



# NAB Transact

Terms and Conditions

# Summary of some key terms of your NAB Transact terms and conditions

This is a brief summary of some of the key terms of your NAB Transact terms and conditions. Please note, this high level summary is not intended to be relied upon as an exhaustive or accurate list of all the terms as outlined in this document. Where any explanation of a provision includes examples of what is covered by a provision, that list may not be exhaustive. NAB recommends that you carefully read through the NAB Transact terms and conditions before accepting the offer of this product.

Topic	What	Clause
1 NAB's liability	Our liability under the terms and conditions is limited. This includes, liability for breaches of obligations, outages, loss or damage. You acknowledge that NAB is not liable for any loss of sales, revenue or profit you incur as a result of the NAB Transact Service not working properly.	Part A: Clauses 12, 13, 17 and 26A  Part B: Clause 35
2 Your liability	You are liable for any use of the NAB Transact Service by an Authorised User as if the NAB Transact Service has been used by you, and you are responsible for all instructions given. This clause does not apply to the extent that such use was caused by NAB's fraud, negligence or misconduct.	Part A: Clause 4.3
3 Indemnities	Except to the extent that we contribute to the loss, you indemnify NAB for a range of losses that we may incur in accordance with the NAB Transact Services.	Part A: Clause 13  Part B: Clause 35
4 Set-off	Where you have liability under the indemnity in clause 13 or any other provision, we can set that off against any liability we have to you.	Part A: Clause 13.3

5	Amendments	We may change the terms and conditions, any fee or charge, or your agreement with NAB by providing you with a notice depending upon the change. Where that change may impact you adversely, we will give you 30 days' notice. Where that is not the case, or where we need to act quickly to address a risk, it can be shorter or immediate.	Part A: Clause 15
6	Refusing transactions	We may, acting fairly and reasonably, delay, block, freeze, refuse, suspend or end any payment, transaction, instruction, or your access to the NAB Transact Service on the basis of a breach (or anticipated breach) of law, fraudulent activity, scam, to mitigate any risk, or prevent an anticipated material loss to you or us.	Part A: Clause 17
7	Privacy and your personal information	You must collect information about an individual that will be disclosed to us in accordance with Confidential Information obligations, privacy laws and the NAB Transact Agreement, and ensure that the individual is aware of how their information is used and disclosed.	Part A: Clause 18
8	Availability of NAB Transact	We may make the NAB Transact Service unavailable from time to time and will provide reasonable notice where possible.	Part A: Clause 24
9	Termination	You or NAB can terminate your use of the NAB Transact Service at any time by providing written notice to the other party. You may immediately terminate the use of the NAB Transact Service. NAB may terminate the NAB Transact Service without reason by providing you with 60 days' notice. However, where you have materially breached a term of the NAB Transact Service Agreement, we may terminate the NAB Transact Service on 30 days' notice or without notice if your use causes an immediate risk to us.	Part A: Clause 25

10	Billing	NAB will debit any amount due by you to NAB in accordance with the timeframes specified in clause 31. It is your responsibility to ensure you have sufficient funds to pay amounts owing under the agreement. Where you do not have sufficient funds, you authorise NAB to debit the amounts from another NAB account or nominated account at another institution, including any applicable fees.	Part B - Clause 31
11	Your obligations and responsibilities	You must comply with a number of obligations and responsibilities in order to access the NAB Transact Service, including but not limited to the requirements to establish policies and procedures for you and your Authorised Users to use NAB Transact, obtain, operate and maintain all equipment, comply with the Service Terms, pay the Service Charges, and notify NAB of any change in your details.	Part A: Clauses 5 and 29
12	Allocated EFT Service – Your Responsibilities	<p>If you are using the Allocated EFT Service, you are responsible for:</p> <ul style="list-style-type: none"> <li>(i) notifying each Customer of the payment details to be used by that Customer when making payments to you;</li> <li>(ii) any loss suffered as a result of incorrect payment details provided to a Customer;</li> <li>(iii) informing Customers that the Allocated Reference Number is to make payments to you via Direct Credit or RTGS, and is not to be used to make deposits over the counter at any NAB branch or for Direct Debit for international payments;</li> <li>(iv) monitoring all transactions received via the Allocated EFT Service and identifying any transactions not authorised.</li> </ul> <p>You understand that failure to comply with such responsibilities may result in the termination of the Allocated EFT facility.</p>	Schedule 1: Clause 1.4

# Contents

<b>Introduction</b>	<b>1</b>
<b>Part A</b>	
<b>General terms and conditions</b>	<b>2</b>
1. Definitions and interpretation	2
2. The terms and conditions that apply to NAB Transact	5
3. Compliance with relevant laws	6
4. Accessing NAB Transact	6
5. Your obligations	6
6. Reporting and Transaction Search functions	8
7. Customer Management function	8
8. NAB Products and the ePayments Code	9
9. Use of the service	9
10. Fees	10
11. Intellectual property	10
12. Exclusion and limitation of liability	11
13. Indemnity	11
14. Service provider	11
15. Variation	11
16. Banking Code of Practice	13
17. Our discretion to delay, block, freeze or refuse transactions, a service or return funds and when we may be liable	14
18. Confidentiality and privacy	15
19. GST	16
20. Separate conditions	16
21. Notices	16
22. Change of name or merger	17
23. Assignment	17
24. Availability of NAB Transact	17
25. Termination	17
26. Governing law	17
26A Exercise of discretions	18

<b>Part B Product terms for Pay by Phone, Pay by Web and Allocated EFT</b>	<b>19</b>
27. Definitions	19
28. Supply of service	20
29. Your obligations	21
30. NAB's obligations	21
31. Billing	23
32. Things you need to use the Services	23
33. Termination	23
34. Consequences of termination	23
35. Loss and indemnity	24
<b>Schedule 1 – Allocated EFT</b>	<b>25</b>
1. Allocated EFT service	25
2. Payment processing and reporting	26

# Introduction

## What is NAB Transact?

NAB Transact is an electronic payments and receivables channel. It provides you with a centralised technology interface for accessing a range of NAB Products. You can choose one or more NAB Products to be used with NAB Transact.

You can also use NAB Transact as an information management tool. With the Reporting and Transaction Search function you can search your NAB Transact transaction information and generate reports.

## Accessing NAB Transact

In order to access NAB Transact you need to nominate a person to be your NAB Transact Administrator. Your NAB Transact Administrator will be issued with a NAB Transact User ID and a PIN or password.

## Compromised NAB Transact User IDs, passwords or Personal Identification Numbers (PINs) and unauthorised transactions

If you become aware that a PIN, password or NAB Transact User ID has been compromised or divulged, or if you believe there has been unauthorised access to NAB Transact, please notify NAB immediately by calling 1300 138 313. You may be required to provide information about how the incident occurred.

## Contacting us

You can contact us by:

- calling us on **1300 369 852** (8am–8pm) AEST/AEDT, Monday to Friday;
- sending us an email at **support@transact.nab.com.au**;
- writing to us at **Merchant Services, Level 3, 3 Parramatta Square, 153 Macquarie Street, Parramatta, NSW 2150.**

## If overseas

You can contact us by calling:

- International code **+613 8641 7833** 8am–8pm, AEST/AEDT, Monday to Friday.

