



~~24 April 2024~~ July 2024

Hello,

Fibre Connect Program

Australians are benefitting from increasingly data-intensive applications, leading more of us to seek higher bandwidth internet plans to support these applications. To meet this demand, **nbn** is continuing to upgrade and invest in the **nbn**[®] network to unlock its potential for more Australians.

Since December 2020, we have been working with RSPs to develop a process under which **nbn** will change the access technology used to serve certain premises, from **nbn**[®] Ethernet (FTTN) or **nbn**[®] Ethernet (FTTC), to **nbn**[®] Ethernet (Fibre). This will allow customers to order retail services powered by **nbn**[®] Ethernet (Fibre) which support higher speeds, more concurrent users, and a wider variety of applications.

This letter agreement sets out the terms and conditions on which **nbn** is offering Fibre Connect Waivers in connection with Fibre Connect Connections, as further detailed below.

Except as expressly set out below, nothing in this letter agreement affects the application of the Wholesale Broadband Agreement version 5 between **nbn** and your organisation (**WBA**), including with respect to Fair Use Policies, ordering and other operational processes. After the Term of this letter agreement, **nbn** will apply ancillary charges in accordance with the **nbn**[®] Ethernet Price List and any applicable Discounts, Credits, Rebates or Waivers that apply from time to time.

Please request an executable of this letter from contractmanager@nbnco.com.au as soon as possible 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.

A. Definitions

1. Any capitalised term used but not defined in this letter agreement has the meaning given to that term in the WBA.
2. For the purposes of this letter agreement:
 - a. **Downgrade Event Limit** means each of the following:
 1. for the Observation Period commencing on the Program Commencement Date, the amount that is equal to 10% of the Observed Connection Events in that Observation Period; and

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2. for each subsequent Observation Period, the amount that is equal to 10% of the Observed Connection Events in that Observation Period.
- b. **Excess Downgrade Event** means, for a given Observation Period, each Observed Downgrade Event in that Observation Period in excess of a threshold equal to the Total Downgrade Limit with Rollover.
- ~~e. **FTTN/C Fibre Upgrade Installation Charge** means the non-recurring Charge for an FTTN/C Fibre Upgrade Installation set out in the WBA **nbn**® Ethernet Price List.~~
- c. **Fibre Connect Eligible Order** means a Connect Order for an AVC TC-4 with a bandwidth profile of Home Fast or higher for which nbn performs a Fibre Connect Connection.
- d. **Fibre Connect Waiver** has the meaning given to that term in paragraph 4.
- e. **FTTN/C Fibre Upgrade Installation Charge** means the non-recurring Charge for an FTTN/C Fibre Upgrade Installation set out in the WBA **nbn**® Ethernet Price List.
- e.f. **Observation Period** means each of the following:
 3. the 12 month period commencing on the Program Commencement Date; and
 4. each subsequent 12 month period commencing on an anniversary of the Program Commencement Date.
- f.g. **Observed Connection Events** means, for a given Observation Period, the number of Fibre Connect Eligible Orders completed by **nbn** during that Observation Period.
- ~~e.h.~~ **Observed Downgrade Event** means, for a given Observation Period, a Disconnect Order or Downgrade Order for either an Original Fibre Service or Subsequent Fibre Service for which each of the following conditions is met:
 5. the Disconnect Order or Downgrade Order is completed by **nbn** during that Observation Period;
 6. the Disconnect Order or Downgrade Order was acknowledged by **nbn** on a date that is less than 12 months after the Connect Order for the Original Fibre Service for that Premises was completed; and
 7. at the time the Disconnect Order or Downgrade Order is completed:
 1. **nbn** is not supplying an Other Fibre Service in respect of that Premises; and
 2. **nbn** is not continuing to supply your organisation with an Original Fibre Service or any Subsequent Fibre Service in respect of that Premises,where:
 8. **Disconnect Order** has the meaning given to that term in the WBA;
 9. **Downgrade Order** means a Modify Order for an Ordered Product such that the modified Ordered Product no longer includes a Qualifying Product Component;

Commented [A1]: Note to RSPs: definition moved to be in alphabetical order.



10. **Original Fibre Service** means an Ordered Product that was connected via a Fibre Connect Eligible Order placed by your organisation;
11. **Other Fibre Service** means an **nbn**[®] Ethernet (Fibre) ordered product supplied to an Other RSP;
12. **Subsequent Fibre Service** means an **nbn**[®] Ethernet (Fibre) Ordered Product with a Qualifying Product Component that is not an Original Fibre Service, supplied to your organisation,

provided that if both a Downgrade Order and Disconnect Order are completed by **nbn** for the same Ordered Product, or multiple Downgrade Orders are completed by **nbn** for the same Ordered Product, only the first will constitute an Observed Downgrade Event.

Note: For clarity, a Network Activity (COAT) or Proactive COAT does not constitute a Fibre Connect Connection and is therefore not taken into account when assessing Observed Downgrade Events.

Note: A service transfer of an **nbn**[®] Ethernet (Ordered Product) to an Other Gaining RSP is not an Observed Downgrade Event.

