

# FINANCE CONDITIONS OF USE

ANZ BUSINESS BANKING  
14.01.2025



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## **1. WHAT YOU NEED TO KNOW ABOUT THESE TERMS AND CONDITIONS OF USE**

This document contains terms for your business facilities as described in your Letter of Offer. You should read this document with the other documents that are part of your Agreement with us.

Capitalised words and phrases in this document have special meanings. You can find their meanings in the attached Schedule 1 unless otherwise defined in this document.

## **2. OUR AGREEMENT TO PROVIDE FACILITIES**

ANZ agrees to provide your Facilities on the terms of your Agreement. You agree, in return, to comply with those terms.

## **3. WHAT YOU AGREE TO PAY**

### **3.1 Interest**

You must pay interest on:

- the principal amount of your Facilities;
- any amount that you have agreed to add to the principal amount of a Facility. This may include interest (which means you pay interest on interest), fees and other charges; and
- any informal overdraft amount.

Your Letter of Offer and your Specific Conditions of Use contain further details.

### **3.2 Fees and other charges**

You must pay agreed fees and other charges. These fees and other charges are in:

- your Letter of Offer;
- each Specific Conditions of Use;
- the 'ANZ Business Banking Finance Fees and Charges' booklet;
- the 'ANZ Business Banking General Service Fees and Charges' booklet; and
- the 'ANZ Business Banking Transaction Accounts Fees and Charges' booklet but only for Facilities attached to a transaction account. For example, an overdraft facility.

Information on ANZ's standard fees and other charges is available on request.

### **3.3 Principal**

You must repay the principal amount of your Facilities. Your Letter of Offer and your Specific Conditions of Use contain further details.

### **3.4 Early repayment costs**

When ANZ provides you with a fixed interest rate on your Facility we assume that there will be no changes to the Facility during its Fixed Rate Term. If any of the following events, referred to as **Early Repayment Events**, occurs then our assumption will no longer be true:

- you make an early repayment of all or part of a Facility during its Fixed Rate Term;
- ANZ requires you to make an early repayment of all or part of a Facility during its Fixed Rate Term in accordance with our Agreement;
- ANZ agrees to change your Fixed Rate Term or to switch your Facility to another fixed interest rate or to a variable interest rate before the end of its Fixed Rate Term; or
- ANZ agrees to make certain other changes to your Facility before the end of its Fixed Rate Term.

As a result you may be required to pay us an early repayment cost.

The applicable Specific Conditions of Use contain further details on this cost. Early repayment costs can be significant. You should contact us for an estimate or if you have any questions.

### **3.5 Other amounts**

You must pay any other amount owing under your Agreement. For example, if ANZ has paid a claim under a bank guarantee (also known as an indemnity guarantee) or a letter of credit issued under your Facilities, then you owe us the amount claimed. Your Letter of Offer and the applicable Specific Conditions of Use contain further details.

### **3.6 Costs or losses**

You agree to pay or reimburse ANZ, on demand, for all Costs or losses that we reasonably incur or pay:

- relating to the preparation of your Letter of Offer and any Security;
- relating to giving consents, waivers, variations, discharges and releases, and providing information in relation to your Letter of Offer and any Security;
- when we seek to protect or enforce our rights in connection with this Agreement and any Security;
- when you or a Security Provider breach your obligations or an Event of Default occurs;
- when you have agreed to a valuation of any (real or personal) property subject to a Security; or
- when you have agreed to us appointing an independent accountant, business valuer or other expert.

You do not need to pay or reimburse us under this section to the extent that the Cost or loss arises from negligence, fraud, wilful misconduct or mistake by ANZ or its officers, employees, contractors or agents or any receiver appointed by ANZ.

## **4. MAKING PAYMENTS**

### **4.1 How do you make a payment to us?**

You may make a payment to your loan account by:

- direct loan payment from an ANZ account;
- deposit over the counter at an ANZ branch;
- using an ANZ ATM, ANZ Phone Banking, ANZ Internet Banking, ANZ Internet Banking for Business or ANZ Mobile Banking;
- electronic transfer from an account with another financial institution; or
- any other method of payment that we may allow.

You must pay us using the methods in the 'ANZ Business Banking Transaction Accounts Terms and Conditions' booklet for any Facilities attached to a transaction account.

## **4.2 When do we treat you as making a payment?**

We will treat you as having made a payment to your loan account when we apply it to your account. The payment will be applied in line with our regular banking practice for such payments.