# Part A

## General terms and conditions

### 1. Definitions and interpretation

#### 1.1 Definitions

The following definitions apply throughout the terms and conditions set out in each part of this document, unless the same term is defined differently in another part:

**Authentication service** means a device and/or mechanism issued by NAB designed for secure use of any identification service made available by NAB to allow access to the NAB Transact service.

**Banking Code of Practice** or **Code** means the version of the Banking Code of Practice as published by the Australian Banking Association which applies, or that we agree applies, to this your NAB Transact Agreement.

**Billing Account** means your account from which you authorise NAB to debit any NAB Transact Fees.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

**Confidential Information** means all information and material we disclose to you (whether orally, in writing or in any other form) that we designate as confidential or impart to you in circumstances of confidence, under or in connection with the NAB Transact Agreement, and includes any information relating to our business systems, operations, customers, properties, assets or affairs of us or those of our related bodies corporate. It also includes all copies, notes and records in whatever form and all related information based on, or arising out of, any disclosure by us of such information and material.

**Consequential Loss** means a Loss that arises in circumstances where one party has breached a duty to the other, and which is indirect (for example, a loss of profits or earnings), but does not include loss that could not reasonably be considered as arising from the breach or which arises because of a failure by a party to mitigate the effect of that breach.

**Customer Reference Number** means a unique alphanumeric identifier selected by you that will enable you to identify your customer in NAB Transact reporting.

**Electronic Transactions Act** means the Electronic Transactions Act 1999 (Cth) and each analogous State and Territory enactment.

**Intellectual Property Rights** means all intellectual property rights including current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trade marks, trade secrets, know-how, Confidential Information, patents, invention and discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967.



**Liability** means any liability or obligation (whether actual, contingent or prospective), including for any other Loss irrespective of when the acts, events or things giving rise to the liability occurred.

**Loss** means all direct or indirect damage, loss, cost, Claim, Liability or expense (including legal costs and expenses of whatsoever nature or description).

**NAB, Us or We** means National Australia Bank Limited ABN 12 004 044 937.

**NAB Product** means any product or service offered by NAB that NAB determines can be accessed with NAB Transact.

**NAB Product Terms** means the terms and conditions of a NAB Product.

**NAB Transact Agreement** means:

- (a) your offer document for NAB Transact;
- (b) these terms and conditions; and
- (c) any User Guides.

**NAB Transact Administrator** means the person that you nominate to be your administrator for NAB Transact and any other person appointed as a NAB Transact Administrator under clause 4.

**NAB Transact Authorised User** means a person who has been authorised under clause 4 to access or operate the NAB Transact Service, and includes a NAB Transact Administrator.

**NAB Transact Fees** means the fees and charges applicable to NAB Transact and the use of NAB Transact by you and your NAB Transact Authorised Users as set out in your offer document for NAB Transact as varied from time to time pursuant to clause 15 of these terms and conditions.

**NAB Transact service** means the service called “NAB Transact” that NAB makes available to you as described in this document.

**NAB Transact User ID** means a “User Identification Number” issued to a NAB Transact Authorised User in respect of the NAB Transact Service.

**Personal EFT Transactions** means an electronic funds transfer to or from accounts using the NAB Transact Service which is not a business EFT transaction.

**Relevant Law** means any relevant law, regulation, code, ordinance, rule or other legislative instrument, or any guideline issued by any regulator or statutory authority, or any relevant industry codes.

**Service Charges** means, in relation to any service that you use with NAB Transact, including any of the services listed in Part B, the charges payable by you for the service as set out in the relevant letter of offer in respect of the service and includes any revised charges notified to you by NAB under clause 15.

**Stored Account Details** means, for each Customer Reference Number, the BSB, Account Number and Account Name as entered by you in the Customer Management function of NAB Transact.

**small business contract** has the meaning of that term when used in the Australian Consumer Law (ACL) from time to time or if applicable the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act) from time to time. With effect from 9 November 2023, small business contracts under the ACL include contracts which are entered into or renewed after that date where either (or both) of the following apply:

- (a) the business makes the contract in the course of carrying on a business and the business employs fewer than 100 persons; or
- (b) the turnover of the business for the last income year (within the meaning of the *Income Tax Assessment Act 1997* (Cth)) was less than \$10,000,000. The calculation of the turnover will be worked out using the rules in the ASIC Act.

This Agreement may be a Small Business Contract where it meets these requirements. For the removal of doubt, this Agreement may be a Small Business Contract even if you are not a 'small business' within the meaning of that term in the Banking Code of Practice.

**Stored Card Details** means, for each Customer Reference Number, the card number and expiry date as entered by you in the Customer Management function of NAB Transact.

**Software** means any software provided to you by us for or in connection with your use of NAB Transact.

**Trade Practices Legislation** means the Competition and Consumer Act 2010 (Cth) and the Australian Securities and Investments Commission Act 2001 (Cth) and equivalent State legislation.

**Unauthorised transaction** means any transaction where the NAB Transact Authorised User claims that they did not engage in or have knowledge of or consent to the transaction even though the NAB Transact Authorised User's NAB Transact User ID and/or password or PIN was used to generate the disputed transaction.

**User Guide** means any User Guide we provide to you in relation to the NAB Transact service or any NAB Products.

**You** means the person who used the NAB Transact service and if there is more than one person, you means each person separately and every 2 or more of them jointly. You includes your successors and assigns, and in relation to your rights to operate the NAB Transact service any NAB Transact Authorised User or any other authorised officer, employee, representative or authorised signatory on your accounts acting within his or her authority.

## **1.2 Interpretation**

In these terms and conditions, unless the contrary intention appears:

- (a) a reference to:
  - (i) these terms and conditions, another instrument or any schedule or annexure includes any variation or replacement of any of them; and
  - (ii) a statute, ordinance, code or other law includes regulations and other instruments made under it and any consolidations, amendments, re-enactments or replacements of any of them; and

- (iii) the singular includes the plural and vice versa; and
  - (iv) one gender includes the other; and
  - (v) a person includes a reference to the person's executors, administrators, successors and permitted assigns and substitutes (including persons taking by novation); and
  - (vi) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and
  - (vii) any thing (including any amount) is a reference to the whole and each part of it, and a reference to a group of persons is reference to all of them collectively and any two or more of them collectively and to each of them individually; and
- (b) a dollar or the symbol "\$" is a reference to Australian dollars; and
  - (c) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally; and
  - (d) if a period of time is specified and dates from a given day or the day of an act of event, it is to be calculated exclusive of that day; and
  - (e) the words "including", "for example" or "such as" are not to be used as, nor interpreted as, words of limitation.

**1.3** Headings are inserted for convenience only and do not affect the interpretation of these terms and conditions

## **2. The terms and conditions that apply to NAB Transact**

**2.1** NAB offers to make the NAB Transact service available to you on these terms and conditions and the following documents, which should be read together:

- (a) your offer document for NAB Transact;
- (b) any relevant NAB Product Terms, including the terms set out in Part B of this document in respect of the services listed in Part B, which are in addition to these general terms and conditions; and
- (c) any User Guides.

