

Test Agreement

Test Description: Business Readiness Test of **nbn™** Ethernet (FTTN) to Approved Non-Premises Locations



Test Agreement

Test Description: Business Readiness Test of **nbn**TM Ethernet (FTTN) to Approved Non-Premises Locations

Version	Description	Effective Date
1.0	Issued on 30 April 2019	Execution Date
1.1	Issued on 11 July 2019	Execution Date

Copyright

This document is subject to copyright and must not be used except as permitted below or under the *Copyright Act 1968* (Cth). You must not reproduce or publish this document in whole or in part for commercial gain without the prior written consent of **NBN** Co. You may reproduce and publish this document in whole or in part for educational or non-commercial purposes as approved by **NBN** Co in writing.

Copyright © 2019 **NBN** Co Limited. All rights reserved. Not for general distribution.

Disclaimer

This document is provided for information purposes only. The recipient must not use this document other than with the consent of **NBN** Co and must make their own inquiries as to the currency, accuracy and completeness of this document and the information contained in it. The contents of this document should not be relied upon as representing **NBN** Co's final position on the subject matter of this document, except where stated otherwise. Any requirements of **NBN** Co or views expressed by **NBN** Co in this document may change as a consequence of **nbn** finalising formal technical specifications, **NBN** Co's ongoing internal reviews, or legislative and regulatory developments.

Environment

NBN Co asks that you consider the environment before printing this document.

Contents

Parties	4
Background	4
1. Interpretation and definitions	5
2. Pre-conditions	6
3. Documentation Changes	6
4. Test Product	6
5. Test Activity	7
5.1 Test Period	7
5.2 Network Extension	7
5.3 Test Activity	7
6. Service performance and fair use	8
7. Test Contacts	8
8. Test Participant's Obligations	8
8.1 General obligations	8
8.2 Review and reporting	9
9. Term, termination and withdrawal	9
9.1 Obligations regarding termination of supply	10
10. Charges	10

Test Agreement

Test Description: Business Readiness Test of **nbn**[™] Ethernet (FTTN) to Approved Non-Premises Locations

Parties

- **NBN** Co Limited (ABN 86 136 533 741) of Level 11, 100 Arthur Street, North Sydney NSW 2060 (**nbn**);
- [Insert party name] (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 Agreement for the Business Readiness Test of **nbn**[™] Ethernet (FTTN) to Approved Non-Premises locations.
- B. On 11 February 2019, **nbn** notified PDF participants that it was seeking expressions of interest from service providers to participate in a Business Readiness Test to be conducted in ready-for-service (**RFS**) FTTN areas within New South Wales, Victoria, South Australia and/or Queensland.
- C. The business readiness test is intended to test proposed operational processes under which **nbn** and RSPs may in the future extend the FTTN Network to Approved Non-Premises Locations in FTTN RFS regions and/or migrate or transition existing Approved Non-Premises locations in FTTN RFS regions currently being served by legacy ADSL services to the FTTN Network for the purposes of being used to support the use cases outlined in the proposed Approved Non-Premises List (the **BRT**).
- D. **nbn** and the Test Participant will agree a list of Approved Non-Premises locations (each, an **Agreed Site**) located in RFS FTTN areas consisting of new sites and sites currently being served by legacy ADSL services at which the BRT is to occur.
- E. The Test Participant must enter into an arrangement with the relevant End User allowing **nbn** to extend the **nbn** Network to the Agreed Site/s and for the BRT to occur at the Agreed Site/s.
- F. **nbn** will, at its cost, extend the **nbn** FTTN Network (as applicable) to the Agreed Site/s and/or migrate or transition the Agreed Site/s in FTTN RFS areas currently being served by legacy ADSL services to **nbn** FTTN Network to facilitate the BRT.
- G. The connection of the **nbn**[™] Ethernet (FTTN) to Non-Premises locations will be the Test Product.
- H. The BRT will require Test Participants to conduct at least one of the following activities:
 - Connect a **nbn**[™] Ethernet (FTTN) service to a new Approved Non-Premises location;
 - Transition an existing connected legacy ADSL service at an Approved Non-Premises location to a **nbn**[™] Ethernet (FTTN) on the same copper pair in the line;
 - Migrate a legacy ADSL service to the **nbn**[™] Ethernet (FTTN) VDSL2 on a vacant or new copper pair in the line; and/or
 - Connect a Subsequent Installation on a Service Class 13 (**SC13**) active Approved Non-Premises location using a vacant or new copper pair in the line.

