

RIPE NCC Test Traffic Measurement Test-box Purchase and Service Agreement - General Terms and Conditions.

Article 1 - Definitions

Agreement:	Test Traffic Measurement (TTM) Service Agreement consisting of the contract form and these general terms and conditions, including Annexes A to C.
Contract form:	The attached agreement form that specifies: • the name and address of the customer • the number of test-boxes • the service fee • a description of the local situation at each site (provided by the customer)
Functional Specifications:	The functional specifications applicable to the test-box as explained in Annex A.
Rights of use:	Authorised uses of the test-box (including TTM software) by the customer under this agreement.
RIPE NCC:	Réseaux IP Européens Network Coordination Centre.
Service fee:	The fees to be paid by the customer to the RIPE NCC for the provision of TTM services, including any hardware supplied as defined on the contract form
Services:	The services set out in Article 3 of this agreement.
Site:	The location where the customer will use the test-box. This is to be specified in the contract.
test-box:	The box provided by the RIPE NCC containing TTM software for the collection of data on the performance of the network between providers such as network delays, packet losses or routing information, as further described at: http://www.ripe.net/test-traffic .
TTM data:	The data that may be collected from the test-box.
TTM database:	The database operated by the RIPE NCC that contains TTM data collected by the RIPE NCC.
TTM software:	TTM software embedded in the test-box.

Article 2 – General

1. Subject to the provisions of this agreement, the RIPE NCC will sell and provide, and the customer shall purchase the services as indicated on the contract form and pay for such services as specified in Article 3.
2. In the event the customer enters into the agreement for the provision of services in respect of test-boxes delivered by RIPE NCC prior to entering into this agreement, the RIPE NCC will provide and the customer shall pay for the services as specified in Article 3 in respect of these test-boxes. Articles 4 and 10 do not apply to these test-boxes.
3. The physical ownership of these test-boxes is transferred to customer upon entering into this agreement.
4. This agreement is independent from the standard RIPE NCC service agreement and RIPE NCC membership and does not entitle the customer to RIPE NCC membership services.

Article 3 – Services

1. In consideration of the service fee and during the term of this agreement, the RIPE NCC shall provide the services described in this article.
2. The RIPE NCC shall operate the test-box by remote access in order to collect TTM data. TTM data will be collected at least once a day by a central computer at the RIPE NCC. If the TTM data cannot be collected on a particular day, the RIPE NCC will try to collect it on the following days until the files expire after 30 days.
3. The RIPE NCC shall store the TTM data collected pursuant to 3.2 during a period of at least two years following the collection of the data.
4. At the customer's request, the RIPE NCC shall put the raw TTM data retrieved from customer's test-box on a server in a format determined by the RIPE NCC.
5. The RIPE NCC shall correct errors, if any, to the best of its ability if the error means that the TTM software does not meet its functional specifications. The RIPE NCC does not warrant that the TTM software shall function without interruption or errors, or that it will fix any errors. The test-box contains a back up copy of the TTM software which the RIPE NCC may switch on in the event of failure of the running copy.
6. As soon as a new version of the software embedded in the test-box is considered by the RIPE NCC to be ready for installation on distributed test-boxes, the RIPE NCC will install it on the customer's test-box by remote distribution. We describe how this will happen in RIPE Document ripe-168.
7. The RIPE NCC will publish the data in various forms, and make this available via <http://www.ripe.net>
8. The RIPE NCC, at its own discretion, will analyse the TTM data and make the results available to customer.
9. The RIPE NCC will take any reasonable action that it deems appropriate to secure the test-box operation and TTM data.
10. The RIPE NCC is not obliged to correct errors if the test-box has not been installed or operated in accordance with this agreement, if the local configuration is not as described in the contract form, if the test-box has been used incorrectly, incompetently or without authorisation or if the error is caused by external causes, such as fire, water, power outage or lightning.

Article 4 – Delivery and Installation

1. The procedure for the delivery and installation of the test-box is described in Annex B.
2. The customer will read the installation document and confirms that the site meets all necessary hardware and software requirements to install and operate the test-box.
3. The test-box does not include a keyboard, monitor or mouse. These are only needed during maintenance of the test-box. In these cases, the customer will provide a monitor, keyboard and/or mouse for a short period in consultation with the RIPE NCC. The agreement does not include provision of routers, firewalls and other equipment necessary to connect the test-box to the Internet, nor any special hardware such as re-radiators, antenna splitters, cables, etc.