**2.2** If there is any inconsistency between the documents referred to in Clause 2.1 they must be read and applied in the following order of precedence:

- (a) your offer document for NAB Transact;
- (b) relevant NAB Product Terms;
- (c) these general terms and conditions;
- (d) any User Guides.

**2.3** You will be taken to have accepted the NAB Transact Agreement:

- (a) when your NAB Transact Administrator logs on to use NAB Transact for the first time using their NAB Transact User ID and PIN or password; or
- (b) when the NAB Transact service is otherwise used by you for the first time, such as when the first transaction is processed using the NAB Transact service or a NAB Product accessed by you through NAB Transact service, whichever occurs first.

- 2.4** You must comply, and you must procure that your NAB Transact Authorised Users comply, with the NAB Transact Agreement and you must pay any NAB Transact Fees.

### **3. Compliance with relevant laws**

You must, in all material respects, comply with, and you must procure that your NAB Transact Authorised Users comply with, all Relevant Laws.

### **4. Accessing NAB Transact**

- 4.1** We must issue your NAB Transact Administrator with a NAB Transact User ID and PIN or password.
- 4.2** The NAB Transact Administrator may:
- (a) set up additional NAB Transact Administrators (who in turn can do the things set out in this clause 4.2);
  - (b) set up other NAB Transact Authorised Users;
  - (c) add, change, suspend and delete other NAB Transact Authorised Users;
  - (d) limit access to certain NAB Transact functions or reports for other NAB Transact Authorised Users;
  - (e) reset PINS or passwords for other NAB Transact Authorised Users; and
  - (f) carry out other functions as specified from time to time in accordance with any user guide relevant to NAB Transact.
- 4.3** You are liable for any use of the NAB Transact service by a NAB Transact Authorised User as if the NAB Transact service has been used by you. You are also responsible for all instructions given using the NAB Transact service, which are authorised by the use of the PIN or password of a NAB Transact Authorised User, or undertaken by another person with the knowledge or consent of you or of a NAB Transact Authorised User.
- This clause does not apply to the extent that such use was caused by our fraud, negligence or misconduct (or the fraud, negligence or misconduct of our officers, employees, contractors and agents).
- 4.4** You should ensure that each of your NAB Transact Authorised Users have been provided with, and read the NAB Transact Agreement before using the NAB Transact service.
- 4.5** We may require you and any NAB Transact Authorised User to be identified according to any Relevant Law or any other requirements reasonably specified by us.

### **5. Your obligations**

You must:

- (a) establish policies, procedures, internal management rules and audit arrangements for the use of NAB Transact by you and your NAB Transact Authorised Users (which reflect your internal authorisation requirements, take account of any potential risk of fraud and are consistent with the NAB Transact Agreement);

- (b) comply with, and ensure that your NAB Transact Authorised Users comply with, the policies and procedures referred to in paragraph (a);
- (c) only use NAB Transact for your own confidential internal use and purposes and in particular you must not grant any third party access to NAB Transact or authority to operate NAB Transact on your behalf (except for NAB Transact Authorised Users and any bureau engaged by you that we approve) and you must not operate NAB Transact on behalf of or for the benefit of any third party except as agreed by us;
- (d) obtain, operate and maintain all equipment and other facilities that you require to be used with NAB Transact, and you acknowledge that we are not responsible for such equipment and facilities, except where we are the supplier of the equipment and facilities;
- (e) keep, and ensure that each of your NAB Transact Authorised Users keep, any NAB Transact User ID, PIN or password secure, which includes ensuring that NAB Transact Authorised Users:
  - (i) choose a new password or PIN whenever they are required to do so by the NAB Transact Administrator;
  - (ii) choose a password or PIN that is not the same as, or similar to, any other personal identification number or password or PIN they have for any account they have with, or service provided by NAB;
  - (iii) do not disclose their NAB Transact User ID, password or PIN to any other person;
  - (iv) do not record or store their NAB Transact User ID, password or PIN anywhere;
  - (v) take reasonable care when accessing the service to ensure that their NAB Transact User ID, password or PIN is not disclosed to any other person, in particular ensuring that they are not observed while entering their NAB Transact User ID, password or PIN;
  - (vi) do not provide their Authentication Service (if any) to any other person;
  - (vii) do not use their Authentication Service (if any) other than in respect of the NAB Transact service and they acknowledge that, if a NAB Transact Authorised User uses their Authentication Service for any other purpose, NAB may revoke the Authentication Service and cancel the availability of the NAB Transact service to you;
  - (viii) check any reports generated using NAB Transact carefully and promptly notify NAB of any apparent discrepancy;
  - (ix) take every reasonable precaution to prevent the spread or diffusion of any Software contamination including computer viruses and trojans;
  - (x) take reasonable steps to keep any Software secure; and
  - (xi) take reasonable steps to ensure the security, integrity and proper operation of the NAB Transact Service and any NAB Products accessed with NAB Transact.
- (f) conditions if you become aware that any NAB Transact User ID, PIN or password is compromised or divulged and immediately cease to use the affected NAB Transact User ID, PIN or password;

- (g) notify us immediately if:
  - (i) a NAB Transact Authorised User's computer which is used to access and use the NAB Transact service is lost, stolen or fraudulently accessed;
  - (ii) you become aware of any unauthorised transaction or error on an account that appears to be connected with the use of the NAB Transact service; and
- (h) take responsibility to use other means of effecting transactions and giving and obtaining information if for any reason the NAB Transact service is unavailable for use, or malfunctioning.

## **6. Reporting and Transaction Search functions**

**6.1** You acknowledge that the accuracy of any information about a NAB Product that a NAB Transact Authorised User obtains through the using the Reporting and Transaction Search functions with the NAB Transact service:

- (a) is subject to review by NAB as part of its normal procedures, and is subject to any changes that may reasonably be required following such a review by NAB;
- (b) reflects the entries that have been posted in relation to the relevant NAB Product and that can be accessed through the NAB Transact service at the time the information is obtained, and so may not be completely up to date.

**6.2** You must carefully review the information that you obtain through using the Reporting and Transaction Search functions with the NAB Transact service and notify us promptly of any errors, inconsistencies or other discrepancies that you become aware of.

**6.3** Without limiting any other term of the NAB Transact Agreement, NAB does not represent or warrant that the Reporting & Transaction Search functions can be used to satisfy any of your legal, audit, compliance, risk or other requirements.

## **7. Customer Management function**

### **7.1 Customer Management tool**

The NAB Transact Customer Management function allows you to store your customers' credit card and bank account details in NAB Transact's secure database. The Customer Reference Number stored with your customers' details can then be used instead of card or account details for processing payments through NAB Transact.

