

Automatic Superannuation

PRODUCT DISCLOSURE STATEMENT

Issued by PayClear Services Pty Limited ABN 93 124 852 320

Australian Financial Services Licence Number 314357

This PDS is dated 6th February 2017

PRODUCT DISCLOSURE STATEMENT

This Product Disclosure Statement ('PDS') is prepared and provided by PayClear Services Pty Limited ABN 93 124 852 320 AFSL 314357 ("PayClear").

The PDS is an important document. Its purpose is to provide you with information to assist you in deciding whether to use Automatic Superannuation, a clearing house facility for superannuation contributions accessible through Xero's online accounting software service.

PayClear has authorised Xero to distribute this PDS in its current form. Xero has consented to the inclusion of references to Xero in this PDS and has not as at the date of this PDS withdrawn either its authorisation or consent.

See the Glossary at page 19-21 of this *PDS* where certain terms commencing with upper-case initial letters and other commonly used terms used throughout this *PDS* and the Terms and Conditions are defined.

Contact Details of XERO

Xero may be contacted as follows:

- Address: Unit 1, 6 Elizabeth Street, Hawthorn, VIC 3122
- Email: payroll@xero.com
- URL: www.xero.com.au

Contact details of PayClear

PayClear may be contacted as follows:

- Address: Level 8, 35 Clarence Street, Sydney NSW 2000

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1. THE CLEARING HOUSE FACILITY AT A GLANCE

Who can use *Automatic Superannuation*

- Xero Premium Customers who want a simple, secure and cost-effective way of paying their employees superannuation contributions.

Benefits of using *Automatic Superannuation*

- **Integrated with your Accounting Software:** You no longer need to memorise and recall login and password details for multiple super funds and can aggregate your superannuation contribution payments in familiar software you use in your business all the time
- **Single Payment:** Multiple payments to various superannuation funds are replaced with one online payment.
- **SuperStream Compliant:** Superannuation payments and contributions data are remitted electronically as is required by the Australian Tax Office (“ATO”).
- **Accessibility:** The product is available 24/7, except when unavailable because of scheduled or emergency maintenance.
- **Support:** Employers are provided with a support infrastructure. There is also an online support team and an online help centre to assist you with any problems you have.
- **Audit Trails:** Online access to all the payments and payment reference numbers enables immediate access to information to support inquiries from any of your employees.
- **Accuracy:** Validation checks to ensure information is complete, correct, compliant and consistent.
- **Security:** Information is protected by a cryptographic key system which is widely used by banks for internet banking applications.

Payment

Direct debit is the method required to pay your superannuation contribution payments.

As part of the Registration process, a Direct Debit Request that authorises PayClear Direct Debit User ID 359231) to deduct the periodic totals of your superannuation payments from your nominated bank account will be completed.

The total of the amounts you nominate for each periodic superannuation contribution payment will be deducted from your nominated bank account and disbursed to the various nominated superannuation funds.

Fees and charges

Automatic Superannuation is offered to Xero’s Premium Customers as part of their monthly subscription fees to that service. These fees are set out at <https://www.xero.com/au> in the Pricing Plans.

PayClear reserves a right to charge fees of up to \$12.50 for refunds, dishonours, investigations, or stop payments. It currently waives rights to those fees but it will provide at least thirty (30) day's notice if such fees are introduced.

Getting started

Automatic Superannuation is an online solution.

To register for Automatic Superannuation, you will need to be a Premium Customer and navigate to the Superannuation tab in your Xero account under the payroll menu and fill in the online registration process.

Once Xero and PayClear have accepted your Registration, Xero will send you a confirmation that Automatic Superannuation is available to you.

After completing the registration process Xero and PayClear validate the information entered and confirm your registration via email. Once this confirmation is received you are set up to make superannuation payments using Automatic Superannuation.

2. AUTOMATIC SUPERANNUATION IN DETAIL

Automatic Superannuation is a clearing house facility through which payments can be made otherwise than through the physical delivery of Australian or foreign currency or by cheque (i.e. a non-cash payment facility).

Automatic Superannuation enables employers to submit *Contributions and* member information online using Xero's Online Accounting Software Service.

The instructions to pay various superannuation funds are collated and one *Direct Debit* is made from your Nominated Bank Account to PayClear. *PayClear* direct debits the nominated bank account and arranges for SuperStream compliant messages and *Contributions* to be delivered to the relevant superannuation funds.

Automatic Superannuation has three core components:

- the Xero online accounting software service by which employers access Automatic Superannuation and submit the payroll data;
- the Application Programming Interface (API) by which these instructions are electronically transferred; and
- the *Clearing House Facility* provided by PayClear which Direct Debits the employer's Nominated Bank Account and processes the *Direct Credit Contribution payments to the Super Funds*.