~~h. **Rollover Allowance** means, for an Observation Period, the following:~~

- ~~13. if the Observed Downgrade Events for the immediately prior Observation Period equals or exceeds the Total Downgrade Limit with Rollover for that immediately prior Observation Period, zero; and~~
- ~~14. otherwise, an amount equal to the lower of the following:
 - ~~3. the difference between the Total Downgrade Limit with Rollover in the immediately prior Observation Period minus the number of Observed Downgrade Events in that immediately prior Observation Period; and~~
 - ~~4. Downgrade Event Limit for that immediately prior Observation Period.~~~~

~~i. **Total Downgrade Limit with Rollover** means an amount equal to the Downgrade Event Limit for that Observation Period plus any Rollover Allowance.~~

~~j.i. **Program Commencement Date** means 22 March 2022.~~

~~k.j. **Qualifying Product Component** means an **nbn**[®] Ethernet (Fibre) AVC TC-4 Product Component that has a bandwidth profile of Home Fast or higher (subject to the Note below);~~

- ~~15. Home Fast or higher, if the Original Access Technology at the relevant Premises was the FTTN Network; or~~
- ~~16. Home Superfast or higher, if the Original Access Technology at the relevant Premises was the FTTC Network.~~



Note: If nbn completes a Modify Order or a Disconnect Order before 3 July 2024, and the Original Access Technology at the relevant Premises was the FTTC Network, then for the purposes of determining whether the Modify Order is a Downgrade Order, or whether nbn is supplying a Subsequent Fibre Service to that Premises, the Qualifying Product Component is an nbn® Ethernet (Fibre) AVC TC-4 Product Component that has a bandwidth profile of Home Superfast or higher.

k. **Rollover Allowance** means, for an Observation Period, the following:

13. if the Observed Downgrade Events for the immediately prior Observation Period equals or exceeds the Total Downgrade Limit with Rollover for that immediately prior Observation Period, zero; and

14. otherwise, an amount equal to the lower of the following:

3. the difference between the Total Downgrade Limit with Rollover in the immediately prior Observation Period minus the number of Observed Downgrade Events in that immediately prior Observation Period; and

4. Downgrade Event Limit for that immediately prior Observation Period.

Commented [A2]: Note to RSPs: definition moved to be in alphabetical order.

l. **Term** has the meaning given to that term in paragraph 18.

m. **Total Downgrade Limit with Rollover** means an amount equal to the Downgrade Event Limit for that Observation Period plus any Rollover Allowance.

Commented [A3]: Note to RSPs: definition moved to be in alphabetical order.

h

B. Fibre Connect Eligible Order Lead Times

3. The Order Lead Time for any Fibre Connect Eligible Order is the greater of the period notified by nbn and:
- for a Premises originally served by nbn® Ethernet (FTTN), 10 Business Days; or
 - for a Premises originally served by nbn® Ethernet (FTTC), 15 Business Days.



Important: If your organisation places a Connect Order associated with a Fibre Connect Connection, it will be treated as an order for a Standard Connection for the purposes of the WBA.

C. Fibre Connect Waiver

4. Subject to paragraph 5, for each Fibre Connect Eligible Order that is completed by nbn during the Term, nbn will apply a full Waiver of any FTTN/C Fibre Upgrade Installation Charge that would have, but for this letter, applied to that Fibre Connect Eligible Order (each a **Fibre Connect Waiver**).



Important: Fibre Connect Eligible Order is defined in the WBA as:

- for a Premises served by nbn[®] Ethernet (FTTN), a Connect Order for an AVC TC 4 with a bandwidth profile of Home Fast or higher for which nbn performs a Fibre Connect Connection; and
- for a Premises served by nbn[®] Ethernet (FTTC), a Connect Order for an AVC TC 4 with a bandwidth profile of Home Superfast or higher for which nbn performs a Fibre Connect Connection.

D. Downgrade and Disconnection Limits

- If, across a given Observation Period, the number of your organisation's Observed Downgrade Events exceed the Total Downgrade Limit with Rollover, nbn may charge, and your organisation must pay, an FTTN/C Fibre Upgrade Installation Charge for each Excess Downgrade Event.

Example:

Observation Period 1. In period 1, your organisation had 20,000 Observed Connection Events and 620 Observed Downgrade Events. Your organisation's Downgrade Event Limit for this Observation Period is 2,000, being 10% of 20,000. As your organisation had 620 Downgrade Events in Period 1, your organisation would be able to carry over the 1,380 competed orders to offset Downgrade Events in the immediately next Observation Period - which is period 2.

Observation Period 2. In period 2, your organisation had 35,000 Observed Connection Events and 3,600 Observed Downgrade Events. Your organisation's Downgrade Event Limit for this Observation Period is 3,500 being 10% of 35,000. As a result, your organisation has 100 Downgrade Events more than the limit. Instead of paying nbn an amount equal to 100 x \$200 (\$20,000), your organisation will be able to roll forward the 1,380 in credit made in period 1 to offset the Downgrade Events and as a result will not be required to pay nbn.

