



BATCH PAYER TERMS

October 2020



1. INTRODUCTION

- 1.1 We are a member of the Scheme and we subscribe to BPAY® Payments.
- 1.2 These Batch Payer Terms:
 - (a) set out the terms and conditions on which we will accept Batch Payer Directions from you; and
 - (b) apply separately to any Payer Terms which you may have entered into with us. For clarity, any such Payer Terms set out the terms and conditions on which we will accept Payer Directions from you which are not Batch Payer Directions.
- 1.3 The parties acknowledge that the BPAY View functionality is not available for Payments made using Batch Payer Directions. If the Participating Batch Payer wants to participate in BPAY View it may do so only with the prior written agreement of the Institution and on such conditions as the Institution and the Participating Batch Payer may agree.
- 1.3 We will promptly inform you if, for any reason, we are no longer able to accept Batch Payer Directions. If we so inform you, these terms will terminate and you will not be able to send Batch Payer Directions to us.
- 1.4 In consideration of the payment by the Participating Batch Payer to the Institution of the fees set out in Schedule 1:
 - (a) the Institution agrees to facilitate the participation of the Participating Batch Payer in BPAY Payments on the terms and conditions set out in these Batch Payer Terms by acting as an Institution on behalf of the Participating Batch Payer; and
 - (b) the Participating Batch Payer agrees to comply with the terms and conditions of these Batch Payer Terms.

2. HOW TO SUBMIT BATCH PAYER DIRECTIONS

- 2.1 Batch Entry payments can only be made from the Participating Batch Payer's Nominated Debit Account which:
 - (a) has Available Funds/or a Formal Limit; and
 - (b) is only used for business purposes.
- 2.2 The Participating Batch Payer may make its BPAY Payments with the Institution by Batch Entry, unless the Institution tells the Participating Batch Payer otherwise.
- 2.3 The Participating Batch Payer must be an approved and authorised user of the Payment channel through which the Institution agrees to process BPAY Payments.
- 2.4 The Participating Batch Payer must comply with the procedures for making BPAY Payments specified in the BPAY Batch User Guide or as notified by the Institution from time to time.
- 2.5 The Participating Batch Payer undertakes to ensure that:
 - (a) each Batch Entry payment it makes with the Institution is validly authorised

- (b) its systems and procedures generate sufficient records to enable transactions made through Batch Entry to be traced, checked and where an error has occurred, to be identified and corrected in accordance with the principles set out in these Batch Payer Terms
 - (c) each End Client on whose behalf the Participating Batch Payer makes a Batch Entry payment agrees to be bound by the application of the principles set out in these Batch Payer Terms to rectify any invalid or incorrect transaction in which the End Client is concerned;
- 2.6 The Participating Batch Payer warrants to the Institution each time it makes a Batch Entry payment that the Batch Entry payment is validly authorised and it has obtained a written direction from its End Client to make that Batch Entry payment (if applicable)
 - 2.7 We will treat each Batch Payer Direction as valid if, when you submit it to us, you comply with the Security Procedure(s) specified in the applicable NAB Digital Business Channels terms and conditions.
 - 2.8 We are not obliged to effect a Payment that is the subject of a Batch Payer Direction if you do not follow the procedures, and provide the relevant information, required by us, or if any of the information you give to us is inaccurate.
 - 2.9 The Participating Batch Payer must comply with the terms and conditions applying to the Nominated Debit Account, to the extent that those account terms are not inconsistent with or expressly overridden by these Batch Payer Terms. The terms and conditions set out in these Batch Payer Terms are in addition to those account terms.
 - 2.10 If there is any inconsistency between the terms and conditions applying to the account and these Batch Payer Terms, the Batch Payer Terms will apply to the extent of that inconsistency (including if the ePayments Code does not apply).
 - 2.11 If a BPAY Payment the Participating Batch Payer has made falls within the type described in clause 7.5 and also clause 7.4 or 7.7, then the Institution will apply the principles stated in clause 7.5. If a BPAY Payment the Participating Batch Payer has made falls within both the types described in clauses 7.4 and 7.7, then the Institution will apply the principles stated in clause 7.7.
 - 2.12 All terms and conditions set out below relating to BPAY Payments and liability apply to BPAY Payments made by Batch Entry.

3. PROCESSING OF PAYMENTS

- 3.1 Subject to clause 3.2, if you submit Batch Payer Directions to us:
 - (a) before 5pm AEST (Payment Cut-off Time) on a Banking Business Day, the Payments which are the subject of those Batch Payer Directions will be treated as received by the Biller to whom it is directed on the same day; or

- (b) after the Payment Cut-off Times on a Banking Business Day or on a day that is not a Banking Business Day, the Payments which are the subject of those Batch Payer Directions will be treated as received by the Biller to whom it is directed on the next-occurring Banking Business Day.
- 3.2 However, Payments may in some cases take longer to be credited to a Biller (for example, if we or another participant in BPAY Payments do not comply with any applicable obligations relating to BPAY Payments).
- 3.3 While it is expected that any delay in processing under these Batch Payer Terms for any reason set out in this clause will not continue for more than one Banking Business Day, any such delay may continue for a longer period.
- 3.4 The Institution will not accept an order to stop a BPAY Payment once the Participating Batch Payer has instructed the Institution to make that BPAY Payment.
- 3.5 You must be careful to ensure that Batch Payer Directions contain the correct amounts you wish to pay. If you instruct us to make a Payment via a Batch Payer Direction and you later discover that the amounts you told us to pay was less than the amount you needed to pay, you can make another Payment by submitting a further Batch Payer Direction for the difference between the amount actually paid to a Biller and the amount you needed to pay.
- 3.6 You acknowledge that the receipt by a Biller of a mistaken or erroneous payment from another person does not constitute part or whole satisfaction of any underlying debt owed between you (or your End Clients, as the case may be) and that Biller.
- 3.7 If we are advised that a Payment which is the subject of a Batch Payer Direction cannot be processed by a relevant Biller, we will:
- (a) advise you of this;
 - (b) credit your account with the amount of that Payment; and
 - (c) take all reasonable steps to assist you in making the Payment as quickly as possible.