XERO also provides support including (but not limited to) demonstrations of the software, training and an online centre.

SuperStream Compliance

The Australian Government introduced the Data and Payment Standards (SuperStream) in 2014 to streamline the payment of superannuation contributions between employers and superannuation funds.

SuperStream is the way businesses must pay employee superannuation guarantee contributions to super funds. With SuperStream money and data are sent electronically in a standard format.

One of the principle benefits of the Automatic Superannuation is that it has been designed to assist you to meet your SuperStream obligations.

A summary of those key benefits and compliance measures is set out in the table overleaf. In the following Table, "Service" refers to the services provided by when Automatic Superannuation is used.

Benefit	How the Service operates to support SuperStream compliance.	What you need to do
<p>To be compliant with SuperStream, alongside electronic payment, an electronic report detailing the contributions is required to be sent to the superannuation fund.</p> <p>Minimum data for the employees (members) you are paying for is mandatory.</p>	<p>The Service applies validations to ensure that a minimum data set is captured. The Service will then take that data and present it to the fund in a SuperStream compliant, electronic format.</p>	<p>By using the product, you will be providing the minimum data set and the data will be sent to funds in the correct format.</p> <p>However, superannuation funds may seek clarification from you around important conditional detail like the MemberID and contact details of the employee (if they are inconsistent with the details the fund holds).</p>
<p>To be SuperStream compliant, paying the superannuation fund with a cheque is no longer an acceptable payment method. All superannuation contributions are paid electronically through the use of the product.</p>	<p>Your nominated bank account is direct debited for the relevant amount to cover the contributions for the period.</p> <p>The contributions are then paid electronically to the superannuation funds.</p>	<p>Ensure you provide the correct bank account details and you do have sufficient money in your nominated bank account to pay for the contributions in a given period.</p>
<p>SuperStream compliant messages and payments to funds are linked with the Payment Reference Number (PRN).</p>	<p>The product makes payment to the funds electronically. The Service provides you with full visibility of data and the related payment being sent out to the funds. You will be able to view the Payment Reference Number, the amount and the date on which the payment was made out to the fund.</p> <p>Also, data and payment to the fund is reconciled before sent to the fund.</p>	<p>By using the Service correctly in accordance with instructions and user guides, you will be SuperStream compliant.</p> <p>Xero will store the Payment Reference Number and related payment for ATO audit trail purposes. Xero provides you with a full visibility of data and the related payment being sent out to the Superannuation Funds.</p>
<p>SuperStream legislation requires employers (or their agents) to send data and payment to the superannuation fund at the same time. This will allow the fund to reconcile and allocate the contribution to the employee (member) account.</p>	<p>The Service reconciles the SuperStream message and your related payment before they are sent to the fund.</p>	<p>Familiarise yourself with the time frames in this PDS and so that sufficient time is allocated to the processing of the contributions to enable you to meet your Super Guarantee (SGA) obligations.</p>

Benefit	How the Service operates to support SuperStream compliance.	What you need to do
<p>SuperStream legislation stipulates that the employers must respond back to the fund within 10 days of the fund sending a query to the employer in relation to the payment of superannuation contributions.</p>	<p>The Service provides an electronic error handling service to notify you of errors and other important superannuation fund notifications.</p> <p>Despite the SuperStream validations and our best efforts, you may still be contacted by the fund in relation to a query. In that case you will need to observe the 10 day response timeframe back to the fund.</p>	<p>Respond to fund within 10 days of a fund making an enquiry.</p>

3. RISKS OF USING THE CLEARING HOUSE FACILITY

Managing risks

There are a number of risks for employers in facilitating contributions to multiple superannuation funds.

All of these risks have implications for the timing of contributions and their subsequent allocation to the employee's (member's) superannuation fund account.

A significant risk is failing to provide sufficient time to meet Superannuation Guarantee obligations and other award and workplace obligations deadlines.

Using Automatic Superannuation, your Superannuation Guarantee obligations are only extinguished at the time the fund receives the money, not the date you (or the Clearing House Facility) transfers the payment.

To avoid a Superannuation Guarantee charge and associated penalties, employers must allow sufficient time to ensure the superannuation fund receives contributions by the 28th day of the month following each relevant quarter.

Risks and errors that can contribute to delays and a failure to meet your Superannuation Guarantee deadlines, as well as other relevant risks, and how they can be managed, are set out in the following Table.

In the following Table, “Service” refers to the services that are provided when Automatic Superannuation is used.

