

Pre-authorized Debit Service

Special conditions

Table of contents

1. Definitions	2	5. Pricing	6
2. User Guides and security directives	2	6. Agreement.....	6
3. Letter of undertaking	3	7. Assignment.....	6
4. Client’s obligations	5		



These specific terms and conditions govern the pre-authorized debit service offered by National Bank of Canada (the “Bank”) to its business clients. The use of this service is subject to these terms and conditions, the general terms and conditions governing the Bank’s **Agreement for Business Banking** and the conditions specified in the user guide and in any other support document the Bank may communicate to the Client when it signs up for the service and at any other time throughout the duration of the service.

1. Definitions

Cash Management PAD means a PAD drawn on a Payor’s account to transfer, consolidate or reposition funds between accounts held at different financial institutions by the same business or closely affiliated businesses (e.g., transfers between a parent company and its subsidiary).

Client means the business client of the Bank that has signed up for this service and receives PADs.

PAD means pre-authorized debit or payment item issued by the Client or a member payee, drawn on the Payor’s account at a financial institution.

Payor means the person whose account held at a PC member financial institution will be or has been debited for the amount of a PAD.

Payor’s PAD Agreement means the authorization, in writing or another form, permanent but revocable, signed or otherwise verifiable, which sets out the mandatory provisions required for application, given by a Payor in favour of the Client and which authorizes the Client to draw PADs on the Payor’s account at their financial institution.

PC means the Canadian Payments Association (also commonly referred to as Payments Canada).

Processing Institution means the PC member financial institution that holds the account of the Payor from which the PAD amount was or will be debited.

2. User Guides and security directives

The Client must consult the Service user guide and comply with the Bank’s security directives as indicated on its site. The user guide is available from Bank representatives and may be amended by the Bank from time to time. The Bank will give the Client reasonable notice of any amendments that affect the Client’s obligations or how the service works.



3. Letter of undertaking

This section constitutes the Payee Letter of Undertaking for PADs issued by the Client, as defined under PC Rule H1. The terms used in this section 3 (capitalized or not) that are defined in PC Rule H1 will have the meaning given in that rule. In accordance with Rule H1, the Client agrees to the following:

- 3.1 Payor's approval.** The client declares and warrants that each Payor on whose behalf any PAD is deemed to have been drawn or any order is deemed to have been given has signed a Payor's PAD Agreement or otherwise authorized it to issue a PAD, and, where applicable, has given it the order pursuant to such authorization to issue a PAD as though it were signed or otherwise authorized by such Payor. The Client undertakes to keep proof of all Payor's authorizations and provide such proof within a reasonable timeframe at the request of the Bank, the Payor or an authorized representative of the Payor (including the Processing Institution).
- The Client declares that any Payor's PAD Agreement it uses complies with the requirements set out in PC rules.
- 3.2 Valid signature.** The client declares that each payor's PAD Agreement or each authorization from a payor in the case of Cash Management PADs has been signed or otherwise duly authorized by the Payor in a form that constitutes a valid authorization permitting the Processing Institution to debit the Payor's designated account. The Client is solely responsible for the validity of the signature or authorization of the Payor.
- 3.3 Payor acknowledgement for Cash Management PADs.** The Client authorizes the Bank and any Processing Institution to debit Cash Management PADs from the designated account. Where the Payee and Payor are not one and the same entity, the Client declares that the Client and the Payee are closely affiliated entities and that the Payor has reviewed the terms and conditions of this section and authorized the client, the Bank and the Processing Institution to debit these Cash Management PADs from the Payor's designated accounts. The Client confirms that this section 3.3 constitutes a due authorization to debit the Cash Management PADs from the Payor's designated account in accordance with the account administration conditions agreed on by the Payor and the Processing Institution.
- 3.4 Sporadic and one-time PADs.** The client declares that: (i) for **each** sporadic PAD issued by the Client to draw on a Payor's account, a due authorization has been obtained from the Payor in accordance with applicable PC rules; and (ii) for **each** one-time PAD issued by the Client to draw on a Payor's account, the Client has obtained a signed or otherwise authorized PAD Agreement from the Payor.
- 3.5 General indemnity.** The Client agrees to indemnify the Bank against any and all damages, losses, costs, fees and expenses suffered or incurred by the Bank and any claims or lawsuits brought against it ("damages") by reason of (i) the Client's failure to comply with its obligations as set out in the terms of this agreement; (ii) the Bank's acting upon erroneous, inaccurate, incomplete, fraudulent or unauthorized instructions from the client; or (iii) damage or injury suffered or incurred by third parties, including, but not limited to, a Processing Institution, resulting from the provision by the Bank of the service at the Client's request, unless such damages are the direct result of an error on the part of the Bank (or the Processing Institution, as applicable).
- 3.6 Liability for accuracy.** The Client shall be solely liable for the accuracy and completeness of all information furnished to the Bank in line with this service and releases the Bank from any liability for errors resulting from the inaccuracy or incompleteness of the information thus furnished by the Client or by any of its officers, employees or agents. Without limiting the scope of Section 3.5, the Client undertakes to indemnify the Bank for all amounts that may be erroneously paid by the Bank or any Processing Institution in respect of any PAD erroneously credited or debited pursuant to a direction given by or on behalf of the Client.
- 3.7 Force majeure (extraordinary circumstances).** The Bank is not liable for any delay, damage, penalty, cost, expense or inconvenience to the Client or any other person resulting from the failure on the part of the Bank to perform any of the services set out herein by reason of any cause beyond its control.



