



NAB ESCROW SERVICE

Product Information and Terms and Conditions
Effective 20 January 2020

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Part A – Product Information

General Information

Your service provider

The Product Information and the Terms and Conditions are issued by National Australia Bank Limited ABN 12 004 044 937, Australian Financial Services Licence 230 686 (referred to in this document as 'NAB', 'we', 'us', 'our').

The Product Information is general information and is not advice. The Terms and Conditions provide general information relating to the offer of the NAB Escrow Service ('Escrow Service'). It's important that You read and understand the Terms and Conditions.

This document has been prepared without taking into account any information about You, Your objectives, financial situation or needs. Before making any decisions about the Escrow Service, NAB recommends that You consider whether it is appropriate for Your circumstances, and seek legal or financial advice if You are unsure.

Variation of Product Information or Terms and Conditions

The Product Information and the attached Terms and Conditions are current as at the effective date, and are subject to change. In the event of a change to how the Escrow Service operates, NAB will publish a notice of the change on our website at <https://www.nab.com.au/business/accounts/specialised-accounts/nab-escrow>. You should check NAB's website for the latest version of this document before entering into a new Escrow Service.

In the event that a change impacts an existing Escrow Service, NAB will act reasonably, and where possible, NAB will give You prior notice of at least 30 days using the last recorded email address we have on our systems for You. NAB will make any changes in accordance with any applicable legislation and industry codes. If You do not accept any change we make, You can ask NAB to terminate Your Escrow Service.

NAB Escrow customer service

You can contact us by:

- Calling our NAB Escrow team on **1800 312 791** (9am - 5.30pm AEST/AEDT) Monday to Friday;
- Sending our NAB Escrow team an email at Nab.Escrow@nab.com.au;
- Visiting our website at <https://www.nab.com.au/business/accounts/specialised-accounts/nab-escrow>

Unauthorised transactions

If You believe there has been an unauthorised transaction on Your Escrow Service, please notify the NAB Escrow team as soon as possible.

Telephone recording

Calls to or from NAB may be recorded to assist NAB with its quality, assurance and compliance processes, including its dispute resolution process.

Our regulatory obligations

NAB is subject to a number of regulatory obligations which include the requirement to identify our customers, monitor transactions, and, in certain circumstances prescribed by applicable law, to report such information to third parties.

This may be to prevent the facilitation of money laundering and terrorism financing and/or to avoid tax evasion. For example, NAB is required to identify certain U.S. persons in order to meet account information reporting requirements under local and international laws. If You, or where You are an entity, any controlling person, are a U.S. citizen or U.S. tax resident, or we suspect that You are, we may contact You for further information. We may be legally required to report any failure to respond to information requests we make.

The NAB Escrow Service must not be used to facilitate any illegal or criminal activity.

NAB may exercise its discretion to suspend all transactions on an Escrow Account, close an Escrow Account or terminate the Escrow Service due to unsatisfactory conduct or any other reason it deems appropriate, such as where an Account is suspected to be used for an unlawful purpose or outside NAB's risk tolerance. In this event, NAB will provide You notice in writing, and arrange an outcome that is appropriate to all parties in the circumstances.

Definitions

The following definitions of terms apply throughout this document, unless the same term is defined differently in another Part:

Term	Definition
AEDT	Australian Eastern Daylight Time.
AEST	Australian Eastern Standard Time.
Authorised User	A registered user of the Escrow Service, and includes both Seller Authorised Users and Group Authorised Users.
Business Day	A day on which banks are open for general banking business in Victoria, other than Saturday, Sunday or national public holidays.
Buyer	A person acquiring services from the Seller.
Deposit	The prepayment for the Seller's services that is held in the Escrow Account.
Deposit Request	A request from the Seller to the Buyer to deposit funds into the Escrow Account.
Escrow Account	The basic deposit account in which the Deposit is held with NAB by the Escrow Agent for the Seller until a valid Release Event takes place.
Escrow Agent	The Australian Financial Services Licensee that is responsible to NAB for holding and providing the Escrow Account under a service agreement with NAB.
Escrow Dispute	A dispute, raised by the Buyer or the Seller, in relation to the holding, release or other treatment of the Deposit.
Escrow Matter	A description of the Seller's service to the Buyer.
Group Authorised User	A person who is appointed by an authorised person of a Group as a registered and authorised user of the Escrow Service on behalf of a Group of Sellers who have nominated to be part of the Group.
NAB Escrow Portal	The online channel which allows Sellers and Authorised Users to access the Seller's Escrow Account and manage Deposit Requests and Payment Releases.
NAB Escrow Service, Escrow Service, Service	An independent custodial and payment service provided by NAB for Sellers and Buyers.
Payment Release	A release of funds from the Seller's Escrow Account into their nominated fund release account.
Payment Release Request	A request from the Seller to the Buyer to release funds from the Seller's Escrow Account to the Seller.
Release Event	Any release of funds from the Escrow Service, and includes a Payment Release (to the Seller's nominated account), a Refund (to the Buyer), or as defined in section 7 of Part B - NAB Escrow Terms and Conditions.
Release by Way of Refund	A refund to the Buyer for all or part of the funds held in the Seller's Escrow Account which requires approval by the Seller.
Seller	The customer of NAB and registered user of the Escrow Service.
Seller Authorised User	A person who is appointed by the Seller as a registered and authorised user of the NAB Escrow Service on behalf of the Seller.
We, Us, Our, NAB	National Australia Bank Limited ABN 12 004 044 937, provider of the Escrow Service.

Introduction

What is NAB Escrow?

The NAB Escrow Service is designed to provide a secure, transparent, and independent custodial and payment service for Sellers and Buyers.

The Service allows a Seller to request a Buyer to make agreed payment(s) for provision of services into an Escrow Account managed by NAB.

The funds are held in an Escrow Account until both the Seller and the Buyer agree that part or all of the contracted service(s) have been delivered, or another event occurs that requires NAB to deal with the funds. Upon receipt of valid instructions, NAB will release the payment from the Escrow Account in accordance with the applicable terms of the NAB Escrow Service.