Available Funds and Formal Limits

- 3.8 The Participating Batch Payer should ensure that there are sufficient cleared funds in the Participating Batch Payer's account where no Formal Limit has been specified. NAB may reject any Batch Payer Direction where there are insufficient Available Funds to cover the Batch Payer Direction. NAB may also, in its sole discretion, agree to process the Batch Payer Direction notwithstanding the lack of Available Funds. For the avoidance of doubt, Available Funds means the balance of your account, including any formal overdraft limits, less uncleared funds and excludes set-off arrangements.
- 3.9 If a Formal Limit is specified in the Letter of Offer pursuant to which these Batch Payer Terms have been entered into, or NAB otherwise notifies the Participating Batch Payer that a Formal Limit applies, NAB will process Batch Payer Directions from the Available Funds in the first instance. Where there are insufficient Available Funds to cover the value of the Batch Payer Direction NAB will utilise the Formal Limit to process the full

value of the file (up to the amount of the Formal Limit during any Limit Period) irrespective of whether funds are available. NAB may also at its sole discretion agree, without any obligation to do so, to process Batch Payer Directions in excess of the Formal Limit.

- 3.10 The Institution will not be held liable if your file is rejected due to having insufficient Available Funds to process your file.

4. OBLIGATIONS OF THE INSTITUTION

The Institution will perform its obligations under BROP (as it applies to BPAY Payments) in relation to Batch Payer Directions with reasonable skill and care.

5. YOUR OBLIGATIONS

- 5.1 You must:
- (a) if you make Batch Payer Directions on behalf of End Clients:
 - (i) make any disclosures to, and obtain any consents from, those End Clients that are necessary to enable:
 - (A) us to comply with our obligations under BROP (as it applies to BPAY Payments); and
 - (B) you to comply with your obligations under these Batch Payer Terms;
- Guidance Note:** For example, you must obtain your End Clients' consent to permit us to request certain information from the End Clients' Billers in connection with the investigation of potential fraudulent transactions under Rule B9.5. Similarly, you must obtain necessary consents from your End Clients to permit you to disclose details regarding the End Client to BPAY (for example, in reports provided to the Management Committee under Rule B15.4(c)).
- (ii) maintain a contemporaneous list of those End Clients, and provide that list to us upon request;
 - (iii) maintain systems and processes which allow payments and adjustments (including credits and reversals) in relation to those End Clients to be separately identified and differentiated;
 - (iv) ensure that those End Clients make Payments only for their own benefit and not on behalf of a third party;
 - (v) promptly notify us if you become aware, or reasonably suspect, any fraudulent or illegal activity involving Payments made by those End Clients; and
 - (vi) ensure that each Batch Payer Direction given on behalf of an End Client is validly authorised by that End Client;

- (b) The Participating Batch Payer agrees to notify the Institution in writing of any non-compliance by the Participating Batch Payer with a term of these Batch Payer Terms in connection with making a Batch Entry payment as soon as practicable after the Participating Batch Payer becomes aware of that non-compliance.
 - (c) The Participating Batch Payer must take all reasonable steps, act in accordance with directions from the Institution, and immediately give the Institution all necessary information and authorisations, to ensure that a Batch Entry payment is not induced by fraud.
 - (d) promptly notify us (and will ensure that its End Clients notify it) if you become aware, or reasonably suspect that a Batch Payer Direction has been erroneously submitted or processed; and
 - (e) comply with all our reasonable directions in connection with your submission of Batch Payer Directions (including any directions to stop submitting Batch Payer Directions, or to impose value or volume limits on Batch Payer Directions).
- 5.2 If you make it known to your End Clients that Payments on behalf of those End Clients will be made using BPAY Payments, you must, in addition to the matters set out in clause 5.1:
- (a) enter into an agreement with those End Clients for those Payments, which must be consistent with these Batch Payer Terms;
 - (b) disclose to, and obtain acknowledgement from, those End Clients that:
 - (i) your relationship with your End Clients is separate to, and is not governed by, the Scheme and therefore the benefits received by Payers under BROP (as it applies to BPAY Payments) may not be applicable to End Clients who make payments through you; and
 - (ii) the receipt by a Biller of a mistaken or erroneous payment from another person does not constitute part or whole satisfaction of any underlying debt owed between the End Client and that Biller;
 - (c) having regard to your own processing times needed to prepare and submit the associated Batch Payer Directions and the principles set out in clause 3:
 - (i) notify End Clients when Payments which are the subject of payment directions given by the End Clients to you will be treated as having been made; and
 - (ii) ensure that payment directions validly given by your End Clients prior to the time referred to in paragraph (i) are incorporated into Batch Payer Directions which are submitted to us on the same Banking Business Day; and
 - (d) without undue delay, pass on to the relevant End Client the benefit of any adjustments (including credits or reversals) which you receive in connection with a Payment made on behalf of that End Client.
- 5.3 The Participating Batch Payer represents and warrants to the Institution that:
- (a) it has all necessary power and authority to enter into these Batch Payer Terms and to perform its obligations under it;
 - (b) it will comply with all laws or industry codes applicable to the Participating Batch Payer in its performance of its rights and obligations under these Batch Payer Terms; and
 - (c) all information provided at any time by the Participating Batch Payer to the Institution as contemplated by these Batch Payer Terms is true and accurate at the time it is provided.
- 5.4 The Participating Batch Payer agrees:
- (a) to notify the Institution immediately if it becomes aware at any time that it is unable to repeat any of the warranties in clause 5.3, and
 - (b) to provide updated or corrected information to the Institution if any of the information provided by the Participating Batch Payer to the Institution at any time as contemplated by these Batch Payer Terms is no longer true and accurate.

