

Test Agreement

Test Description: Technical trial of NEBS to non-premises transport infrastructure sites

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Environment

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

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Test Agreement

Test Description: Technical trial of NEBS to non-premises transport infrastructure sites

Parties

- NBN Co Limited (ABN 86 136 533 741) of Level 11, 100 Arthur Street, North Sydney NSW 2060 (**NBN Co**);
- [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 Non-Premises NEBS Technical Trial.
- B. On 16 January 2017, NBN Co notified PDF participants that it was seeking expressions of interest from service providers to participate in a technical trial to be conducted in ready-for-service (**RFS**) FTTN and FTTP areas within New South Wales, Victoria and/or Queensland.
- C. The technical trial is intended to field-test the technical feasibility of supplying the NEBS to non-premises end-point locations at transport infrastructure sites to enable service providers to supply telecommunications services in connection with transport infrastructure such as traffic lights (**Non-Premises NEBS Technical Trial**).
- D. NBN Co and the Test Participant will agree a list of non-premises transport infrastructure sites (each, an **Agreed Site**) located in RFS FTTN or RFS FTTP areas at which the Non-Premises NEBS Technical Trial is to occur.
- E. The Test Participant must enter into an arrangement with the relevant transport authority End User allowing NBN Co to extend the NBN Co Network to the Agreed Sites and for the Non-Premises NEBS Technical Trial to occur at the Agreed Sites.
- F. NBN Co will, at its cost, extend the NBN Co Fibre Network or the NBN Co FTTN Network (as applicable) to the Agreed Sites to facilitate the Non-Premises NEBS Technical Trial.
- G. The Non-Premises NEBS Test Product is based on the NEBS but is different in a number of respects intended to make it suitable for use in connection with transport infrastructure sites. These differences include:
 - it is not supplied to a Premises but to a non-premises end-point location at an Agreed Site;
 - where it is supplied by means of the NBN Co Fibre Network, the location of the UNI port will be at an NTD which may be in the form of a small form-factor pluggable transceiver; and
 - where it is supplied by means of the NBN Co FTTN Network, the location of the UNI port will be at a Passive NTD if one is present or, if no Passive NTD is present, the first accessible point at the Agreed Site at which the Test Participant or End User Equipment is terminated and connected to a copper pair.

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 or Agreed Site (as applicable)', and:

Agreed Site has the meaning given in recital D.

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

AVC or Access Virtual Circuit has the meaning given in clause 3.4(a).

Component means each of the components of a Non-Premises NEBS Test Product, as described in sections 3.4 to 3.2.

CVC or Connectivity Virtual Circuit has the meaning given in clause 3.3(a).

NEBS means the NBN Co Ethernet Bitstream Service supplied by means of the NBN Co Fibre Network or the NBN Co FTTN Network as described in the WBA.

NNI or Network-Network Interface has the meaning given in clause 3.2(a).

Non-Premises NEBS Technical Trial means the activities undertaken by NBN Co and Test Participant in accordance with this Agreement together with the performance of the obligations set out in this Agreement.

Non-Premises NEBS Technical Trial Contact means each person appointed by NBN Co and Test Participant as:

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

Non-Premises NEBS Test Product is defined in clause 3.1.

SFP NTD means a small form-factor pluggable transceiver network termination device with specifications notified by NBN Co from time to time.

Standard Test Terms means the agreement entitled "Test Agreement – Standard Test Terms" entered into between NBN Co and Test Participant.

Test Description means this document, which is issued by NBN Co under the Standard Test Terms.

UNI or User Network Interface has the meaning given in clause 3.5(a).

2. Pre-conditions

- (a) To participate in the Non-Premises NEBS Technical Trial, Test Participant must, by 24 November 2017, or a later date notified by NBN Co:
 - (i) be a party to a WBA;
 - (ii) have entered into the Standard Test Terms and this Agreement; and
 - (iii) have undertaken on-boarding and certification activities prescribed by NBN Co for the Non-Premises NEBS Technical Trial.
- (b) If Test Participant ceases to comply with the conditions in clause 2(a) at any time, NBN Co may immediately do any one or more of the following things:
 - (i) exclude Test Participant from the Non-Premises NEBS Technical Trial;
 - (ii) cease supplying the Non-Premises NEBS Test Product to Test Participant; and
 - (iii) terminate this Agreement.
- (c) The Test Participant acknowledges that, in order for the Test to commence:
 - (i) NBN Co and the Test Participant must agree the Agreed Sites;
 - (ii) the Test Participant must enter into an arrangement with the relevant transport authority End Users to be those End Users' retail service provider for Non-Premises NEBS Technical Trial at the Agreed Sites;
 - (iii) where required to facilitate the Test, the Test Participant must obtain authority to act on the End User's behalf with respect to access to Agreed Sites and the installation, maintenance and replacement of equipment at Agreed Sites; and
 - (iv) NBN Co must extend the NBN Co Fibre Network or the NBN Co FTTN Network (as applicable) to the Agreed Sites, and NBN Co is not under any obligation to commence such extensions until conditions sets out in clause 2(c)(i), 2(c)(ii) and 2(c)(iii) are met.