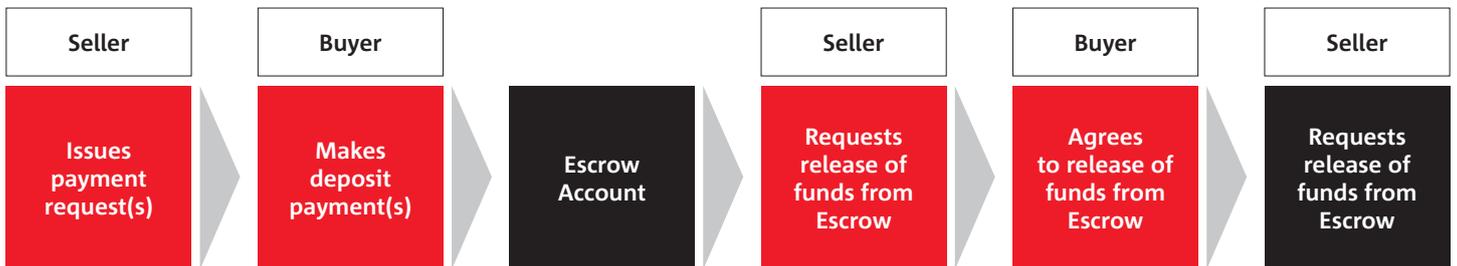
Note: The NAB Escrow Account is a non-interest bearing basic deposit account.

Summary of benefits and risks of using NAB Escrow

Benefits for the Seller:	Benefits for the Buyer:
<ul style="list-style-type: none"> • Security An independent third party to hold Your clients' payments for Your services. • Control and credit risk management A digital solution to control and enhance the efficiency of payments from Your clients, minimising the need for manual paperwork and follow up. • Transparency An online portal that will show You all Your current and past Escrow Deposit Requests and payments, including what is outstanding. 	<ul style="list-style-type: none"> • Security Prepayments for services are made to and held securely by an independent third party. • Control of deposit payments Deposits made into the NAB Escrow Service aren't paid to the seller until You consent to the release of payment by agreeing to the Escrow Terms and Conditions • Record management You'll receive confirmation when payments have been made, so You can keep track of Your service payments and know Your position.
Risks for the Seller:	Risks for the Buyer:
<ul style="list-style-type: none"> • Sellers need to ensure they keep their nominated authorised user details up to date and notify NAB as soon as possible if the authorities change to prevent unauthorised access to their Escrow Service. 	<ul style="list-style-type: none"> • Buyers need to ensure they keep their contact details up to date and respond in time if they wish to raise an Escrow Dispute about a Payment Release. If the Buyer does not raise a Dispute within the given timeframe, passive consent for NAB to release the Payment is deemed to be provided by the Buyer (upon the Buyer's acceptance of the NAB Escrow Terms and Conditions).

How the Escrow process works

The following diagram describes the role of each party in the NAB Escrow Service.



How to apply for the NAB Escrow Service

- a. To apply for the Service, please complete the NAB Escrow application form and submit it to the NAB Escrow team.
- b. You can find out more information about NAB Escrow by visiting the Escrow page on nab.com.au, contacting the NAB Escrow team or speaking to Your NAB banker.

An overview of NAB's Services to the Seller and to the Buyer

- a. NAB makes available an Escrow Service to approved Sellers to securely hold payments made by Buyers in advance of the provision of the Seller's services, in an Escrow Account. NAB's Service to approved Sellers includes access to an online NAB Escrow Portal, which can be used to administer the Seller's Escrow Account and manage payments digitally.
- b. NAB's services to Buyers include:
 - i. notifying Buyers about a Seller's Deposit Request(s);
 - ii. notifying Buyers about a Seller's Payment Release Request(s) and Payment Releases;
 - iii. allowing Buyers to contact NAB to raise an Escrow Dispute or request a Refund; and
 - iv. in response to an Escrow Dispute, freezing the relevant Escrow Account until the Escrow Dispute is resolved, or NAB is authorised to take another action.

Seller registration

- a. By applying to the NAB Escrow Service, the Seller must:
 - i. be an Australian resident;
 - ii. be 18 years of age or over;
 - iii. have a valid Australian Business Number as well as a mobile phone number and email address; and
 - iv. nominate a valid Australian bank transactional account owned solely or jointly by the Seller or the Seller's business for Escrow payment releases to be deposited
 - v. complete the identification and verification process so that NAB can comply with our legal obligations, including in relation to Anti-Money Laundering and Counter Terrorism Funding laws.
- b. Upon completion of the NAB Escrow Seller application form, including acceptance of the terms and conditions:
 - i. NAB will accept or reject the Seller's application at our discretion.
 - ii. If we accept the Seller's application, the Seller will become a NAB customer and we will record the Seller's personal and business information recorded in the completed application form in line with our Privacy Policy (see Part B - NAB Escrow Terms and Conditions for more information).
 - iii. NAB will capture the Seller's acceptance of the NAB Escrow Terms and Conditions, NAB Escrow Portal Terms and Conditions, the terms in the NAB Escrow application form and the NAB Privacy Policy.
 - iv. The Seller may nominate Individual Authorised User(s) to perform actions on the Seller's behalf through the NAB Escrow Portal.
 - v. The Seller may also nominate to be part of a Group, which will authorise all Group Authorised Users that are part of that Group to perform actions on the Seller's behalf through the NAB Escrow Portal. We will record the Seller's nomination of an appointed Authorised User.
 - vi. By making a nomination, the Seller authorises NAB to make available information (for example account information, and Buyer details) to the Authorised User and the Seller accepts responsibility for all actions of the Authorised User.
 - vii. The Seller is responsible for providing a copy of the NAB Escrow Terms and Conditions and NAB Escrow Portal Terms and Conditions to the Authorised User(s).
- c. Upon acceptance of the Seller's application, NAB will issue the Seller with a login to the NAB Escrow Portal so the Seller can access and use the Escrow Service via the online channel.

Seller creation of Escrow Matter(s) and invitation of Buyer(s) to the Service

- a. As a User of the Escrow Service, the Seller can (using the NAB Escrow Portal) create an Escrow Matter by recording a brief description of the services to be provided.
- b. Upon creation of the Escrow Matter, the Seller may (using the NAB Escrow Portal) invite the Buyer to join the NAB Escrow Service by providing basic information about the Buyer, including the Buyer's name, the Buyer's email address and the Buyer's phone number. The details the Seller inputs of the Buyer will be used to send an invitation email to the Buyer.
- c. The Seller acknowledges that the Escrow Service is used solely for the purpose of the specified Escrow Matter.