If you pay by 9:45pm Melbourne time using an ANZ ATM, ANZ Phone Banking, ANZ Internet Banking, ANZ Internet Banking for Business or ANZ Mobile Banking, ANZ will generally apply that payment to your account as at the date that you make it.

If you pay by cheque, allow three to seven working days for the payment to clear and be applied to your account.

If you pay from an account with another financial institution, there may be a delay between:

- when the other financial institution processes the transaction as a payment; and
- when we apply it to your account.

## **4.3 When can ANZ adjust your account?**

ANZ may adjust your account to accurately reflect your and our legal obligations. For example, we may make an adjustment if an error occurs or a cheque is dishonoured or to reflect the date at which we apply an amount to your account.

If we receive a message through the New Payments Platform that a payment will be made to your account, we may treat the payment as made before we receive it. If the payment is not received for any reason, we can reverse the transaction. The credit and debit will be shown on your statement.

We may also make related adjustments to the balance of your account. For example, we may adjust interest on your account.

## **4.4 Must payments be in Australian dollars?**

Yes, you must make each payment to us in Australian dollars, unless we have agreed a different currency. If we agree to a payment in a different currency from Australian dollars, we will convert the currency using our standard procedures.

#### **4.5 Must payments be free from set-off or deduction?**

Yes, you must make each payment to us without set-off, counterclaim or deduction, unless required by law. If a law requires you to make a deduction, you must pay us an extra amount when the payment is due. The total amount we receive, including the extra amount, must be the same as if no deduction had been made.

#### **4.6 ANZ can debit amounts payable by you**

You authorise us to debit any amount payable by you under your Agreement to your loan account(s) or to any other account nominated by you. These amounts may include interest, fees, other charges and Costs.

We will only debit Costs or losses payable under section 3.6 pursuant to an agreement with you or following a demand or provision of a default notice in relation to those Costs or losses. We may apply the amount to your account as at the date we debit it or the date it is due.

#### **4.7 What happens if an amount payable would be due on a non-Business Day?**

If a repayment amount or other amount payable by you would be due on the 29th, 30th or 31st of a month and that month does not contain that date, then it is due on the last day of that month.

In any case, if a repayment amount would be due on a non-Business Day, then it is due on the next Business Day.

The other terms of your Agreement may have rules that apply where another amount payable by you (including interest, fees and other charges) would be due on a non-Business Day.

#### **4.8 ANZ has set-off and consolidation rights**

We may combine or apply any credit balance in any of your accounts towards payment of money you owe us under your Agreement. We may also apply any other amount available to us by way of set-off, lien or counterclaim.

We will only do these things:

- if there is an Event of Default; or
- if we reasonably consider it is necessary to manage our repayment risk or security risk.

We will tell you in writing if we do these things. You authorise us to do anything which is necessary for us to do these things.

## 5. YOUR AGREEMENT TO PROVIDE INFORMATION

You agree to provide ANZ with all information that we ask for under this section. You agree to do this within 30 days of us asking for it.

### 5.1 Your agreement to provide financial information

ANZ may ask you to provide financial information about a Customer or a Security Provider. We may also ask you to have the financial information certified as showing a true and fair view. Examples of financial information that we may ask for are any or all of:

- statements of financial position;
- annual report, balance sheets, income statements and cash-flow statements;
- running balance account statements;
- documents that a company must prepare under the *Corporations Act 2001* (Cth); and
- directors' or auditors' reports.

If you fail to provide us with any financial information within 30 days of us asking for it, it will be an Event of Default.

If a Customer or a Security Provider is a company, you will ensure that any financial information delivered to ANZ about it complies with GAAP (except as disclosed in the information) and with all applicable Australian laws.

**GAAP** means generally accepted accounting principles and practices in Australia, which are consistently applied.

### 5.2 Your agreement to provide other information

You agree to provide any other information that we reasonably require from time to time. This includes any information required to comply with any laws, such as AML-CTF and Sanctions Laws and Policies.

If a Customer or a Security Provider is a public company, you agree to give us a copy of any information given to its shareholders or to a stock exchange. You must give us the information immediately after it is given to them.



## 6. REVIEW EVENTS

### 6.1 What is a Review Event?

ANZ considers a number of factors when providing you with a Facility. Certain events may materially increase the credit risk in providing a Facility to you. Each of the following is such an event and will be a Review Event, as will anything else that you agree with us is a Review Event.