3. Test Product

3.1 Test Product Components

- (a) The **Non-Premises NEBS Test Product** is a Test Product comprised of the Components described in sections 3.4 to 3.2 supplied by NBN Co to Test Participant to an Agreed Site for the purpose of the Non-Premises NEBS Technical Trial.
- (b) Subject to this Agreement, NBN Co will supply Test Participant with the Non-Premises NEBS Test Product in respect of the Agreed Sites.

3.2 Network-Network Interface (NNI)

- (a) The **Network-Network Interface** or **NNI** is the interface at a POI where the Test Participant's traffic is handed over to the NBN Co Network.
- (b) For each POI which NBN Co notifies to Test Participant is a POI associated with an Agreed Site, Test Participant must:
 - (i) use, by agreement with NBN Co, a "NNI" Product Component of NEBS as a Component of the Non-Premises NEBS Test Product under and subject to this Agreement; or

- (ii) order an NNI.

3.3 Connectivity Virtual Circuit (CVC)

- (a) A **Connectivity Virtual Circuit** or **CVC** is Ethernet-based Layer 2 virtual capacity on the NBN Co Network used to carry the Test Participant's traffic between multiple AVCs in a CSA on an aggregated basis and the NNI at the POI serving that CSA.
- (b) For each CSA that has an Agreed Site, Test Participant must either:
 - (i) use, by agreement with NBN Co, a "CVC" Product Component of NEBS as a Component of the Non-Premises NEBS Test Product under and subject to this Agreement; or
 - (ii) order a CVC in each traffic class and bandwidth profile agreed with NBN Co.

3.4 Access Virtual Circuit (AVC)

- (a) An **Access Virtual Circuit** or **AVC** is an Ethernet-based Layer 2 virtual connection on the NBN Co Fibre Network or the NBN Co FTTN Network that carries Test Participant's traffic between an NNI and UNI.
- (b) Test Participant must order an AVC for each Agreed Site in each traffic class and bandwidth profile agreed with NBN Co.

3.5 User Network Interface (UNI)

- (a) The **User Network Interface** or **UNI** is the interface to which NBN Co supplies the Non-Premises NEBS Test Product in respect of an Agreed Site.
- (b) For each Agreed Site served by:
 - (i) the NBN Co Fibre Network, NBN Co will determine the form, type (and, if applicable, model) of NTD that NBN Co will supply for the purpose of providing Test Participant with access to the UNI; and
 - (ii) the NBN Co FTTN Network, Test Participant must operate VDSL2 hardware compatible with the UNI-DSL interface specified in a WBA.
- (c) The location of the UNI in respect of an Agreed Site depends on the NBN Co Network used to serve the Agreed Site:
 - (i) where the Agreed Site is served by the NBN Co Fibre Network, the location of the UNI will be at an NTD which may be in the form of an SFP NTD; and
 - (ii) where the Agreed Site is served by the NBN Co FTTN Network, the location of the UNI will be at a Passive NTD if one is present or, if no Passive NTD is present, the first accessible point at the Agreed Site at which Test Participant or End User Equipment can be terminated and connected to a copper pair.

4. Ordering

- (a) Test Participant must comply with any ordering processes notified by NBN Co from time to time in connection with the Non-Premises NEBS Technical Trial.
- (b) Test Participant must, to the extent specified by NBN Co, acquire facilities access, under a WBA or other agreement between NBN Co or Test Participant, for the POI at which NBN Co supplies the NNI for the Non-Premises NEBS Test Product.

5. Trial Activities

- (a) The Non-Premises NEBS Technical Trial activities will:
 - (i) commence on or around Monday 27 November 2017; and
 - (ii) be completed within a period of approximately 17 weeks, concluding on or around Friday 30 March 2018, unless extended by NBN Co or terminated earlier in accordance with this Agreement.
- (b) NBN Co may, by giving Test Participant 5 Business Days' written notice, amend either or both of the dates on which Non-Premises NEBS Technical Trial activities begin and cease.

6. Service performance and fair use

- (a) 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 Non-Premises NEBS Test Product.
- (b) 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 Co Ethernet Bitstream Service under the WBA.

which are taken to apply to the Non-Premises NEBS 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 "NEBS" are to be read as "the Non-Premises NEBS Test Product".
- (c) NBN Co may amend this Test Description to give effect to any new, varied or replacement Fair Use Policy.

7. Title and risk in NTDs

- (a) Nothing in this Test Description gives Test Participant any right, title or interest in any part of any NTD made available by NBN Co to Test Participant or used by Test Participant.
- (b) Each NTD made available by NBN Co to Test Participant or used by Test Participant is NBN Co Equipment and the Tangible Property of NBN Co for the purposes of the Standard Test Terms.

8. Charges

NBN Co will not charge Test Participant for the Non-Premises NEBS Test Product.