Buyer registration

- a. If a Buyer receives an invitation email from the Seller requesting the use of the NAB Escrow Service, the Buyer can choose to register for the Service. If the Buyer does not wish to use the NAB Escrow Service, the Buyer should contact the Seller.
- b. To register for the NAB Escrow Service, the Buyer must be 18 years of age or over, will need to complete the NAB Escrow Buyer application form and provide NAB with basic personal information.
- c. By applying to the NAB Escrow Service, the Buyer must have and maintain a valid and current mobile phone number and email address.
- d. Upon completion of the NAB Escrow Buyer application form, and acceptance of the NAB Escrow Terms and Conditions:
 - i. NAB will accept or reject the Buyer's application at our discretion.
 - ii. If we accept the Buyer's application we will record the Buyer's personal information in line with our Privacy Policy (see Part B - NAB Escrow Terms and Conditions for more information).
 - iii. NAB will record the Buyer's acceptance to the NAB Escrow Service Terms and Conditions, the terms in the NAB Escrow application form and the NAB Privacy Policy.

Authorised User registration

- a. An individual should complete an Authorised User application form only if they have been nominated by:
 - i. the Seller to be an Authorised User; or
 - ii. an authorised person of a Group to be an Authorised User for a Group of Sellers.
- b. By completing an Authorised User application form, an Authorised User must:
 - i. complete the identification and verification process so that NAB can comply with our legal obligations, including in relation to Anti-Money Laundering and Counter Terrorism Funding laws.
- c. Upon completion of the NAB Escrow Authorised User application form:
 - i. NAB will accept or reject the Authorised User's application at our discretion;
 - ii. If we accept the Authorised User's application, we will record the Authorised User's personal information recorded in the completed application form in line with our Privacy Policy (see Part B - NAB Escrow Terms and Conditions for more information).
- d. Upon acceptance of the Authorised User's application, NAB will issue the Authorised User with a login to the NAB Escrow Portal so the Authorised User can access and use the Escrow Service on behalf of the Seller(s) via the online channel.

Escrow Deposit Requests

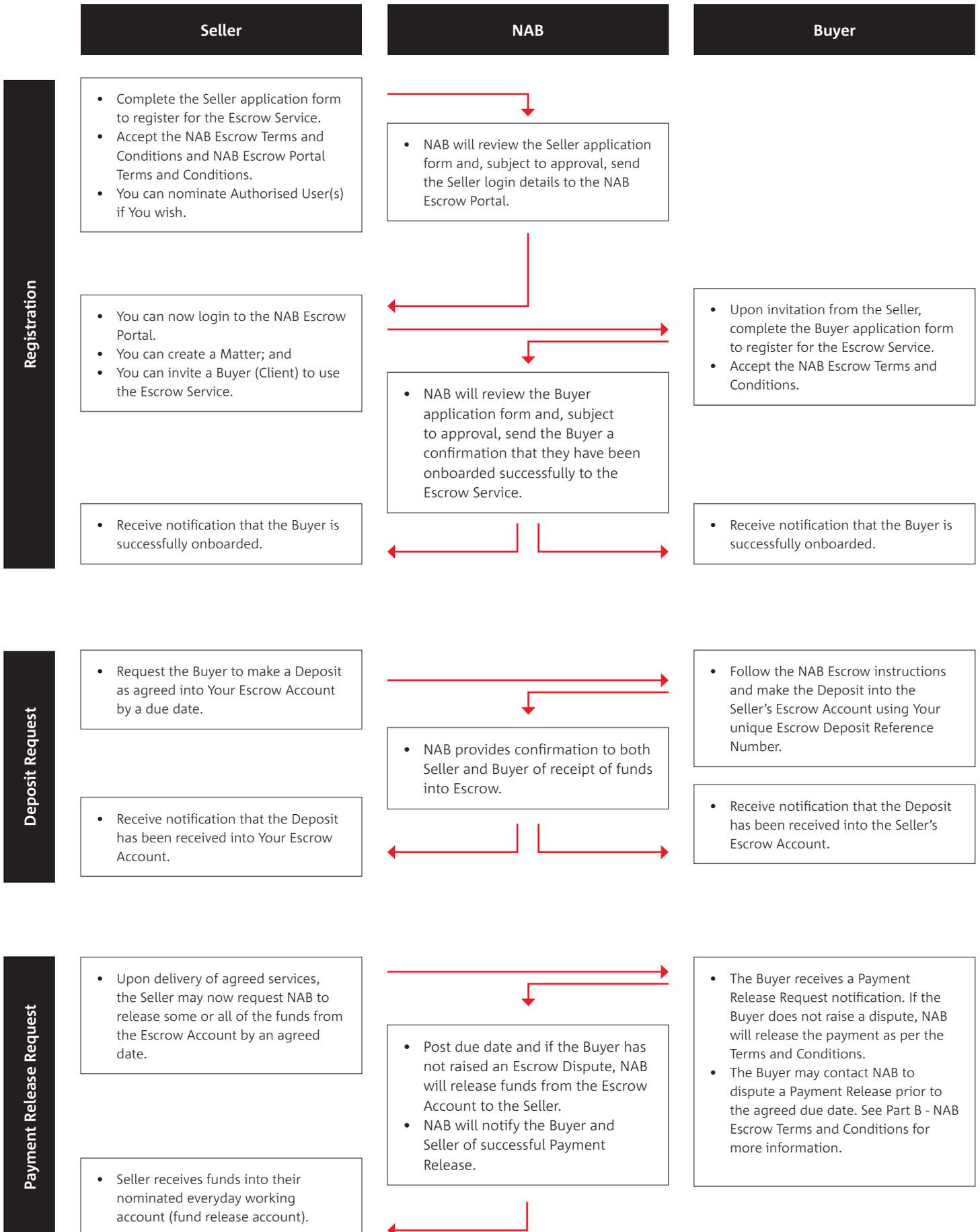
- a. Upon successful registration by the Buyer to the Escrow Service, the Seller can create a Deposit Request (using the NAB Escrow Portal). This will send an email to the Buyer, specifying:
 - i. details of the Seller;
 - ii. details of the Escrow Matter;
 - iii. the requested Deposit amount;
 - iv. the Deposit due date;
 - v. a unique Escrow Deposit Reference Number for the Buyer to make Deposit(s) into the Escrow Service;
 - vi. instructions on how to make the Deposit payment.
- b. The Buyer will make the Deposit into the Seller's Escrow Account using the Escrow Deposit Reference Number in line with the amount and due date specified in the instructions.
- c. When the payment is received into the Escrow Account, both parties will receive a notification confirming receipt of the deposit into the Escrow Service.
- d. Multiple Deposit Requests can be made by the Seller to the Buyer in relation to an Escrow Matter.
- e. Outstanding Deposit Requests will remain outstanding in the system until they are cancelled.
- f. The Seller can send a Deposit Request reminder (using the NAB Escrow Portal) to the Buyer to follow up on an outstanding Deposit Request.

