



Interim Terms

nbn[™] BSS Interim Launch Agreement



Interim Terms

nbn™ BSS Interim Launch Agreement

| Version | Description | Effective Date |
|---------|---|---|
| 1.0 | First issued version of nbn™ BSS Interim Launch Agreement | Execution Date |
| 1.1 | Change in availability of Fleet Plan Product Feature, Self-Installation Option, and Self-Assurance Option | 27 November 2019 |
| 1.2 | Change in availability of nbn™ ABSL3 | 18 December 2019 |
| 1.3 | Consequential changes following changes to the WBA SFAA notified on 21 December 2020 | 21 December 2020 |
| 1.4 | Amendments in respect of Module B: Financial Management (Discounts, Credits and Rebates) notified on 21 December 2020 | earlier of 21 January 2021 or date notified by Customer |
| 1.5 | Amendments to introduce Relocation | 28 July 2021 |
| 1.6 | Amendments to introduce nbn™ Mobility VISP and nbn™ Mobility Private Network Layer 3 | 15 December 2021 |

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**. You may reproduce and publish this document in whole or in part for educational or non-commercial purposes as approved by **nbn** in writing.

Copyright © 2021 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** 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**'s final position on the subject matter of this document, except where stated otherwise. Any requirements of **nbn** or views expressed by **nbn** in this document may change as a consequence of **nbn** finalising formal technical specifications, or legislative and regulatory developments.

Environment

nbn asks that you consider the environment before printing this document

Contents

| | | |
|-----------------|---|-----------|
| Module A | Supply of nbnTM BSS | 5 |
| A1 | Ordering Products | 5 |
| A2 | Supply of Ordered Products | 5 |
| A3 | nbn processes | 7 |
| A4 | Supply of certain Products after the BSS ILA Launch Date | 7 |
| Module B | Financial Management | 9 |
| B1 | Charges, discounts, invoices, payment, enquiries and disputes | 9 |
| B2 | Discounts, Credits and Rebates | 9 |
| Module C | Operational Management | 10 |
| C1 | Operations, product supply and network management and safety | 10 |
| C2 | Title and risk in VSAT NTDs and Orderable Spares..... | 10 |
| C3 | Lawful use of VSAT NTDs..... | 10 |
| C4 | Equipment Warranty..... | 10 |
| C5 | Self Installation & Assurance Mode..... | 11 |
| C6 | Major Upgrades..... | 11 |
| C7 | Excluded Circumstances | 12 |
| Module D | Information & Rights Management | 13 |
| D1 | Confidential Information, data security, personal information and supply communications | 13 |
| D2 | Disclosure by nbn for debt collection..... | 13 |
| D3 | Intellectual property | 13 |
| Module E | Risk Management | 15 |
| E1 | Liability..... | 15 |
| E2 | Indemnities | 17 |
| E3 | No claims against certain persons | 21 |
| E4 | Downstream contracts | 21 |
| E5 | nbn TM Network Boundaries | 24 |
| E6 | Insurance..... | 24 |
| E7 | CSG and priority assistance in relation to nbn TM BSS | 24 |
| Module F | Agreement Management | 26 |
| F1 | Relationship and Operational Points of Contact | 26 |
| F2 | Term | 26 |
| F3 | Changes to this Agreement..... | 26 |
| F4 | Immediate remedies | 28 |

| | | |
|-----------------|---|-----------|
| F5 | Defaults | 28 |
| F6 | Disconnection and termination | 29 |
| F7 | Exercise of remedies | 30 |
| F8 | Disengagement after expiry or termination of this Agreement | 31 |
| Module G | Dispute Management..... | 32 |
| G1 | Interaction with WBA SFAA provisions | 32 |
| Module H | General Terms | 33 |
| H1 | General terms..... | 33 |
| H2 | Interpretation | 33 |

Module A Supply of nbn™ BSS

A1 Ordering Products

- (a) Customer may place an order for a Product through the **nbn™** BSS Portal or in accordance with any other processes determined and notified by **nbn** from time to time.
- (b) An order submitted by Customer in accordance with clause A1(a) constitutes an offer from Customer to acquire Products, which is capable of acceptance by **nbn**.

A2 Supply of Ordered Products

A2.1 nbn's obligation to supply

- (a) **nbn** may, in accordance with the terms of this Agreement and any standard processes determined by **nbn** from time to time, accept, cancel or reject an order for a Product.
- (b) **nbn** will notify Customer once **nbn** accepts, cancels or rejects an order for a Product.
- (c) If **nbn** accepts an order for a Product, **nbn** will supply the relevant Ordered Product to Customer in accordance with this Agreement.
- (d) Where **nbn** supplies Products under this Agreement that are dependent on Customer acquiring the Facilities Access Service:
 - (i) subject to clause A2.1(d)(iii), **nbn** will supply the Facilities Access Service to Customer on the same terms as it is supplied under the WBA SFAA;
 - (ii) to the extent necessary to give effect to clause A2.1(d)(i), the terms of the WBA SFAA relevant to the supply of the Facilities Access Service to Customer are incorporated by reference into this Agreement as if set out in full, with such amendments as necessary to give full effect to the intention of the parties as set out in this Agreement; and
 - (iii) if there is any inconsistency between the terms incorporated by clause A2.1(d)(ii) and the remainder of this Agreement, the remainder of this Agreement prevails to the extent of any inconsistency.
- (e) **nbn** does not represent or warrant that Customer will be able to supply Customer Products (or support the supply of Downstream Products) to any Non-Addressable Object, notwithstanding that a Service Qualification indicates that the Non-Addressable Object is Serviceable.

A2.2 Pre-conditions to nbn supply

- (a) Customer warrants to **nbn** that throughout the period in which **nbn** supplies an Ordered Product to Customer:
 - (i) Customer is and will remain a Carrier, Carriage Service Provider, Content Service Provider and/or a Specified Utility engaging in a related Specified Activity;
 - (ii) Customer complies and will continue to comply with the Credit Policy including providing a Financial Security where required under the Credit Policy;
 - (iii) Customer has entered into a WBA Access Agreement and the WBA Access Agreement has not terminated or expired; and
 - (iv) Customer complies with, and will continue to comply with, its WBA Access Agreement with **nbn**,

(the **Supply Conditions** in respect of that Ordered Product).

- (b) **nbn** is not obliged to supply or continue to supply any Ordered Product to Customer unless Customer complies with the Supply Conditions.
- (c) Customer must notify **nbn** within 2 Business Days of the date on which Customer no longer fully complies with any of the Supply Conditions.
- (d) Customer must complete a Statement of Capability to the satisfaction of **nbn** (acting reasonably) before it may place orders for **nbn**[™] BSS.

A2.3 Disconnection of **nbn**[™] BSS Ordered Products

- (a) Customer may request that **nbn** disconnect an Ordered Product at any time in accordance with any processes determined and notified by **nbn** from time to time.
- (b) **nbn** will disconnect an Ordered Product if requested by Customer in accordance with clause A2.3(a).
- (c) **nbn** may also disconnect an Ordered Product, without a request from Customer, in accordance with standard processes determined by **nbn** from time to time.
- (d) **nbn** will notify Customer once **nbn** disconnects an Ordered Product.

A2.4 Transitional arrangements – WBA

- (a) Customer acknowledges and agrees that, upon expiry or termination of this Agreement in accordance with clause F2(b), **nbn** may, at its discretion:
 - (i) cease supplying any Ordered Products and remove any related **nbn**[™] Equipment; or
 - (ii) if Customer is or becomes a party to a BSS WBA, transition the supply of the Ordered Products to the terms of that BSS WBA, on and from the date notified by **nbn**.
- (b) This clause A2.4 survives termination or expiry of this Agreement.