Article 5 - Payment

1. The Customer shall owe the RIPE NCC a service fee. The Customer's obligation to pay these fees shall commence on the day on which the Agreement is concluded.
2. The Customer shall make the payment to the RIPE NCC within 30 days of date of invoice, failing which the Customer shall be in default with no notice of default being required.
3. With effect from the day on which the Customer defaults on its payment obligations, the Customer shall owe the RIPE NCC the statutory rate of interest on the amounts unpaid as well as a late payment fee. In addition, the Customer shall reimburse the RIPE NCC for the extra-judicial collection costs, without prejudice to any other of the RIPE NCC's rights which it may invoke against the Customer in connection with the latter's failure to effect (timely) payment.
4. The Customer may not postpone its payment obligations or offset any of its own claims against the RIPE NCC.

Article 6 – Term and Termination

1. The agreement comes into force when signed by both parties and, unless terminated pursuant to the provisions of this article, runs for three calendar years. After this date, the agreement can be extended for up to two periods of one year each.
2. The Customer shall ensure to send the RIPE NCC an extract from the Commercial Trade Register or equivalent document proving the registration of the Customer's business with the relevant national authorities. The RIPE NCC shall not commence the provision of RIPE NCC services until such documents have been received.
3. In the event the customer's obligations under this agreement are substantially enlarged pursuant to a change in the procedures described in Annex B or C, or in the RIPE Documents referred to in this agreement, the customer may immediately terminate the agreement by sending written notice to the RIPE NCC. In that event, the RIPE NCC will refund to the customer a percentage of the service fees already paid, equal to the unused service period, after adjustments have been made for hardware costs.

4. In the event of a substantial breach by the customer of any of the following provisions, the RIPE NCC shall be entitled to terminate this agreement with immediate effect by giving written notice: 5.2, 7.2, 7.3, 8.1, 8.3, 9.4 and 9.5.
5. Without prejudice to 8.4, in the event of a substantial breach by a party of any other obligation under this agreement which is irremediable or which is not remedied within thirty days of written notice from the other party requiring that it be remedied the other party shall be entitled to terminate this agreement with immediate effect by giving written notice.
6. In the event that any party during the term of this agreement enters into bankruptcy or liquidation or any other arrangement for the benefit of its creditors, the other party may terminate this agreement with immediate effect by giving written notice.
7. Upon termination in line with this article, the rights of use described in Article 8 and access to the RIPE NCC TTM database will end immediately. The RIPE NCC will be entitled (and the customer will cooperate) to remove all TTM software from the test-box.

Article 7 – Local Management of the test-box

1. The RIPE NCC will operate the test-box from its central computer. Local management of the test-box will be done by the technical contact person(s) named on the contract form as described in Annex C.
2. The customer may not undertake other acts in respect of the test-box than those authorised in this agreement.
3. The customer will take all reasonable technical and organisational measures to prevent unauthorised access to the test-box, TTM software and TTM data.
4. The customer may not interfere with any UDP, TCP and ICMP based traffic from and to any port on the test-box needed to operate the test-box or to do measurements. The customer will ensure that upstream providers do not place filters on this traffic.

Article 8 – Rights of Use

1. Throughout the term of this agreement, the customer may use the test-box (including TTM software) in accordance with this agreement in order to enable the RIPE NCC to collect data on loss and delay of messages sent and received by the customer's network as described in the contract form. The customer may not use the test-box and TTM software for other purposes.
2. The customer is entitled to review the source code of the TTM software in order to detect whether the TTM software may introduce security risks at its site. Upon request, the RIPE NCC shall make the source code available to customer for this purpose.
3. The customer is not be entitled to reproduce, modify and distribute reproductions or modified versions of the TTM software unless necessary to exercise the customer's mandatory user rights under applicable copyright law.
4. This agreement and the provision of the test-box under this agreement does not in any way involve the transfer of any intellectual property right subsisting in the test-box and TTM software.
5. The RIPE NCC shall indemnify the customer against claims by third parties that the test-box or part thereof infringes on intellectual property rights owned by them, as long as the customer promptly tells the RIPE NCC about such claims and lets the RIPE NCC handle the defence and settlement negotiations.