9. Test Participant's Obligations

9.1 General obligations

- (a) Throughout the Non-Premises NEBS Technical Trial, Test Participant is responsible for the supply, management and compliance of all telecommunications services delivered to the End User.
- (b) Test Participant will only use the Non-Premises NEBS Test Product for the Non-Premises NEBS Technical Trial.

9.2 Review and reporting

At regular intervals during the Non-Premises NEBS Technical Trial and within 10 Business Days of completion of the Non-Premises NEBS Technical Trial, Test Participant will, at NBN Co's request:

- (a) meet with NBN Co to review and evaluate the performance of the Non-Premises NEBS Test Product; and
- (b) use reasonable endeavours to obtain and assist NBN Co to directly obtain additional feedback from any relevant third parties regarding the performance of the Non-Premises NEBS Test Product, the NBN Co Network and NBN Co's relevant processes and procedures.

10. Non-Premises NEBS Technical Trial Procedure

10.1 Non-Premises NEBS Technical Trial Contact

- (a) At NBN Co's request, Test Participant must make relevant Non-Premises NEBS Technical Trial Contacts available for the purpose of co-ordination of the Non-Premises NEBS Technical Trial, including at Agreed Sites on request by NBN Co.
- (b) NBN Co and Test Participant will provide telephone and email contact details of their Non-Premises NEBS Technical Trial Contacts to each other on commencement of the Non-Premises NEBS Technical Trial, and maintain and provide updates to these contact details for the duration of the Test.

10.2 Non-Premises NEBS Technical Trial Results

Subject to confidentiality obligations owed to End Users, Test Participant must provide information and feedback to NBN Co regarding the Non-Premises NEBS Test Product by:

- (a) providing information directly to NBN Co as reasonably requested by NBN Co;
- (b) assisting NBN Co to directly obtain feedback regarding the Test Product and Non-Premises NEBS Technical Trial processes from End Users when reasonably requested by NBN Co; and
- (c) immediately notifying NBN Co if Test Participant becomes aware of any actual or likely unexpected or unintended impact of the Non-Premises NEBS Technical Trial, including in respect of any person not actively participating in the Non-Premises NEBS Technical Trial.

11. Term, termination and withdrawal

- (a) This Test Description will terminate on 31 March 2018, unless extended by NBN Co and notified to Test Participant or terminated earlier in accordance this Agreement.
- (b) NBN Co 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;

- (ii) the Non-Premises NEBS Technical Trial; or
 - (iii) the supply of the Non-Premises NEBS Test Product at any Agreed Site.
- (c) Test Participant may cancel its participation in the Non-Premises NEBS Technical Trial at one or more Agreed Sites by giving 5 Business Day's written notice of the relevant Agreed Sites to NBN Co, in which case NBN Co may do any one or more of the following:
- (i) cease supplying the Non-Premises NEBS Test Product to the relevant Agreed Sites immediately; and
 - (ii) 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 Non-Premises NEBS Technical Trial at an an Agreed Site under clause 11(c), Test Participant will:
- (i) inform NBN Co of the reason for the cancellation; and
 - (ii) if Test Participant wishes to continue participating in the Non-Premises NEBS Technical Trial, assist NBN Co to mitigate the effect of such cancellation on the overall performance of the Non-Premises NEBS Technical Trial (for example, by using reasonable endeavours to identify and agree replacement Agreed Sites and the participation of replacement End Users, if requested by NBN Co).
- (e) Test Participant may terminate participation in the Non-Premises NEBS Technical Trial at one or more Agreed Sites immediately by written notice to NBN Co if supply of the Non-Premises NEBS Test Product in respect of an Agreed Site is resulting in a serious adverse impact on Test Participant's or End User's network or services (in the Test Participant's reasonable opinion).
- (f) Subject to clause 11(e), if Test Participant intends to cancel supply of the Non-Premises NEBS Test Product in respect of an Agreed Site because its supply is resulting in an adverse impact on Test Participant's or End User's network or services:
- (i) Test Participant will immediately notify NBN Co;
 - (ii) NBN Co will take reasonable steps to investigate and attempt to resolve the issue;
 - (iii) Test Participant will provide NBN Co with all reasonably requested assistance in its investigation and resolution activities; and
 - (iv) if the issue is not resolved within 5 Business Days after NBN Co receives Test Participant's notice, NBN Co will promptly terminate the supply of the Test Product in respect of the Agreed Site at the written request of the Test Participant.
- (g) If Test Participant enters into an agreement with NBN Co for the supply of a non-premises NBN Co ethernet bitstream service on a non-test basis, NBN Co may, in its sole discretion:
- (i) terminate this Test Description and the Non-Premises NEBS Technical Trial by issuing a Cancellation Notice in accordance with the Standard Test Terms; or
 - (ii) continue supplying the Non-Premises NEBS Test Product as a "Non-Premises NBN Co Ethernet Bitstream Service" (however it may be described) under and subject to the terms of that agreement, by giving notice to Customer.

11.2 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 End User affected by termination or cancellation of the Non-Premises NEBS Technical Trial or the supply of the Non-Premises NEBS Test Product.

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