A2.5 Pre-existing test services – transitional arrangements

- (a) This clause A2.5 applies if, as at the Product Launch Date:
 - (i) Customer and **nbn** are parties to a Prior Test Agreement; and
 - (ii) **nbn** is already supplying services to Customer under that Prior Test Agreement (in this clause A2.5, **Prior Test Services**).
- (b) **nbn** may, prior to the applicable Product Launch Date, provide an option for Customer to request that **nbn** transitions the supply of any or all Prior Test Services to the terms of this Agreement.
- (c) If **nbn**, in its discretion, accepts a request made by Customer under clause A2.5(b), a transition would take effect as follows:
 - (i) those Prior Test Services and any processes or activities undertaken in connection with the supply of those Prior Test Services will be supplied or will continue pursuant to, and be subject to the provisions of, this Agreement without further action by either party;
 - (ii) a party may, under this Agreement, continue to exercise rights accrued under a Prior Test Agreement to the extent that the exercise of those accrued rights is required to give effect to this Agreement as contemplated by the parties;

- (iii) Customer is deemed to have placed, and **nbn** is deemed to have accepted, an order for the equivalent **nbn**[™] Mobility VISIP or **nbn**[™] Mobility Private Network Layer 3 Ordered Product (as relevant); and
 - (iv) the Warranty Period in respect of any VSAT NTD or Orderable Spare supplied in connection with a Prior Test Service will be reduced to 9 months, commencing from the date that the supply of that Prior Test Service is transitioned to the terms of this Agreement.
- (d) Any transition of a Prior Test Service, performed under this clause A2.5, will take effect on the later of:
- (i) the Product Launch Date for **nbn**[™] Mobility VISIP and **nbn**[™] Mobility Private Network Layer 3; and
 - (ii) the date on which **nbn** accepts a request pursuant to clause A2.5(c).
- (e) In this clause A2.5, a **Prior Test Agreement** means the "Test Description: **nbn**[™] Business Satellite Services (BSS) Mobility Trial" or any other agreement relating to test products or services that are substantially similar in nature to **nbn**[™] Mobility VISIP or **nbn**[™] Mobility Private Network Layer 3 that is, as at the Product Launch Date, published on **nbn**'s Website, and which Customer has entered into with **nbn**.

A2.6 Approved Non-Premises Locations

- (a) A location that would not otherwise qualify as a "Premises" under this Agreement will be deemed to constitute a Premises for the purposes of **nbn**[™] BSS if **nbn**:
- (i) makes available the BSS Network at that location; and
 - (ii) determines that location is Serviceable in respect of **nbn**[™] BSS.
- (b) If clause A2.6(a) applies in respect of a location, Customer must comply with, and the supply of **nbn**[™] BSS to that location is subject to, each limitation relevant to that location (including in relation to any Customer Product or Downstream Product) that **nbn** determines to include in the Approved Non-Premises List in addition to any applicable limitations in this Agreement.

A3 **nbn** processes

- (a) **nbn** may develop and issue new or revised operational processes in respect of the **nbn**[™] BSS Products from time to time. Any such operational processes will take effect on a date notified by **nbn** to Customer provided that any such notice period is not less than:
- (i) 5 Business Days where that notice is given on or before the date that is 3 months after the BSS ILA Launch Date; or
 - (ii) 20 Business Days where that notice is given after the date that is 3 months after the BSS ILA Launch Date.
- (b) Customer must comply with processes issued by **nbn** under clause A3(a), including the BSS Operations Manual.

A4 Supply of certain Products after the BSS ILA Launch Date

A4.1 Availability of Planned Items from notified date

- (a) Customer acknowledges and agrees that:

- (i) each of the Planned Items will not be available as at the BSS ILA Launch Date or the applicable Product Launch Date;
 - (ii) each Planned Item will be made available from the date that **nbn** specifies in the notice as being the commercial launch date of that Planned Item; and
 - (iii) the terms on which **nbn** will make available a Planned Item is subject to change, before or after the relevant commercial launch date, in accordance with clause F3.
- (b) Customer may not place an order for or in respect of a Planned Item, and **nbn** is not obliged to make available or supply a Planned Item to Customer, until the relevant commercial launch date.

A4.2 Planned Items

- (a) For the purposes of clause A4.1, the **Planned Items** are:
- (i) in respect of **nbn**[™] ABSL3, IP addressing support and DC Power options for VSAT NTDs;
 - (ii) the Bandwidth on Demand Product Feature;
 - (iii) in respect of **nbn**[™] Mobility VISIP and **nbn**[™] Mobility Private Network Layer 3, the VSAT NTD Land Mobile and any Ordered Products that can be supplied by this VSAT NTD;
 - (iv) in respect of **nbn**[™] Mobility VISIP and **nbn**[™] Mobility Private Network Layer 3, the VSAT NTD Maritime Mobile and any Ordered Products that can be supplied by this VSAT NTD;
 - (v) in respect of the Disaster Recovery Product Feature, the manual mode as described in section 13.2(b)(ii) of the [nbn[™] BSS ILA Product Description](#);
 - (vi) the Time of Day Product Feature; and
 - (vii) in respect of **nbn**[™] VISIP and **nbn**[™] IoT, the Route Mode option of IP addressing to the extent that option permits Customer to supply their own IP subnet.

Module B Financial Management

B1 Charges, discounts, invoices, payment, enquiries and disputes

Module B of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full, except:

- (a) to the extent that provisions relate to "CSG Compensation";
 - (b) that the reference in clause B2.3(a)(vi) of the WBA SFAA Head Terms to "Discounts, Credits, Rebates or Waivers specified in this Agreement" is to be read as a reference to "Discounts, Credits or Rebates specified in this Agreement or in the Discounts, Credits and Rebates List"; and
 - (c) that clause B6 of the WBA SFAA Head Terms is replaced by clause B2 of these [Interim Terms](#).
-

B2 Discounts, Credits and Rebates

- (a) Charges in the Price Lists are subject to any applicable Discounts, Credits and Rebates made available by **nbn** in accordance with clause B2(b).
- (b) **nbn** may make available, and give, a Discount, Credit or Rebate to Customer in accordance with any relevant terms and conditions in this Agreement and the Discounts, Credits and Rebates List, including as to:
 - (i) the processes that Customer must follow to claim the Discount, Credit or Rebate; and
 - (ii) the period within which Customer must submit a claim for the Discount, Credit or Rebate.
- (c) **nbn** is not obliged to pay any Discount, Credit or Rebate to Customer unless Customer complies with all terms and conditions relating to that Discount, Credit or Rebate.
- (d) Unless specified otherwise in this Agreement or the Discounts, Credits and Rebates List, each Discount, Credit or Rebate will cease to apply on the Expiry Date.

Module C Operational Management

C1 Operations, product supply and network management and safety

Module C of the WBA SFAA Head Terms, other than clause C16.2(a)(ii), is incorporated by reference into these [Interim Terms](#) as if set out in full except that:

- (a) clause C13.1(a) of the WBA SFAA Head Terms is replaced by clause C6(a) of these [Interim Terms](#);
- (b) clause C13.1(f) of the WBA SFAA Head Terms is replaced by clause C6(b) of these [Interim Terms](#);
- (c) clause C13.6 of the WBA SFAA Head Terms is replaced by clause C7 of these [Interim Terms](#);
- (d) each reference to an "Other Wholesale Broadband Agreement" is to be read as a reference to a "WBA Access Agreement, Other Wholesale Broadband Agreement or Other BSS Interim Launch Agreement"; and
- (e) each reference to the "National Test Facility" is to be read as a reference to the "nbn™ Melbourne Test Facility".