### **7.2 Using Customer Management**

- (a) You must ensure that all details entered into the Customer Management section of NAB Transact are correct and up to date.
- (b) An instruction from you to us to process a transaction in relation to a Customer Reference Number constitutes an instruction to us to process that transaction in relation to:
  - (i) the Stored Card Details, in the case of card payments; and
  - (ii) the Stored Account Details, in the case of direct debit payments.
- (c) You indemnify us against any Loss that we suffer as a result of any error made by you in entering the Customer Reference Number, the Stored Account Details or the

Stored Card Details or any failure by you to keep such details up to date, except to the extent that such Loss was caused by our fraud, negligence or misconduct (or the fraud, negligence or misconduct of our officers, employees, contractors and agents).

### **7.3 Stored Data Extraction Costs**

- (a) You may incur costs if for any reason you request us to arrange to extract any or all of your Stored Card Details, your Stored Account details or your Customer Reference Numbers (any or all called “Your Data” in this clause 7.3) from the Customer Management Function for re-use in another platform whether via a gateway provided by NAB or by a third party.
- (b) You must provide NAB with at least 30 days’ notice in writing addressed to relationship banker or if you don’t have one to the NAB Transact Help Desk to make a request for extraction of Your Data.
- (c) the cost of Your Data extraction will be notified to you as soon as reasonably possible after receipt of your request and will depend on a number of factors including:
  - (i) the number of Merchant or Direct Debit User IDs you hold; and
  - (ii) the cost NAB incurs in arranging for Your Data to be extracted; and
  - (iii) any additional requirements arising out of the requirements of the environment in which you wish to reuse Your Data or any part of it; and
  - (iv) any other requirement considered by NAB acting fairly and reasonably to be non-standard.

## **8. NAB Products and the ePayments Code**

If you access a NAB Product with NAB Transact that involves Personal EFT Transactions the ePayments Code provisions in the relevant NAB Product Terms will override these terms and conditions to the extent of any inconsistency.

## **9. Use of the service**

- 9.1** A NAB Transact Authorised User may use the NAB Transact service in accordance with the NAB Transact Agreement, unless their use of the NAB Transact service is cancelled or suspended under the NAB Transact Agreement or by your NAB Transact Administrator.
- 9.2** Access to the NAB Transact service, or access to certain functionalities of the NAB Transact service, may only be allowed by NAB:
  - (a) if the procedures and guidelines specified by NAB have been complied with; and
  - (b) if NAB has received any document or information, reasonably required by NAB including any document which identifies a NAB Transact Authorised User.
- 9.3** Access to the NAB Transact service:
  - (a) will be denied to a NAB Transact Authorised User if they enter an incorrect password or PIN on 6 consecutive occasions; or
  - (b) may be denied if any verbal, written (including electronic) instruction given by you or a NAB Transact Authorised User in relation to the NAB Transact service is made in language NAB considers to be inappropriate.

## **10. Fees**

- 10.1** The NAB Transact Fees are payable by you in accordance with this clause 10.
- 10.2** You authorise NAB to debit your Billing Account with the NAB Transact Fees.
- 10.3** If there are insufficient funds in your Billing Account, you authorise NAB to debit relevant NAB Transact Fees to your Billing Account even if that causes the account to become overdrawn or NAB may require you to pay the NAB Transact Fees in any other manner NAB reasonably determines. You should ensure you have sufficient funds available in your Billing Account to avoid your account going into overdraw.
- 10.4** If you close your Billing Account, NAB will automatically select another account to which the NAB Transact Fees may be debited. If no account reasonably satisfactory to NAB exists, NAB may immediately cancel the availability of the NAB Transact service to you until such time that you open an account reasonably satisfactory to NAB or NAB may require you to pay the NAB Transact Fees in any other manner NAB reasonably determines.
- 10.5** If we require it, you must provide us with an authority and request in a form, and subject to terms and conditions we reasonably require, to direct debit your nominated account at another institution with the amounts referred to in this clause.

## **11. Intellectual property**

- 11.1** You acknowledge that NAB, and other third parties, own the Intellectual Property Rights in:
- (a) NAB Transact;
  - (b) the NAB Transact Agreement;
  - (c) the design and function of any services used in connection with NAB Transact;
  - (d) the User Guides;
  - (e) any other electronic or printed user's guide or other printed material ("User's Material") related to the NAB Transact Service; and
  - (f) any trade mark used in relation to NAB Transact and any services provided by NAB.

Nothing in the NAB Transact Agreement transfers any right, title or interest in any of these things to you, and you must not infringe our Intellectual Property Rights or other property rights in these things.

- 11.2** NAB will, at its expense, defend you against any claim that NAB Transact, the NAB Transact Agreement or any Service or trade mark infringes any Intellectual Property Right, provided that you:
- (a) provide NAB with written notice urgently when you become aware of any such claim;
  - (b) allow NAB to control the defence and all related settlement negotiations; and
  - (c) you reasonably co-operate with NAB in relation to the defence and all related settlement negotiations.



## **12. Exclusion and limitation of liability**

- 12.1** We try to maintain your NAB Transact service, including all equipment and systems, in good working order and with as little downtime as possible. However, there may be times where, due to technology issues or scheduled maintenance, you are unable to access your NAB Transact service or experience slower transaction response times than usual. If you are using NAB Transact for payments, we recommend you have a backup payment method in place for when this occurs.
- 12.2** You acknowledge that we are not liable for any loss of sales, loss of revenue or loss of profit you incur as a result of your NAB Transact service not working properly.
- 12.3** If any equipment that we have supplied to you is defective, our liability under any applicable consumer guarantees or implied warranties will be limited to the cost of repairing or replacing the equipment.
- 12.4** Neither party will be liable to the other party for any Consequential Loss however caused.
- 12.5** Our liability to you will not be limited in this way if it is not fair or reasonable for us to rely on the limitation set out in this clause.

## **13. Indemnity**

- 13.1** You agree to indemnify us for all Loss we incur because:
- (a) you breach an obligation that you have under the NAB Transact Agreement;
  - (b) of any wilful default, negligence, fraud, act or omission by you or any of your NAB Transact Authorised Users or any of your agents or representatives relating to the NAB Transact Agreement or any matter or thing provided for by the NAB Transact Agreement;
  - (c) of any infringement by you or your agents or representatives of another person's Intellectual Property Rights;

except to the extent that we have contributed to the Loss through our own negligence, breach or misconduct (or the fraud, negligence or misconduct of our officers, employees, contractors and agents).

- 13.2** We need not incur any expense nor make any payment before enforcing a right of indemnity conferred by the NAB Transact Agreement.
- 13.3** If you have any liability to us under this clause or any other part of the NAB Transact Agreement, we may set off that liability against any liability we have to you.

## **14. Service provider**

You acknowledge and agree that we may use any service provider to provide the NAB Transact service.

## **15. Variation**

- 15.1** NAB can, acting reasonably and in accordance with its legitimate business interests, at any time:

- (a) introduce a new NAB Transact Fee or Service Charge;
- (b) vary the amount of a NAB Transact Fee or Service Charge, the way in which it is calculated or when it is charged;
- (c) change any of the other provisions of these terms and conditions as a result of a change to any law affecting these terms and conditions; and
- (d) change any other provision of these terms and conditions or any User Guide.