6. USE OF BPAY MARKS

- 6.1 If you:
- (a) make Payments on behalf of End Clients; and
 - (b) wish to make it known to those End Clients that Payments will be made using BPAY Payments,
- then:
- (c) you must submit all proposed uses of the BPAY Marks to BPAY for its approval (such approval may be withheld in BPAY's absolute discretion);
 - (d) if your proposed use is approved by BPAY, we grant to you a non-exclusive, revocable licence to use the BPAY Marks in accordance with this clause 6 and the Standards Manual solely for the purposes of advertising your participation in, and promotion of, BPAY Payments in the manner so approved; and
 - (e) we will provide you with a copy of the Standards Manual along with BPAY's contact details and notify you each time there is a change to the Standards Manual or BPAY's contact details.
- 6.2 Where a licence to the BPAY Marks is granted to you under clause 6.1:
- (a) the parties acknowledge that our ability to licence the BPAY Marks under that clause 6.1 is subject to our own arrangements with BPAY. Accordingly, we may terminate the licence granted under clause 6.1 if our right to sub-licence the BPAY Marks ceases for any reason. The licence will otherwise terminate immediately on termination or expiry of the these Batch Payer Terms;

- (b) you agree that BPAY owns the BPAY Marks and further agree:
 - (i) not to contest or in any way impair any rights of BPAY to the BPAY Marks; and
 - (ii) at any time at our request include a statement on any packaging, promotional or advertising materials used in connection with BPAY Payments, including in electronic form, that the BPAY Marks are being used by you under the control of and with the authorisation of BPAY and acknowledging BPAY's ownership of the BPAY Marks;
- (c) any use of the BPAY Marks by you which is not in compliance with the requirements of these Batch Payer Terms and the Standards Manual, and which is not promptly discontinued following written notice from us to discontinue such use, will be regarded as adequate ground for termination of these Batch Payer Terms;
- (d) you must not licence or assign to any third party the right to use any of the BPAY Marks whether by sale, consolidation, merger, amalgamation, operation of law or otherwise;
- (e) you must use the appropriate denotation or legend of trademark registration or ownership in connection with the BPAY Marks, as required or consented to by us from time to time;
- (f) if you wish to use a denotation or legend of trade mark registration or ownership in connection with any mark (other than the BPAY Marks), but used in association with or on the same printed matter as the BPAY Marks, you may do so provided that:
 - (i) such use will not adversely affect the rights of BPAY in the BPAY Marks; and
 - (ii) the specification for such use is notified in writing to us, and we provide to you our written approval to that specification prior to such use;
- (g) you must not use the BPAY Marks in such a way as to create an impression that the goods or services which you offer are sponsored, produced, offered or sold by us or BPAY. You must not adopt "BPAY" or any other BPAY Mark as any part of the name of your business or apply them to any goods or services which you offer for sale;
- (h) you must notify us immediately on becoming aware of any infringement or potential infringement of the BPAY Marks (including any infringements by your End Clients). Where such infringement or potential infringement results in a third party bringing a claim or proceedings against either party, BPAY may take over the defence of such claim or proceedings;
- (i) if any claim is asserted or legal proceedings commenced against you for alleged infringement of any rights held by a third party by reason of the use of the BPAY Marks, then when you become aware of that claim or legal proceedings you must:
 - (i) provide us with prompt written notice of such claim or proceedings; and
 - (ii) keep us informed of all developments in respect of the claim or proceedings; and
- (j) you consent to the use of your name and main trading logo in lists published by us, BPAY or other financial institutions who take part in BPAY Payments which identify entities who use the Batch Payer Direction functionality of BPAY Payments.

7. PAYMENT ADJUSTMENTS

Introduction

- 7.1 We will attempt to make sure that your Payments which are the subject to your Batch Payer Directions are processed promptly by the participants in BPAY Payments, including those Billers to whom Payments are to be made. You must promptly tell us if you:
 - (a) become aware of any delays or mistakes in processing Payments;
 - (b) did not authorise a Payment that has been made from your account; or
 - (c) think that you have been fraudulently induced to make a Payment.
- 7.2 We will attempt to rectify any such matters in relation to your Payments in the way described in this clause 7. However, except as set out in this clause 7 and clause 11.1, we will not be liable for any loss or damage you suffer as a result of using BPAY Payments.
- 7.3 The longer the delay between when you tell us of the error and the date of your Payment, the more difficult it may be to perform the error correction. For example, neither us, nor affected Billers, may have sufficient records or information available to investigate the error. If this is the case, you may need to demonstrate that an error has occurred, based on your own records, or liaise directly with the affected Biller to correct the error.

Mistaken payments

- 7.4 If a Payment is made to a person or for an amount which is not in accordance with your instructions to us, and your account was debited for the amount of that Payment, we will credit that amount to your account. However, if you were responsible for a mistake resulting in that Payment and we cannot recover the amount of that Payment from the person who received it within 20 Banking Business Days of us attempting to do so, you must pay us that amount.

Unauthorised payments

- 7.5 If a Payment is made in accordance with a Batch Payer Direction, which appeared to us to be from you or on your behalf but for which you did not give authority, we will credit your account with the amount of that unauthorised Payment. However, you must pay us the amount of that unauthorised Payment which:
 - (a) we cannot recover from the person who received it within 20 Banking Business Days of us attempting to do, or

(b) was made as a result of a Batch Payer Direction, which did not comply with our prescribed security procedures for such Batch Payer Directions.

If the Institution is able to recover only part of the amount of that payment from the person who received it, the Participating Batch Payer must only pay the Institution the amount that the Institution is not able to recover.

- 7.6 If you tell us that a Payment made in accordance with a Batch Payer Direction is unauthorised, you must first give us your or your End Client's (as the case may be) written consent addressed to the Biller who received that Payment, consenting to us obtaining from the Biller information about your or your End Client's account with that Biller or the Payment, including the relevant customer reference number and such information as we reasonably require to investigate the Payment. If you do not give us that consent, the Biller may not be permitted under law to disclose to us the information we need to investigate or rectify that Payment.