Risk	Description	How we help mitigate the risk	What you need to do
<i>Getting started</i>			
Privacy: Disclosing to your employees that you are making payments through a Clearing House	You should seek advice about whether you need to disclose to your employees that you are providing personal information so as to facilitate SuperStream compliant payment of superannuation contributions to their superannuation account.	PayClear’s Privacy Policy can be provided to you, which sets out how personal information is treated.	When you give employees the ATO Choice Form, it is generally good business practice to let employees know you are using a Clearing House to distribute the payments.
Security: Unauthorised Access	Access by an unauthorised party, including in circumstances where the UserID and password have been compromised, may lead to fraud, data corruption, defects in transmissions and viruses. You should ensure you do not facilitate unauthorised access.	Xero must be notified immediately if a Login or Password is lost or stolen or if you suspect that another person knows or has used your Login or Password. Xero also recommends that subscribers activate Xero’s 2 step authentication for all users that have access to the subscriber’s Xero account.	Notify Xero immediately in the event of any unauthorised access. Structure user access so that each user has a level of access that matches their delegated authority and make sure you maintain user permissions as changes in personnel and their responsibilities occur. In particular, make sure that users with permission to submit contributions for payment, and to alter payment methods or account details are authorised by your organisation to do so.

Risk	Description	How we help mitigate the risk	What you need to do
<i>Employer Mistakes</i>			
<p>Dishonour: Insufficient money held in your nominated financial institution account to effect a Direct Debit transaction</p>	<p>If there is not enough money in your nominated bank account to enable a Direct Debit of the full payment, then the contribution will be cancelled and must be re-submitted which may result in additional charges from PayClear, your bank and potentially a Superannuation Guarantee charge if the subsequent contributions do not meet the Superannuation Guarantee deadlines.</p>	<p>You will be notified by Xero in the event of a payment failure, on the same Banking Day that Xero becomes aware of the failed payment.</p>	<p>Ensure you have sufficient money in your nominated bank account to cover the amount of the contribution, otherwise a dishonour will occur.</p> <p>With a Client Initiated Direct Debit process, you also control the timing of the Direct Debit because it cannot occur until you submit your payment instruction.</p>
<p>Stopping Payments: In certain circumstances, you may seek to stop an incorrect payment</p>	<p>Once contribution information has been lodged with a matching payment, it cannot be cancelled or reversed unless you notify Xero in sufficient time for Xero to notify PayClear before the 4pm cut-off time Australian Eastern Standard Time (see the Terms and Conditions).</p> <p>Once contributions have been sent to the fund, you bear the responsibility for any attempts to recoup any wrongly sent payment. Usually the Fund trustee or administrator will require the written consent of its member (i.e. your employee).</p>	<p>Xero can notify PayClear to lodge a stop payment but this must be notified within the 4pm cut-off times specified in the Terms and Conditions set out later in this PDS.</p>	<p>It is imperative that if you wish to cancel or reverse a payment, you notify Xero by emailing Xero support immediately, and well before the 4pm cut-off time upon any business day, upon realising that an incorrect contribution has been made, so payment can be stopped.</p>

Risk	Description	How we help mitigate the risk	What you need to do
<i>Employer (Employee) Risks</i>			
<p>Incorrect Data:</p> <p>It is your responsibility to ensure information about your employee and the contribution are complete and correct. If you provide inaccurate or incomplete information, this may result in a contribution being rejected, delayed or even sent to the wrong fund</p>	<p>Incorrect data includes:</p> <ul style="list-style-type: none"> • Use of an incorrect Unique Superannuation Identification (USI) Number or Australian Business Number (ABN) • Incorrect member number • First name & surname not matching the fund's records • Incorrect date of birth • Invalid member Tax File Number • Wrong Bank details for a Self-Managed Superannuation Fund (SMSF) • Incorrect Electronic Service Address (ESA) when paying to an SMSF 	<p>The Service provides:</p> <p>Fund validation:</p> <ul style="list-style-type: none"> • Checks USIs and ABNs are valid funds and are related where funds hold both forms of identification. <p>Employer Identification:</p> <ul style="list-style-type: none"> • Validation that allows you to supply your Employer Identification number held by the fund, where you are registered with the fund. <p>Member Identification:</p> <ul style="list-style-type: none"> • Where particular products have member Identification rules, the product checks member identification supplied against the rule. 	<p>When you are first registering employees with their nominated super fund and the Service identifies an error (e.g. a super fund which cannot receive contributions), you will need to correct it.</p> <p>When you are notified about an error, information about the error is displayed in your Xero Online Accounting Software Service (e.g. incorrect product, incorrect member ID or you need to assign a Fund Employer Number). You may need to correct information in the Accounting Software and in your payroll data for lodgement of subsequent contributions.</p> <p>When payments are successfully made to a superannuation fund but the fund subsequently refunds contributions (usually for members who have exited from the fund), you will need to determine the appropriate corrective action, which may result in the need to re-submit contributions to either the Default Fund or an alternative choice fund.</p>

