

Network Preference Construct

Capitalised words are defined in the Business **nbn**[™] Deals Manual. Please contact your **nbn** Account Manager for any further details, to be sent a copy of the Business **nbn**[™] Deals Manual, or to receive a briefing on the Network Preference Construct.

1.1 Network Preference Construct

The Network Preference Construct is an additional option that can be entered into where the access seeker proposes to utilise the Deferred Charge Construct under the **nbn**[™] Technology Extension Contract. The Network Preference Construct is available to access seekers regardless of how many Build Sites are included in the relevant Deal Module. This Network Preference Construct requires an access seeker to:

- (i) commit to on-demand technology upgrades; and
- (ii) preference the **nbn**[™] network for Off-Net Services (fixed line services in the **nbn**[™] fixed line footprint not on the access seeker's own network), in return for certain benefits detailed in section 1.1.4.

1.1.1 Preferred Network Provider Obligation (PNPO)

The PNPO involves an access seeker receiving benefits if they commit to using the **nbn**[™] network for Off-Net Services for a minimum term of 5 years. This means the access seeker will:

- (i) migrate its current base of Off-Net Services to **nbn** in accordance with a migration plan (**PNPO Requirements**); and
- (ii) use the **nbn**[™] network for all future Off-Net Services, subject to some limited exceptions described below.

1.1.2 Migration Plan

For access seekers that agree to, and are able to comply with, the PNPO Requirements, the access seeker may progress to commercial discussions with **nbn** on the detailed arrangements to implement and manage the Network Preference Construct.

In order for **nbn** to assess some of the benefits to be provided as part of the Network Preference Construct, the parties will need to enter into confidentiality arrangements to cover the information provided for this assessment, that includes the development of a migration plan.

1.1.3 Exceptions to PNPO Requirements

Circumstances where the PNPO Requirements do not oblige the access seeker to migrate an Off-Net Service to the **nbn**[™] network include:

- (i) in respect of a requested technology change, **nbn** does not offer to undertake that technology change through a fully Deferred Charge Construct basis (i.e. there is an Upfront Charge shortfall in accordance with section 3.1.2 of the Business **nbn**[™] Deals Manual);
- (ii) **nbn** cannot build a technology change that meets the end user's performance requirements;
- (iii) **nbn** cannot complete a technology change within reasonable timeframes;
- (iv) the end user requests carrier diversity (provided that one of the diverse connections is via the **nbn**[™] network); and

The **nbn**[™] Activities described in this document are not a listed carriage service or a service that facilitates the supply of a listed carriage service for the purposes of section 152AL of the Competition and Consumer Act. The supply of **nbn**[™] Activities under the Agreement referred to in this document does not have the effect of making those **nbn**[™] Activities a declared service for the purposes of Part XIC of the Competition and Consumer Act. This document is not executable and is not a Standard Form of Access Agreement for the purposes of Part XIC of the Competition and Consumer Act.

- (v) the end user requests another carrier (this exception is subject to a cap of 10% of all Off-Net Services) and **nbn** has had a reasonable opportunity to communicate directly with the end user.

1.1.4 Benefits for the access seeker

There are benefits available to all access seeker for entering into the Network Preference Construct. These benefits include:

- (i) incentive payments payable by **nbn** to the access seeker, including:
 - a. an upfront incentive payment based on the migration of the current base of Off-Net Services to **nbn**, as committed to by the access seeker at the start of the Deal term;
 - b. additional incentive payments tied to:
 - I. revenue growth targets over the term from revenue earned in connection with sites that form part of the deal; and
 - II. accelerated migration targets over the term,with incentive payments to be used for marketing/demand generation activities by the access seeker;
- (ii) the establishment of relevant governance processes and teams, including through an operations committee, steering committee, and joint executive committee;
- (iii) the establishment of a joint migration management team;
- (iv) the ability for an access seeker to submit change requests in respect of the migration plan, to be discussed in the operations committee, together with any consequential changes to the Deferred Charges;
- (v) a proportionate reduction in the Deferred Charges for Build Sites where the relevant end user contract expires or is terminated (other than for a breach by the access seeker), and the end user does not elect to extend or enter into a new end user contract with that access seeker for that Build Site;
- (vi) in respect of Build Sites in the migration plan to which **nbn** will undertake a technology change to FTTP, the ability for an access seeker to request (prior to the relevant build commencing) that the technology change to be upgraded to Enterprise Ethernet at no additional cost;
- (vii) if **nbn** does not make a Build Site serviceable by the target date, the ability for an access seeker to contract with a third party network provider to supply a service the relevant Build Site, with a proportional decrease in the Deferred Charge; and
- (viii) a market benchmarking review of **nbn**'s Enterprise Ethernet pricing at the mid-point of the contract.

The access seeker must continue to comply with the PNPO Requirements in order to receive the benefits in (i), (iii), (v), (vi), (vii), and (viii) in this section.