Escrow Payment Release Requests

- a. Upon delivery of services, the Seller can create a Payment Release Request (using the NAB Escrow Portal). This will send an email to the Buyer, specifying:
 - i. details of the Seller;
 - ii. details of the Escrow Matter;
 - iii. the requested Payment Release amount;
 - iv. the Payment Release date;
 - v. instructions on how to raise an Escrow Dispute on the Payment Release.
- b. Only one active Payment Release Request can be raised by the Seller at a time to the Buyer in relation to an Escrow Matter.
- c. If the Buyer wishes to raise an Escrow Dispute on a Payment Release Request, the Buyer must promptly, and in any event by no later than 5:00pm AEST/AEDT on the business day prior to the Escrow Payment Release date, notify NAB that it disputes the making of the proposed Escrow Payment Release.
- d. If the Buyer does not raise an Escrow Dispute on a Payment Release Request within this timeframe, NAB will make the Escrow Payment Release and the Buyer waives its right to object to the Escrow Payment Release, and indemnifies NAB and each of NAB's agents for and in connection with making the release.

An example of how NAB Escrow works

The following process flow is indicative and describes an example of the registration and use of NAB Escrow.



Part B – NAB Escrow Terms and Conditions

The terms in this Part apply to NAB, the Seller and the Buyer (referred to as 'Party' and 'Parties'). References to 'You' and 'Your' in this Part apply to the Seller and the Buyer.

It is important that You read and understand the NAB Escrow Terms and Conditions (the 'Terms') before You register for the Escrow Service.

Important: You must maintain a current and correct email and mobile number, and notify NAB immediately if these details change. Please check Your emails regularly, as this is how NAB communicates with You about Your Escrow Service.

1. NAB Escrow Service

- a. National Australia Bank Limited ABN 12 004 044 937 ('**NAB**') makes available the NAB Escrow Service ('**Service**'), whereby it holds, through an Escrow Agent, the prepayment for the Seller's service (the '**Deposit**') in an Escrow Account ('**Account**') under these Terms until a '**Release Event**' occurs.
- b. By accepting these Terms, each of the Buyer and the Seller agree to be bound by these Terms, and will each become a Party to the NAB Escrow Service.
- c. By accepting these Terms, each of the Seller and the Buyer irrevocably appoints NAB to hold the Deposit in escrow under these Terms.
- d. After the appointment referred to in paragraph (c), NAB agrees to hold the Deposit until a Release Event occurs, and to respond to the Release Event in accordance with NAB's powers under these Terms.
- e. By accepting these Terms, each of the Seller and the Buyer acknowledges that the Escrow Service is used solely for the purpose of the contracted service.

2. NAB's Escrow Agent

- a. NAB may use one or more Escrow Agents. Currently, the Escrow Agent is NAB Trust Services Limited ABN 77 618 250 874. This is subject to change.

3. Duties of the Escrow Agent

- a. To the extent permitted by statute, the duties and responsibilities of the Escrow Agent are limited to those set out in these Terms and, accordingly, the Escrow Agent:
 - i. acts as a limited agent only to the minimum extent required by these Terms and is not responsible or liable for the sufficiency or validity of any funds held in the Escrow Account;
 - ii. is not under any duty to inquire into the terms and provisions of any other agreement between or service provided to the Seller or Buyer;
 - iii. is not under any duty to act upon instructions from the Seller or Buyer other than set out in this document;
 - iv. expressly excludes any fiduciary obligations and is not a trustee acting for the benefit of the Seller or the Buyer;
 - v. is not required to use its own funds or otherwise incur financial liability on its part in any way during the performance of its duties or the exercise of its rights under these Terms.

4. Escrow Agent's Rights

- a. Each of the Seller and the Buyer authorises NAB to delegate NAB's obligations under these Terms to an appropriately licensed third party agent, and authorises the delegated third party agent to hold the Deposit in a NAB Account in its own name on behalf of the Seller and Buyer. NAB may also outsource certain functions to related bodies, or third party service providers, including to the Escrow Agent.
- b. NAB is authorised to take all steps reasonably necessary to:
 - i. do anything which ought to be done, and give effect to its obligations under these Terms without needing to give reasons for its actions or conduct;
 - ii. exercise any right, power, authority, discretion or remedy of NAB under these Terms, or any agreement forming part of the Escrow Service; and
 - iii. suspend or terminate the Escrow Service.
- c. NAB retains the full discretion to determine whether a request or communication given by the Seller or the Buyer complies with these Terms, or is sufficient to enable NAB to comply with its statutory, common law or regulatory duties. If not, NAB may decline to act on such a request or communication.
- d. Each of the Seller and Buyer authorises and instructs NAB to take reasonable steps required to respond to Escrow Disputes efficiently, fairly, and in the interest of both the Seller and the Buyer.
- e. Each of the Seller and the Buyer acknowledges that NAB may be required to disclose details of the Escrow Service to an authorised investigating party in order to comply with NAB's, or the Escrow Agent's insurance, legal, regulatory, licensing or compliance obligations.

5. Escrow Account Features

- a. The NAB Escrow Account is a non-interest bearing basic deposit account.
- b. There is no minimum Account balance which must be maintained.
- c. The Account will not have cheque book access and there is no overdraft or other credit facility available with the Account. The Account cannot be in debit balance at any time.
- d. There is no penalty interest on the Account.
- e. NAB will not provide statements on the Escrow Account. Sellers can view and extract a history of transactions on the Account via the NAB Escrow Portal. NAB will not provide statements on the Escrow Account. Sellers can view and extract a history of transactions on the Account via the NAB Escrow Portal.
- f. The Account will not be set up until the Seller has provided all information required to conduct identification and verification of the Seller's identity.

6. Escrow Deposit Requests

- a. The Seller acknowledges that all requests of Deposits into the Escrow Account are solely for the purpose of the specified Escrow Matter.
- b. The Buyer acknowledges that all Deposits made into the Escrow Account are solely for the purpose of the specified Escrow Matter.
- c. Deposits can only be made by electronic credit transfers from an Australian bank into the Escrow Account. We do not accept cash or cheque deposits into the Escrow Account.
- d. A Buyer may only deposit into the Escrow Account the amount that has been requested by the Seller.
- e. NAB may exercise its discretion to reject a Deposit into the Escrow Account that is different to the amount requested by the Seller.
- f. Each of the Buyer and the Seller is responsible for notifying NAB immediately if it becomes aware that an overpayment has been made into the Escrow Account. Any refund for an overpayment will be subject to NAB's discretion and require written approval from both the Seller and Buyer.