Fraudulent payments

- 7.7 If a Payment is induced by the fraud of a person involved in the Scheme, then that person should refund you the amount of the fraud-induced Payment. However, if that person does not refund you the whole amount of the fraud-induced Payment, you must bear the loss unless some other person involved in the Scheme knew of the fraud or would have detected it with reasonable diligence, in which case that person must refund you the amount of the fraud-induced payment that is not refunded to you by the person that induced the fraud.

ePayments Code

- 7.8 If under this clause 7 you are liable for an unauthorised or fraudulent Payment and the ePayments Code applies, then your liability is limited to the lesser of:
- (a) the amount of that unauthorised or fraudulent Payment; and
 - (b) the limit (if any) of your liability set out in our terms and conditions for the applicable product or service.
- 7.9 If clause 7.8(b) applies, we will be liable to you for the difference between the amount for which you are liable and the amount of the unauthorised or fraudulent Payment.

Miscellaneous

- 7.10 If a Payment you have made falls within more than one type described in clauses 7.4, 7.5 or 7.7, the following order of precedence will apply in determining how that Payment will be dealt with (with the first mentioned taking precedence over later mentioned types):
- (a) unauthorised payments as set out in clause 7.5;
 - (b) fraudulent payments as set out in clause 7.7; and
 - (c) mistaken payments as set out in clause 7.4.

- 7.11 Payments are generally irrevocable unless they fall within an adjustment category described in this clause 7. Accordingly, no refunds will be provided through BPAY Payments where you (or your End Clients) have a dispute with the Biller about any goods or services you (or your End Clients) may have agreed to acquire from a Biller. Any dispute must be resolved directly with the Biller.
- 7.12 For clarity, even where Payments which are the subject of Batch Payer Directions have been made using a credit card account or a charge card account, no "chargeback" rights will be available for BPAY Payments.

Guidance Note: Payers making Payments on behalf of End Clients using Batch Payer Directions may have separate obligations to End Clients who transfer funds to the Payer using a credit card. Each Payer is responsible for managing its obligations to End Clients under applicable credit card scheme requirements.

8. BPAY TOOLS AND FUNCTIONALITY

You acknowledge that:

- (a) BPAY may, from time to time provide you with access to tools and functionality (such as software plug-ins and application programming interfaces) which facilitate submission of Batch Payer Directions; and
- (b) the use of such tools and functionalities may be subject to separate terms and conditions entered into directly with BPAY or its licensors.

9. FEES AND CHARGES

- 9.1 The fees set out in Schedule 1 may be varied by the Institution giving prior written notice to the Participating Batch Payer.
- 9.2 The Participating Batch Payer must pay or reimburse the Institution for all stamp duties, financial institutions duty, debit tax and any other government charges incurred or payable by the Institution in performance of its obligations under these Batch Payer Terms.
- 9.3 The Participating Batch Payer authorises the Institution to debit its account for any amounts payable by the Participating Batch Payer under these Batch Payer Terms.

10. PAYMENT DISPUTES

10.1 The Institution and Participating Batch Payer agree that:

- (a) any dispute in connection with a matter arising under these Batch Payer Terms must first be attempted to be resolved between the affected participants; and
- (b) if a dispute is not so resolved as contemplated in clause 10.1(a) between the affected participants within 20 Banking Business Days of the date that an affected participant notifies another affected participant of the dispute, then the applicable mechanisms for the resolution of disputes set out in clause 10.2 shall apply unless the dispute is between the Institution and a Payer and:
 - (i) the Institution is subject to an Industry Code of Practice (and has established dispute resolution procedures in accordance with such Code) and the dispute is one which should properly be dealt with under such Code; or
 - (ii) the Institution is subject to a code of conduct or practice which is different to a code referred to in clause 10.1(b)(i) (and has established dispute resolution procedures in accordance with such code) and the dispute is one which should properly be dealt with under such code, then the dispute must be resolved in accordance with the applicable code.

Management Committee Determination

10.2 The Institution and the Participating Batch Payer agree as follows:

- (a) if a dispute is not resolved between the affected participants as contemplated in clause 10.1, the dispute must be referred in writing to a meeting of the Management Committee for determination within 30 Banking Business Days of receipt of that notice of dispute;
- (b) any determination of the Management Committee will be recorded in writing and will be binding on all parties to the dispute;
- (c) a party to a dispute may not commence legal proceedings (except proceedings seeking interlocutory relief other than to prevent or impede the operation of the dispute resolution provisions) in respect of a dispute unless:
 - (i) the dispute has first been referred to the Management Committee for determination;
 - (ii) the dispute has been determined by the Management Committee; and
 - (iii) the Management Committee has issued a Resolution in respect of that dispute.

Dispute Resolution Fees

10.3 The Participating Batch Payer acknowledges and agrees as follows:

- (a) if the Participating Batch Payer is a party to a dispute which is referred to the Management Committee for determination under clause 10.2, the Participating

Batch Payer must pay any dispute resolution fee imposed by BPAY within 20 Banking Business Days of being notified of such fee. If the Participating Batch Payer does not pay the fee specified to be payable by them in any fee notice from BPAY within that period, then the dispute will be determined in favour of the party to the dispute who has paid any fee payable by that party to BPAY. If there is more than one party liable to pay a fee to BPAY, then the Management Committee must resolve the dispute in favour of one of those parties, in accordance with this clause 10; and

- (b) the Participating Batch Payer must pay to BPAY (in such proportions as the Management Committee determines to be reasonable and appropriate in the circumstances), all costs and expenses incurred by the Management Committee in determining any dispute to which the Participating Batch Payer is a party. Those costs may include all costs and resolution in expenses (on a solicitor and own client basis) incurred in obtaining legal, financial, actuarial or accountancy advice and administrative costs reasonably incurred by the Management Committee.