Article 9 – TTM Data

1. The RIPE NCC shall be entitled to retrieve, reproduce, store and combine TTM data in order to perform the services specified in Article 3.
2. The RIPE NCC may provide TTM data including the address and position of the customer's test-box to another ISP if the data refer to communication between the customer's test-box and that of the other ISP.
3. The RIPE NCC may provide TTM data and analysis of TTM data to third parties for scientific and statistical purposes. This provision will continue even after the expiry or termination of this agreement.
4. The customer can access the TTM database at the RIPE NCC and the data in it only to download and analyse its own TTM data and to compare them to the data made publicly available by the RIPE NCC on the network performance of other ISPs.
5. In presenting data from the TTM database or analysis of these data to third parties, the customer shall comply with the data disclosure procedure as described in RIPE Document ripe-300 or its successor. The customer will not present modified test-box data or analysis.

Article 10 – Test-box Warranty, Repair, Replacement

1. Hardware is supplied with the standard manufacturers warranty which will be transferred to the Customer wherever possible. Full details will be made available upon request.

Article 11 – Liability

1. Without prejudice to the warranty provided in Article 10, the RIPE NCC shall not be liable against the customer for damage caused by a defect in the test-box or a failure by the RIPE NCC to meet any obligation under this agreement.
2. The exclusion of liability provided in subsection 1 does not apply if the failure or defect is due to a grossly negligent or willful act or omission by the RIPE NCC managing personnel.
3. In no event shall the RIPE NCC be liable for indirect damages caused by a defect in the test-box or a failure by the RIPE NCC to meet any obligation under this agreement, including damage to the customer's business or loss of profits.
4. Notwithstanding any other provision in this Article, the RIPE NCC shall not accept liability for:
 - a. mutilation or loss of TTM data or other data during transmission or when stored on the customer's computers
 - b. the results and consequences of analysis of TTM data undertaken by the RIPE NCC
 - c. The consequences of any modification or adaptation to the test-box or TTM software made by the customer or from the combination of the test-box or TTM software with hardware or software other than that listed in the hardware and software requirements
5. Notwithstanding any other provision in this article, the RIPE NCC shall not be liable for damage as a result of a failure to meet any obligation under this agreement if such failure is due to circumstances for which the RIPE NCC is not considered accountable according to law, contract or trade custom. The RIPE

- NCC in any event shall not be accountable for failures to perform resulting from the non- or untimely delivery of test-box parts by suppliers or from interruptions or improper functioning of power or telecommunication services facilities.
6. The customer indemnifies the RIPE NCC for any third-party claims filed against it in relation to the customer's use of the test-box or resulting from the non-performance by the customer of any obligation arising out of this agreement.
 7. In no event shall the liability of the RIPE NCC in connection with this agreement exceed the service fee invoiced in respect of the calendar year in which the damage first occurred. The maximum shall apply per event or series of connected events resulting in such liability.

Article 12 – Miscellaneous

1. All the RIPE Documents referred to in this agreement are available on <http://www.ripe.net>. The customer will regularly take notice of updated RIPE Documents on the website. The RIPE Documents referred to in this agreement, as well as the procedures described in Annex B to C, may be replaced by new documents or procedures. The RIPE NCC will announce such replacements through a dedicated mailing list. Any change to the text will then immediately become a part of this agreement.
2. The customer will notify the RIPE NCC promptly of any changes to the details on the contract form.
3. In the event that one or more provisions of this agreement would appear to be non-binding, all other provisions of this agreement will continue to be effective.
4. Without prior written authorisation by the RIPE NCC, the customer may not assign or sub-license any rights or assign or subcontract any obligations arising from this agreement to a third party.
5. The RIPE NCC can assign and subcontract this agreement in whole or in part to a third party.
6. The agreement will be governed by Dutch law.
7. A competent court in Amsterdam has exclusive jurisdiction in respect of any disputes that may arise in connection with this agreement. An action for the payment of the service fee or shipping costs may however also be brought before a court in the customer's home country.