**15.2** NAB will give you notice of any variations made pursuant to this clause by either writing to you (this includes printed or electronic communications such as app notifications, emails, publishing the notice on our website or any other platform and directing you to the notice, and may include a message on or with a statement) or putting an advertisement in national or local media or in any other way that is permitted by law. out below. If we believe acting reasonably that a change is unfavourable to you, we usually give the notice specified below, but can give less notice or no notice if this is in accordance with law and industry codes. For example this may happen if:

- (i) it is reasonable for us to give less notice to manage an immediate and material risk; or
- (ii) there is a new or varied government charge in connection with the NAB Transact Agreement. In this case we will tell you about the introduction or change reasonably promptly after the government notifies us. However we may not have to tell you about the change or introduction if the government publicises it.

Subject to the matters stated above, NAB will give you:

- (a) notice of new NAB Transact Fees or Service Charges will be given at least 30 days before the change takes effect;
- (b) notice of changes to NAB Transact Fees or Service Charges will be given at least 30 days before the change takes effect; and
- (c) notice of changes to interest rates will be given no later than the day on which the change takes effect; and
- (d) notice of any other changes to these terms and conditions will be given at least 30 days before the change takes effect.

### **15.3**

- (a) You agree that notices, certificates, consents, approvals and other communications in connection with these terms and conditions from NAB may be give electronically:
  - (i) by electronic mail to your nominated electronic address; or
  - (ii) by being made available at NAB's website unless you request otherwise.

Unless you so request, NAB is not required to give you communications in other ways.

- (b) We will notify you when communications are made available using the NAB Transact service.

**15.4** You may change your nominated electronic address or withdraw your agreement to receive notices by electronic mail by giving NAB notice.

**15.5** For the purposes of clauses 15.2 and 15.3:

- (a) You may request a paper copy of a communication given electronically for seven years from the time the information is given.
- (b) A communication is deemed to be received when the communication enters the recipient's designated information system or is capable of being viewed from a recipient's computer, and is effective when received even if no person is aware of its receipt.
- (c) For the purposes of communications sent by electronic mail and the Electronic Transactions Act, the server on which the mailbox for the designated address resides is to be taken to be the recipient's designated information system.
- (d) A communication is deemed to be sent from where the sender has their place of business and is deemed to be received where the recipient has their place of business. For the purposes of this clause:
  - (i) if the sender or recipient has more than one place of business, the place of business is the sender's or recipient's principal place of business; and
  - (ii) if the sender or recipient does not have a place of business, the place of business is the sender's or recipient's usual place.

## **16. Banking Code of Practice**

**16.1** NAB has adopted the Banking Code of Practice and relevant provisions of the Code apply to NAB Transact, if you are an individual or a small business customer referred to in the Code.

**16.2** You can obtain from NAB upon request:

- (a) information on NAB current interest rates and standard NAB Transact Fees and charges, if any;
- (b) a copy of the Banking Code of Practice.

## **17. Our discretion to delay, block, freeze or refuse transactions, a service or return funds and when we may be liable**

**17.1** We may, acting fairly and reasonably in accordance with our obligations under clause 26A.1:

- (a) delay, block, freeze or refuse to make any payment (or any other transaction) or process any instructions, or cease to provide the NAB Transact service in whole or in part; and/or
- (b) suspend or end your access to the NAB Transact service, including any PINS, password, device, or through any service provided for in this booklet,

where taking any action under either or both of (a) or (b) above is reasonably necessary to prevent an anticipated breach of the law of Australia or of any other country, to prevent potentially fraudulent activity or a scam, to manage any risk or

to prevent an anticipated material loss to you or us arising from the misuse or unauthorised use of the NAB Transact Service or our banking services. We may exercise our rights under either or both (a) and (b), separately or concurrently and for as long as is reasonably necessary to manage any risks. Subject to clause 26A, we will incur no liability to you where we do so. We cannot detect and prevent all such transactions. We may not give you advance notice (for example if it is reasonably necessary for us to act quickly to manage a risk) and sometimes we are not able to explain all of the circumstances to you. If we do not give you advance notice, and where it is reasonable to do so, we will give you a general reason and advise you within a reasonable time of exercising our discretion under this clause.

**17.2** You declare and undertake to us that you do not have any reason to suspect that any payment we make in accordance with any instructions you give us using the NAB Transact service will breach any law in Australia or any other relevant country.

**17.3** We may delay, block or refuse to make any payment or process any instructions, or cease to provide the NAB Transact service in whole or in part to you if we believe on reasonable grounds that making the payment or processing those instructions may breach any Relevant Law in Australia or overseas.

**17.4** You agree that you will provide any information that we reasonably request connected with the NAB Transact service and any relevant transactions. We may continue any action under clause 17.1 until we receive a satisfactory response. You acknowledge that if we are not satisfied with your responses or you fail to respond in a timely manner then we may take this into account when deciding whether or not to end your access to the NAB Transact service or give effect to a transaction under this agreement.

**17.5** Unless you have disclosed to us that you are acting in the capacity of a trustee by entering into the NAB Transact Agreement or on behalf of another party, you warrant that you are acting on your behalf entering in the NAB Transact Agreement.

**17.6** You confirm that the receipt of money by us in accordance with any instructions given by you will not breach any Relevant Law in Australia or overseas.

## **18. Confidentiality and privacy**

**18.1** You must keep any Confidential Information confidential. You may only use the Confidential Information in relation to the NAB Transact Agreement.

**18.2** You may disclose the Confidential Information to enable you to perform your obligations under the NAB Transact Agreement but only to your permitted personnel to the extent that they have a need to know that information.

**18.3** You must not copy the Confidential Information or any part of it other than as strictly necessary for the purposes of the NAB Transact Agreement and must, if required by us, mark any such copy "Confidential – NAB".

**18.4** You must implement security practices against any unauthorised copying, use, disclosure (by any means or in any form), access, damage or destruction of the Confidential Information.

- 18.5** On termination of the NAB Transact Agreement, or earlier on reasonable request by us, you must promptly return to us or destroy any or all copies of Confidential Information, in which case any right to use, copy and disclose the Confidential Information ceases.
- 18.6** Your obligations under this clause 18 continue in relation to the Confidential Information even if it is returned to us or destroyed or the NAB Transact Agreement are terminated.
- 18.7** This clause 18 does not apply to the extent that you are required by law to disclose the Confidential Information. If you are so obliged to disclose any Confidential Information, you must before doing so at our reasonable cost:
- (a) notify us and provide details of the proposed disclosure; and
  - (b) give us a reasonable opportunity to take any steps we consider necessary to protect the confidentiality of that Confidential Information; and
  - (c) provide assistance reasonably required by us to protect the confidentiality of the Confidential Information; and
  - (d) notify the recipient of the Confidential Information that it is our Confidential Information.
- 18.8** When you collect information about an individual that will be disclosed to us under the NAB Transact Agreement or otherwise in connection with NAB Transact, in addition to any obligations you may have concerning Confidential Information under the NAB Transact Agreement or privacy law, you must ensure that the individual is aware of:
- (a) our identity, as an organisation which will collect that individual's personal information and our contact details as notified by us to you from time to time;
  - (b) the fact that the individual has a right to request access to their personal information from us;
  - (c) the purposes for which the individual's personal information is collected by us;
  - (d) the organisations or types of organisations (if any) to which we disclose personal information of the kind collected about the individual, as notified by us to you;
  - (e) any law that requires the personal information to be collected by us; and
  - (f) the main consequences (if any) for the individual if all or part of their personal information is not provided to us, as notified by us to you.
- 18.9** You acknowledge that you do not rely on any information or representation supply by us to you as advice regarding compliance with privacy laws.
- 18.10** You must procure that your employees, officers and agents comply with this clause 18.