- 3.8 Interest claims.** The Client accepts liability for any interest claim associated with the return of a PAD for the reason that no valid Payor's PAD Agreement existed between the Client and the Payor with respect to the returned PAD.
- 3.9 Assignment.** The Client acknowledges and accepts that no Payor's PAD Agreement entered into by the Client may be assigned by the Client, whether directly or indirectly, by operation of law, change of control or otherwise except: (a) if the Client has prominently displayed (e.g., in bold print, highlighted or underlined) an assignment clause in the Payor's PAD Agreement or the Confirmation and the Client has provided to the Payor written notice of the full details of such assignment, including the identity and contact information of the assignee; or (b) the Client has provided to the Payor prior written notice of the full details of such assignment, including the identity and contact information of the assignee, a minimum of ten (10) calendar days in advance of any PAD being issued in the assignee's name. Furthermore, the Client undertakes to provide a minimum of ten (10) calendar days' written notice to the Payor in advance of the next PAD where the Client's name has changed.
- 3.10 Reimbursement.** The Client undertakes to indemnify the Bank for any claim for payment that it may make at the request of a Payor or another person alleging that the PAD was not drawn in accordance with the Payor's PAD Agreement, that the Payor's PAD Agreement was revoked, that the pre-notification was not given at least ten (10) days before the date the PAD was processed in the Payor's account, that no written Confirmation was provided in accordance with the provisions of Rule H1, or that no Payor's PAD Agreement existed between the person making the reimbursement claim and the Client with respect to a specific PAD.
- 3.11 Applicable rules.** The Client declares and warrants to the Bank that each PAD and its use of the service are in compliance with applicable legislation, more specifically the relevant provisions of the *Canadian Payments Act* and all by-laws, rules and standards that apply to PADs, including, without limitation, the Confirmation and Pre-notification requirements, waiver of Confirmation and Pre-notification requirements, and cancellation requirements set out in PC Rule H1.
- 3.12 Cancellation.** Without limiting the scope of section 3.12, the Client acknowledges and agrees that:
- a) Where the Payor instructs the Client to cease issuing PADs, or otherwise revokes the Payor's PAD Agreement or an Authorization to issue PADs, the Client shall: (i) use best efforts to cancel the PAD in the next business, billing or processing cycle; (ii) within not more than 30 calendar days from the notice, cease to issue any new PADs against that Payor; and (iii) not issue any further PADs against the Payor without that Payor first providing the Client with a new Payor's PAD Agreement, provided the Payor has made their instructions or revocation available in writing, or orally with proper Authorization.
 - b) Where the Payor and the Client have entered into an agreement (including a Payor's PAD Agreement) that clearly sets out a cancellation period that does not exceed 30 calendar days, a cancellation or revocation under subsection a) may become effective at the end of that period.
 - c) The Client may terminate a Payor's PAD Agreement in accordance with the terms of that agreement or, where the agreement does not address termination by the Client, by providing at least 30 calendar days written notice to the Payor unless otherwise Authorized by the Payor in writing or orally.
 - d) Where the Client terminates a Payor's PAD Agreement pursuant to Authorization from the Payor under subsection c), the Client shall provide or make available a written statement specifying the date of the final PAD and the effective termination date of the Payor's PAD Agreement within 10 calendar days of the final PAD.
- 3.13 Notices of change.** The Client agrees to accept and act on any notice of change of a Payor's payment routing information that it receives from the Bank that was provided to the Bank by a Processing Institution further to an administrative change to that information in accordance with PC rules. The Client further agrees that such notice of change constitutes the Payor's authorization to change its relevant PAD routing information.



