



9 October 2023

Hello,

nbn[®] Ethernet (Wireless) as an input to Downstream CSG Services and a potential input to Downstream Wireless Priority Assistance Services

We refer to the Wholesale Broadband Agreement version 5 (**WBA**) between **nbn** and RSP (**your organisation**).

Currently, the WBA prohibits RSPs from using, or permitting any Downstream Service Provider to use, **nbn[®] Ethernet (Wireless)** as an input to supply a Downstream CSG Service or Downstream Priority Assistance Service (see section 10.1(a) of the [nbn[®] Ethernet Product Description](#) and section 17.1 of the [nbn[®] Ethernet Product Terms](#)). The reason for these prohibitions is that while the Wireless Network can support use by retail service providers for the supply of retail voice services, the Wireless Network's related systems, processes and workforce arrangements have not been designed to support the supply by retail service providers of Downstream CSG Services that comply with the *Telecommunications (Customer Service Guarantee) Standard 2023 (CSG Standard)* or Downstream Priority Assistance Services in accordance with *Industry Code ACIF C609:2007 (Priority Assistance for Life Threatening Medical Conditions)* or any carrier licence condition (**PA Conditions**).

The purpose of this letter is to respond to retail service provider requests to use, or permit Downstream Service Providers to use **nbn[®] Ethernet (Wireless)** as an input to the supply by a retail service provider of one or both of the following:

- a. a Downstream CSG Service; or
- b. an RSP Product or a Downstream Product used to supply a Priority Assistance service at a Premises (**Downstream Wireless Priority Assistance Service**).

Except as expressly set out, nothing in this letter agreement affects the application of the WBA.

Please sign and return this letter agreement to contractmanager@nbnco.com.au 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.

Your **nbn** 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.

Downstream CSG Services on the Wireless Network

A. Roles and responsibilities

The parties acknowledge and agree that, in relation to any supply of **nbn[®] Ethernet (Wireless)** on the terms of this letter agreement:

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.

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- a. RSP has sole responsibility for ensuring that it complies with all applicable legislative and regulatory obligations in connection with the supply of the Downstream CSG Service to which nbn[®] Ethernet (Wireless) is an input, including under the TCPSS Act and CSG Standard; and
- b. the decision by RSP to use nbn[®] Ethernet (Wireless), or to permit a Downstream Service Provider to use an RSP Product which relies on nbn[®] Ethernet (Wireless), as an input to supply a Downstream CSG Service is taken entirely at RSP's own risk (as reflected in this letter agreement).

B. CSG Waiver

2. Despite section 17.1 of the [nbn[®] Ethernet Product Terms](#), RSP may, subject to complying with the terms of this letter agreement:
 - a. use nbn[®] Ethernet (Wireless); and
 - b. permit any Downstream Service Provider to use an RSP Product which relies on nbn[®] Ethernet (Wireless) as an input,to supply a Downstream CSG Service (the **CSG Waiver**).

C. RSP mitigation obligations

3. For each nbn[®] Ethernet (Wireless) Ordered Product used as an input into a Downstream CSG Service, RSP must obtain, or ensure that each Downstream Service Provider obtains (as applicable), a waiver from the Contracted End User under Part 5 of the CSG Standard in respect of each performance standard in the CSG Standard, unless such a waiver is prohibited by section 120(7) of the TCPSS Act.
4. To the extent that section 120(7) of the TCPSS Act prohibits a waiver from a Contracted End User in accordance with paragraph 3, RSP must use reasonable endeavours, and must ensure that any Downstream Service Provider uses reasonable endeavours, to avoid or mitigate any liability incurred under the CSG Standard in connection with that Contracted End User where nbn may have a related liability.
5. For the purpose of clause 4 above, actions that are reasonably available to RSP and Downstream Service Providers (as applicable) may include the matters set out in clause 21(b) of the nbn[®] Ethernet Service Levels Schedule (as limited by clause 21(c) nbn[®] Ethernet Service Levels Schedule).

D. Liability and acknowledgements

6. Nothing in this letter agreement limits or otherwise affects:
 - a. the waiver and release of any liability under section 118A of the TCPSS Act in respect of the supply of nbn[®] Ethernet (Wireless) to RSP, set out in section 17.3 of the [nbn[®] Ethernet Product Terms](#); or
 - b. the indemnity for CSG Compensation or amounts under section 118A of the TCPSS Act in respect of the supply of nbn[®] Ethernet (Wireless) to RSP, set out in section 17.4 of the [nbn[®] Ethernet Product Terms](#).
7. RSP acknowledges that:
 - a. the Wireless Network related systems, processes and workforce have not been designed to support the use of nbn[®] Ethernet (Wireless) as an input to Downstream CSG Services and agrees that the liability protections in sections 17.3 and 17.4 of the [nbn[®] Ethernet Product Terms](#) are reasonably necessary to protect nbn's legitimate interests in circumstances where the CSG Waiver applies; and

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- b. **nbn** has no plans to change the Wireless Network related systems, processes and workforce to align with the arrangements (including in respect of connection and assurance) in the CSG Standard.

Downstream Wireless Priority Assistance Services

E. Agreement to negotiate terms to permit the supply of Downstream Wireless Priority Assistance Services

- 8. **nbn** and RSP recognise that:
 - a. Priority Customers (as defined in the PA Code and Telstra's Priority Assistance Policy) may benefit from the supply by RSP and Downstream Service Providers of Downstream Wireless Priority Assistance Services;
 - b. the Wireless Network related systems, processes and workforce have not been designed to support the use of **nbn**[®] Ethernet (Wireless) as an input to Downstream Wireless Priority Assistance Services;
 - c. to realise the benefit to Priority Customers, it will be necessary for the parties to negotiate terms of supply for **nbn**[®] Ethernet (Wireless) as an input to Downstream Wireless Priority Assistance Services in acknowledgement of the limitations in paragraph (b).
- 9. At the request of RSP, **nbn** and RSP will work in good faith to promptly negotiate the arrangements described in paragraph 8(c) on terms that are acceptable to **nbn** and RSP and with a shared aim of concluding such negotiations by 1 December 2023.

F. Term and termination

- 10. This letter agreement commences on the latest of:
 - a. the Start Date for WBA version 5 (as at the date of this letter it is anticipated that this will occur on 1 December 2023);
 - b. the date that this letter agreement is executed by the last party to sign it; and
 - c. the date that WBA version 5 is executed by the last party to sign it,and terminates on the earlier of:
 - d. the WBA version 5 between **nbn** and RSP terminating or expiring; and
 - e. 30 November 2026,(the **Term**).

G. General

- 11. Unless otherwise specified, capitalised terms used in this letter agreement have the meanings given to those terms in the WBA.
- 12. Except as expressly specified, this letter agreement does not vary the WBA.
- 13. Nothing in this letter affects the accrued rights and liabilities of either party under the WBA.

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14. Rights or obligations which expressly or impliedly, by their nature, survive expiry or termination of this letter agreement, will survive expiry or termination of this letter agreement.
15. Clauses H4.5 (Electronic execution and counterparts), H4.10 (Governing law and jurisdiction), H4.13 (Severability) and H4.15 (Waiver) of the [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.
16. Nothing in this letter agreement is intended, or should be construed, as overriding or replacing any obligations that your organisation may have under any applicable Law.

Yours sincerely

Jane Witter

General Manager, Wholesale Supply