**(a) Security Provider requests release**

A Security Provider requests a release from its obligations under any Security it has provided for your Facilities.

**(b) Demand under a bank guarantee**

There is a demand under a bank guarantee or a letter of credit that ANZ has issued under your Facilities or a Security Provider's facilities.

**(c) Failure to pay someone other than ANZ**

You fail to pay on time an amount that is due and payable to someone other than us and ANZ is not aware of any genuine dispute you have raised in relation to that failure to pay, and in ANZ's reasonable opinion, the failure to pay materially increases the risk to ANZ that you will not repay us.

**(d) Finance Document becomes void**

A material provision of a Finance Document (or the Finance Document itself) is or becomes void, voidable, illegal, invalid or unenforceable.

**(e) Breaches of obligations**

A Customer or a Security Provider breaches an obligation under a Finance Document where the breach is not an Event of Default but materially increased the risk to ANZ, and either:

- the breach cannot be fixed; or
- the breach can be fixed, and we give you a written notice requiring you to fix it, and 30 days later it is still not fixed.

### 6.2 What happens following a Review Event?

- (a) If a Review Event under section 6.1(a) occurs, we may give you a written notice to say that we will exercise our Review Rights. Our Review Rights are set out below.

- (b) If any other Review Event occurs, we may notify you that your Facilities are under review. You agree that for a period of 30 days from receipt of that notice you will consult with us with a view to resolving the Review Event(s) to both your and our satisfaction.
- (c) If we are unable to agree within the 30 day review consultation period and the Review Event continues then we may give you a written notice requesting that you do one or more of the following:
- provide us additional Security;
  - pay some or all Outstanding Money for your Facilities;
  - agree to comply with additional undertakings (for example, an undertaking that you will not incur any additional debt).

We will only request that you do something under this section 6.2(c) if we reasonably consider that the action is proportionate to the circumstances giving rise to the relevant Review Event.

- (d) You will have a period of 60 days to comply with the terms of the notice. If you do not comply we may exercise our Review Rights which are set out below. We will give you a written notice if we exercise our Review Rights.

### **6.3 What are ANZ's Review Rights?**

When your Agreement says we may exercise our Review Rights, then we may do one or more of the following things, called *Review Rights*:

- (a) withdraw or reduce an interest or margin concession that may apply to your Facilities;
- (b) increase the interest rate, or the margin forming part of the interest rate, on your Facilities;
- (c) replace an index or base rate with a different index or base rate; or
- (d) cancel any undrawn amount available under your Facilities.

We will only exercise our Review Rights if we reasonably consider that the action is proportionate to the circumstances giving rise to the relevant Review Event.

## **6.4 What are your rights following a Review Event?**

If we notify you that we are exercising our Review Rights or we notify you that you need to do something under section 6.2(c), you may cancel your Facilities by giving us written notice of your intention to cancel. If you give us that notice, you must:

- (a) pay all Outstanding Money for your Facilities; and
- (b) comply with any remaining obligations under each Finance Document (for example, returning the original of any outstanding bank guarantees or letters of credit that we have issued).

## **7. EVENTS OF DEFAULT**

### **7.1 What is an Event of Default?**

Certain events may affect our ability to provide or continue to provide you with the Facilities. Each of the following is such an event and will be an Event of Default, as will anything else that you agree with us is an Event of Default.

#### **(a) Failure to pay**

A Customer fails to pay ANZ an amount owed to it under a Facility within two Business Days of its due date.

#### **(b) Material misrepresentation**

A representation or statement made or any information given to us, in each case, by a Customer or Security Provider regarding a Facility, is materially incorrect or misleading (including by omission) when made or given.

#### **(c) Illegal activities**

ANZ believes on reasonable grounds that you or a Security Provider has not complied with the law or any requirement of a statutory authority, or it becomes unlawful for you or us to continue with the loan.

#### **(d) Insolvency or bankruptcy**

A Customer or Security Provider goes into bankruptcy, administration, liquidation, receivership any other insolvency process or arrangement, or no longer has legal capacity.

**(e) Assets repossessed or seized**

A person repossesses or seizes all or a material part of the property of a Customer or Security Provider, or obtains a judgment against a Customer or Security Provider allowing them to repossess or seize such property.