Non-compliance with Resolution

10.4 The Participating Batch Payer acknowledges and agrees:

- (a) if it fails or refuses to give effect to a Resolution of the Management Committee as contemplated in clause 10.2, the Management Committee may decide that proceedings must be commenced against the Participating Batch Payer by a Member of BPAY or BPAY;
- (b) proceedings commenced by BPAY may be commenced in its own right, or on behalf of the BPAY Members as at the date of issue of the Resolution;
- (c) any amounts recovered by BPAY or a BPAY Member pursuant to proceedings they bring as contemplated in this clause 10.4 shall be:
 - (i) applied first towards the external costs and expenses of those proceedings;
 - (ii) then applied for such purposes as the moneys would have been applied if the moneys had been paid to BPAY by the party that disputed the determination in the ordinary course and without the necessity of instituting proceedings for recovery of the moneys; and
 - (iii) in the case of any surplus, shall be applied by BPAY towards the internal costs and expenses incurred in connection with those proceedings.

Information

10.5 The Participating Batch Payer agrees to give all information and documents reasonably required by the Management Committee or BPAY to adjudicate upon the dispute and prepare a Resolution.

10.6 We will keep you informed of the progress of all disputes and investigations. However we may not notify you or keep you informed of certain investigations and disputes where we reasonably determine that doing so will, or is likely to, compromise the integrity of the investigation or BPAY Payments more broadly.

11. LIMITATION OF LIABILITY

- 11.1 This clause does not apply to the extent that it is inconsistent with or contrary to any applicable law or code of practice to which the Institution has subscribed. If those laws or that code would make this clause illegal, void or unenforceable or impose an obligation or liability which is prohibited by those laws or that code, this clause is to be read as if it were varied to the extent necessary to comply with those laws or that code or, if necessary, omitted.
- 11.2 Subject to the other party's compliance with clause 11.3, each party ("Indemnifying Party") agrees to indemnify and hold the other party and its employees and agents harmless against any and all direct losses, expenses, claims, suits, demands, actions, and proceedings including all reasonable legal and other related fees or charges ("Liability") which the other party may suffer or incur or for which the other party may become liable as a result of:
- (a) any negligence, misrepresentation or fraud on the part of the Indemnifying Party, its employees, agents and independent contractors with respect to the performance of its obligations or the exercise of any of its rights under these Batch Payer Terms;
 - (b) any claim by a Payer Customer, Biller Institution, Payer Institution, the CIP, BPAY or any other person for any breach by the Indemnifying Party of any applicable laws;
 - (c) the failure of the Indemnifying Party to observe any of its obligations under these Batch Payer Terms; or
 - (d) any use of the Marks by the Indemnifying Party other than as permitted by these Batch Payer Terms;
- except to the extent that such Liability arises or is incurred by the other party by reason of any act or omission on its part mentioned in clause 11.2(a) to (d) (inclusive).
- 11.3 In the event a claim is made against a party in respect of which it is entitled to be indemnified pursuant to clause 11.2, that party must:
- (a) give notice of any such claim to the other party;
 - (b) consult with the other party in relation to any such claim and use its best endeavours to appoint counsel acceptable to both parties but without an obligation to do so; and
 - (c) not settle any claim without obtaining the prior written consent of the other, such consent not to be unreasonably withheld.
- 11.4 The Institution is not liable to the Participating Batch Payer for any loss or damage suffered by the Participating Batch Payer as a result of:
- (a) a missing or erroneous payment;
 - (b) the failure or disruption of any process or computer beyond the Institution's reasonable control; or
 - (c) its compliance with any relevant regulations.

- 11.5 Each party must take reasonable steps to mitigate any liability, loss, damage, cost or expense it suffers or incurs under or in connection with these Batch Payer Terms.
- 11.6 For the avoidance of doubt, the liability of any party under any of the indemnities contained in this clause 11 excludes any claim for consequential loss.
- 11.7 Neither party will be liable for any loss or damage (including whether direct or consequential), nor be in default under these Batch Payer Terms, for failure to observe or perform any provision of these terms for any reason or cause which could not with reasonable diligence be controlled or prevented by it, without limitation, strikes, lockouts, labour disputes, acts of God, acts of nature, acts of governments or their agencies, fire, flood, storm, riots, power shortages or power failure; sudden and unexpected system failure or disruption by war, sabotage or inability to obtain sufficient labour, raw materials, fuel or utilities.

12. SUSPENSION AND TERMINATION

- 12.1 You may terminate your participation in BPAY Payments at any time by giving us at least 7 days' notice accordingly.
- 12.2 We may suspend or terminate your participation in BPAY Payments:
- (a) if we suspect that you or your End Clients are using BPAY Payments in connection with any activities which are unlawful;
 - (b) if you or your End Client's use of BPAY Payments will or is likely to cause damage to the integrity, stability or reputation of the Scheme. The grounds to be considered by us under this clause include:
 - (i) the capacity of the BPAY Scheme to accept the proposed and actual number of BPAY Payments;
 - (ii) the solvency of the Participating Batch Payer;
 - (iii) the ability of the Participating Batch Payer to meet the Error Correction regime provided for in these Batch Payer Terms; and
 - (iv) any possible increase in the fraud risk for the BPAY Scheme likely to be caused or caused by the Participating Batch Payer.
- If the participation of the Participating Batch Payer in the BPAY Scheme is suspended or terminated under this clause, it must follow all reasonable directions given by the Institution to ensure minimal disruption to the BPAY Scheme. Those directions may include any of the matters set out in clause 12.5.
- (c) if you or your End Clients are suspected on reasonable grounds to be engaging in fraudulent activity in connection with the BPAY scheme; or
 - (d) in accordance with clause 1.4;
 - (e) if we are requested or required to do so by BPAY or any regulatory authority;