7. Escrow Release Events

Each of the following events is a '**Release Event**':

- a. the Seller requests a full or part release because it has provided the agreed services (this is referred to as a '**Payment Release**');
- b. a Party requests a release by way of Refund, or a part payment and part Refund, and termination of the Escrow Service (this is referred to as a '**Release by Way of Refund**');
- c. an interpleader is made pursuant to clause 9(d);
- d. the Deposit (or part of the Deposit) is held in the Escrow Account for over 7 years with no deposit or withdrawal and is treated as unclaimed money under the Banking Act 1959;
- e. a Party dies, is wound up or made bankrupt, or is a company to which a receiver is appointed or which ceases to operate for any reason, or a similar event occurs;
- f. a Party materially breaches these Escrow Terms and Conditions;
- g. a court order or regulatory demand orders or requires a full or partial Release;
- h. NAB becomes aware that a Party engaged in fraud or material misrepresentation in connection with the Escrow Service which does or is likely to result in significant detriment to NAB;
- i. NAB no longer wishes to provide an Escrow Service to a Party or class of persons;
- j. NAB unilaterally varies the Terms to a Party's detriment, and the Party wishes to terminate the Escrow Service.

8. Responding to a Release Event

- a. If the Seller makes a request for a Payment Release to be made from the Escrow Account, NAB will promptly give notice by email to the Buyer that NAB proposes to make a Payment Release on the date that is at least 5 business days after the giving of the notice ('**Payment Release Date**'), and the Buyer may either:
 - i. do nothing, and accept the Payment Release will be made in accordance with the notice provided; or
 - ii. if the Buyer does not agree to the Payment Release, the Buyer must promptly, and in any event by no later than 5:00pm AEST/AEDT on the business day prior to the Payment Release Date, notify NAB that it disputes the making of the proposed Payment Release. If the Buyer does not dispute the making of the Payment Release within this timeframe, NAB will make the Payment Release and the Buyer waives its right to object to the Payment Release, and indemnifies NAB and each of NAB's agents for and in connection with making the release. For further information on Escrow Disputes, please refer to section 9 of these Terms.

Important: If You are the Buyer, it is Your responsibility to respond quickly if You disagree with a request for Payment Release. If You do not, NAB may release some or all of the Deposit, and is not liable for the release.

- b. If the Buyer makes a request for a Release by Way of Refund to be made from the Escrow Account, NAB will promptly give notice by email to the Seller and request the Seller to either:
 - i. indicate its agreement to the Release by Way of Refund by responding by email to NAB (in which case NAB may immediately make the Release by Way of Refund); or
 - ii. notify NAB that it disputes the making of the proposed Release by Way of Refund. For further information on Escrow Disputes, please refer to section 9 of these Terms.
- c. After NAB receives notice of, or determines that a Release Event has occurred, other than a request for a Payment Release or for a Release by Way of Refund, NAB may do one or more of the following as it decides to be appropriate in the circumstances:
 - i. freeze the Deposit, with or without notice;
 - ii. give each of the Parties notice by email of a proposed Payment Release, and up to [5] Business Days to dispute or supply supporting evidence;
 - iii. give the Seller notice by email of a proposed Release by Way of Refund, and request the Seller for acceptance;
 - iv. execute any other right that NAB has under these Terms; or
 - v. request the Parties to reconcile their respective rights to the Deposit at any given time, to allow NAB to release the funds and close the Escrow Account.
- d. After following the response process in clauses 8(a) through to 8(c) above, in its discretion but acting reasonably NAB may instruct one or more of the following:
 - i. a refund to the originating account,
 - ii. a release to the Seller's nominated account;
 - iii. closure of the Escrow Account;
 - iv. transferring the funds to an unclaimed funds account; or
 - v. freezing of the Escrow Account.
- e. NAB is not liable for any loss or damage resulting directly or indirectly from a Payment Release, failure to make a Payment Release, or failure of the Seller or the Buyer to respond to a Payment Release Request or lodge an Escrow Dispute within the specified response time.
- f. NAB may reverse, stop or otherwise not process a transaction without notice, if it reasonably believes that any such transaction was, has, or became unlawful, or if NAB is of the opinion that it, or its agents may incur any liability, loss or cost in respect of the transaction. NAB and its agents do not indemnify the Seller or the Buyer against any liability, loss or cost.
- g. Escrow Payment Releases which are scheduled on a non-business day will be processed on the next business day.

9. Escrow Disputes and resolutions between the Seller and the Buyer

- a. If the Seller or Buyer disputes any matter relating to a Deposit, that Party must contact the NAB Escrow team.
- b. If NAB is notified of an Escrow Dispute, NAB will freeze all transactions on the Escrow Account until further notice by the Seller and the Buyer, or until NAB takes another course of action that NAB is permitted to take under these Terms.
- c. Upon satisfactory resolution of the Escrow Dispute, NAB will take appropriate actions consistent with the written instructions it receives from:
 - i. both the Seller and the Buyer;
 - ii. a court;
 - iii. an ombudsman in exercise of a power to make a determination; or
 - iv. any other relevant regulatory, industry or government body exercising a power to make a determination or to give a direction.
- d. In the event that one of or both the Seller and the Buyer delays in resolving an Escrow Dispute, NAB may initiate an interpleader action in relation to the Deposit in a court of competent jurisdiction.
- e. The Buyer and the Seller must resolve any Escrow Disputes regarding the Seller's delivery or non-delivery of services between them. The Seller and the Buyer acknowledge that NAB has no role in resolving Escrow Disputes relating to the Seller's services to which the Deposit relates.

10. Release by Way of Refunds ('Refunds')

- a. If a Seller or a Buyer seeks to refund or reverse the Deposit placement, both the Seller and the Buyer must provide written instructions to NAB. Please contact the NAB Escrow team in the first instance.
- b. If both the Seller and the Buyer give a written authorisation for NAB to issue a Refund, the Refund will be disbursed to the source account from which the funds originated.

- c. If a Refund cannot be processed to the source account, NAB will contact the Buyer for further information, and will conduct identification and verification of the Buyer's identity prior to discussing any Refund.
- d. NAB may, at its sole discretion, approve the requested Refund or reversal.