Risk	Description	How we help mitigate the risk	What you need to do
<i>Clearing House and Banking Risks</i>			
Clearing House or Finance System Failure	<p>The Clearing House facility accesses the Bulk Electronic Clearing System (BECS) to receive contributions and payments to funds. BECS co-ordinates and facilitates the exchange and settlement of bulk electronic transactions – in this case, for Direct Debits and Direct Credits between employers’ financial institution accounts, the PayClear Bank Account and fund accounts</p> <p>In rare instances, the Clearing House Facility or the Banking system may not be available.</p>	Banks and PayClear respectively have appropriate disaster recovery and business continuity plans to manage such events.	It is advisable to allow a few additional days to ensure contributions are received before the Superannuation Guarantee deadlines.
<i>Receiving Fund Risks</i>			
Fund is unable to accept contributions (e.g. closed and terminated funds)	<p>Certain Funds such as pensions, eligible rollover funds and corporate funds (that do not operate retained divisions) are closed to you and may be unable to accept contributions.</p> <p>In other circumstances, a fund may have been terminated or declared non-compliant by APRA or the ATO.</p>	The Service provides a warning system to stop you from making payments that will not be accepted – and blocks payments to those funds.	<p>You will need to check any applicable warnings on the Xero accounting software when first linking your employee to the chosen fund. In certain circumstances, you may be able to contribute to a blocked fund if you are an approved employer.</p> <p>Otherwise, you will need to direct the contribution to the Default Fund or an alternative choice fund selected by the employee.</p>

4. RIGHTS AND OBLIGATIONS

Your access to and use of Automatic Superannuation is governed by the *Terms and Conditions* (included later in this PDS), which terms and conditions represent an agreement between PayClear and you, as a Xero client, in regard to your use of the product provided by PayClear as part of the Automatic Superannuation feature made available through Xero.

Useful information and updates

From time to time, Xero or its related companies would like to contact you or send you information regarding superannuation changes that impact on Automatic Superannuation and on any other products and services that it or its related entities may provide. Xero encourages you to receive this information, however, if you do not wish to receive it, please contact Xero support by email (payroll@xero.com) to advise that you do not wish to receive this information.

Privacy statement

Xero collects, uses and discloses personal information in relation to an employer's employees in order to provide Automatic Superannuation and comply with regulatory requirements.

To the extent Xero collects any personal information access to that personal information may also be disclosed to Xero's associates, related bodies corporate, agents and service providers, such as PayClear on the basis that they deal with such information in accordance with the Privacy Act and only for the purposes related to the use of Automatic Superannuation.

For a copy of the Xero Privacy Policy refer to <https://www.xero.com/au/about/privacy/>. PayClear's Privacy Policy may be obtained at any time by contacting us 1300 659 456 and asking for a copy.

5. GLOSSARY

In this **Product Disclosure Statement** the following terms have the meanings shown (the terms defined below have the same meaning in the Financial Services Guide (FSG) as the Product Disclosure Statement (PDS):

Act	Means the Corporations Act 2001 (Cth).
AFSL	Australian Financial Services License.
APRA	Australian Prudential Regulatory Authority – the regulator of commercial funds.
ASIC	Australian Securities and Investments Commission.
AUD, A\$ or \$	Australian dollars.
Australian Business Number (ABN)	An ABN may be held by either an employer or the Super Fund and can be found on the Australian Business Register (ABR).
Authorised Representative	Has the meaning set out in the Act.
Business Day	Means a day which is not a Saturday, Sunday or public holiday in NSW or Victoria.
Clearing House Facility (CHF)	The non-cash payment facility that Xero arranges to be provided by PayClear (as authorised representative of PayClear).
Clearing House Facility (CHF) Bank Account	The Bank Account held in the name of PayClear into which the amounts debited from the Employer Nominated Bank Accounts are deposited, then distributed to the superannuation funds.
Client	The employer identified in the online Registration Process (as amended from time to time).
Client (Employer) Nominated Bank Account	The employer’s nominated bank account specified in the Registration Process or subsequent Bank Account details notified by the <i>Client</i> to Xero from time to time.