- (f) if you breach any obligation under these Batch Payer Terms which is capable of remedy and do not remedy that breach within 20 Banking Business Days of receipt of a notice from us specifying the breach and requiring the breach to be remedied;
 - (g) you breach any obligation under these Batch Payer Terms which is incapable of remedy;
 - (h) if you breach the terms and conditions:
 - (i) of the BPAY Batch User Guide; or
 - (ii) of the Nominated Debit Account; or
 - (iii) which govern the Batch Entry method;
 - (i) you suffer an Insolvency Event;
 - (j) a change occurs in the business, assets or financial condition of the Participating Batch Payer or its End Clients (if applicable) which in the reasonable opinion of the Institution may have a material adverse effect on the ability of the Participating Batch Payer to observe its obligations under these Batch Payer Terms or on the rights of the Institution under these Batch Payer Terms
 - (k) at any time, if we provide 90 days' notice. However, we may give shorter notice if it is reasonable for us to manage an immediate and material risk.
- 12.3 If the Participating Batch Payer or its End Clients (if applicable) defaults or believes it or they are likely to default under clause 12.2(i) of these Batch Payer Terms it must notify the Institution immediately.
- 12.4 These Batch Payer Terms terminates immediately if the Institution ceases to be a member of the BPAY Scheme.
- 12.5 On termination of these Batch Payer Terms, the Participating Batch Payer must:
- (a) immediately advise each of its End Clients (if applicable) that they can no longer make BPAY Payments through the Participating Batch Payer;
 - (b) pay to the Institution all undisputed amounts that have become or do become due and payable to the Institution under these Batch Payer Terms;
 - (c) on request by the Institution return to the Institution all:
 - (i) information that is to be treated by the Participating Batch Payer as confidential under clause 14 and is in a material form, and
 - (ii) all copies of it, that are in the Participating Batch Payer's possession or control.
- 12.6 Termination or suspension of your right to use BPAY Payments does not:
- (a) prejudice any claims either party may have against the other in respect of any then subsisting breaches of these Batch Payer Terms; or
 - (b) otherwise affect the accrued rights or remedies of either party.

13. CHANGES TO TERMS

- 13.1 We may change these Batch Payer Terms or any documents referred to in these Batch Payer Terms at any time by giving you at least 30 days written notice before such change takes effect. We can give less or no notice if this is in accordance with law and industry codes. For example, this may happen if it is reasonable for us to give shorter notice, to manage an immediate and material risk. Any new or changed government charges can be notified reasonably promptly after the government notifies us - but we may not have to tell you about them if the government publicises the change.
- 13.2 Unless a change under clause 13.1 is reasonably necessary to:
- (a) comply with any law;
 - (b) accommodate changes in the operation of the Scheme or BPAY Payments;
 - (c) accommodate changes in our operations or systems, or
 - (d) comply with BPAY's or our security policies and procedures;
- you may terminate your participation in BPAY Payments by giving us written notice at any time before such change takes effect. Any such termination under clause 13 will take effect on the day before the date notified by us that the change takes effect.
- 13.3 A provision or a right created under these Batch Payer Terms cannot be waived except in writing signed by the party granting the waiver.

14. PRIVACY AND CONFIDENTIALITY

- 14.1 Your privacy is important to us. We only collect, use or store your and your End Clients' Personal Information in accordance with the requirements of the Privacy Law, our Privacy Policy and this clause 14.
- 14.2 We will keep any information you provide to us confidential. We will make reasonable efforts to keep any such information that we have about you secure and to ensure that any of our employees or agents who have access to information about you do not make any unauthorised use, modification, reproduction or disclosure of that information.
- 14.3 In order to provide you with services under BPAY Payments, we may need to disclose your or your End Clients' Personal Information (including updates to such Personal Information notified to us under clause 14.7) to BPAY and/or its Service Providers. If we do not disclose such Personal Information to BPAY or its Service Providers, we will not be able to provide you with services under BPAY Payments.
- 14.4 Accordingly, you agree to our disclosing to BPAY, its Service Providers, such other participants involved in BPAY Payments and any agent appointed by any of them from time to time such Personal Information relating to you or your End Clients as is necessary to facilitate the provision of BPAY Payments to you.

- 14.5 You agree to our disclosing such of the Participating Batch Payer's personal information and that of its End Clients (as applicable) as is necessary to enable Billers to verify that the Participating Batch Payer and its End Clients (as applicable) can receive bills and statements electronically using BPAY View (or telling them if the Participating Batch Payer ceases to do so);
- 14.6 You agree to our disclosing such of the Participating Batch Payer's transactional information as is necessary to process the Participating Batch Payer's BPAY Payments. The Participating Batch Payer's BPAY Payments information will be disclosed by BPAY Pty Ltd, through its agent, to the Biller's financial institution.
- 14.7 You must notify us if any of your Personal Information changes and you consent to us disclosing your updated personal information to all other participants in the BPAY Scheme referred to in clause 14.3 as necessary.
- 14.8 The Participating Batch Payer will treat as confidential and will not disclose any information which comes into its possession as a result of any aspect of these Batch Payer Terms, or use any such information other than for the purposes for which it was given.
- 14.9 The obligation of confidentiality in clause 14 will not apply to any information where:
- (a) it is in the public domain or becomes generally known to the public, other than through breach of these Batch Payer Terms or another obligation of confidence owed by the disclosing party;
 - (b) it is known to either party prior to the time of disclosure to the other party in connection with these Batch Payer Terms;
 - (c) it is required to be disclosed by the Participating Batch Payer or the Institution pursuant to any legislation or legal process;
 - (d) it is included in a report prepared by BPAY, the Management Committee; or
 - (e) it was developed independently of its discloser in connection with these Batch Payer Terms.
- 14.10 The obligation of confidentiality extends, but is not limited to:
- (a) the disclosure of fees and charges contained in these Batch Payer Terms;
 - (b) any technology or know-how related to the BPAY Scheme or the performance of these Batch Payer Terms.
- 14.11 You can request access to your information held by us by contacting us in accordance with the procedures set out in our privacy policy.
- 14.12 Our privacy policy contains information about how you may complain about a breach of the Privacy Act 1988 (Cth), and the process by which your complaint will be handled.

15. NOTICES/MISCELLANEOUS

From time to time, we may need to provide to BPAY certain information regarding our customers and their use of BPAY Payments, including for the purposes of monitoring and managing fraud relating to BPAY Payments. You consent to the inclusion of your name and any other details and information relating to you, in any reports we are required to provide to BPAY.