3.14 Re-presentation. The Client acknowledges that, upon the return of a PAD for reason of “Non-Sufficient Funds” or “Funds Not Cleared,” the Client may re-present the PAD electronically on a one-time only basis for the same amount as the original debit and such item may only be re-presented within 30 days. No interest, service fees, NSF fees or other charges may be added to the original PAD amount for this new Item.

3.15 Commercially reasonable methods. The Client (a) confirms that it has read and understand the definition of Commercially Reasonable Methods in Rule H1, and that it has such methods in place for use when entering into Payor’s PAD Agreements; and (b) agrees to use Commercially Reasonable Methods when verifying the Payor’s identity for a Payor’s PAD Agreement, in accordance with the requirements of Rule H1.

3.16 Other obligations. The Client undertakes to make the terms and conditions of the Payor’s PAD Agreement available to the Payor. Where possible, the Client shall provide the Payor with a copy of the agreement signed by the Payor.

4. Client’s obligations

The Client undertakes:

- a) As a payee, to obtain from the Payor a Payor’s PAD Agreement which includes all mandatory elements set out in Appendix II to PC’s Rule H1 and conforms to the model agreements provided by the Bank.
- b) To comply with and apply the standards and requirements set out in the user guide for the preparation and sending of its file, all the relevant provisions of the *Canadian Payments Act* and all by-laws, rules and standards that apply to PADs, including, without limitation, the Confirmation and Pre-notification requirements, waiver of Confirmation and Pre-notification requirements, and cancellation requirements set out in PC Rule H1.
- c) If it intends to establish Payor’s PAD Agreement remotely (through an electronic process), to use commercially reasonable methods when verifying the Payor’s identity, in accordance with the requirements of Rule H1.
- d) Inform the Payor, before issuing PADs on their account, of possible avenues of recourse, the meaning of the notice and the other provisions of the PC rules that are of interest to the Payor.
- e) Keep a copy of the information and data that the Bank sends to the Client for a period of 10 business days for reference purposes.
- f) Disclose to the Bank all the information and data necessary for its use of the service, in accordance with the methods and guidelines and within the timeframe specified by the Bank in the Service user guide, and comply with these methods and guidelines.



5. Pricing

Applicable service fees are set out in the Fee Guide and are accepted by the client at the time of enrolment.

6. Agreement

Once they are accepted by the Client, these terms and conditions shall constitute the agreement between the Client and the Bank regarding the use of the service. The agreement will be effective for an indeterminate period. In the event of a conflict between this agreement and any other agreement concluded between the Bank and the Client, this agreement shall prevail when it comes to the use of the service.

7. Assignment

This agreement may not be assigned, in whole or in part, by the Client without the Bank's prior written consent. Assignment in no way releases the Client from its obligations and responsibilities provided for herein.