<i>Complying Superannuation Fund</i>	A superannuation fund that is regulated by and complies with the <i>Superannuation Industry Supervision (SIS) Act 1993 (Cth)</i> .
<i>Contribution</i>	Any superannuation contribution payments made by an employer on behalf of its employees.
<i>Contribution Data</i>	Data relating to the Employer, Employee and Super Fund which facilitates the Contribution.
<i>Direct Debit</i>	Means, electronic payment by means of direct debit.
<i>Fund Employer Number (FEN)</i>	A unique number or identifier (not ABN) allocated to an employer by a Super Fund to identify the employer.
<i>Financial Product</i>	Has the meaning set out in the Act.
<i>FOS</i>	Financial Ombudsman Service.
<i>Loss</i>	A loss, claim, action, damage, liability, cost, charge, expense, penalty, compensation, fine, outgoing or payment suffered, paid or incurred.
<i>PayClear</i>	PayClear Services Pty Limited (ABN 93 124 852 320).
<i>Personal Information</i>	As specified in the Privacy Act 1988 (Cth) as amended.
<i>Product Disclosure Statement</i>	The Automatic Superannuation Product Disclosure Statement provided by Xero as Authorised Representative of <i>PayClear</i> in connection with the issue of the <i>Clearing House Facility</i> .
<i>Privacy Act</i>	Means the Privacy Act 1998 (Cth) as amended.
<i>Registration (or Application)</i>	Means a registration (or Application) to use Automatic Superannuation.
<i>Registration (or Application) Process</i>	The Registration or Application Process to set up Automatic Superannuation including agreeing to the PDS, FSG and Direct Debit Authority is available through the Xero Online Accounting

	Software and can be accessed directly from the superannuation tab under Payroll in a Premium Customer's Xero Subscription
Regulations	Means the Corporations Regulations 2001 (Cth).
Self-managed Super Fund (SMSF)	A Private Superannuation Fund usually established by families (associates) with a limit of four (4) members regulated by the Australian Taxation Office
Service	Means Automatic Superannuation or the Clearing House Facility and associated services.
Software	Means the software available at https://www.xero.com.au/au or such other address notified by Xero to the Client from time to time.
SGAA	The Superannuation Guarantee Administration Act (1992).
Terms and Conditions	Means the terms and conditions of use by the Client of Automatic Superannuation, that form part of the online Registration Process containing this PDS.
Unique Superannuation Identifier (USI)	Unique Superannuation Identifier (USI) is the Superannuation Fund identifier commonly associated with superannuation funds regulated by APRA.
User	Any person authorised by the employer to access and use <i>Automatic Superannuation</i> .
Automatic Superannuation	Means: <ul style="list-style-type: none"> the on-line management of <i>Contributions</i> made on behalf of employees to the relevant super funds; and the facilitation of Contribution payments to the relevant super funds via the <i>Clearing House Facility</i>.
Xero	Xero Australia Pty Limited (ABN 89 124 215 247)
Xero Online Accounting Software Service	Means Xero's current and future online accounting software service made available to employers with active Australian edition subscriptions to Xero as Premium Customers.

6. TERMS & CONDITIONS

The following Terms and Conditions apply if you choose to use the PayClear Clearing House Facility which is provided by Xero as a component of the Automatic Superannuation feature made available by Xero. These Terms and Conditions apply solely to the Clearing House Facility and do not apply to Xero's accounting software service (such service being governed by Xero's Terms of Use available at www.xero.com/au/about/terms/). Terms used in these Terms and Conditions are defined in the Glossary at page 19 of this PDS.

1. Client representations and warranties

1.1. The *Client* represents and warrants to PayClear that:

- (a) if it is a company, it is properly registered and validly exists;
- (b) it has the authority and power to enter into this agreement and perform all of its obligations under this agreement; and
- (c) it is not acting as trustee of any trust other than as disclosed in writing.

2. Availability and access to and Automatic Superannuation

2.1. PayClear will, so far as reasonably possible, procure or maintain access to the Service 24 hours a day, 7 days a week, excepting for outages arising from scheduled or emergency maintenance and any other Disruptions.

3. Client/User access

3.1. The *Client* must ensure that:

- (a) all its *Users* are authorised and trained to access and to use Automatic Superannuation; and
- (b) it and all its *Users* comply with the terms of this agreement and the *Access Policy* appearing at the end of these Terms and Conditions.

4. System requirements

- 4.1.** Access to and use of Automatic Superannuation by the *Client* requires a valid subscription to access the applicable Xero Online Accounting Software Service as a Premium Customer.
- 4.2.** The *Client* must maintain up-to-date anti-virus and security measures on its systems in order to prevent unauthorised access to the Software and use of Automatic Superannuation to avoid viruses affecting the operation of *Automatic Superannuation*.
- 4.3.** The *Client* must not, and must use reasonable endeavours to ensure that its *Users* do not, change, impair or damage the Software.