## 19. GST

Notwithstanding any other provision of the NAB Transact Agreement:

- (a) In the event that GST has application to any supply made under or in connection with the NAB Transact Agreement NAB may, in addition to any amount or consideration payable in accordance with the NAB Transact Agreement, recover from you an additional amount on account of GST, such amount to be calculated by multiplying the relevant amount or consideration payable by you for the relevant supply by the prevailing GST rate.
- (b) Without limiting the generality of the foregoing, in the event that NAB is not entitled to an input tax credit in respect of the amount of any GST charged to or recovered from NAB by any person, or payable by NAB, or in respect of any amount which is recovered from NAB by way of reimbursement of GST referable directly (or indirectly) to any supply made under or in connection with the NAB Transact Agreement, NAB shall be entitled to increase any amount or consideration payable by you on account of such input tax and recover from you the amount of any such increase.
- (c) Any additional amount on account of GST, or on account of an amount for which NAB is not entitled to an input tax credit, recoverable from you pursuant to this clause shall be calculated without any deduction or set-off of any other amount and is payable by you upon demand by NAB whether such demand is by means of an invoice or otherwise.

## 20. Separate conditions

All terms and conditions (including fees and charges) applicable to your NAB accounts or any NAB Product, other NAB product or NAB service that you have, continue to apply.

## 21. Notices

**21.1** A notice in writing is deemed to be duly given if:

- (a) given personally to the addressee; or
- (b) left at the last address advised; or
- (c) sent by prepaid post to the address last advised; or
- (d) sent by facsimile to the facsimile number last advised; or
- (e) provided electronically, in accordance with clause 15.

**21.2** A notice sent by post is taken to be received on the third day after posting.

**21.3** A notice by facsimile is taken to be received on production of a transmission report by the machine from which the facsimile was sent which indicated that the whole facsimile was sent.

## 22. Change of name or merger

You must notify us in advance of any legal name change or merger involving you or any NAB Transact Authorised User.

## 23. Assignment

You must not assign your rights under the NAB Transact Agreement without our consent.

## 24. Availability of NAB Transact

We may make the NAB Transact service unavailable from time to time for either scheduled maintenance or emergency maintenance (for example, to correct errors or conduct upgrades or enhancements). We will provide reasonable notice of such unavailability where it is reasonably possible for us to do so.

## 25. Termination

- 25.1** Either party may terminate your use of the NAB Transact Service at any time by written notice to the other party. Such termination will not affect any obligations incurred by you under the NAB Transact Agreement.
- 25.2** You may terminate the use of the NAB Transact Service with immediate effect.
- 25.3** We may terminate your use of the NAB Transact Service without cause on 60 days notice to you. However, if you have materially breached any of the terms of the NAB Transact Service Agreement, we may terminate your use of the NAB Transact Service on 30 days notice (unless you cure the breach within the 30 days and do not repeat it), or without notice if we reasonably believe that your use of the NAB Transact Service causes an immediate risk to us.
- 25.4** Your use of the NAB Transact Service will automatically terminate when you no longer hold a NAB Product that is able to be accessed via the NAB Transact Service.

All monies due and payable by you to NAB under the NAB Transact Agreement will immediately become due and payable on the date of termination.

## 26. Governing law

This agreement is governed by the law in force in the Australian State or Territory where your address (detailed on the Letter of Offer) is located. If this address is not located in Australia, this agreement is governed by the law of Victoria. Any court cases involving this agreement can be held in the courts of any State or Territory of Australia. You and we submit to the non-exclusive jurisdiction of those courts.

### 26A Exercise of discretions

- 26A.1** NAB will act reasonably and fairly towards you, taking into account yours and NAB's respective business interests. That includes whenever NAB is:
- (a) considering any request you make; or
  - (b) deciding whether to give its consent or to exercise a right, discretion or remedy; or
  - (c) setting any conditions for doing any of those things; or
  - (d) changing a term of this Agreement or our fees and charges, exercising enforcement or set-off rights or incurring expenses that are payable by you.
- 26A.2** NAB can take a range of things into account when exercising its rights and discretions under these terms. These can include:

- (a) NAB's legal obligations, industry codes and payment scheme rules and the expectations of NAB's regulators;
- (b) protecting NAB's customers, staff and systems and the personal information it holds;
- (c) what you have told NAB about yourself and how you will use NAB's products and services (including if it's misleading, incorrect or you haven't provided NAB with all of the information NAB reasonably needs when asked);
- (d) how NAB's products and services are intended to be used (and how you have used them);
- (e) NAB's public statements, including those relating to protecting vulnerable persons, the environment or sustainability;
- (f) community expectations and any impact on NAB's reputation;
- (g) whether NAB needs to take any action to protect you or another person from a potential fraud or scam; and
- (h) risk management, including sanctions risk management.

**26A.3** NAB is not liable for any loss or damage:

- (a) caused by exercising or attempting to exercise, or failure or delay in exercising, a right or remedy where:
    - (i) there's no breach of a legal duty of care owed to you by NAB, or by any of NAB's employees or agents;
    - (ii) if there is a breach of such a duty, such loss or damage could not have been reasonably foreseen as a result of any such breach; or
    - (iii) NAB reasonably exercises the discretion, including because of one or more of the factors set out at clause 14.2; or
  - (b) that results from a breach by you of any term of this agreement,
- except to the extent such loss or damage is caused by NAB's fraud, negligence or misconduct.



# Part B

## Product terms for Pay by Phone, Pay by Web and Allocated EFT

### 27. Definitions

The following definitions apply to Part B of this document. Other words used in Part B and which are defined in Part A have the meaning as defined in Part A:

**Activation Form** means the Activation Form for the applicable Service provided to you by NAB.

**Allocated Reference Number** means a reference number generated by NAB under the Allocated EFT Service and provided to You, the first 9 digits of which must comprise of the NAB Transact BSB Number and Client Settlement ID and the final digit of which is a check digit.

**Allocated EFT Service** means the service more particularly described in section 1 of Schedule 1.

**Business Day** means a day on which banks are open for general banking business in Victoria, other than Saturday or Sunday.

**Card Scheme** means MasterCard and Visa and any general purpose credit card scheme that NAB determines is a Card Scheme.

**Customer** means a person who is your customer.

**Direct Credit** means credit payments through the Bulk Electronic Clearing System (BECS) managed by the Australian Payments Network.

**Direct Debit** means debit payments through the Bulk Electronic Clearing System (BECS) managed by the Australian Payments Network.