- 15.1 All communications under these Batch Payer Terms must be in writing and must be left at the address or sent by prepaid ordinary post to the address set out in the "Address for service of notices" part of Schedule 1 of this agreement or sent by email to the email address last advised or such other address or email address as notified by one party to the other from time to time.
- 15.2 Any communication given to a party is deemed to be received by that party:
- (a) if left at the party's address, when delivered;
 - (b) if sent by prepaid ordinary post, on the seventh (eleventh, if posted to or from a place outside Australia) Banking Business Day after posting; and
 - (c) if sent by email, within 12 hours of sending the email, provided that the sender has keyed in the correct email address (as advised by the recipient to the sender under clause 15.1) and has not been informed, by way of an email alert, the message has failed to reach its intended destination.
- 15.3 These Batch Payer Terms and the transactions contemplated by these Batch Payer Terms are governed by the law in force in New South Wales.
- 15.4 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the jurisdiction specified in New South Wales and courts of appeal from them for determining any dispute concerning these Batch Payer Terms or the transactions contemplated by these Batch Payer Terms. Each party waives any right it has to object to an action being brought in those courts including, but not limited to claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.
- 15.5 Without preventing any other mode of service, any document in an action (including, but not limited to, any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of notices under clauses 15.1 and 15.2.
- 15.6 The Participating Batch Payer must not assign or otherwise deal with its rights under these Batch Payer Terms without the prior written consent of the Institution.
- 15.7 The Institution may at any time assign or novate its rights and obligations under these Batch Payer Terms and the Participating Batch Payer must execute all documents to give effect to this clause.

15.8 If the whole or any part of a provision of these Batch Payer Terms is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of these Batch Payer Terms has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of these Batch Payer Terms or is contrary to public policy.

16. DEFINITIONS

Available Funds – means the cleared funds in your Nominated Debit Account including any funds available by way of formal overdraft limit and excludes set-off arrangements.

Banking Business Day any day on which banks in Melbourne or Sydney are able to effect settlement through the Reserve Bank of Australia.

Banking Code of Practice or **Code** means the Banking Code of Practice, but before 1 July 2019 refer to the Code of Banking Practice (2013 version).

Batch Entry – a method of making BPAY Payments from a non-credit card account to one or more billers by the Batch Payer compiling and transmitting a computer file to the Institution which contains payer directions.

Batch Payer – means a Payer who agrees to be bound by the Batch Payer Terms and who is authorised by its Payer Institution to make Batch Payer Directions on its own behalf or on behalf of its End Clients to discharge debts it or they owe Billers.

Batch Payer Terms means the arrangement between you and us which sets of the terms and conditions on which we will accept Batch Payer Directions from you.

Batch Payer Direction means a direction from you to us using a batch entry method to effect one or more transaction to one or more billers through BPAY Payments.

Biller – means a person who has agreed with a Biller Institution that Payments by Payers to that person may be paid through the BPAY Scheme.

Biller Institution – means a member who agrees with one or more Billers to accept and pass BPAY Payments through the BPAY scheme on their behalf.

BPAY means BPAY Pty Ltd ABN 69 079 137 518 located at Level 1, 255 George Street, Sydney NSW 2000.

BPAY Batch User Guide – means the guide of the same title provided by the Institution to the Participating Batch Payer, as amended from time to time.

BPAY Marks means the trade and service marks owned by BPAY from time to time in relation to BPAY Payments.

BPAY Payments mean the electronic payments service promoted by BPAY and which is operated in accordance with the terms and conditions set out in BRPOP (as it applies to BPAY Payments).

BPAY View – means the service promoted by BPAY, which allows Payers to view Bills electronically.

BRPOP – means the BPAY Scheme rules and operating procedures.

CIP – means the central interchange processing entity for the BPAY Scheme appointed from time to time to process Payment Instructions, perform the role of the CIP in BPAY View processing, and perform any other functions as may be agreed by BPAY and the CIP.

Customer Reference Number – means a numerical identification code assigned by a Biller to a Payer Customer of that Biller.

End Client means the end-payers (if any) on behalf of whom you make Payments under these Batch Payer Terms, which, for clarity may include your related bodies corporate or third parties for whom you provide a good or service.

Error Correction – means a transaction to correct an error and which is intended to result in:

- (a) a credit to the account of the Payer for an amount equal to an amount specified in:
 - (i) a mistaken Batch Payer Direction/Payment
 - (ii) an unauthorised Batch Payer Direction
 - (iii) a Batch Payer Direction induced or resulting from the fraud of any Participant in the BPAY; and
- (b) a corresponding debit to the relevant Biller's Nominated Account if that account has been or will be credited with the amount of the original Payment Instruction giving rise to the need for the Error Correction; and
- (c) a related advice being sent to the Biller notifying the Biller of the correction of that error.

Formal Limit – means the aggregate maximum amount that can be transferred in a specified period ("the Limit Period") by a Participating Batch Payer in respect of Nominated Debit Accounts, as specified in the Letter of Offer pursuant to which these Batch Payer Terms has been entered into or has been otherwise notified by the Institution to the Participating Batch Payer.

Formal Overdraft Limit - means any agreed facility attached to one of your nominated BPAY Batch account(s) that allows you to overdraw your account balance up to a set limit, for which you will incur debit interest.

Industry Code of Practice – includes the Banking Code of Practice and the ePayments Code.

Insolvency Event occurs in respect of a person if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act 2001 (Cth)); or
- (b) it has had a Controller (as defined in the Corporations Act 2001 (Cth)) appointed, or is in liquidation, in provisional liquidation, under administration or wound up or has had a Receiver (as defined in the Corporations Act 2001 (Cth)) appointed to any part of its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, or dissolved; or
- (d) an application or order has been made, resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- (e) it is taken (under section 459F(1) of the Corporations Act 2001 (Cth)) to have failed to comply with a statutory demand; or

- (f) it is the subject of an event described in section 459C(2) (b) or section 585 of the Corporations Act 2001 (Cth) (or it makes a statement from which a reasonable person would deduce it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

Institution – means the financial institution specified in Schedule 1.

Management Committee – means the Management Committee of BPAY.

Member – means an organisation participating as a Member in the BPAY Scheme.