5. Security of the services

5.1. PayClear and their contractors and service providers will use a number of security measures to assist in securing access from the *Software* and use of *Automatic Superannuation* including:

- (a) firewalls; and
- (b) data encryption (employing 128 bit secure sockets Layer protocols).

(c) Notwithstanding the above security measures, PayClear does not represent, warrant or guarantee that unauthorised access to the *Software* or use of Automatic Superannuation can be prevented in all instances.

5.2. If the *Client* becomes aware of a breach or potential breach of security relating to the access to the *Software* or the use of Automatic Superannuation the *Client* must notify Xero as soon as possible who will notify PayClear. The *Client* must take all steps available to stop the breach and to prevent the breach from recurring.

5.3. PayClear does not represent, warrant or guarantee that any data transmission over the internet is secure or remains within Australia.

5.4. PayClear take no responsibility for any *Loss* to the *Client* arising from any unauthorised use of a *Client's User* login and password.

6. *Client's obligations in order to use Automatic Superannuation*

6.1. The *Client* must, in connection with the use of Automatic Superannuation:

- (a)** create *User* with payroll administrator access in the relevant Xero subscription to access *Automatic Superannuation* via the *Software*;
- (b)** Create/change/update employer details as required (from time to time);
- (c)** maintain the payroll file and submit the *Contribution Data*;
- (d)** authorise and make relevant *Contributions* by Direct Debit;
- (e)** register any new employees, remove exiting employees and update employee information as required (from time to time);
- (f)** nominate employee superannuation fund selections;
- (g)** allocate and assign *Contribution* categories (e.g. Superannuation Guarantee, Salary Sacrifice) and amounts for each employee;
- (h)** confirm that a superannuation fund is a Complying Superannuation Fund under the Superannuation Industry Supervision Act 1993 (Cth);
- (i)** match the Unique Super Identifiers of the relevant superannuation funds to ensure that contributions are paid to the correct fund;

(j)

- (k)** if the relevant superannuation fund requires the *Client* to register before accepting *Contributions*, then register with the relevant fund;
- (l)** Manage applicable alternative superannuation fund selections where any fund is not eligible to receive *Contributions*.

7. *Contribution services*

7.1. The *Client* authorises payment of *Contributions* through Automatic Superannuation. If either the *Contribution* or the corresponding *Contribution Data* is not received by Automatic Superannuation or its contractor or service providers by 4pm EST on a Business Day, it is taken to be received on the next Business Day.

7.2. *Automatic Superannuation:*

- (a)** will identify superannuation funds which require the *Client* to register before they are able to accept member registration requests (MRR) and contribution transaction requests (CTR);
- (b)** will, based on the *Contribution Data* supplied by the *Client*, identify the superannuation fund to be paid, the total amount payable to the fund, the employees for whom the *Contributions* and *Contribution* categories are payable and the individual amounts;
- (c)** if the *Contribution Data* has been provided in full without any error (whether by defect or omission), then the Service will reconcile the *Contribution Data* and the *Contribution* by 4pm each *Business Day*;
- (d)** if the *Contribution Data* has not been provided in full, or if there is an error (whether by defect or omission), such that there is a mismatch between the *Contribution Data* and the *Contribution*, Xero will issue an automatic notification to the *Client* within 1 *Business Day* of it becoming aware of the error in an attempt to resolve the error and will procure the return of the *Contribution* and issue an automatic notification to you.;
- (e)** where there is a match between the *Contribution Data* and the *Contribution*, PayClear will disburse the *Contribution payment* to the account of each nominated *superannuation fund*, accompanied with the SuperStream compliant messages that set out the *Contribution Data* and any other information required to enable the *fund* to reconcile the *Contributions* and process the payment to the relevant member account;
- (f)** subject to full receipt of the matched and reconciled *Contribution* into the *CHF*

Bank Account from the Client (and matching *Contribution Data*), PayClear will use reasonable endeavours to arrange payment of the *Contributions* via the *Clearing House Facility* for payment to each nominated *Super Fund* within 2 *Business Days*.

8. Client Payment Obligations relating to Contributions through Automatic Superannuation

- 8.1.** The *Client* must submit their Direct Debit, payment via the Xero Online Accounting Software Service,
- 8.2.** The *Client* must ensure that it has sufficient funds in the *Client Nominated Bank Account* in order to make its *Contribution* payments as and when they are authorised.

9. Delayed Contributions

9.1. Delayed *Contributions* may occur when:

- (a)** the *Contribution Data* and the *Contribution* are received on a day that is not a *Business Day*;
- (b)** the *Contribution Data* and the *Contribution* is received after the cut-off time being 4pm Australian Eastern Standard Time on a *Business Day*;
- (c)** the Client has inadequate funds in the Client Nominated Bank Account;
- (d)** Automatic Superannuation is shut down or suspended for scheduled or emergency maintenance or due to other *Disruptions*;
- (e)** The Client provides incorrect *Contribution* data or does not act in accordance with user guidance and instructions provided..
- (f)** PayClear are not responsible for any *Loss* or delay that the *Client* may incur as a result of the delays referred to in this clause 10.1.