1. Interpretation and definitions

For the purposes of this Test Description:

- (a) the singular includes the plural and vice versa;
- (b) any capitalised term used but not defined in this Test Description has the meaning given to that term in the Standard Test Terms;
- (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; and
- (d) any definition or provision in the Standard Test Terms, or incorporated into this Agreement from the WBA, which refers to 'Premises' will be read to refer to 'Premises, Approved Non-Premises or Agreed Site (as applicable)', and:

Agreed Site has the meaning given in clause 1(d).

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

Approved Non-Premises means the Approved Non-Premises Locations as listed in the document entitled "Approved Non-Premises List".

Approved Non-Premises nbn™ Ethernet (FTTN) Business Readiness Test or BRT means to test the proposed operational processes under which **nbn** and RSPs may in the future extend the FTTN Network to Approved Non-Premises Locations in FTTN RFS regions and/or migrate or transition existing Approved Non-Premises locations in FTTN RFS regions currently being served by legacy ADSL services to the FTTN Network for the purposes of being used to support the use cases outlined in the proposed Approved Non-Premises List in accordance with this Agreement.

Approved Non-Premises nbn™ Ethernet (FTTN) Business Readiness Test Contact or BRT Contact means each person appointed by **nbn** and Test Participant as:

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

Eligible End User means the Contracted End User that are business customers in respect of this Test Description (or that person's authorised representative).

Eligible End User Contract means a contract with an Eligible End User which permits **nbn** to conduct the Test Activities and includes any necessary consents from the Eligible End User to permit the Eligible End User's Personal Information to be disclosed to and used by **nbn** and its Personnel for the purposes of this Test Description.

Network Extension means the construction offering to extend the FTTN Network to an Agreed Site.

Network Extension Order means the order request for the Network Extension.

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

Test Activity means one or more of the following activities:

- (a) Connecting a **nbn™** Ethernet (FTTN) service to a new Approved Non-Premises location;
- (b) Transitioning an existing connected legacy ADSL service at an Approved Non-Premises location to a **nbn™** Ethernet (FTTN) on the same copper pair in the line;

- (c) Migrating a legacy ADSL service to the **nbn**[™] Ethernet (FTTN) VDSL2 on a vacant or new copper pair in the line; and/or
- (d) Connecting a Subsequent Installation on a Service Class 13 (**SC13**) active Approved Non-Premises location using a vacant or new copper pair in the line.

Test Description means this document, which is issued by **nbn** under the Standard Test Terms.

2. Pre-conditions

- (a) To participate in the BRT, the Test Participant must:
 - (i) be a party to a WBA;
 - (ii) have entered into the Standard Test Terms and this Agreement;
 - (iii) have undertaken on-boarding activities prescribed by **nbn** for the BRT; and
 - (iv) have Eligible End Users with Approved Non-Premises locations.
- (b) If Test Participant ceases to comply with 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 the BRT;
 - (ii) cease supplying the **nbn**[™] Ethernet (FTTN) to an Approved Non-Premises to Test Participant; and
 - (iii) terminate this Agreement.
- (c) The Test Participant acknowledges that, for the Test to commence:
 - (i) **nbn** and the Test Participant must agree the Agreed Sites;
 - (ii) the Test Participant must enter or have entered into an Eligible End User Contract with the Eligible End Users to be those End Users' retail service provider for the purposes of BRT at the Agreed Sites; and
 - (iii) where required to facilitate the Test, the Test Participant must obtain authority to act on the Eligible End User's behalf with respect to access to Agreed Sites and the installation, maintenance and replacement of equipment at Agreed Sites.