Annex A – Functional Specifications, Hardware and Software Requirements

Functional Specifications

A test-box is an instrument for measuring quantities related to network performance, such as delay, packet-loss or routing information, according to the metrics defined in RFCs 2330, 2679 and 2680.

Hardware and Software Requirements

- a computer consisting of:
 - A 500 MHz processor.
 - 256 Mb RAM
 - 2 IDE hard-disks, 8 GB capacity each, in removable disk canisters
 - an 10/100 Mbps Ethernet interface
 - an interface card for the GPS receiver, designed and built by NIKHEF
 - a video card capable of displaying 80x25 characters
 - a 19" rack-mount cabinet
 - a power supply suitable for 110 and 220V AC
- an Acutime GPS receiver
- 15m of CAT5 cable to connect the GPS receiver to the PC power cables with standard European plugs.

Or equivalent or better hardware

Annex B – Delivery and Installation Procedure

1. As soon as the delivery of components and the RIPE NCC's production schedule permits and the fees have been paid, the RIPE NCC will configure and deliver the test-box(es) to the customer. The RIPE NCC will test the test-box(es) before shipping to verify that:
 - the hardware components perform according to the specifications of the vendors
 - the software has been properly installed
 - the test-box has been configured according to the data provided by the customer
2. The costs of shipment of the test-box(es) will not be included in the service fee. Any shipping costs, taxes and import/export duties incurred by the RIPE NCC or any shipping company used by the RIPE NCC for shipment will be charged to the customer. The RIPE NCC and its authorised shipping company is entitled to withhold/retain the test-box(es) until the customer has paid.
3. The customer will install the test-box in accordance with the installation document. The customer is responsible for the installation of cables and the setting up of other hardware such as routers or firewalls required to operate the test-box.
4. During a period of 90 days from the date of delivery of the test-box, the RIPE NCC will provide, on request, e-mail support (tt-ops@ripe.net) to help the

customer with the installation of the test-box. The initial response on an e-mail request for support shall be within one working day after receipt of the e-mail by the RIPE NCC.

5. The RIPE NCC will not provide on-site support. The parties may agree on additional arrangements for a RIPE NCC engineer to do a site-survey or support the installation against payment of a fee and reimbursement of travel costs.

Annex C – Local Management Procedure

1. At least one of the technical contact persons indicated on the contract form will be minimally available by telephone and e-mail (number and address described in contract form) from Monday to Friday (except public holidays) during normal regular business hours in order to solve problems in accordance with the procedure described in subsection 2.4 of the installation document.
2. During absence of the technical contact person(s) specified in the contract form, the customer will provide a replacement available to the RIPE NCC at the same telephone number and e-mail address.
3. The technical contact person(s) shall regularly read the information provided by the RIPE NCC on the mailing list `tt-host@ripe.net` to which he will be automatically subscribed.
4. Requests for local support shall be accessed and dealt with by a technical contact person only.
5. If a test-box causes problems and there is no technical contact person available, the RIPE NCC may remove the test-box from the measurement network until the problem can be solved.
6. The customer will tell the RIPE NCC (by sending an e-mail to: `tt-ops@ripe.net`) about any planned power outages at least one working day in advance. The RIPE NCC will perform a regular shutdown of the test-box shortly before the power outage and inform the technical contact person when the test-box can be rebooted.
7. The technical contact person may perform an emergency system stop only if such is necessary to avoid damage to the test-box, test-box data or a local network and the RIPE NCC cannot be informed in time to take appropriate action to avoid such damage. The emergency system stop shall be performed in accordance with the procedure described in RIPE Document `ripe-179`, Appendix B. The technical contact person will inform the RIPE NCC immediately after the emergency stop.
8. If the configuration data of the test-box has to be changed, the customer will provide the RIPE NCC with the new data and the date when the changes will come into effect, at least one working day in advance. After the RIPE NCC has reconfigured the test-box and shut it down, it will let the customer know when the test-box can be re-installed. The customer will re-install the test-box by following the procedures explained in the installation document.