**(f) Unauthorised asset dealings**

A Customer, Security Provider or any other person deals with any asset in breach of the terms of a Finance Document (unless ANZ has consented to the proposed dealing). Examples of 'deals with' are sale of an asset, leasing it, mortgaging it or lodging a caveat against it.

**(g) Change in status, capacity or composition**

There is a change in a Customer or Security Provider's legal status, in the capacity in which it enters into any arrangement with us (such as, for an individual, mental incapacity or death) or in its composition (such as a change in the partners making up a partnership). And, where applicable, ANZ has not given its prior written consent.

**(h) Loss of business licence**

A Customer loses a licence or permit that it needs to conduct or operate its business.

**(i) Failure to provide financial information or maintain insurance**

A Customer or Security Provider fails to provide any financial information by the date that we have asked for it, or fails to maintain any insurance that is required under a Finance Document.

**(j) Change in ownership**

A material change in the direct or indirect ownership or control of a Customer or Security Provider occurs and ANZ has not given its prior written consent (which we will not unreasonably withhold).

**(k) Misuse of funds**

Funds provided under a Facility are used for a purpose not approved by ANZ.

**7.2 What happens following an Event of Default?**

**(a) Failure to pay**

If an Event of Default occurs under section 7.1(a) and, where relevant, the additional requirement in

this section 7.2(a) has been met, we may exercise our Default Rights.

The additional requirement is that either:

- except for any related informal overdraft where no further notice is required, if we demand that you pay all or part of the Outstanding Money for your Facilities then the payment date we tell you will be at least 30 days after we give you the demand, or
- we will not exercise our Default Rights under section 7.3(f) or (g) unless we first give you 30 days' notice.

In each case we can give you a shorter notice period, or no notice at all, if:

- you or a Security Provider goes into bankruptcy, administration, liquidation, receivership, any other insolvency process or arrangement, or no longer has legal capacity; or
- it is reasonable for us to do this to manage a material and immediate risk relating to the nature of the default, your circumstances or the value of the Security.

If you fix the failure to pay during the period set out in our demand or notice, and no other failure to pay exists at the end of the period, then we will not enforce the terms of our demand or we will not exercise our Default Rights for the failure to pay.

(b) Non-monetary Events of Default

If an Event of Default occurs under section 7.1(b) to (k) and any additional requirements in this section 7.2(b) have been met, we may exercise our Default Rights.

The additional requirements are:

**Materiality Assessment:** we may only exercise our Default Rights if the Event of Default is by its nature material, or we reasonably consider the event has had, or is likely to have, a material impact on:

- a Customer or Security Provider's ability to meet their financial obligations to us (or our ability to assess this);
- our security risk (or our ability to assess this); or

- our legal or reputational risk where an Event of Default under section 7.1(b), (c) or (k) has occurred.

**Notice and Remedy Period:** where we can, we will give you a notice setting out the grounds on which we can consider there is an Event of Default and if the Event of Default can be fixed, how long you have to fix it. We will usually give you 30 days to fix it. But we can give you a shorter period, or no notice, if:

- you or a Security Provider goes into bankruptcy, administration, liquidation, receivership, any other insolvency process or arrangement, or no longer has legal capacity; or
- it is reasonable for us to do this to manage a material and immediate risk relating to the nature of the default, your circumstances or the value of the Security.

If you fix the default during the period set out in our notice, then we will not exercise our Default Rights.

(c) Other agreed Events of Default

If anything else occurs that you have agreed with us is an Event of Default, we may exercise our Default Rights but only if we have given you an opportunity to fix the default in accordance with the **Notice and Remedy Period** requirement set out above. If you fix the default during the period set out in our notice, and no other default of the same type has arisen, then we will not exercise our Default Rights.

### 7.3 What are ANZ's Default Rights?

When your Agreement says we may exercise our Default Rights, then we can do any one or more of the following things, called *Default Rights*;

- (a) demand that you pay all or part of the Outstanding Money for your Facilities. If we do this, our demand will tell you the date by which you must pay. You must pay by that date;
- (b) cancel any Facility or your Agreement;
- (c) acting reasonably, change any term of your Agreement;
- (d) acting reasonably, suspend or not perform any of our obligations under your Agreement;

- (e) demand the immediate return of all original bank guarantees or letters of credit that we have issued, or require you to provide us with enough cash to cover all outstanding bank guarantees or letters of credit. If we do this, you must immediately pay ANZ the requested cash cover on the terms specified by ANZ, unless you have returned all original bank guarantees or letters of credit;
- (f) take action under any Security. For example, we may take possession of any secured property or sell it or appoint a receiver to do so;
- (g) sue you for all or part of the Outstanding Money for your Facilities;
- (h) appoint independent accountants or other experts to review and report to us on the affairs, financial condition and business of a Customer or Security Provider. You must co-operate fully to ensure the review and report can be carried out promptly, completely and accurately. This includes making sure that each Security Provider co-operates; or
- (i) do anything else that we have agreed with you or that is allowed under the law.