3. Documentation Changes

nbn may, without limiting clause 9, amend or replace this Test Description by giving written notice to the Test Participant.

4. Test Product

The **nbn**[™] Ethernet supplied under this Test Description is the **nbn**[™] Ethernet (FTTN) Product except for the following differences:

- (a) the Approved Non-Premises end-point location at an Agreed Site which will be designated as Premises under the WBA;

- (b) the supply of **nbn**[™] Ethernet (FTTN) to an Approved Non-Premises Location is a two-step process requiring a Network Extension Order followed by a Connect Order,

(all together the **Test Product**).

5. Test Activity

5.1 Test Period

- (a) This Test Description will commence once executed by both parties and terminates on 27 August 2019 unless extended by **nbn** or terminated earlier in accordance with this Agreement (**Test Period**).
- (b) **nbn** may, by giving Test Participant written notice, amend the Test Period.

5.2 Network Extension

- (a) The BRT requires the Network Extension to be ordered and completed.
- (b) For each Agreed Site, Test Participant must:
 - (i) order the Network Extension to the Agreed Site using the order process notified by **nbn**; and
 - (ii) provide any information reasonably required by **nbn** in order for **nbn** to create the appropriate **nbn**[™] Location Identifier for the Agreed Site.
- (c) Following the completion of Network Extension at the Agreed Site, the Test Participant will, subject to clause 5.2(b), submit a Connect Order in respect of the Agreed Site.
- (d) For each Agreed Site, **nbn** must, subject to clause 2:
 - (i) create an appropriate **nbn**[™] Location Identifier (LOC-ID);
 - (ii) complete the Network Extension; and
 - (iii) accept the Connect Order and commence the supply of the **nbn**[™] Ethernet (FTTN) to the Agreed Site.

5.3 Test Activity

- (a) Test Participant and **nbn** will seek to agree Agreed Sites in order to facilitate the Test Activity.
- (b) During the Test Period, **nbn** and Test Participant will participate in the Test Activity in accordance with:
 - (i) the purpose, processes and procedures set out in the Test Agreement and any supporting documents;
 - (ii) **nbn**'s reasonable instructions, policies and procedures regarding the Test Activities that are notified by **nbn** to Test Participant from time to time.
- (c) 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 Activity to enable **nbn** to carry out the Test Activity and use the learnings to develop and enhance its systems, products, services and processes.

6. Service performance and fair use

- (a) To the full extent permitted by law, **nbn** excludes all liability to Test Participant in respect of any Loss arising by reason of any failure of any works undertaken by **nbn** as part of the Test Activities.
- (b) Test Participant acknowledges and agrees that no service level, rebate or compensation of any kind, however described, is available or applicable to any aspect or component of the supply of the Test Product, Network Extension and Test Activity.
- (c) This Test Description incorporates, as if set out in full:
 - (i) the Fair Use Policy under the WBA; and
 - (ii) the provisions of section 13 (speeds, performance and availability) of the Product Description for the **nbn**[™] Ethernet.

which are taken to apply to the Test Product to the extent applicable, in addition to all other qualifications, conditions and limitations in this Agreement, subject to the following:

- (iii) references to "Customer" or "Customers" are to be read as "Test Participant" or "Test Participants";
 - (iv) references to "Ordered Product" or "Ordered Products" are to be read as "Test Product" and "Test Products";
 - (v) references to "Product Description" are to be read as "this Test Description"; and
 - (vi) references to "**nbn**[™] Ethernet" or "**nbn**[™] Ethernet (FTTN)" are to be read as "Test Product".
- (d) **nbn** may amend this Test Description to give effect to any new, varied or replacement Fair Use Policy.

7. Test Contacts

- (a) **nbn** and Test Participant will each appoint a person as a BRT Contact in relation to co-ordination of the Test Activities, including at Agreed Sites.
- (b) On commencement of this Test Description, **nbn** and Test Participant will provide telephone and email contact details of their BRT Contacts, and maintain and provide updates to these contact details for the duration of the Test Period.