10. Clients responding to notifications about Unsuccessful and mistaken Contributions

10.1. The *Contribution Data* may not be promptly or successfully processed if there is an error in the *Contribution Data* supplied by the *Client*. In limited circumstances the *Client* may be able to correct an error and re-submit *Contribution Data* if the *Contribution Data* has not been processed by the relevant superannuation fund.

10.2. The *Client* must notify Xero well before the Cut Off Time being 4pm on the same *Business Day* if it wishes to stop incorrect *Contribution Data* from being processed.

10.3. If a technical error prevents processing of the *Contribution* by the superannuation fund, PayClear will contact Xero who will notify the *Client* after receiving notice that the file has been rejected. If the technical error cannot be resolved, Xero will notify the *Client* and the *Client* must then resolve the technical error directly with the superannuation fund.

10.4. If any *Contribution* is either not accepted or returned by the superannuation fund, and the problem cannot be resolved within 5 *Business Days* of receipt of the returned *Contribution*, PayClear will send it to the *Client Nominated Bank Account* and Xero will notify the *Client* of the returned *Contribution*. The *Client* must then resolve the issue directly with the superannuation fund and re-submit or re-direct the *Contribution*.

10.5. If the Client receives notice that a *Contribution* has been dishonoured (e.g. because of insufficient cleared funds in the Client Nominated Bank Account), the Client bears all any costs (e.g. bank fees) in relation to the dishonour.

11. Data maintenance

11.1. Provided the Client maintains a valid software subscription with Xero as a Premium Customer, PayClear will

11.2. Maintain at least 7 years of historical Client Data online at any point in time; and

- (a)** use best endeavours to ensure that Xero enables Premium customers or former Premium customers who have paid the subscription fees specified on Xero's website (www.xero.com.au) have

access to the Client *Data* via the Software except during scheduled or emergency maintenance, or any other Disruptions.

12. Confidentiality of Personal Information

- 12.1.** PayClear does not use Personal Information provided by the Client other than for the purposes of carrying out its obligations in providing the Clearing House Facility. Xero's use of Personal Information is governed by its Privacy Policy (www.xero.com/au/about/privacy/)
- 12.2.** The *Client* agrees that PayClear and Xero may contact and liaise with third parties about the *Personal Information* for the purpose of providing Automatic Superannuation.
- 12.3.** PayClear and Xero may disclose *Personal Information*:
- (a)** to their employees, payment agents, service providers involved in the provision of the Service, and to superannuation funds for the purposes of providing Automatic Superannuation;
 - (b)** to their legal advisers, auditors and other professional consultants; or
 - (c)** If it is required to disclose the information by law or a regulatory body or in connection with any legal proceedings related to or connection the provision of *Automatic Superannuation*.

13. Production of Data

- 13.1.** If required by any law or any judicial, regulatory, administrative or similar body (whether foreign or Australian), PayClear will produce reports and information, answer enquiries, attend court and meetings and deal with any similar requests, provided that, where permitted by law, Xero notifies the *Client* prior to acting upon any such request. The *Client* must pay to PayClear at PayClear's then current standard rates, its costs and expenses (including the costs of legal and other professional advice) which PayClear incurs.

14. Fees & charges

- 14.1.** Automatic Superannuation is offered to Xero Premium Customers as part of their monthly subscription fees for use of the Xero Online Accounting Software Service. There are no direct transaction fees for using the Service other than what is described below
- 14.2.** In connection with the provision of Automatic Superannuation, the *Client* may be obliged to pay fees, costs and charges as set out in the *PDS*. All applicable fees are quoted in Australian dollars (AUD).
- 14.3.** Any of the fees, costs or charges disclosed in the *PDS* may be amended or varied (including introducing new fees and charges), provided the client is given at least 30 Days prior to the written notice of the amendment or variation.
- 14.4.** If the fees, costs or charges disclosed in the *PDS* are not expressed to be GST inclusive, the amount is increased by an amount equal to the GST that would otherwise be payable.
- 14.5.** The *Client* acknowledges it is responsible for any bank fees and charges it incurs in connection with any *Contribution* payments including any dishonoured *Contribution* payments.
- 14.6.** The Exception Fees for the Service, other than the monthly subscription fees payable for the Xero Online Accounting Software Service, are due and payable by the Client to PayClear within thirty (30) days of the issue date of the invoice with payment being made by one of the methods specified in the invoice

15. GST

- 15.1.** In order to satisfy the requirements of the *Goods and Services Tax Act 1999* the parties each respectively warrant that they are registered for GST and will notify the other party if they cease to be registered.