C2 Title and risk in VSAT NTDs and Orderable Spares

- (a) Any VSAT NTD or Orderable Spare supplied by **nbn** is sold and supplied to Customer by **nbn** under this Agreement for the purpose of **nbn** supplying **nbn**™ BSS to Customer.
- (b) Subject to clause D3, title and risk in any VSAT NTD or Orderable Spare supplied by **nbn** will pass from **nbn** to Customer immediately upon:
 - (i) where **nbn** is required to install the VSAT NTD or Orderable Spare, completion of installation by **nbn** of the VSAT NTD or Orderable Spare; or
 - (ii) in all other cases, delivery to the relevant delivery address for the VSAT NTD or the Orderable Spare.
- (c) Any VSAT NTD or Orderable Spare supplied and sold by **nbn** to Customer is not **nbn**™ Equipment and does not comprise part of any **nbn**™ Network.

C3 Lawful use of VSAT NTDs

Customer must ensure that any use by Customer (and its Personnel), or any of its Related Bodies Corporate (and their Personnel), of a VSAT NTD is lawful and is in accordance with this Agreement.

C4 Equipment Warranty

- (a) **nbn** will replace or repair a VSAT NTD or Orderable Spare if, and to the extent that, a Service Fault is also considered a Covered VSAT NTD Fault.
- (b) Where **nbn** replaces or repairs a VSAT NTD or Orderable Spare under clause C4(a) in respect of an **nbn**™ BSS Ordered Product, Charges may be payable by Customer in connection with any Attendance by **nbn** for this replacement or repair, determined in accordance with this Agreement.

C5 Self Installation & Assurance Mode

C5.1 Availability of Self Installation & Assurance Mode

- (a) Where Customer is able to make an election under this Agreement, Customer may elect the Self Installation & Assurance Mode subject to, and in accordance with, this clause C5 and applicable standard processes determined by **nbn** from time to time.
- (b) It is mandatory for Customer to select Self Installation & Assurance Mode in connection with:
 - (i) **nbn**TM Mobility VISP Ordered Products;
 - (ii) **nbn**TM Mobility Private Network Layer 3 Ordered Products; and
 - (iii) any Ordered Products supplied to Premises that are in a maritime or offshore location.
- (c) Any election under clause C5.1(a) must be made by Customer during On-boarding.
- (d) Except where the Self Installation & Assurance Mode is mandatory, if Customer does not make the election in clause C5.1(a), **nbn** will, by default, perform all activities in respect of Installation, activation and assurance of Customer's **nbn**TM BSS Ordered Products.

C5.2 Scope of Self Installation & Assurance Mode

- (a) To the extent that Customer selects the Self Installation & Assurance Mode under section C5.1, that selection applies:
 - (i) to all Ordered Products supplied to Customer; and
 - (ii) until Customer advises **nbn** otherwise, and **nbn** approves this revocation.
- (b) Where the Self Installation & Assurance Mode applies to Ordered Products supplied to Customer, Customer will, on and from the date **nbn** approves this selection, be responsible for:
 - (i) installing and making ready for service any Connecting Equipment; and
 - (ii) despite clause C16.1(a) of the WBA SFAA Head Terms (as that clause is incorporated by clause C1), site visits in connection with assuring all Ordered Products, including in respect of all labour, materials and travel associated with any such site visits.
- (c) Without limiting clause C5.2(b), where the Self Installation & Assurance Mode applies to Ordered Products supplied to Customer, **nbn** may require Customer to take such reasonable rectification action, within a reasonable period of time, specified by **nbn** (including any site visits that may be required), if **nbn**:
 - (i) determines that an Ordered Product is impacting or interfering with the supply of other ordered products to Customer or any Other Customer; and
 - (ii) has notified Customer of such issues.
- (d) **nbn** may require Customer to undergo additional On-boarding activities prior to being permitted to order an Ordered Product to which the Self Installation & Assurance Mode applies.

C6 Major Upgrades

- (a) If **nbn** wishes to implement a Major Upgrade, **nbn** must give notice and provide to Customer:
 - (i) a Major Upgrade Plan; and

- (ii) any relevant Network Interface Specification with updated descriptions of each affected Supported Attribute,

as promptly as feasible in the circumstances after the finalisation of **nbn**'s Major Upgrade planning, and in any event at least:

- (iii) 1 month before starting works to implement that Major Upgrade, where that notice is given on or before the date that is 6 months after the BSS ILA Launch Date; or
 - (iv) 6 months before starting works to implement that Major Upgrade, where that notice is given after the date that is 6 months after the BSS ILA Launch Date.
- (b) At least 1 month prior to starting works to implement a Major Upgrade, **nbn** will make available each Supported Attribute which is affected by that Major Upgrade, as an Upgraded Attribute in the **nbn**[™] BSS ILA Sandpit.

C7 Excluded Circumstances

The following circumstances are not Upgrades:

- (a) relocation, closure or replacement of POIs, or the establishment of new POIs;
- (b) routine maintenance (including any Planned Outage) or Service Fault rectification activities in relation to:
 - (i) any **nbn**[™] Infrastructure or VSAT NTD;
 - (ii) any other matter or thing for which **nbn** is responsible and which affects, or can affect, the supply of products by **nbn** to Customer or any Other Customers; or
 - (iii) any facilities at, on or under which the **nbn**[™] Network or a VSAT NTD is attached, located or installed; or
- (c) rollout or expansion of the **nbn**[™] Network.

Module D Information & Rights Management

D1 Confidential Information, data security, personal information and supply communications

- (a) Module D of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full, except that:
- (i) clause D1.7 of the WBA SFAA Head Terms is replaced by clause D2 of these [Interim Terms](#); and
 - (ii) clause D5 of the WBA SFAA Head Terms is replaced by clause D3 of these [Interim Terms](#).
- (b) **nbn** may disclose Confidential Information of Customer to a Third Party Supplier and then only in that person's role as a Third Party Supplier.
-

D2 Disclosure by **nbn** for debt collection

If:

- (a) Customer fails to pay an amount due or owing to **nbn** under this Agreement by the due date for payment; or
- (b) an Insolvency Event occurs in respect of Customer,

then, notwithstanding anything in clause D1.2 of the WBA SFAA Head Terms (as incorporated into this Agreement), **nbn** may do one or both of the following:

- (c) notify and exchange information about Customer (including Customer's Confidential Information) with any credit reporting agency or **nbn's** collection agent to the extent necessary for the credit reporting agency or **nbn's** collection agent to carry out their respective functions; and
 - (d) without limiting clause D2(c), disclose to a credit reporting agency:
 - (i) the defaults made by Customer to **nbn**; and
 - (ii) the exercise by **nbn** of any right to suspend or cease supply of an Ordered Product under this Agreement.
-

D3 Intellectual property

- (a) Each party (or its licensors) owns all right, title and interest (including Intellectual Property Rights) in its own network, platform and other systems, equipment, facilities and materials which currently exist or may be acquired, created or developed by or on behalf of that party.
- (b) **nbn** (or its licensors) owns all Intellectual Property Rights in:
 - (i) the **nbn**TM Network, the **nbn**TM Platform and the VSAT NTDs;
 - (ii) this Agreement, including any changes made to this Agreement; and
 - (iii) the Products, including any changes made to any Products.
- (c) Nothing in this Agreement:

- (i) transfers or assigns ownership of a party's Intellectual Property Rights (or those of a third party); or
 - (ii) confers on any person a right, title or interest in a party's Intellectual Property Rights except as expressly set out in this Agreement.
- (d) Each party agrees that their rights and obligations in relation to Intellectual Property Rights provided as part of the Product Development Forum are subject to the separate provisions set out in the PDF Terms.
- (e) Subject to clause D3(g), each party (**licensor**) grants the other party (**licensee**) an irrevocable, non-exclusive, royalty-free, non-transferrable, sublicensable, worldwide licence for the Term to use, reproduce, communicate, adapt and exploit the licensor's intellectual property rights but only to the extent strictly necessary for the licensee to perform its obligations and exercise its rights under this Agreement.
- (f) Unless otherwise agreed in writing by the parties, each party must procure, at its own cost and expense, licences of Third Party IPR to the extent reasonably required for that party or its Personnel to perform its obligations pursuant to this Agreement.
- (g) Nothing:
 - (i) in this clause D3 limits a party's obligations under clause D1, and any exercise by a party of a right under this clause D3 is subject to that party's obligations under clause D1; and
 - (ii) in this Agreement confers a right on either party to use the other party's trade marks, service marks, logos or branding.