8. Test Participant's Obligations

8.1 General obligations

During the Test Period, the Test Participant:

- (a) is responsible for the supply, management and compliance of all telecommunications goods and services delivered to the End User (e.g. NTD).
- (b) will only use the Test Product for the BRT.
- (c) must support and assist **nbn** with the conduct of the Test Activities including by:
 - (i) identifying and submitting Connect Orders;
 - (ii) undertaking relevant activities in reasonable timeframes determined by **nbn**;

- (iii) providing dedicated resources to work with **nbn** case managers or jeopardy managers to resolve issues that may arise during the Test Activities;
 - (iv) working collaboratively with **nbn** to refine the Test Activities; and
 - (v) providing feedback, including the feedback of Eligible End Users of Agreed Site for the purposes of process improvement and Test Activities.
- (d) manage the relationship of Eligible End Users of Agreed Site during the Test Period, including, if reasonably requested by **nbn**:
- (i) deliver communications related to Test Activities to Eligible End Users of Agreed Site during the Test Period;
 - (ii) support **nbn** to communicate directly with Eligible End Users of Agreed Site for the purpose of the Test Activities;
- (e) 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 Activity, as soon as reasonable practicable following becoming aware of that material error, defect or deficiency.

8.2 Review and reporting

At regular intervals during the Test Period and within 10 Business Days of completion of the BRT, the Test Participant will, at **nbn**'s request:

- (a) meet with **nbn** to review and evaluate the performance of the Test Activity; and
- (b) use reasonable endeavours to obtain and assist **nbn** to directly obtain additional feedback from any relevant third parties regarding the Test Activity, the **nbn**TM Network and **nbn**'s relevant processes and procedures.

9. Term, termination and withdrawal

- (a) This Test Description will terminate on 27 August 2019, unless extended by **nbn** and notified to Test Participant or terminated earlier in accordance this Agreement.
- (b) **nbn** may issue a Cancellation Notice at any time in accordance with the Standard Test Terms to terminate any one or more of the following:
 - (i) this Test Description; and/or
 - (ii) part or all the Test Activity.
- (c) Test Participant may cancel its participation in the BRT at one or more Agreed Sites by giving 10 Business Days written notice of the relevant Agreed Sites to **nbn**, in which case **nbn** may do any one or more of the following:
 - (i) cease supplying the Test Product to the relevant Agreed Sites immediately;
 - (ii) cancel the Network Extension order to the relevant Agreed Sites;
 - (iii) complete the Network Extension order to the relevant Agreed Sites; and/or
 - (iv) give a Cancellation Notice under the Standard Test Terms in respect of any or all other Agreed Sites.
- (d) If Test Participant cancels its participation in the BRT at an Agreed Site, Test Participant will:
 - (i) inform **nbn** of the reason for the cancellation; and

- (ii) if Test Participant wishes to continue participating in the BRT, assist **nbn** to mitigate the effect of such cancellation on the overall performance of the BRT (for example, by using reasonable endeavours to identify and agree replacement Agreed Sites and the participation of replacement Eligible End User(s), if requested by **nbn**).
- (e) If Test Participant enters into an agreement with **nbn** for the supply of **nbn**[™] Ethernet (FTTN) on a non-test basis, **nbn** may, in its sole discretion:
 - (i) terminate this Test Description and the BRT by issuing a Cancellation Notice in accordance with the Standard Test Terms; or
 - (ii) continue supplying the Test Product as an “Approved Non-Premises **nbn**[™] Ethernet” (however it may be described) under and subject to the terms of that agreement, by giving notice to the Test Participant.

9.1 Obligations regarding termination of supply

The parties will use their reasonable endeavours to work with each other for the purpose of avoiding any inconvenience to any Eligible End User affected by termination or cancellation of this Test Description, any Test Activity or any Test Product.

10. Charges

nbn will not charge Test Participant for the duration of the Test Period, the following:

- (i) Test Activity;
- (ii) Network Extension to the relevant Agreed Site; and
- (iii) Test Product to the relevant Agreed Site for the Test Period.

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 party name]** 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