In some cases the exercise of our Default Rights may be restricted by law. In addition, when we exercise our Default Rights, a law or industry code (such as the Banking Code of Practice) may require a minimum notice period or a particular delivery method to be given. If they do, then we will use the method and give you at least the notice they require.

## **8. CHANGES WE CAN MAKE TO THE TERMS OF YOUR AGREEMENT**

Sometimes we may need to change the terms of your Agreement. The tables in sections 8.1 and 8.2 below set out the changes that we can make from time to time without your agreement. The tables also set out how and when we will notify you of these changes. Each table is subject to the following.

- If any applicable laws or industry codes (such as the Banking Code of Practice) require a minimum notice period or a particular delivery method, then we will use that method and give you at least the notice they require.

- As long as we are not in conflict with those laws or industry codes, we may also give you less notice than specified in the table if it is reasonable for us to manage a material and immediate risk.

In a table, a reference to notice 'in writing' includes any of the electronic methods allowed by your Agreement (see section 10 below) and a reference to 'by advertising in the local or national media' is notice by advertisement in a national newspaper or in two or more major metropolitan newspapers that in combination circulate generally in each State and Territory of Australia.

## 8.1 Changes we can make to fees, interest and payments

- (a) The table below sets out changes that can apply to all or a class of customers for a product, or to a class of customers like you.

Types of changes ANZ can make	Method of notice	Minimum number of days' notice of the change
Change a variable interest rate, or an index or base rate forming part of an interest rate	In writing or by advertising in the local or national media	Day of change, or after day of change if a variable interest rate is determined by reference to an external reference rate (for example the bank bill swap rate) and the change is to that rate.



Types of changes ANZ can make	Method of notice	Minimum number of days' notice of the change
Change a margin forming part of an interest rate	In writing or by advertising in the local or national media	30 days, or less if favourable to you
Change how we calculate interest	In writing	30 days
Change the frequency with which interest is debited or credited	In writing	30 days
Introduce a new fee or charge (other than a government fee or charge)	In writing	30 days
Change an existing fee or charge (other than a government fee or charge)	In writing or by advertising in the local or national media	30 days, or less if favourable to you
Change how we calculate your fees or charges, or the frequency of, or payment date for, your fees or charges (other than a government fee or charge)	In writing or by advertising in the local or national media	30 days

Types of changes ANZ can make	Method of notice	Minimum number of days' notice of the change
Change the name of an index or base rate, or replace an index or base rate with a different index or base rate	In writing or by advertising in the local or national media	30 days
Change our available payment methods	In writing or by advertising in the local or national media	30 days
Change how we calculate your repayments, or the amount of, frequency of, or payment date for, your repayments	In writing or by advertising in the local or national media	30 days for changing repayment calculation, frequency or payment date, or less if favourable to you  Day of change, or shortly after day of change, for changing the repayment amount
Introduce or change a government fee or charge	In writing or by advertising in the local or national media	Day of change (unless published by a government, government agency or representative body)

(b) The table below sets out changes that can be made for any individual Customer.

Types of changes ANZ can make	Method of notice	Minimum number of days' notice of the change
Change how we calculate your repayments, or the amount of, frequency of, or payment date for, your repayments to ensure that a Facility is repaid as intended over the relevant term	In writing	30 days for changing repayment calculation, frequency or payment date, or less if favourable to you  Day of change, or shortly after day of change, for changing the repayment amount
Changes that are administrative or correct a mistake, inconsistency or omission	In writing	30 days

## 8.2 Changes we can make to other terms

The table below sets out changes that can apply to all or a class of customers for a product, or to a class of customers like you.