Module E Risk Management

E1 Liability

E1.1 Liabilities of each party

- (a) This Agreement, to the full extent permitted by law, exhaustively governs all of the Liabilities that a party owes to the other party arising from, or in connection with, this Agreement.
- (b) To the full extent permitted by law, each party excludes all Liability that it would otherwise have to the other party in connection with this Agreement and its subject matter, except to the extent that the first party has accepted Liability under this Agreement.
- (c) Every exclusion, restriction, limitation and indemnity in this Agreement separately applies on its own terms and survives expiry or termination of this Agreement.

E1.2 Liability for Service Faults

- (a) To the full extent permitted by law, and subject to clause E1.2(b), **nbn** excludes all Liability to Customer in respect of any Loss arising by reason of:
 - (i) any failure of **nbn** to achieve a Service Level;
 - (ii) any delay in supplying a product, service or VSAT NTD; or
 - (iii) any failure to supply or an error or defect in its supply of a product, service or VSAT NTD, including any failure of a product or service to:
 - (A) perform in accordance with this Agreement;
 - (B) be fit for the purposes for which such goods or services are commonly supplied, or any other purpose; or
 - (C) be durable.
- (b) **nbn's** sole and exclusive Liability to Customer in respect of any Loss arising by reason of a failure of **nbn** to achieve a Service Level or any delay in supplying, failure to supply or an error or defect in the supply of an Ordered Product or a VSAT NTD will be the applicable Commercial Rebate (if any).
- (c) The parties agree that:
 - (i) clause E1.2(b) does not limit **nbn's** liability:
 - (A) under the indemnities given by **nbn** in clauses E2.1 to E2.4 of these [Interim Terms](#); or
 - (B) in relation to the matters described in clauses E1.3(c)(i) to E1.3(c)(v) of these [Interim Terms](#);
 - (ii) the amount of any Commercial Rebate is reflective of the diminution in value of the Ordered Products actually provided; and
 - (iii) Commercial Rebates do not represent agreed damages or liquidated damages and do not amount to a penalty.

E1.3 Liability cap

- (a) To the full extent permitted by law, and subject to clause E1.3(c), each party's aggregate Liability to the other party in relation to any and all events that arise in connection with this Agreement or its subject matter is limited to \$5 million.
- (b) The amount of one party's Liability to the other party for the purposes of clause E1.3(a) will be reduced to the extent that the other party otherwise recovers in respect of any event or cause giving rise to the Liability, including from the relevant insurer if that other party has a right to recover under any contract of insurance with any third party in respect of any event or cause giving rise to the Liability.
- (c) The limitations of liability imposed by clause E1.3(a) do not apply to either party's liability:
 - (i) for any negligent or wilful acts or omissions of the party that cause death, personal injury or damage to Tangible Property unless such death, personal injury or damage to Tangible Property occurs in connection with any Relocation;
 - (ii) for any acts or omissions of the party constituting fraud;
 - (iii) under the indemnities given by that party under clause E2 (other than clause E2.4);
 - (iv) under the indemnity given by that party under clause E2.4 to the extent that the liability giving rise to that indemnity was caused or contributed to by a negligent or wilful act or omission of that party; or
 - (v) in the case of Customer's liability, to pay Charges or Overdue Amounts to **nbn**.

E1.4 Customer group aggregated liability caps

- (a) In respect of any Claim by Customer, the liability limit applicable under clause E1.3(a) will be reduced by the monetary value of any remedies provided, or required to be provided, by **nbn** in respect of all earlier Claims arising by any Customer Group Member.
- (b) In respect of any Claim by **nbn**, the liability limit applicable under clause E1.3(a) will be reduced by the monetary value of any remedies provided, or required to be provided, by all Customer Group Members in respect of all earlier Claims arising by **nbn**.

E1.5 No liability for Indirect Loss

- (a) No party is liable to make any payment to the other party for any and all Losses of that other party arising from or in connection with this Agreement or its subject matter, regardless of how that Liability arises, to the extent such Liability constitutes Indirect Loss.
- (b) The exclusion of liability in clause E1.5(a) does not apply in respect of the indemnity set out in clause E2.5(a).

E1.6 General exclusions of liability

To the full extent permitted by law, **nbn** excludes all Liability for any and all Losses suffered or incurred by Customer to the extent such Losses are caused or contributed to by:

- (a) any and all:
 - (i) Claims brought against Customer by a Downstream Service Provider or End User, to the extent that that Liability could have been lawfully excluded, restricted or limited under that contract; or
 - (ii) End User Losses,

except to the extent that such Claims or Losses fall within clauses E1.3(c)(i), E1.3(c)(ii) or E2.4(b)(i); or

- (b) any Customer Event.

E1.7 Force majeure

If an Affected Party is unable to perform an obligation under this Agreement (excluding any obligation of either party to pay money) because of a Force Majeure Event affecting it (or in the case of **nbn**, affecting it or a third party supplier (including any Third Party Supplier)), then to the extent the Force Majeure Event prevents that party from performing that obligation, the Affected Party:

- (a) will be excused from performing that obligation for the duration of the Force Majeure Event; and
- (b) will not be liable for any costs, expenses, losses, damages or Liabilities arising from or in connection with the non-performance of that obligation for the duration of the Force Majeure Event.

E1.8 Exclusion or limitation of certain representations, conditions, warranties and guarantees

Clause E1.7 of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full.

E1.9 Other exclusions of liability

Clause E1.8 of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full.

E1.10 Apportionment and mitigation

- (a) The Liability of a party (the **first party**) to the other party in respect of any and all Claims and Losses arising from or in connection with this Agreement is reduced proportionally to the extent that:
 - (i) the other party has not taken all reasonable steps to minimise and mitigate its own Losses in relation to the act, omission, event or circumstance giving rise to such Claim or Loss (where such costs are recoverable from the first party); or
 - (ii) any Losses of the other party are caused, or contributed to, by:
 - (A) any act or omission of the other party, its Related Bodies Corporate or their respective Personnel (whether in relation to this Agreement or, if Customer is also a Third Party Supplier, in relation to any arrangement between **nbn** and the Third Party Supplier); or
 - (B) the networks, systems, equipment or facilities of the other party, its Related Bodies Corporate or their respective Personnel.
- (b) The reduction of liability in clause E1.10(a) does not apply in respect of the indemnity set out in clause E2.5.

E2 Indemnities

E2.1 Confidentiality

Each party must pay to the other party on demand an amount equal to all Losses suffered or incurred by the Indemnified Party, or their respective Personnel, arising from or in connection with any breach

of clause D1 of the WBA (to the extent incorporated into this Agreement) or clause D2 of these [Interim Terms](#) by the Indemnifying Party.