**Direct Debit User Agreement** means the agreement between NAB and you under which NAB sponsors you as a debit user in the Bulk Electronic Clearing System.

**GST** has the same meaning as under the A New Tax System (Goods and Services) Tax Act 1999 (Cth).

**International payment** means a payment from and to overseas.

**Letter of Offer** means a letter of offer we give you in connection with a Service.

**Merchant Agreement** means the agreement between NAB and you under which NAB provides you with merchant services.

**NAB Transact** means NAB's payment channel and reporting product known by that name.

**Pay by Phone** means the Service that allows your Customers to make payments to you over the phone using the payment methods selected by you.

**Pay by Web** means the Service that allows your Customers to make payments to you over the Internet using the payment methods selected by you.

**RTGS** means Real-Time Gross Settlement through the High Value Clearing System (HVCS) managed by the Australian Payments Network.

**Scheme Card** means a general purpose credit card issued under a Card Scheme.

**Settlement Account** means the account most recently nominated by you for the purposes of NAB settling amount owed to you under this agreement and for debiting reversed, returned or charged back transactions.

**Service** means each of the services listed in clause 28.1

**Service Charges** means, in relation to a Service, the charges payable by you for the Service as set out in the relevant Letter of Offer and includes any revised charges notified to you by NAB under clause 15.

**Service Provider** means a party engaged by NAB to assist in providing a Service.

**Trade Marks** means each of the various trade marks (including but not limited to registered and unregistered trade marks and trade names) which are used on or in relation to the Service or other goods and services provided by NAB from time to time.

**URL** means an address that specifies the location of a file on the internet.

## **28. Supply of service**

**28.1** NAB agrees to provide you with the following NAB services if they are the subject of a Letter of Offer:

- (a) Pay by Phone;
- (b) Pay by Web;
- (c) Pay in Person; and
- (d) Allocated EFT.

(each a “**Service**”).

**28.2** The terms on which a Service is provided are set out in:

- (a) this document including, for Allocated EFT, Schedule 1;
- (b) the separate terms governing the payment methods used by your Customers in connection with the Service including:
  - (i) the Merchant Agreement, if payments are made by a Scheme Card;
  - (ii) the Debit User Agreement, if payments are made by direct debit to the Customer’s account; and
  - (iii) the terms of your charge card agreement, if payments are made by charge card.
- (c) the User Guide; and
- (d) the General Terms and Conditions set out in Part A of this document (together the “**Service Terms**”).

**28.3** A Service will be provided to you if:

- (a) NAB has received a completed Activation Form from you; and
- (b) NAB has notified you that the Service has been activated and you are able to accept live transactions.

**28.4** On giving reasonable notice to you, NAB may refuse to activate a Service, de-activate a Service or suspend part or all of a Service if:

- (a) you do not comply with your obligations under any of the Service Terms; or
- (b) NAB (acting reasonably and having regard to its legitimate business interests and its regulatory and prudential obligations) determines that it is necessary to:
  - (i) monitor and reduce the incidences of fraud; or
  - (ii) perform system and network maintenance.

## **29. Your obligations**

**29.1** You must, in relation to a Service:

- (a) comply with the Service Terms;
- (b) pay the Service Charges;
- (c) provide NAB with any assistance reasonably requested to allow the Service to be activated (including access to your network or systems as required);
- (d) promote and supply the Service in accordance with this agreement under the name specified by NAB;
- (e) provide information relating to the Service reasonably required by NAB for the purposes of this agreement; and
- (f) work together with NAB to establish procedures to reduce fraud or the opportunity for fraud in relation to the Service.

**29.2** You must promptly notify NAB of any change in your details as provided in the Activation Form or as otherwise provided to us.

**29.3** Prior to reporting a Service fault to NAB, you must ensure that your own network is free from faults.

## **30. NAB's obligations**

**30.1** NAB must, in relation to a Service:

- (a) settle the value of all valid and acceptable transactions:
  - (i) for the Allocated EFT Service, as set out in section 2 of Schedule 1; and
  - (ii) for all other Services, for transactions that are processed by NAB, in accordance with the relevant Service Terms;
- (b) provide you with a daily Transaction Statement showing the transactions processed by NAB for the day advised as the processing date; and
- (c) use all reasonable endeavours to inform you of any scheduled outages, which may affect the availability of a Service.

**30.2** Any amounts that NAB must pay you under this agreement may be set off against

amounts payable by you to NAB under this agreement. If this is a Small Business Contract, we will not exercise these rights unless either we give you notice or you have not complied with your obligations under this agreement. Otherwise, we will notify you after exercising these rights.

## **31. Billing**

**31.1** NAB will debit any amount due by you to NAB under this agreement as follows:

- (a) Service Charges will be debited to your Billing Account within 3 Business Days of the end of the month;
- (b) amounts to be debited under Schedule 1 will be debited to your Settlement Account or such other account as agreed as soon as reasonably practicable; and
- (c) all other amounts owed under this agreement will be debited to your Billing Account or Settlement Account as applicable when due and payable.

**31.2** It is your responsibility to ensure you have sufficient funds in the relevant account to pay amounts owing under this agreement.

**31.3** If you do not have sufficient funds in the relevant account referred to in clause 31.1:

- (a) you authorise NAB to debit the amounts owing by you to another NAB account. You should ensure you have sufficient funds available in the relevant account to avoid NAB debiting your other NAB accounts;
- (b) if reasonably requested by NAB, you must provide NAB with an authority and request in a form, and subject to the terms and conditions NAB reasonably requires, to direct debit your nominated account at another institution with these amounts; and
- (c) you must pay all applicable fees associated with not having sufficient funds in the relevant account and NAB having to debit another account.

**31.4** NAB will provide you with a Billing Statement setting out the Service Charges incurred by you within 14 days after the end of each month.

## **32. Things you need to use the Services**

**32.1** We will provide the following to you for the purpose of enabling your customers to use the Services:

- (a) For the Pay by Phone Service, a phone number for customers to call to access the Service;
- (b) For the Pay by Web Service, a URL and;
- (c) For the Allocated EFT Service, partial use of a NAB BSB Number, and a 3 digit Settlement ID.

**32.2** You acknowledge and agree that you acquire no rights in any of the things listed in clause 32.1 above.

**32.3** You must not transfer or seek to transfer any of the things listed in 32.1 above or use any of them for a purpose other than accessing the particular Service for which they were supplied.

### **33. Termination**

**33.1** NAB may, acting reasonably and having regard to its legitimate business interests and its regulatory and prudential obligations, terminate or suspend the provision of any or all of the Services at any time if:

- (a) You commit a material breach of this agreement which is incapable of being cured and has a material impact on our credit or security risk;
- (b) you commit a material breach which is capable of remedy, but you fail to remedy the breach within 14 days of notice requiring you to do so;
- (c) in NAB's reasonable opinion, providing you with a Service puts NAB at immediate risk.

NAB may do so by giving you notice in writing. The notice does not have to state a reason.