Types of changes ANZ can make	Method of notice	Minimum number of days' notice of the change
Changes reflecting our business, communication or technological systems or processes	In writing or by advertising in the local or national media	30 days, or less if: <ul style="list-style-type: none"> <li>• favourable to you; or</li> <li>• it is reasonable for us to manage a material and immediate risk</li> </ul>
Changes to comply with any law or any Change in Law, or any decision, recommendation, regulatory guidance or standard of any court, tribunal, ombudsman service, regulator, or any other similar body		
Changes that, in our reasonable opinion, are required to protect any person from the risk of fraudulent or illegal activity		
Changes to add, change or remove any of your discounts, benefits or concessions		

Types of changes ANZ can make	Method of notice	Minimum number of days' notice of the change
Changes to simplify the terms of your Agreement	In writing or by advertising in the local or national media	30 days, or less if: <ul style="list-style-type: none"> <li>• favourable to you; or</li> <li>• it is reasonable for us to manage a material and immediate risk</li> </ul>
Changes to reflect product changes or improvements or to ensure that the terms of your Agreement are consistent with our operational processes		
Changes to discontinue or replace a product, and for this purpose we may change your product to a different product with similar features to the discontinued or replaced product		
Changes that are beneficial to you		
Changes that reflect current industry or market practice or conditions		

### **8.3 What are your rights if we change the terms of your Agreement?**

If we notify you of a change to the terms of your Agreement, you may cancel your Facilities by giving us written notice of your intention to cancel. If you give us that notice, you must:

- (a) pay all Outstanding Money for your Facilities; and
- (b) comply with any remaining obligations under each Finance Document (for example, returning the original of any outstanding bank guarantees or letters of credit that we have issued).

The Outstanding Money for your Facilities may include an early repayment cost. The applicable Specific Conditions of Use contain further details on this cost. Early repayment costs can be significant. You should contact us for an estimate or if you have any questions.

## **9. ANTI-MONEY LAUNDERING AND SANCTIONS**

You agree that we may, without providing you with any notice and without incurring any liability delay, block or refuse to process any transaction, or cancel your Facilities or your Agreement, if we reasonably consider or suspect that processing the transaction or not cancelling your Facilities or Agreement:

- may break any law or regulation in Australia or any other country;
- involves any person (natural, corporate or governmental) that is itself sanctioned or is connected, directly or indirectly, to any person that is sanctioned under economic and trade sanctions imposed by the United Nations, the European Union or any country;
- may directly or indirectly involve the proceeds of, or be applied for the purposes of, unlawful conduct; or
- may be inconsistent with or prohibited by our anti-money laundering and counter-terrorism financing or sanctions policies. Such policies, which can change from time to time, are designed to help ANZ comply with legal obligations and to identify, manage and mitigate money laundering, terrorism financing and sanctions risks. These policies cover matters such as ANZ's approach to:
  - customer due diligence;

- monitoring transactions for indicators of unusual behaviour and reporting suspicious activities to appropriate authorities; and
- transactions that may be connected, directly or indirectly, with sanctioned parties, jurisdictions, products or sectors of economies in certain jurisdictions.

A summary of our anti-money laundering and counter-terrorism financing policy and our sanctions policy is available on [anz.com](http://anz.com) and includes, for example, a current list of relevant jurisdictions.

You must give us all the information we reasonably need to manage anti-money laundering, counter-terrorism financing and/or economic and trade sanctions risk or to comply with any law in Australia or any other country. You agree that we may give any information about you to:

- any law enforcement, regulatory agency or court if we must do this under any law or regulation in Australia or elsewhere; and
- any correspondent (or agent) bank we use to make the payment for the purpose of compliance with any law or regulation.

Unless you have told us that you are acting in a trustee capacity or are acting on behalf of someone else, you warrant that you are acting on your own behalf in entering into this agreement.

You declare and undertake to us that the processing of any transaction by us in accordance with your instructions will not breach any law or regulation in Australia or any other country.

## **10. FORMAL COMMUNICATIONS BETWEEN US ARE CALLED NOTICES**

Formal communications between us are called notices. They can include statements and other documents.

### **10.1 Who can give a notice?**

If we give you a payment demand notice, it can be given by a bank manager, bank officer, our lawyer or any agent authorised by us. We do not need to sign any notice that we give you, unless the law requires it.

If you give us a notice, it must be signed by you or your Authorised Person.

## 10.2 How is a notice given?

Either of us may give the other a notice by leaving it at, or posting it to, the relevant address in your Letter of Offer. If an updated address has been notified, then it will be the last notified updated address.