E2.2 Intellectual property

- (a) Each party must pay to the other party on demand an amount equal to all Losses suffered or incurred by the Indemnified Party arising from or in connection with any Claim brought by any third party alleging that the exercise by the Indemnified Party of any rights assigned, transferred or granted, or purportedly assigned, transferred or granted, by or on behalf of the Indemnifying Party in connection with this Agreement infringes any Intellectual Property Rights of that third party.
- (b) Customer must pay to **nbn** on demand an amount equal to all Losses suffered or incurred by **nbn** arising from or in connection with any Claim brought by any third party alleging that any Intellectual Property Rights of that third party have been, or are being, infringed by any use by Customer or any Downstream Service Provider or Contracted End User of:
 - (i) the Products or any Customer Product or Downstream Product; or
 - (ii) any network, system, facility, equipment or infrastructure in connection with this Agreement or any Downstream Contract,where such use is:
 - (iii) Unfair Use;
 - (iv) a Default (or would be a Default if performed by Customer); or
 - (v) for a purpose other than as contemplated by this Agreement.

E2.3 Death and personal injury

- (a) Each party must pay to the other party on demand an amount equal to all Losses suffered or incurred by the Indemnified Party arising from or in connection with the death or personal injury of any person to the extent that:
 - (i) an act or omission of the Indemnifying Party, its Related Bodies Corporate, their respective Personnel or suppliers in connection with this Agreement:
 - (A) is negligent and causes or contributes to that death or personal injury; or
 - (B) intentionally causes or contributes to that death or personal injury; or
 - (ii) the network, systems, equipment or facilities of the Indemnifying Party causes or contributes to that death or personal injury in connection with this Agreement.
- (b) The indemnity in clause E2.3(a) does not apply for acts or omissions of **nbn**, its Related Bodies Corporate or their respective Personnel or suppliers in connection with any Relocation.

E2.4 Damage to property and networks

- (a) Customer must pay to **nbn** on demand an amount equal to all Losses suffered or incurred by **nbn**, any Related Body Corporate of **nbn**, or their respective Personnel arising from or in connection with any:
 - (i) damage to, or loss of, the Tangible Property of **nbn** and/or any third party, including damage to sites or any third party equipment sites at which any POI is located or sites at which facilities access services are supplied to Customer;

- (ii) damage to, or loss of, the whole or any part of the **nbn**TM Network, the National Test Facility, the **nbn**TM Melbourne Test Facility, and/or the **nbn**TM Platform;
- (iii) disruption of, interference with, or deterioration or degradation of, the normal operation or performance of the whole or any part of the **nbn**TM Network or **nbn**TM Platform; or
- (iv) interruption of access to or use of Products by Customer or of access to or use of products or services by any Other Customer,

to the extent that such Losses are caused, or contributed to, by Customer, its Related Bodies Corporate or any of their respective Personnel or third party suppliers, or by any Downstream Service Provider or Contracted End User in connection with this Agreement or its subject matter.

- (b) **nbn** must pay to Customer on demand an amount equal to all Losses suffered or incurred by Customer arising from or in connection with any damage to, or loss of:

- (i) the Tangible Property of Customer and/or any third party; or
- (ii) the whole or any part of the Customer Network and/or Customer Platform,

to the extent that such Losses are caused, or contributed to, by **nbn**, its Related Bodies Corporate or any of their respective Personnel in connection with this Agreement or its subject matter.

- (c) The indemnity in clause E2.4(b) does not apply for Losses caused or contributed to by **nbn**, its Related Bodies Corporate or their respective Personnel in connection with any Relocation.

E2.5 Claims by End Users and other third parties

- (a) Subject to clause E2.5(b), Customer must pay to **nbn** on demand an amount equal to all Losses suffered or incurred by **nbn**, any Related Body Corporate of **nbn**, or their respective Personnel arising from or in connection with any Claim:

- (i) against **nbn**, any Related Body Corporate of **nbn**, or their respective Personnel for any End User Loss or by any Downstream Service Provider or End User in connection with this Agreement; or
- (ii) by a third party against **nbn**, any Related Body Corporate of **nbn**, or their respective Personnel to the extent that the Claim arises from or in connection with any:
 - (A) failure to meet a Service Level or any cancellation of, delay in supplying, failure to supply or an error or defect in the supply of, an Ordered Product;
 - (B) breach of this Agreement by Customer (including any Claim arising by reason of any failure to include terms in contracts with End Users as required by clause E4); or
 - (C) negligent act or omission of Customer, any Related Bodies Corporate of Customer, or their respective Personnel or suppliers arising directly from or in connection with this Agreement or its subject matter.

- (b) Clause E2.5(a)(i) does not apply to the extent that the Loss suffered or incurred by **nbn**, any Related Body Corporate of **nbn**, or their respective Personnel arose from a Claim in relation to which Customer could not have lawfully excluded or limited the relevant Losses.

E2.6 Operational indemnities

Customer must pay to **nbn** on demand an amount equal to all Losses suffered or incurred by **nbn**, any Related Body Corporate of **nbn**, and their respective Personnel arising from or in connection with:

- (a) the reasonable exercise by **nbn** of its rights to disconnect or remove any network, systems, equipment or facilities in accordance with clause C10 of the WBA SFAA Head Terms (as incorporated into this Agreement);
- (b) Customer's failure to comply with clause C11 of the WBA SFAA Head Terms (as incorporated into this Agreement); or
- (c) the reproduction, broadcast, use, transmission, communication or making available of any material (including data and information of any sort), including the defamation of a person, by Customer or any of its Related Bodies Corporate, any Downstream Service Provider or End User using a Product, Customer Product or Downstream Product.

E2.7 General rules for all indemnities

- (a) The liability of a party to pay on demand an amount under this clause E2 to the party being indemnified for an event set out in this clause E2 will be the sole and exclusive financial remedy in respect of the liability the subject of the indemnity.
- (b) It is not necessary for any party to incur expense or make payment before enforcing a right of indemnity conferred by this Agreement.
- (c) Where an indemnity applies in favour of an Indemnified Party related to the act or omission of a third party supplier of the Indemnifying Party, the Indemnified Party will not receive the benefit of the indemnity where that third party supplier is the Indemnified Party, any Related Body Corporate of that Indemnified Party or their respective Personnel.
- (d) An Indemnified Party under clause E2.2 must:
 - (i) notify the Indemnifying Party as soon as is reasonably practicable of a relevant Claim; and
 - (ii) where the Indemnifying Party can demonstrate to the reasonable satisfaction of the Indemnified Party that the Indemnifying Party has the resources to pay all Losses which are reasonably likely to arise in the event the relevant Claim is successful:
 - (A) give the Indemnifying Party the option to conduct the defence of the relevant Claim, including negotiations for settlement or compromise;
 - (B) promptly provide all assistance reasonably requested by the Indemnifying Party (at the cost of the Indemnifying Party) in conducting the defence of the relevant Claim; and
 - (C) not make any admissions in relation to the relevant Claim without the prior written consent of the Indemnifying Party.
- (e) If the Indemnifying Party exercises its option under clause E2.7(d)(ii)(A), the Indemnifying Party must:
 - (i) not do anything during the course of any defence, settlement or compromise which adversely affects the Indemnified Party's business or reputation;
 - (ii) consider in good faith any submissions made by the Indemnified Party with respect to the defence, settlement or compromise of the Claim; and

- (iii) first obtain the consent of Indemnified Party (which must not be unreasonably withheld) to the terms of any settlement or compromise of the relevant Claim, provided that no consent is required where the terms of any such settlement or compromise involve only the payment of money.