NAB Digital Business Channels – means any NAB business banking channel you use to submit BPAY Batch payments.

Nominated Debit Account – means the debit account which has been nominated by the Participating Batch Payer for the purposes of this agreement.

Participant – means any person who participates in the BPAY Scheme in any capacity, including any Member, Payer or Batch Payer.

Participating Batch Payer – means the person named as Participating Batch Payer in Schedule 1.

Payer – means a person who uses the BPAY Payments to make a Payment.

Payer Customer – means a customer of a Biller who is a Payer.

Payer Direction – means a direction from a Payer to their Payer Institution to effect a transaction to a Biller through the BPAY Scheme, by debiting or crediting an account or facility held by the Payer with that Payer Institution.

Payer Institution – means a financial institution participating in the BPAY Scheme with whom a Payer has an account facility from which Payments can be made.

Payment means a payment made, or to be made, by or on behalf of you through BPAY Payments.

Payment Cut-off Times has the meaning given in clause 3.1.

Personal Information means personal information, as that term is defined in the Privacy Law that is provided to, or obtained or accessed by, us in the course of providing BPAY Payments to you.

Privacy Law means the Privacy Act 1988 (Cth) and any legislation which applies to you from time to time in force in Australia.

Privacy Policy means our Privacy Policy as amended from time to time and available at <https://www.nab.com.au/common/privacy-policy>.

Security Procedures – means the security procedures advised by the Institution to the Participating Batch Payer (advised from time to time) in the NAB Digital Business Channels terms and conditions and with which the Participating Batch Payer must comply in order to make a valid Batch entry payment.

Set-off Arrangement – means any arrangement you have made with us to aggregate the balance of various accounts in accordance with your set-off arrangement with NAB.

Scheme means the scheme operated by BPAY from time to time to provide payment services to end customers.

Service Provider means a person engaged by BPAY to provide goods or services to BPAY in connection with BPAY Payments.

Standards Manual means the BPAY Payments Identity Standards Manual issued by BPAY prescribing the way in which the BPAY Marks may be represented in connection with BPAY Payments, as may be amended from time to time.

Interpretation

In these Batch Payer Terms:

- (a) the word person includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any government agency
- (b) a reference to a particular person includes a reference to the person's employees, executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (c) the singular includes the plural and vice versa
- (d) headings appear for convenience and do not affect interpretation
- (e) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day
- (f) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later
- (g) time is a reference to Sydney time
- (h) a reference to amendment of any document includes removal, replacement, substitution and variation of that document or any part or provision of it and a reference to "amend" or to any other grammatical form of that word has a corresponding meaning
- (i) a reference to a clause or schedule is a reference to a clause in or schedule to these Batch Payer Terms
- (j) law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them)
- (k) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually and an agreement, representation or warranty by two or more persons binds them jointly and each of them individually
- (l) a group of persons or things is a reference to any two or more of them jointly and to each of them Individually
- (m) the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
- (n) the words "we", "us" and "our" means the Institution, as specified in Schedule 1.

17. BANKING CODE OF PRACTICE

The Institution has adopted the Code and relevant provisions of the Code apply to this service, if the Participating Batch Payer is an individual or a small business referred to in the Code.

The Participating Batch Payer can obtain from the Institution upon request:

- (a) information on the Institution's current interest rates and the standard fees and charges relating to this service if any;
- (b) general descriptive information concerning the Institution's banking services including:
 - (i) for accounts with cheque access, general descriptive information about cheques;
 - (ii) account opening procedures;
 - (iii) our obligations regarding the confidentiality of the Participating Batch Payer's information;
 - (iv) complaint handling procedures;
 - (v) bank cheques;
 - (vi) the advisability of the Participating Batch Payer informing the Institution promptly when the Participating Batch Payer is in financial difficulty;
 - (vii) the advisability of the Participating Batch Payer reading the terms and conditions applying to each banking service the Institution provides to you;
- (c) general descriptive information about:
 - (i) the identification requirements of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth);
 - (ii) the options available to the Participating Batch Payer under the tax file number legislation; and
- (d) a copy of the Code.

EXECUTED as an agreement

Schedule 1

Interpretation – definitions and interpretation clauses are in section 16

Participating Batch Payer

Name ABN/ACN/ARBN

Address

_____ State Postcode

Address for service of notice

_____ State Postcode

Institution

Name ABN
National Australia Bank Limited 12 004 044 937

Address
800 Bourke Street
Docklands VIC 3008

Address for service of notices
Product Manager – **BPAY®**
Level 10, 700 Bourke Street, Docklands, VIC, 3008

Payment Method

BPAY® Payments may only be made through the Participating Batch Payer's Nominated Debit Account

Date of these Batch Payer Terms

____ / ____ / ____

BPAY Batch User ID

Transaction Fee

\$ _____ per transaction

File Lodgement Fee

\$ _____

Account Details

Nominated Fee account

Name of FI

Account name:

BSB

Account #

Nominated Debit accounts*

1 BSB: Account #:

2 BSB: Account #:

3 BSB: Account #:

4 BSB: Account #:

5 BSB: Account #:

*Must be a NAB account – Up to 5 per Pay ID only

Execution page

Institution

By executing these Batch Payer Terms the signatory warrants that the signatory is duly authorised to execute these Batch Payer Terms on behalf of National Australia Bank Limited.

Signed by

Signature of authorised representative

X

as authorised representative for National Australia Bank Limited

Full name of authorised representative (BLOCK LETTERS)

Date

/ /

Participating Batch Payer

Signed by

Signature of Director/Secretary

X

Full name of Director/Secretary* (BLOCK LETTERS)

Date

/ /

*Please tick here if you are signing as Sole Director and Sole Company Secretary

Signed by

Signature of Director

X

Full name of Director (BLOCK LETTERS)

Date

/ /

For more information call **13 22 65** or

13 BANK

and select the option to speak to
a Customer Service Representative

or visit [nab.com.au](https://www.nab.com.au)



Hearing impaired customers
with telephone typewriters can
contact us on **13 36 77**