We may also give you any notice personally. Or, unless prohibited by law, we may give it to you by electronic methods.

Electronic methods may mean us sending a notice to your Electronic Address. Your **Electronic Address** includes:

- your email address or mobile telephone number as shown on our records;
- SecureMail in ANZ Internet Banking or ANZ Internet Banking for Business; or
- a notification in ANZ Mobile Banking.

It may also mean us publishing it on our website or in ANZ Internet Banking or ANZ Internet Banking for Business and then giving you another notice by any method above telling you that it is available.

Where we give you a notice under clause 6 or 7 of these terms and conditions we will leave it at, or post it to, the relevant address in your Letter of Offer (or the last notified updated address, as appropriate), or send it to your email address.

## 10.3 When is a notice taken to be received?

A notice will be taken to be received:

- when left at an address;
- seven days after posting it; or
- the day after it reaches the service provider or the host of your Electronic Address.

If the notice tells you that another notice is published on our website or in ANZ Internet Banking or ANZ Internet Banking for Business, the other notice will be taken to be received at the same time.

## 10.4 Instructions you give us

If you or your Authorised Person give us oral or written instructions in relation to your Agreement then we may act on those instructions.

When more than one person is named as a borrower or customer (such as where you are joint borrowers or a



partnership), any one of you may ask us to change the account authority so that all borrowers or customers must approve any future withdrawals, or drawings, including redraws.

## **11. LEGAL RULES**

### **11.1 What legal rights do you and ANZ have?**

As well as rights under your Agreement, we both have all rights that the law gives us.

### **11.2 How will ANZ waive any of its rights?**

Any right of ANZ will only be waived if ANZ provides you with written notice waiving that right.

### **11.3 Some obligations will continue after your Facilities are cancelled**

You are still required to pay our Costs and to compensate us for any losses we may have suffered, as set out in your Agreement, even after your Facilities end or are cancelled.

### **11.4 Evidence of amounts owing**

If we give you a written notice of how much you owe us that notice can be used as evidence of the amount owing, unless you dispute the correctness of the notice including in any court or tribunal proceeding.

You must check the details in any written notice provided under this section and, if you believe there are any errors or you have any other concerns, you must contact ANZ as soon as possible.

### **11.5 Your consent to us disclosing information**

Unless prohibited by law, we may provide any information that you have given us to:

- (a) someone who is or may become a Security Provider;
- (b) someone who is or may become an assignee, transferee, sub-participant or a party to a securitisation (or similar arrangement) with ANZ;
- (c) any person if required by law, court order or by any applicable judicial, governmental or other regulatory authority;
- (d) a ratings agency; or
- (e) any person referred to in section 4 of Schedule 2.

### **11.6 What happens if a provision of your Agreement is unenforceable?**

If a provision of your Agreement is prohibited or unenforceable, then it is only ineffective to the extent that it is prohibited or unenforceable. This does not invalidate any other provision of your Agreement.

### **11.7 Can you assign or transfer your interest in your Agreement?**

You may not assign or transfer all or any part of your rights or obligations under your Agreement or any Finance Document without our written consent, which we will not unreasonably withhold.

### **11.8 Can ANZ assign or transfer its interest in your Agreement?**

We may, without telling you or obtaining your consent:

- (a) assign or transfer any of our rights under your Agreement or any Finance Document to give effect to:
  - a sale of debt (for example, to third party debt collectors);
  - a sale of business, assets or portfolios;
  - business restructuring; or
  - securitisation or another finance structure; and
- (b) give information about your Agreement or any Finance Document and your obligations under it to any assignee or transferee of our rights under your Agreement or any Finance Document, or anyone who is considering becoming an assignee or transferee.

### **11.9 What happens if there is an inconsistency of terms within your Agreement?**

- (a) If there is an inconsistency between your Letter of Offer and another document forming part of your Agreement, then the Letter of Offer will prevail.
- (b) If there is an inconsistency between this document or the 'ANZ Business Banking Finance Fees and Charges' booklet and the Specific Conditions of Use, then the Specific Conditions of Use will prevail.
- (c) If there is an inconsistency between your Agreement and a Security, your Agreement will prevail.

## 11.10 GST

Terms used in this section have the same meaning as those defined in the *A New Tax System (Goods and Services Tax) Act 1999* (the **GST Act**), unless provided otherwise.