11. Updating Your Escrow Service details and personal information

- a. You must keep Your email and contact details current. If You wish to update Your contact details or other personal details, please contact the NAB Escrow team as soon as possible. The request must be provided in writing.
- b. If You have any change in circumstances that affects Your tax residency status, You must advise NAB within 30 days of any change in circumstances by contacting the NAB Escrow team.
- c. A Seller may contact NAB if they wish to alter the nominated Fund Release Account to their Escrow Service at any time. The request must be provided in writing. Any existing Payment Releases scheduled will be made to the Seller's new nominated Fund Release Account.
- d. A Seller may contact NAB if they wish to alter the authorisations on their Escrow Service. If a Seller wishes to remove the access of an Authorised User or a Group of Authorised Users, the Seller must contact the NAB Escrow team promptly. The request must be provided in writing.

12. Privacy Notification

a. Your personal information

By providing personal information to NAB, You consent to the collection, use and disclosure of Your information in accordance with this Notification and NAB's Privacy Policy (www.nab.com.au/privacy).

In addition to the matters set out in the Policy, NAB collects Your personal information:

- for the purposes of providing the NAB Escrow Service, including for the purposes of providing You with communications and alerts regarding the NAB Escrow Service;
- to comply with our legal obligations, including in relation to Anti-Money Laundering and Counter Terrorism Funding laws; and
- to be able to disburse funds held in the NAB Escrow Account to the Seller.

NAB may exchange this information with other organisations set out in NAB's Privacy Policy.

For further information on how You can access and seek correction of Your personal information and make a complaint in relation to NAB's handling of personal information, please see NAB's Privacy Policy.

b. Personal information of others

If You give NAB information about another individual (such as an Authorised User or Buyer), prior to doing so, You must obtain their consent, to the collection, use and disclosure of their information in accordance with this Notification and NAB's Privacy Policy (www.nab.com.au/privacy) and let them know that:

- i. NAB has been provided with their information:
 - in the case of an Authorised User: to be able to provide the NAB Escrow Service, to authenticate and verify their identity as Authorised User(s) of a Seller's Escrow Account, and to correspond with them including sending them an invitation in relation to registering to the NAB Escrow Service;
 - in the case of a Buyer: to be able to provide the NAB Escrow Service, to send them correspondence to sign up to the NAB Escrow Service, to authenticate and verify their identity; and to provide them with alerts in relation to Deposits to and Payment Releases from a Seller's Escrow Account.

NAB may exchange this information with other organisations set out in NAB's Privacy Policy.

Further information on how individuals can access and seek correction of their personal information and make a complaint in relation to NAB's handling of personal information is set out in NAB's Privacy Policy.

13. Suspension and termination of Escrow Service

- a. Each of the Seller and the Buyer can request to terminate the NAB Escrow Service by contacting the NAB Escrow team. You will need to confirm the request in writing.
- b. NAB may exercise its discretion to close an Escrow Account with zero balance after a six month dormancy period. In this event, NAB will provide the Seller notice in writing.
- c. NAB may exercise its discretion to suspend all transactions on an Escrow Account, close an Escrow Account or terminate the Escrow Service due to unsatisfactory conduct or any other reason it deems appropriate, such as where an Escrow Account is suspected to be used for an unlawful purpose or outside NAB's risk tolerance. In this event, NAB will provide You notice in writing, and arrange an outcome that is appropriate to all parties in the circumstances.

14. Fees and charges

- a. There are currently no fees in relation to the NAB Escrow Service.

15. Variations and notices

- a. Acting reasonably NAB may amend, vary or replace one or more of these Terms including, without limitation, by imposing new fees or charges or changing the amount, type or method of calculation of fees or charges.
- b. Any such amendment, variation or replacement may be made by notice to You (in an electronic form or otherwise), provided that where such an amendment, variation or replacement is publicly available including without limitation, published on our website (www.nab.com.au), notice of any such amendment, variation or replacement shall be deemed to have been provided to You.
- c. NAB will make any such amendment, variation or replacement in accordance with any applicable legislation and industry codes.
- d. Unless otherwise specified in these Terms, or separately agreed between You and NAB, NAB will give You notice of changes as set out below and You agree to receiving notice in such ways:
 - i. notice of changes to fees and charges will be given in writing or electronically at least 30 days before the change takes effect;
 - ii. notices of changes to government fees and charges will be given by media advertisement, in writing or electronically unless the government publicises the change to fees and charges, at least 30 days before the change takes effect, or a shorter period if NAB gives notice with reasonable promptness after NAB is notified by the government; and
 - iii. notice of any other changes to these Terms will be given in writing or electronically at least 30 days before the change takes effect.

16. Notices and other communications to NAB

- a. Any requests made to NAB via telephone or email will be subject to appropriate authentication prior to NAB actioning the request. NAB will not action a request if NAB is unsatisfied of the requestor's identity.
- b. NAB may, but is not required to act on email instructions from You which NAB receives from You.
- c. In the absence of a breach of obligation owed to You, NAB is not responsible for any loss, damage or liability You may suffer or incur by reason of, or in connection with:
 - i. NAB acting on any email instruction from You;
 - ii. NAB's failure to act or delay in action on any email instruction.
- d. NAB will not be liable for any loss which is not a foreseeable consequence of a claimed breach, nor for any loss caused by actions of You in breach of any of these Terms.

17. AML

- a. Each of the Seller and the Buyer agrees that NAB may delay, block or refuse to make or receive or credit any payment using the Service detailed in these Terms if NAB believes on reasonable grounds that making, receiving or crediting that payment may breach any law in Australia or any other country, and NAB will incur no liability if NAB does so.
- b. Each of the Seller and the Buyer declares and undertakes to NAB that it has no reason to suspect that any payment NAB makes in accordance with its instructions in relation to the Escrow Service will breach any law in Australia or any other country.
- c. NAB reserves the right to request further information from each of the Seller and the Buyer if we have any reason to suspect that the Escrow Service is not being used solely for its legitimate purpose, or to meet NAB's regulatory obligations.

18. Governing law and jurisdiction

- a. These Terms and the Escrow Service are governed by the law in force in Victoria and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Victorian courts.

