test Activities.
- (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.

8. Definitions

For the purposes of this Test Description:

Eligible End User means a Contracted End User that receives a product or service from the Test Participant that relies on an Eligible **nbn** HFC TC-2 Product as an input.

Eligible End User Contract means a contract with an Eligible End User which:

- (a) permits **nbn** to conduct the Test Activities;
- (b) obliges the Eligible End User to provide or procure reporting, feedback and all other assistance that **nbn** or Test Participant may reasonably require in connection with the Test Activities; and
- (c) includes any necessary consents from the Eligible End User to permit the Eligible End User's confidential information to be disclosed to and used by **nbn** and its Personnel for the purposes of the Test Activities.

Eligible nbn HFC TC-2 Order means a Connect Order, Modify Order or Disconnect Order submitted by the Test Participant in respect of an Eligible **nbn** HFC TC-2 Product as approved by **nbn**.

Eligible nbn HFC TC-2 Product means an **nbn**TM Ethernet (HFC) ordered product:

- (a) with an AVC TC-2 bandwidth profile of 5 Mbps or 10 Mbps;
- (b) that **nbn** has approved to be supplied to an RTC Premises for the purposes of the Test Activities; and
- (c) for which the Test Participant may have elected to also acquire the Enhanced Fault Rectification Service (specifically, Enhanced-6, Enhanced-6 (24/7), Enhanced-4, or Enhanced-4 (24/7)),

and constitutes the "**Test Product**" for the purposes of the Standard Test Terms.

Expiry Date means 01 May 2020 or such other date as notified by **nbn** to Test Participant.

RTC Premises means a Premises that is one of Service Class 21, Service Class 22, Service Class 23 or Service Class 24 to which **nbn** determines it will offer an Eligible **nbn** HFC TC-2 Product in connection with Test Activities.

Standard Test Terms means the document entitled "Test Agreement – Standard Test Terms" executed by each of **nbn** and Test Participant.

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

Test Activities means testing activities in respect of Eligible **nbn** HFC TC-2 Orders and Eligible **nbn** HFC TC-2 Products conducted by **nbn** or Test Participant, or both, as detailed in each applicable Test Plan or other Supporting Document and may include:

- (a) planning and co-ordination activities relating to Eligible **nbn** HFC TC-2 Orders;
- (b) the capture and verification of Eligible End User information;
- (c) testing and evaluation of site qualification processes; and
- (d) testing and evaluation of fault rectification processes.

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 5(a).

Trial has the meaning given to the term "Test" in 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