E3 No claims against certain persons

- (a) Each party agrees that it will not make any Claims arising from or in connection with the subject matter of this Agreement against:
 - (i) the Personnel of the other party; or
 - (ii) any Related Body Corporate of the other party which is not a party to this Agreement or any of their Personnel.
- (b) Customer must not make any Claims against:
 - (i) any Third Party Supplier; or
 - (ii) any tenant of any data centre in respect of which a Third Party Supplier supplies data centre facilities or services to **nbn**,
arising from or in connection with:
 - (iii) any failure of a Third Party Supplier to supply goods, services or facilities to **nbn** under a contract between **nbn** and such a Third Party Supplier; or
 - (iv) any act or omission of a tenant referred to in clause E3(b)(ii) in connection with any contract referred to in clause E3(b)(iii).
- (c) Customer must not make any Claims against **nbn** arising from or in connection with:
 - (i) any event that falls within paragraph (d) of the definition of Excluded Event; or
 - (ii) any act or omission of a tenant referred to in clause E3(b)(ii) in connection with that person's tenancy of that data centre.

E4 Downstream contracts

- (a) Customer must include in the terms of each contract with a Downstream Service Provider or End User for the supply of Customer Products, and must ensure that each Downstream Service Provider includes in the terms of each contract with any other Downstream Service Provider or any End User for the supply of Downstream Products, provisions that:
 - (i) exclude (to the full extent permitted by law) all Liability of **nbn**, its Related Bodies Corporate and each of their respective Personnel, arising from or in connection with Customer Products or Downstream Products (as applicable); and
 - (ii) state **nbn** is not providing, and does not have a contractual relationship with the Downstream Service Provider or End User for the supply of, any products or services to the Downstream Service Provider or End User.
- (b) Customer must ensure that contracts with Downstream Service Providers and End Users for the supply of Customer Products or Downstream Products (as applicable) do not prevent or hinder **nbn** or Customer from exercising rights or performing obligations under this Agreement.

- (c) In addition to Customer's obligations under clauses E4(a) and E4(b), Customer must include an undertaking in its Downstream Contracts on the following terms, or such other terms that are no less effective in protecting **nbn**'s interests:

- "X *Notwithstanding anything else in [this agreement], [the relevant Downstream Service Provider / Contracted End User] agrees:*
- X.1 *the [Customer Product] is provided 'as is' and without of quality or availability;*
- X.2 *[the relevant Downstream Service Provider / Contracted End User]'s use of the [Customer Product] is at [the relevant Downstream Service Provider / Contracted End User]'s own risk;*
- X.3 *[the relevant Downstream Service Provider / Contracted End User] is using a public, unfiltered internet connection and should take all precautions for the security and filtering (if applicable) of [the relevant Downstream Service Provider / Contracted End User]'s information;*
- X.4 *[the relevant Downstream Service Provider / Contracted End User] is solely responsible for any loss or damage to [the relevant Downstream Service Provider / Contracted End User]'s equipment, device or to any information or other data that may result from [the relevant Downstream Service Provider / Contracted End User]'s use of the [Customer Product];*
- X.5 *there may be interruptions, delays, omissions, inaccuracies with the [Customer Product] and that it may not be available at some times;*
- X.6 *subject to Y, and to the extent permitted by law, [the relevant Downstream Service Provider / Contracted End User] releases **nbn** and its related bodies corporate, affiliates, directors, officers, agents, employees, contractors or representatives, but excluding [Customer], (**Released Parties**) from any and all liability that may arise in connection with the [Customer Product] or [the relevant Downstream Service Provider / Contracted End User]'s use of the [Customer Product]; and*
- X.7 *[Customer] holds the benefit of this clause for and on behalf of the Released Parties, and any of the Released Parties may enforce this clause as if it were party to this agreement.*
- Y *Clause x.6 does not apply to a claim by [relevant Downstream Service provider / Contracted End User] for loss or damage suffered or incurred by [relevant Downstream Service Provider / Contracted End User] arising from or in connection with:*
- Y.1 *any damage to, or loss of, tangible property to the extent that such losses are caused or contributed to by **nbn**, its Related Bodies Corporate or any of their respect Personnel or third party suppliers; or*
- Y.2 *the death or personal injury of any person to the extent caused or contributed to by:*

Y.2.1 *negligent or wilful acts or omissions of **nbn**, its Related Bodies Corporate or any of their respective Personnel or third party suppliers; or*

Y.2.2 *any equipment or network owned, operated or controlled by **nbn**."*

(d) In addition to Customer's obligations under clauses E4(a) and E4(b), Customer must ensure that its Downstream Customers and Contracted End Users (as applicable) include an undertaking in their Downstream Contracts on the following terms, or such other terms that are no less effective in protecting **nbn**'s interests:

"X *Notwithstanding anything else in [this agreement], [the relevant Contracted End User] agrees:*

X.1 *the [Downstream Product] is provided 'as is' and without warranty of quality or availability;*

X.2 *[the relevant Contracted End User]'s use of the [Downstream Product] is at [the relevant Contracted End User]'s own risk;*

X.3 *[the relevant Contracted End User] is using a public, unfiltered internet connection and should take all precautions for the security and filtering (if applicable) of [the relevant Contracted End User]'s information;*

X.4 *[the relevant Contracted End User] is solely responsible for any loss or damage to [the relevant Contracted End User]'s equipment, device or to any information or other data that may result from [the relevant Contracted End User]'s use of the [Downstream Product];*

X.5 *there may be interruptions, delays, omissions, inaccuracies with the [Downstream Product] and that it may not be available at some times;*

X.6 *to the extent permitted by law, [the relevant Contracted End User] releases **nbn** and its related bodies corporate, affiliates, directors, officers, agents, employees, contractors or representatives (Released Parties) from any and all liability that may arise in connection with the [Downstream Product] or [the relevant Contracted End User]'s use of the [**nbn**™ BSS Product];*

X.7 *to indemnify and hold harmless the Released Parties from any claim or demand, including reasonable legal fees arising out of:*

x.7.1 *content [the relevant Contracted End User] submits, posts, transmits or otherwise makes available through the Service;*

x7.2 *any cancellation of, delay in supplying, failure to supply or an error or defect in the supply of the [Downstream Product];*

x.7.3 *[the relevant Contracted End User]'s use of the Service; and*

x.7.4 *[the relevant Contracted End User]'s breach of this Agreement; and*

- x.8 *[Downstream Customer / Contracted End User] holds the benefit of this clause for and on behalf of the Released Parties, and any of the Released Parties may enforce this clause as if it were party to this agreement.*

E5 nbn™ Network Boundaries

Without limiting **nbn**'s obligations under this Agreement, Customer is responsible for (and assumes all liabilities and obligations in respect of) all activities required for:

- (a) the supply of Customer Products and Downstream Products beyond the **nbn**™ Network Boundaries including all services, systems, equipment or facilities associated with the supply of Customer Products and Downstream Products;
- (b) the proper operation and maintenance of the VSAT NTD after completion of installation by **nbn**;
- (c) in the case of any Ordered Product for which Customer selects the Self Installation & Assurance Mode, the proper assembly, siting, operation and maintenance of the VSAT NTD; and
- (d) the proper operation of the Customer Platform and any associated interfacing with the **nbn**™ Infrastructure and the VSAT NTD.

E6 Insurance

Clause E5 of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full.

E7 CSG and priority assistance in relation to nbn™ BSS

E7.1 Non-permitted uses of nbn™ BSS

Customer must not use, and warrants to **nbn** that it will not use, **nbn**™ BSS, or permit any Downstream Service Provider to use a Customer Product which relies on **nbn**™ BSS as an input, to supply a:

- (a) Downstream CSG Service (including standard telephone services that are subject to customer service guarantees for the purposes of the TCPSS Act); or
- (b) Downstream Priority Assistance Service.