19. Limitation of liability

- a. The aggregate liability of NAB for loss or damage sustained by the Seller or the Buyer in connection with any NAB Escrow Services provided under these Terms is limited to a resupply of the affected service in accordance with these Terms.
- b. Without limiting any other right or limitation of liability, NAB is not responsible or liable to either the Seller or the Buyer for:
 - i. any non-payment of any funds which the Seller or the Buyer considers should be paid into or transferred out of the Escrow Account or a Fund Release Account;
 - ii. the failure of any bank to comply with a request from NAB to provide information or transfer money;
 - iii. any non-payment of a party's liability which could be paid out of money standing to the Escrow Account (except where NAB fails to make a payment it is obliged to make under clause 8 (a) or 8(b) above);

- iv. any withdrawal or transfer wrongly made, if NAB acted in good faith and in accordance with these Terms in relation to that withdrawal or transfer;
 - v. any loss suffered by the Seller or the Buyer as a direct or indirect consequence of NAB or NAB's agent suspending or terminating the Escrow Service;
 - vi. any loss or liability arising out of or in connection with NAB's performance of or our failure to perform any of its obligations except to the extent that such loss or liability is caused by NAB's (or NAB's own agent's) fraud or negligence;
 - vii. for acting in accordance with or relying on any instruction, notice, demand, certificate or document from a party or a party's agent on the party's behalf;
 - viii. for any indirect or consequential loss (being loss of business, goodwill, opportunity or profit) even if NAB is advised of such loss or damage; or
 - ix. any liability, loss, damage, costs or expenses incurred or suffered by a party Seller as a result of the Seller or an Authorised User's access or use of the Escrow Service, or inability to access or use of the Escrow Service, except to the extent caused by NAB's gross negligence or wilful misconduct.
- c. NAB is not liable for any matter relating to a dispute between the Seller and the Buyer in respect of the service agreement between the Seller and the Buyer. If an Escrow Dispute arises between the Seller and the Buyer, the Escrow Agent may interplead all of the assets held in escrow by it under these Terms in a court of competent jurisdiction and will then be fully relieved from any liability or obligation with respect to those interpleaded assets.
- d. If an Escrow Dispute arises between the Seller and the Buyer, NAB will not be liable for resolving matters relating to the Seller's service delivery, or for matters leading to the Escrow Dispute.

20. Indemnity

- a. Each of the Seller and the Buyer indemnifies and holds harmless NAB from any liabilities or claims (including reasonable legal fees) which NAB may incur or sustain as a result of its performance under these Terms except if the liability or claim is caused by the fraud, negligence or wilful misconduct of NAB or any of its directors, officers, employees, agents or representatives.
- b. Each of the Seller and the Buyer indemnifies NAB, in its corporate capacity and, if applicable, in the capacity of trustee for any trust, against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment which NAB or its agent pays, suffers, incurs or is liable for in respect of the Escrow Service, except where caused by NAB's own fraud, negligence or wilful misconduct.
- c. The indemnities in clauses 19(a) and 19(b) are given jointly and severally.
- d. Each indemnity of NAB contained in this agreement is a continuing obligation of each Party, despite:
 - i. any settlement of account; or
 - ii. the occurrence of any other thing; and
 - iii. remains in full force and effect; until
 - iv. the Deposit has been paid in full; and
 - v. each obligation in respect to the Deposit has been finally discharged.
- e. Each indemnity of a Party in this agreement:
 - i. is an additional, separate and independent obligation of that Party, and no one indemnity limits the generality of any other indemnity; and
 - ii. survives the termination of this agreement.
- f. A certificate given by NAB detailing the amount of any damage, loss, liability, cost, charge, expense, outgoing or payment covered by any indemnity in this agreement is taken to be sufficient evidence unless the relevant party challenges the statement within 5 days, and provides reliable contrary evidence.

21. Waivers

- a. Any delay or partial action or inaction by NAB is not to be taken as a waiver by NAB of its rights unless the waiver is expressly given in writing.
- b. Each of the Seller and the Buyer waive any claim which it may have or may assert against NAB arising out of the execution, delivery or performance of these Terms, unless that claim is based upon the wilful misconduct, fraud, gross negligence of NAB or any of its officers, employees, agents or representatives.

22. Banking Code of Practice

NAB has adopted the Banking Code of Practice and relevant provisions of the Code apply to the NAB Escrow Service if You are an individual or a small business referred to in the Code.

You can obtain from NAB upon request:

- a. information on NAB's current interest rates and standard fees and charges relating to the Service, if any;
- b. general descriptive information concerning NAB's banking services including:
 - i. account establishment procedures;
 - ii. NAB's obligations regarding the confidentiality of Your information;
 - iii. complaint handling procedures;
 - iv. the advisability of You informing NAB promptly when You are in financial difficulty;
 - v. the advisability of You reading the Terms applying to each banking service NAB provides to You;
- c. general descriptive information about:
 - i. the identification requirements of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006;
 - ii. the options available to You under the tax file number legislation; and
- d. a copy of the Banking Code of Practice.

23. Complaints and Escrow Disputes

- a. Escrow Disputes may be raised by contacting the NAB Escrow team on **1800 312 791** or **Nab.Escrow@nab.com.au**.
- b. If You have a general complaint about Your dissatisfaction with NAB or the NAB Escrow Service, You can contact NAB on **1800 152 015**. NAB has available on request information about the procedures for lodging a complaint. If You raise an issue with us, we'll address it as quickly as possible. We will aim to have most complaints resolved within 10 business days. In the event it takes us longer than 10 days to resolve or investigate, we'll ensure that You're regularly updated.
- c. For more details about our internal dispute resolution procedures please ask for our complaints resolution brochure.
- d. If You subsequently feel that the issue has not been resolved to Your satisfaction, You may contact our external dispute resolution scheme. External dispute resolution is a free service established to provide You with an independent mechanism to resolve specific complaints. Our external dispute resolution provider is the Australian Financial Complaints Authority (AFCA) and can be contacted at:
 - Website: **afca.org.au**
 - Email: **info@afca.org.au**
 - Telephone: **1800 931 678** (free call)
 - In writing to: **Australian Financial Complaints Authority, GPO Box 3, Melbourne, VIC 3001**
- e. AFCA is an external dispute resolution (EDR) scheme to deal with complaints from consumers in the financial system. AFCA provides fair and independent financial services complaint resolution that's free to consumers.