16. Statutory liability

- 16.1.** This clause does not exclude or limit the application of any provision of any statute (including the Consumer and Competition Act 2010 (Cth)) where to do so would contravene that statute; or cause any part of this clause or agreement to be void.

16.2. PayClear excludes all implied conditions and warranties except any implied condition or warranty the exclusion of which would contravene any statute or cause any part of this clause to be void ("**Non-excludable Condition**").

16.3. PayClear's sole liability to the Client for breach of any express provision of this agreement or any Non-excludable Condition is limited, at Xero's option, to refunding the price of the goods or services in respect of which the breach occurred or to providing those services again.

17. PayClear and Client liability

17.1. PayClear is not liable:

- (a)** for any *Loss of Contributions* resulting from incomplete or inaccurate *Contribution Data* or non-matching *Contributions* that directly lead to either delays or mistaken and unsuccessful transactions; or
- (b)** for any *Loss of Contributions* or any interception of Client *Data or Personal Information* through any unauthorised access to the Software or use of Automatic Superannuation except to the extent either has directly caused or contributed to such *Loss* by any negligent or wilful act on the part of its employees or contractors.

17.2. The *Client* indemnifies PayClear against any *Loss* which PayClear may suffer or incur arising from *Client's* or its *User's* failure to observe any obligations under this agreement or arising from the *Client* or its *User* acting negligently or fraudulently when accessing the Xero Online Accounting Software and using Automatic Superannuation.

17.3. To the fullest extent permitted by law, PayClear will not be liable for any loss or damage that is not a natural and reasonably foreseeable consequence of the breach (including without limitation, or loss of profits or of revenue).

17.4. Xero's Terms of Use (available at www.xero.com/au/about/terms/) outline details of how Xero may be liable to you for any loss or damage you might suffer as a result of using Xero's Accounting Software, including Automatic Superannuation.

17.5. PayClear's total liability to the *Client* for any *Loss* for which it may be liable in connection with the provision of the Clearing House Facility or the Service is limited to \$2 million.

18. Termination

18.1. Either PayClear or the Client may terminate the Service by giving the other at least 20 *Business Days* prior written notice (including by email).

18.2. PayClear may suspend the Service whilst the *Client* is in default of any of its obligations under these Terms and Conditions including, without limitation, payment of any fees or charges.

18.3. The provisions of clauses 1, 13, 14, 16, 17, 18, 19.3, 19.4, 20.3, 20.6 and 22 will survive any termination of the Service.

19. General Provisions

19.1. PayClear may, by giving the *Client* at least 20 *Business Days* prior written notice, vary or amend these Terms and Conditions.

19.2. The Service will be available to the Client on the date Xero notifies the Client of the acceptance of the completed Registration.

19.3. These Terms and Conditions and the Product Disclosure Statement constitute the entire agreement between the parties in respect of Automatic Superannuation and the Service.

19.4. PayClear may engage agents or subcontractors to assist it in the provision of the Service.

19.5. The *Client* may not assign or transfer its right to access the Service without the prior written consent of Xero. PayClear may assign or transfer any of its rights or obligations regarding the Service to another party upon giving the *Client* at least 20 *Business Days* prior written notice.

19.6. These Terms and Conditions are governed by the laws in force in New South Wales, the courts of which shall have non-exclusive jurisdiction to determine all matters arising from the agreement and its performance.

20. Force Majeure

- 20.1.** '*Force Majeure*' means an event beyond the reasonable control of a party, including, without limitation, an act of war (whether declared or not) or terrorism, the mobilisation of armed forces, civil commotion or riot, natural disaster, industrial action or labour disturbance, currency restriction, embargo, action or inaction by a government agency, a failure of a supplier, public utility or common carrier, or computer disruption due to the effect of a virus or other malicious code introduced other than through the acts or omissions of the party seeking relief.
- 20.2.** To the extent that a party's delay or inability to perform any obligation is due to the existence and its notification of *Force Majeure*, the affected obligations of that party will be suspended until the passing of that *Force Majeure* event. A party must take all reasonable steps to minimise any disruption to and resume the performance of its affected obligations.
- 20.3.** If substantially all of a party's obligations are suspended by a *Force Majeure* event under clause 21.1 by more than 21 Business Days, either party may elect to terminate the Service without penalty.

21. Severability

- 21.1.** If a provision in Terms and Conditions is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- 21.2.** If it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in these Terms and Conditions.