E7.2 CSG waivers

- (a) Customer waives, and must use reasonable endeavours to ensure that any relevant Downstream Service Provider waives, any right to recover any amount from **nbn** pursuant to section 118A of the TCPSS Act in respect of the supply of **nbn**™ BSS to Customer.
- (b) Customer releases, and must use reasonable endeavours to ensure that any relevant Downstream Service Provider releases, **nbn** from any current or future Liability in connection with section 118A of the TCPSS Act in respect of the supply of **nbn**™ BSS to Customer.

E7.3 Indemnification against CSG related claims

- (a) Customer must pay to **nbn**, on demand, an amount equal to all Losses suffered or incurred by **nbn**, any Related Body Corporate of **nbn**, or their respective Personnel under this Agreement in connection with any Claim by Customer or Downstream Service Provider brought before,

during or after the Term for amounts under section 118A of the TCPSS Act in connection with the supply or non-supply of **nbn**[™] BSS.

- (b) The indemnity in section E7.3(a) is subject to clause E2.7.
- (c) The limitations of liability imposed by clause E1.3 and exclusions of liability in clause E1.5 do not apply to any liability of Customer to **nbn** under this section E7.3.

Module F Agreement Management

F1 Relationship and Operational Points of Contact

Clause F1 of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full.

F2 Term

- (a) This Agreement starts on later of:
 - (i) the BSS ILA Launch Date; and
 - (ii) the Execution Date.
 - (b) This Agreement expires on the earlier of:
 - (i) the Expiry Date; and
 - (ii) the date the Parties enter into a BSS WBA,

unless extended by agreement of the parties or terminated earlier in accordance with this agreement.
-

F3 Changes to this Agreement

F3.1 General Changes

- (a) **nbn** may change this Agreement by giving Customer:
 - (i) 5 Business Days' notice of the change, where that notice is given on or before the date that is 3 months after the BSS ILA Launch Date; or
 - (ii) 20 Business Days' notice of the change, where that notice is given after the date that is 3 months after the BSS ILA Launch Date.
- (b) After consulting with Customer, **nbn** may change this Agreement by giving Customer 20 Business Days' notice of the change where **nbn** considers, acting reasonably, that the change will not have a material adverse effect on Customer.

F3.2 Product changes

nbn may change this Agreement in respect of an existing Product, including any Product Component or Product Feature as it relates to that Product (a **Product Specific Change**), by giving Customer:

- (a) 5 Business Days' notice of the Product Specific Change, where that notice is given on or before the date that is 3 months after the Product Launch Date of the Product the subject of the Product Specific Change; or
- (b) 20 Business Days' notice of the change, where that notice is given after the date that is 3 months after the Product Launch Date of the Product the subject of the Product Specific Change.

F3.3 Product Module Enhancements

nbn may change a Product Module:

- (a) to introduce a Product or an Enhancement to a Product (including by introducing or Enhancing a Product Component or Product Feature) by giving Customer at least 20 Business Days' notice of that change, provided that **nbn** has first consulted with Customer; or
- (b) to carry out a minor variation or enhancement which updates the functionality or performance of a Product that **nbn** considers, acting reasonably, will not have any material adverse impact on Customer, by giving Customer at least 5 Business Days' notice of that change.

F3.4 Changes to rectify errors

nbn may vary the Agreement by giving Customer at least 3 Business Days' notice if **nbn** reasonably believes that the change is necessary to rectify any error, defect or omission in the Agreement.

F3.5 Product Withdrawal

nbn may change this Agreement to withdraw a Product Component or Product Feature in accordance with the terms of this Agreement.

F3.6 Standard Process changes

After consulting with Customer, **nbn** may change:

- (a) this Agreement (other than these [Interim Terms](#)) to implement or reflect a change to its standard processes by giving at least 10 Business Days' notice of that change to Customer; or
- (b) the [Credit Policy](#), by giving at least 20 Business Days' notice of that change to Customer.

F3.7 Changes to the Price List

- (a) **nbn** may change the [nbn™ BSS ILA Price List](#) or any other amount payable under this Agreement:
 - (i) where reasonably necessary for **nbn** to comply with the requirements or consequences of its Non-Discrimination Obligations, on a date specified by **nbn**; or
 - (ii) in connection with a Tax Change Event by giving no less than 40 Business Days' prior notice to Customer.
- (b) If **nbn** issues a notice under clause F3.7(a)(ii), then any change to a Charge in a Price List or any other amount payable under this Agreement:
 - (i) will be an amount estimated by **nbn** to be a reasonably apportioned equivalent to that imposed or increased Tax or third party charge; and
 - (ii) may include any material prior over or under recovery that may have occurred in relation to any such imposed or increased Tax or third party charge.

F3.8 Changes required by law

nbn may change this Agreement where that change is necessary to comply with any applicable law or reasonably necessary or desirable to comply with, respond to, or is otherwise required by, a Regulatory Event, by giving as much notice as is reasonably practicable of that change to Customer.

F3.9 Wholesale Broadband Agreement changes

nbn may change this Agreement by giving notice to Customer where **nbn** considers that change is necessary to align with:

- (a) any change to a WBA Access Agreement between **nbn** and Customer, provided that the change to this Agreement is made within 20 Business Days of the date on which the change to the WBA Access Agreement is effective; or
- (b) any terms of a new WBA Access Agreement agreed between **nbn** and Customer, provided that the change to this Agreement is made within 20 Business Days of the commencement of that new WBA Access Agreement.

F3.10 Supporting rights and obligations

- (a) **nbn** may change this Agreement (other than these [Interim Terms](#)) where that change is consequential upon, or so as to give effect to, any change made under clauses F3.2 to F3.8 by including the consequential change in the same notice as is required for the original change.
- (b) Each change right in this clause F3 is a separate right that may be exercised independently of any other change right. A change right of a specific nature will not be read or interpreted as limiting any other general change right.
- (c) As part of any notice to change this Agreement issued under this clause F3, where reasonably practicable, **nbn** will include a comparison document showing in mark-up the change(s) being made to the relevant part or parts of this Agreement or the corresponding part or parts of any published Standard Form of Access Agreement.

F4 Immediate remedies

- (a) Clause F5 of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full.
- (b) In addition to **nbn**'s rights under clause F4(a), **nbn** may immediately impose an Ordering Freeze, Service Reduction or Suspend an Ordered Product or part of an Ordered Product (including in respect of any processes in or activities associated with the supply or proposed supply of an Ordered Product) if:
 - (i) **nbn**'s ability to supply a relevant Ordered Product is adversely affected (including any delay by **nbn** in such supply) by the supply or non-supply, including any failure, delay, unwillingness or defect in the supply, of any products or services by a Third Party Supplier;
 - (ii) **nbn**'s supply of a relevant Ordered Product could result in the infringement of any Intellectual Property Rights of any third party or Third Party Supplier; or
 - (iii) **nbn** reasonably considers that continued supply, acquisition or use of a relevant Ordered Product or any relevant process is likely to prejudice the integrity of, or result in the deterioration of, the operation or performance of any other Carriage Service supplied by Customer or any third party.
 - (iv) **nbn** reasonably considers that any Customer Equipment (including any VSAT NTD) is likely to prejudice the integrity of, or result in the deterioration of, the operation or performance of the **nbn**TM BSS Network.

F5 Defaults

Clauses F6 to F8 of the WBA SFAA Head Terms are incorporated by reference into these [Interim Terms](#) as if set out in full.

F6 Disconnection and termination

F6.1 Disconnection of Ordered Products and termination by Customer

- (a) Customer may terminate this Agreement:
 - (i) by giving 20 Business Days' notice to **nbn** (or, if the notice is given on or before the date that is 3 months after the BSS ILA Launch Date, 5 Business Days' notice); or
 - (ii) immediately, by giving notice in writing to **nbn**, if:
 - (A) Customer has issued 3 or more Default Notices within a 12 month period in respect of the same or different Defaults, each of which remains unremedied at the expiry of that period, save that any Default Notice resolved in **nbn**'s favour shall be disregarded for these purposes;
 - (B) **nbn** ceases to hold a valid Carrier licence; or
 - (C) **nbn** suffers an Insolvency Event; or Customer is expressly entitled to exercise a right of termination in any other provision of this Agreement.