24. General

- a. Whenever the doing of any thing by the Seller or the Buyer is dependent upon NAB's consent or approval, NAB may withhold its consent or approval or give it conditionally or unconditionally in its absolute discretion unless expressly stated otherwise in these Terms.
- b. Unless otherwise expressly stated, the rights and obligations under these Terms are:
 - i. principal rights and obligations and are not ancillary or collateral to any other rights or obligations; and
 - ii. independent of, and unaffected by, any other obligations which NAB may hold at any time to either the Seller or the Buyer.
- c. Where any provision of these Terms requires NAB's approval, that approval will not be effective unless and until it is provided in writing.
- d. NAB may, for the purpose of exercising any Power, assigning its rights, or complying with any law or regulation, disclose to any person any documents or records of, or information about, the Seller or the Buyer, or other parties' business or affairs, whether or not confidential and whether or not the disclosure would be in breach of any duty owed to the Seller or the Buyer.
- e. Any obligation of a Seller or a Buyer Party under these Terms, whether or not at NAB's request, must be satisfied at the relevant Seller or Buyer's own cost.

Part C – NAB Escrow Portal Terms and Conditions

The terms in this Part apply to the registered users of the NAB Escrow Portal. References to 'You' or 'Your' in this Part refer to the Seller and if applicable, the Authorised Users of the Seller and Authorised Users of a Group.

25. NAB Escrow Portal

- a. The NAB Escrow Portal is an online channel that can be accessed by You to enter and administer the NAB Escrow Service.
- b. The NAB Escrow Portal enables You to:
 - i. create "Escrow Matter(s)" and record the Deposit and Payment details relating to the services provided to the Buyer (Client);
 - ii. inviting a Buyer (client) to the Escrow Service and agree to the NAB Escrow Terms and Conditions;
 - iii. send a Deposit Request to a Buyer,
 - iv. send Deposit Request reminders to a Buyer;
 - v. request payments out of the Escrow Account ("Escrow Payment Release"); and
 - vi. generate a summary of activity in the Escrow Service for each Escrow Matter, or Escrow Buyer including transactions and their current status.
- c. NAB may at any time, add to, remove or change the functions or impose restrictions on the functions available through the NAB Escrow Portal.

26. Availability of the NAB Escrow Portal

- a. NAB will make reasonable efforts to ensure the:
 - i. availability of the Escrow Service via the NAB Escrow Portal apart from scheduled outages, is 24 hours per day, 7 days per week or such other time as may be notified to You from time to time;
 - ii. information NAB makes available to You through the Escrow Portal is correct.
- b. Access to the NAB Escrow Portal will be denied if:
 - i. the NAB Escrow Service is not available to You;
 - ii. the Service has been cancelled by NAB in accordance with the NAB Escrow Terms and Conditions;
 - iii. You have cancelled the Service in accordance with NAB Escrow Terms and Conditions; or
 - iv. NAB believes the Service is being misused by You or is being used without Your authority.
- c. In the event the NAB Escrow Portal is not available to You, or You are experiencing technical difficulties, You should contact the NAB Escrow team on **1800 312 791** or via **NAB.Escrow@nab.com.au**. In such an event, NAB may process transactional requests on Your behalf by acceptance of written instructions or by receipt of request via phone to the NAB Escrow team, subject to satisfactory verification.

27. Your obligations and responsibilities

- a. These obligations are in addition to Your obligations under the NAB Escrow Terms and Conditions.
- b. You agree to:
 - i. only use the Service for the purpose for which it is provided to You;
 - ii. ensure that You observe all obligations in connection with the Service;
 - iii. use the Service in accordance with these NAB Escrow Terms and Conditions and the NAB Escrow Portal Terms and Conditions; and
 - iv. comply with all reasonable procedures and requests that NAB requires to comply with the Anti Money Laundering and Counter Terrorism Financing legislation and other laws or regulations.
- c. You are responsible for any use of the NAB Escrow Portal by any person with Your login credentials.
- d. You must:
 - i. establish policies, procedures, internal management rules and audit arrangements for Your use of the NAB Escrow Portal (which include, at minimum, Your internal authorisation requirements, take account of any potential risk of fraud and are consistent with the NAB Escrow Terms and Conditions);
 - ii. comply with the policies and procedures referred to in paragraph (i);
 - iii. Only use the NAB Escrow Portal for Your own confidential internal use and purposes for which it is provided to You, and in particular You must not grant any third party access to Your NAB Escrow Portal or authority to operate the NAB Escrow Portal on Your behalf and You must not operate the NAB Escrow portal on behalf of or for the benefit of any third party except as agreed by us;

- iv. Obtain, operate and maintain all equipment and other facilities that You require to be used with the NAB Escrow Portal, and You acknowledge that we are not responsible for such equipment and facilities, except where we are the supplier of the equipment and facilities;
- v. Keep, any NAB Escrow User ID, PIN or password secure, which includes Choose a new password or PIN whenever they are required to do so by the NAB Escrow Portal administrator;
- vi. 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;
- vii. Do not disclose their NAB Escrow User ID, password or PIN to any other person;
- viii. Do not record or store their NAB Escrow User ID, password or PIN anywhere;
- ix. Take reasonable care when accessing the service to ensure that their NAB Escrow User ID, password or PIN is not disclosed to any other person, in particular ensuring that they are not observed while entering their NAB Escrow User ID, password or PIN;
- x. Do not provide their Authentication service (if any) to any other person;
- xi. Do not use their Authentication service (if any) other than in respect of the NAB Escrow Portal and they acknowledge that, if a NAB Escrow Authorised User uses their Authentication Service for any other purpose, NAB may revoke the Authentication Service and cancel the availability of the NAB Escrow Portal to You;
- xii. Check any reports generated using the NAB Escrow Service carefully and promptly notify NAB of any apparent discrepancy;
- xiii. Take every reasonable precaution to prevent the spread or diffusion of any Software contamination including computer viruses and trojans;
- xiv. Take reasonable steps to keep any Software secure;
- xv. Take reasonable steps to ensure the security, integrity and proper operation of the NAB Escrow Portal;
- xvi. Notify us immediately in the manner described at the front of these Terms and Conditions if You become aware that any NAB Escrow User ID, PIN or password is compromised or divulged and immediately cease to use the affected NAB Escrow User ID, PIN or password;
- xvii. Notify us immediately if:
 - i. A computer which is used to access and use the NAB Escrow 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 Escrow Portal; and
 - iii. Take responsibility to use other means of effecting transactions and giving and obtaining information if for any reason the NAB Escrow Portal is unavailable for use, or malfunctioning.

For more information call

13 10 12

8am – 8pm EST, Monday to Friday
or visit us at [nab.com.au](https://www.nab.com.au)



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