E. Service Levels and Performance Objectives

- The Service Levels for Fibre Connect Eligible Orders from the time of Order Acknowledgement are:

| Original Access Technology at Premises | Location of Premises and Service Level (Business Days) | | | | |
|--|--|--------------------------------------|-------------|---------------|---------------------|
| | Urban Area | Major Rural Area or Minor Rural Area | Remote Area | Isolated Area | Limited Access Area |
| FTTN Network | 19 | 24 | 24 | N/A | N/A |
| FTTC Network | 25 | 29 | 29 | N/A | N/A |

- nbn will aim to achieve the following Performance Objectives in connection with the Service Levels set out in this section E:



| Relevant Service Level | Performance Objective |
|---------------------------|-----------------------|
| Fibre Connect Connections | 90% or more |

F. Safe and timely access for Fibre Connect Eligible Orders

8. Your organisation acknowledges and agrees that:
 - a. **nbn** may, before any scheduled Appointment, perform inspections and works at a Premises in connection with a Fibre Connect Eligible Order; and
 - b. clause C11 of the WBA Head Terms applies in respect of such inspections and works.
9. **nbn** may contact the relevant Contracted End User for the purposes of **nbn** or its Personnel performing, before any scheduled Appointment, any inspections and works in relation to the supply of an Ordered Product to a Premises that is the subject of a Fibre Connect Eligible Order.

G. Fair use consistent with the Objective of this letter

10. Your organisation acknowledges that the objective of the Fibre Connect Waiver is to encourage eligible Contracted End Users to order and acquire retail services to which **nbn**® Ethernet (Fibre) is an input for the purpose of facilitating higher speeds over the long term (the **Objective**).
11. Your organisation must act in a manner that is consistent with the Objective and in good faith in connection with **nbn**'s provision of the Fibre Connect Waiver.
12. **nbn** may elect to reduce the amount of any Fibre Connect Waiver (whether previously provided or to be provided to your organisation) or not provide any Fibre Connect Waiver to your organisation if **nbn** considers, acting reasonably, that your organisation's ordering practices (including service transfers to or from Related Bodies Corporate) or other activities reflect a purpose or achieve an outcome that is inconsistent with the Objective (or otherwise reflects a different objective).
13. **nbn** will use reasonable endeavours to discuss the circumstances with your organisation and any proposed election by **nbn** under paragraph 12 before making such an election. **nbn** will provide at least 10 Business Days' notice of any such election.

H. How **nbn** will provide Fibre Connect Waivers

14. **nbn** will provide Fibre Connect Waivers by applying a waiver to, or omitting a charge from, an invoice issued to your organisation without your organisation needing to make a claim.
15. **nbn** may invoice your organisation for any amounts recoverable pursuant to paragraph 5 in any invoice issued after the relevant Observation Period.
16. If **nbn** elects under paragraph 12 to reduce the amount of any Fibre Connect Waiver or to not provide any Fibre Connect Waiver to your organisation, **nbn** may adjust an invoice issued to



your organisation accordingly or require repayment of any amount to the extent necessary to give effect to that election.

17. For clarity:

- a. the invoices referred to in paragraphs 14 and 15 may be an invoice for a Billing Period other than the Billing Period to which the relevant Fibre Connect Waiver relates; and
- b. clauses B2.3(d) and B2.5(a) of the WBA Head Terms do not apply to any recoverable amounts referred to in paragraphs 14 to 16.

I. Term, changes and eligibility

18. This letter agreement commences on the date that a signed version is returned by your organisation to **nbn** and terminates on the earlier of:

- a. termination by **nbn** on 3 months' notice to your organisation; or
- b. 30 November 2026,
(the **Term**).

19. **nbn** may amend this letter agreement:

- a. where that change is consequential upon, or so as to give effect to, any change made to the WBA by including the consequential change in the same notice as is required for the original change or a separate notice given at or around the same time;
- b. to make an RSP Favourable Change, by giving 1 month's notice to your organisation; or
- c. to make any other change to this letter agreement, by giving 3 months' notice to your organisation.

20. If **nbn** amends this letter agreement under paragraph 19, your organisation may elect to terminate this letter agreement by giving 10 Business Days' notice to **nbn**.

21. To be eligible to receive any Fibre Connect Waiver, your organisation must sign and return a copy of this letter agreement to **nbn** before the end of the Term.

J. General

22. RSP agrees to **nbn** using and disclosing details of Ordered Products supplied to RSP to administer **nbn**'s "Fibre Connect" program.

23. Unless otherwise specified, capitalised terms used in this letter agreement have the meanings given to those terms in the WBA.

24. Except as expressly specified, this letter agreement does not vary the WBA.

25. Nothing in this letter affects the accrued rights and liabilities of either party under the WBA.



26. Clauses H4.10 (Governing law and jurisdiction), H4.13 (Severability) and H4.15 (Waiver) of the WBA 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.

Yours sincerely

Jane Witter

General Manager, Wholesale Supply