F6.2 Termination, suspension, reduction, disconnection or discontinuation by **nbn**

- (a) **nbn** may terminate this Agreement at any time by giving Customer 3 months' notice.
- (b) Without limiting **nbn**'s rights under clause F6.2(a), **nbn** may, in its discretion and by giving written notice to Customer, immediately impose a Service Reduction, Suspend, disconnect or otherwise discontinue the supply of any Ordered Product, or terminate this Agreement (in whole or part in each case) if:
 - (i) Customer:
 - (A) does not complete On-boarding within 3 months after the Execution Date;
 - (B) satisfies clause F6.2(b)(i)(A) but does not receive supply of the **nbn**TM BSS Product within 6 months after completing such On-boarding; or
 - (C) satisfies clause F6.2(b)(i)(B) but at any time subsequently, does not receive supply of the **nbn**TM BSS Product for a continuous period of 3 months, subject to **nbn** complying with clause F6.2(c);
 - (ii) a Service Reduction or Suspension by reason of an event or for a reason caused or contributed to by any act or omission of Customer has subsisted for more than 20 Business Days and continues to subsist at the date on which **nbn** gives that notice to Customer;
 - (iii) Customer ceases to be a Carrier, Carriage Service Provider, Content Service Provider or Specified Utility engaged in a related Specified Activity;
 - (iv) Customer suffers an Insolvency Event;
 - (v) a Third Party Supplier or any of its Related Bodies Corporate or guarantors suffers an Insolvency Event;
 - (vi) **nbn** is expressly entitled to exercise a right of disconnection, termination, or to impose a Service Reduction or Suspension, pursuant to any other provision of this Agreement;

- (vii) **nbn** reasonably believes that its ability to supply any Ordered Product is, or will be, adversely affected by:
 - (A) any act or omission of a Third Party Supplier in connection with the supply of (or a failure to supply) any Ordered Product, including any breach by the Third Party Supplier of any agreement, arrangement or understanding with **nbn** in connection with the supply of any Ordered Product; or
 - (B) any negligent or unlawful act or omission of a Third Party Supplier, whether or not any finding has been made by a competent court or tribunal;
- (viii) any agreement, arrangement or understanding between **nbn** and a Third Party Supplier is suspended or terminated for any reason;
- (ix) **nbn** reasonably believes that:
 - (A) a Third Party Supplier's supply to **nbn** of any relevant inputs to any Ordered Product;
 - (B) its supply of any Ordered Product; or
 - (C) the supply by Customer or a Downstream Service Provider of any Customer Product or Downstream Product,may result in the infringement of any third party's Intellectual Property Rights; or
- (x) any WBA Access Agreement to which Customer is party terminates or expires without being immediately replaced by a new WBA Access Agreement.
- (c) Before terminating this Agreement under clause F6.2(b)(i), **nbn** must:
 - (i) provide Customer with at least 20 Business Days' notice of **nbn**'s intention to terminate this Agreement under that clause; and
 - (ii) make its Relationship Point of Contact reasonably available for consultation with Customer for the purpose of discussing any concerns which Customer has with the termination of this Agreement or entry into an Information Agreement (if applicable).
- (d) Nothing in clause F6.2(a) or F6.2(b)(i) limits Customer's rights under Part XIC of the Competition and Consumer Act to seek the supply of products and services from **nbn** under any available terms of supply for those products and services.
- (e) Clause F9.3 of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full.
- (f) If **nbn** exercises a right under clause F6.2(a) or F6.2(b)(vii), without limiting clause F8, the parties must use their reasonable endeavours to work with each other for the purpose of avoiding or minimising any inconvenience to any End User affected by **nbn**'s exercise of that right.

F7 Exercise of remedies

Clause F10 of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full.

F8 Disengagement after expiry or termination of this Agreement

Clause F13 of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full, except:

- (a) for references to clauses F12.1 to F12.3 of the WBA SFAA Head Terms; and
- (b) each reference to the "National Test Facility" is to be read as a reference to the "**nbn**[™] Melbourne Test Facility".

Module G Dispute Management

G1 Interaction with WBA SFAA provisions

Module G of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full except that each reference to an “Other Wholesale Broadband Agreement” is to be read as a reference to an “Other Wholesale Broadband Agreement or Other BSS Interim Launch Agreement”.

Module H General Terms

H1 General terms

- (a) Module H of the WBA SFAA Head Terms is incorporated by reference into these [Interim Terms](#) as if set out in full, to the extent relevant to this Agreement, except:
- (i) for clauses H1.1(a)(iv), H1.1(c), H1.2(d), H4.5(a)(i) and H5.3 of the WBA SFAA Head Terms;
 - (ii) for references to clause F12 of the WBA SFAA Head Terms;
 - (iii) for references to the "Electronic Notice Platform";
 - (iv) for references to Schedule A to the WBA SFAA Head Terms;
 - (v) each reference to an "Other Wholesale Broadband Agreement" is to be read as a reference to an "Other BSS Interim Launch Agreement"; and
 - (vi) each reference to "clause F4 of Other Wholesale Broadband Agreements" is to be read as a reference to an "clause F3 of Other BSS Interim Launch Agreements".
- (b) Other than for communications described in clause H1.1(e) of the WBA SFAA Head Terms (as incorporated into this Agreement), if **nbn** determines and notifies specific means for giving specific types of notices (such as through the **nbn**TM BSS Portal or by e-mail), the parties must use such means for giving those specified types of notices rather than the means set out in clause H1.1 of the WBA SFAA Head Terms (as incorporated into this Agreement).
-

H2 Interpretation

H2.1 Defined terms

- (a) A capitalised term used in this Agreement, including any capitalised term used in any provision of the WBA SFAA Head Terms that is incorporated by reference into this Agreement, has the meaning given to it in the [Dictionary](#).
- (b) The rules of interpretation and definitions in the [Dictionary](#) must be applied in this Agreement unless otherwise specified.

H2.2 Incorporation of WBA SFAA Head Terms provisions

- (a) In respect of those WBA SFAA Head Terms provisions incorporated by reference into these [Interim Terms](#), for the purposes of this Agreement:
- (i) references to the "WBA Operations Manual" and the "processes set out in the WBA Operations Manual" are to be read as "standard processes determined by **nbn** from time to time"; and
 - (ii) except where expressly specified otherwise, references to other provisions in the WBA SFAA Head Terms are to be treated as references to the corresponding provisions of these [Interim Terms](#), including where those corresponding provisions of these [Interim Terms](#) themselves incorporate other provisions of the WBA SFAA Head Terms (with or without amendment).

H2.3 Resolving inconsistencies between parts of this Agreement

This Agreement comprises terms that are set out in a number of different documents. If there is any inconsistency between any of these different terms, then that inconsistency will be resolved by giving precedence to them in the following order:

- (a) terms set out in the [Agreement Execution Document](#);
- (b) terms set out in these [Interim Terms](#) and the [Dictionary](#);
- (c) terms set out in the [Service Terms](#);
- (d) terms set out in the [Product Descriptions](#);
- (e) terms set out in the [Price Lists](#);
- (f) terms set out in the [nbn™ BSS ILA Product Technical Specification](#);
- (g) terms set out in the [nbn™ BSS ILA Service Levels Schedule](#);
- (h) terms set out in the [Credit Policy](#); and
- (i) terms set out in the [Fair Use Policies](#).