**33.2** You may terminate your use of a Service at any time by giving NAB 30 days notice in writing.

### **34. Consequences of termination**

**34.1** On termination of any Service, you must:

- (a) immediately stop promoting that Service;
- (b) immediately stop supplying that Service;
- (c) urgently on request (and in any event within 5 Business Days) pay NAB all amounts owed to NAB in respect of that Service;
- (d) immediately stop, and require your Customers to stop, using:
  - (i) any phone number allocated to you for the purpose of the Pay by Phone service if the Pay by Phone Service is terminated;
  - (ii) any URL allocated to you for the purpose of the Pay by Web service if the Pay by Web Service is terminated;
  - (iii) the NAB Transact BSB, 3 digit Settlement ID and Allocated Reference Numbers to make payments to you, if the Allocated EFT Service is terminated and delete any Allocated Reference Numbers NAB has assigned to you; and
  - (iv) any Trade Marks which you have been given permission to use for the purpose of the terminated Service;
- (e) urgently (and in any event within 5 Business Days) unless otherwise advised by NAB, return to NAB:
  - (i) all NAB Confidential Information in a material form and all copies of it that are in your possession or control; and
  - (ii) the User Guides and all other documentation provided to you in relation to the terminated Services.

**34.2** Termination of this agreement or any part of it will not affect the accrued rights or remedies of either party.

## **35. Loss and indemnity**

### **35.1 Loss where value not received by NAB**

If you use Allocated EFT you acknowledge that, subject to your implied rights at law which cannot be excluded:

- (a) if a Customer effects a payment but an equivalent value is not received by or credited to NAB (including because an amount credited to NAB is reversed), NAB is not liable to you for that value not being credited to the Settlement Account or, if already credited, being debited to the Settlement Account (or such other account as agreed) by way of reversal; and
- (b) NAB is not liable for any Loss suffered as a result of a missing or erroneous payment for which a valid receipt cannot be produced.

### **35.2 Additional indemnity for Allocated EFT Service**

In addition to the indemnity in clause 13 and subject to clause 26A.3, in relation to the Allocated EFT Service, you also agree to indemnify for all Loss we incur because of:

- (a) NAB returning or refusing payments on any Banking Day because:
  - (i) NAB is so instructed by you; or
  - (ii) the Allocated Reference Number fails validation; or
  - (iii) NAB is otherwise entitled to do so under this Agreement;
- (b) a Customer using the Allocated Reference Number to make a deposit at a branch or deposit box; or
- (c) a Customer using the Allocated Reference Number to make an international payment; or
- (d) a Customer using the Allocated Reference Number to debit the Settlement Account; or
- (e) any reasonable delay (including without limitation any delay caused by circumstances beyond the control of NAB) in the availability of the daily transaction report.

# Schedule 1

## Allocated EFT

### 1. Allocated EFT service

#### 1.1 Service Description

The Allocated EFT Service provides a mechanism for allocating unique reference numbers to Customers for the purpose of making and identifying payments made to You via Direct Credit or RTGS.

Allocated Reference Numbers are based on the following numbering conventions:

[XXX XXX]	[XXX]	[XXXXX]	[X]
NAB Transact BSB	Client specific Settlement ID	Allocated Variable	Check Digit

The NAB Transact BSB and Settlement ID will be fixed. A list of compliant reference numbers will be generated by NAB and provided to You.

#### 1.2 BSB and Settlement ID

NAB will allocate to You:

- (a) the partial use of a NAB BSB number; and
- (b) a client-specific 3 digit Settlement ID, which will be used to identify payments made to You.

You acknowledge that You acquire no rights in any BSB number or Settlement ID allocated to You and You may not transfer, or seek to transfer, the BSB or Settlement ID, or use either for a purpose other than using the Allocated EFT Service under this Agreement.

#### 1.3 Allocated Account Numbers

- (a) A list of compliant Allocated Reference Numbers will be generated by NAB and provided to You.
- (b) You are responsible for maintaining a record of Allocated Reference Numbers in use and details of to which Customer those Allocated Reference Numbers correspond.
- (c) You acknowledge that NAB has no record of Customers to whom Allocated Reference Numbers have been assigned and You are solely responsible for ensuring that any credits made to an Allocated Reference Number are reconciled back to the appropriate Customer's ledger with You.
- (d) You must store the Allocated Reference Numbers securely.

#### 1.4 Your responsibilities

- (a) You are responsible for notifying each Customer of the payment details to be used by that Customer when making payments to You.
- (b) You are responsible for any loss suffered as a result of incorrect payment details

being provided to Customer.

- (c) You must inform any Customers that the Allocated Reference Number is to be used only to make payments to You via Direct Credit or RTGS and is not to be used to make deposits over the counter at any NAB branch, or for Direct Debit or international payments.
- (d) You are responsible for monitoring of all transactions received via the Allocated EFT Service and for identifying on each day any transactions not authorised by the terms of this Schedule.
- (e) Failure to do this may result in the termination of your Allocated EFT facility with us.

### **1.5 Customer termination**

When a Customer ceases to be a Customer, You must:

- (a) advise the Customer to stop using the Allocated Reference Number to make payments to You; and
- (b) remove the Allocated Reference Number from any further correspondence with that Customer.

## **2. Payment processing and reporting**

### **2.1 Payment to Settlement Account**

- (a) All payments received by NAB in respect of valid reference numbers bearing the NAB BSB and Settlement ID allocated to You will be settled to your Settlement Account, in accordance with the terms of this document.
- (b) Any payment that is a debit drawing in respect of any account bearing the NAB BSB and Settlement ID will be debited from the Settlement Account.

### **2.2 Processing**

When NAB receives payments through the payment system, the payments and the relevant details are to be processed by NAB to the Settlement Account in accordance with any applicable Australian Payments Network regulations or procedures (including BECS rules and procedures) and NAB's standard banking practice.

### **2.3 Reporting**

- (a) As early as practicable on each business day, NAB will make available to You through NAB Transact a report listing all transactions to the Settlement ID made on the previous Business Day.
- (b) If the report relating to the previous Business Day is not available through NAB Transact by 7.00am on the next Business Day, You must notify NAB as soon as practicable and NAB must use reasonable endeavours to make the report available as soon as possible thereafter.

### **2.4 Unapplied, unauthorised and mistaken payments**

You must:

- (a) promptly notify NAB if You are unable to apply payments listed in a transaction history report to accounts You maintain for your Customers for any reason;
- (b) upon being notified by NAB that a credit item received by You is allegedly



unauthorised (“notice”):

- (i) immediately prevent the withdrawal or other use or application of the funds held by You pending the resolution of the matter by NAB; and
  - (ii) comply with any reasonable request for assistance in unwinding the transaction.
- (c) promptly notify NAB if You identify a transaction initiated by a Customer which is not consistent with the use of the Allocated EFT Service.

You authorise NAB to debit the Settlement Account (or such other account as agreed) for any amounts which were credited to the Settlement Account as a result of a bank or payer error.







For more information visit

**nab.com.au**

or call us on **13 22 65**

7am – 9pm AEST Monday to Friday

8am – 6pm AEST Saturday to Sunday

or ask at your **local branch**



Hearing impaired customers  
with telephone typewriters can  
contact us on **1300 363 647**