If any supply made to you by ANZ under or in connection with your Agreement is subject to GST, ANZ may:

- increase the consideration otherwise provided for the supply by the amount of that GST; and
- recover such additional amount from you or the party liable for payment of the consideration.

This section does not apply to the extent that the consideration is expressly agreed to be GST inclusive.

If you are required to reimburse us for any costs, the amount must be reduced to the extent that we are entitled to claim an input tax credit in respect of those costs.

No payment of any amount in respect of GST is required until we have provided a tax invoice or adjustment note, as the case may be, to you. We must provide a tax invoice or adjustment note to you as required by the GST Act.

Any reference in your Agreement to fee, price, value, sales, revenue, or similar amount will be exclusive of GST, unless and to the extent that the amount is expressly agreed to be GST inclusive.

## 11.11 Business purpose

Except for a product where ANZ has agreed otherwise, funds provided under a Facility must be used wholly or predominantly for business purposes.

## 11.12 Acting as Trustee

If you enter, or a guarantor enters, into a Finance Document as a trustee of a trust (known as a Trustee), the Trustee will be liable under the Finance Document both personally and as trustee of the trust. The Trustee assures ANZ that:

- (a) entering into the Finance Document is for a proper purpose under the trust;
- (b) the Trustee has the power and authority under the trust to enter into the Finance Document; and

- (c) the Trustee has the right to be indemnified fully out of the trust property, before the beneficiaries of the trust, for all liabilities the Trustee incurs under the Finance Document.

## 12. GOVERNING LAW AND JURISDICTION

- (a) Your Letter of Offer will specify a particular ANZ office. Your Agreement will be governed by the law in force in the place where that office is located.
- (b) If there is a dispute about your Agreement, then we and you agree to submit to the non-exclusive jurisdiction of the courts that have jurisdiction under that law.

## 13. OTHER TERMS AND CONDITIONS AND FURTHER READING

### 13.1 Where to find ANZ rates

If a variable interest rate applies to any of your Facilities then this rate may vary from time to time. You can obtain details of ANZ's current variable interest rates at [anz.com/interest-rates](https://anz.com/interest-rates).

If a fixed interest rate applies to any of your Facilities then this rate will be set out in your Letter of Offer.

Information on your current interest rates is available on request. Please call ANZ or come into any ANZ branch and we can confirm your rate for you.

### 13.2 ANZ's business banking transaction account terms and conditions may apply to you

For a Facility attached to a transaction account, your Agreement sets out the credit related terms of the Facility. Other terms relating to the transaction account to which the Facility is attached are set out in:

- the 'ANZ Business Banking Transaction Accounts Terms and Conditions' booklet ([anz.com/business-transaction-account-terms-pdf](https://anz.com/business-transaction-account-terms-pdf)); and
- the 'ANZ Business Banking Transaction Accounts Fees and Charges' booklet ([anz.com/business-transaction-account-fees-pdf](https://anz.com/business-transaction-account-fees-pdf)).

### **13.3 Protecting your privacy and your personal information**

ANZ will collect and use information about you during the course of your relationship with us. We explain in Schedule 2 when and how ANZ may collect, use and disclose this information.

It is important that all information that we hold about you is up to date. You must let us know when any information you have given us has changed.

ANZ also has a duty of confidentiality under the Privacy Act, the Banking Code of Practice and at law.

### **13.4 ANZ's electronic banking conditions of use may apply to you**

The terms of ANZ's Electronic Banking Conditions of Use are incorporated by reference into this document and form part of your Agreement. You can get a copy at [anz.com/business-EBCU](https://anz.com/business-EBCU).

ANZ's Electronic Banking Conditions of Use include the PayID Conditions which govern how you may create a PayID and link it to your loan account. A PayID is a smart address used to receive payments through the New Payments Platform instead of using your account number and BSB.

### **13.5 ANZ has adopted the Banking Code of Practice**

The Banking Code of Practice means the relevant version of the industry code published from time to time by the Australian Banking Association as it applies to ANZ.

If you are an individual or small business (as defined in the Banking Code of Practice) ANZ is bound by the Banking Code of Practice when it provides banking services to you (including in respect of any Security Provider of your obligations who is an individual).

Where the Banking Code of Practice applies, it will prevail over this Agreement to the extent it is inconsistent with it.

### **13.6 Statements of Account**

Where statements of account are provided in relation to your Facilities, we will make them available as set out in your applicable Specific Conditions of Use and we may do so electronically. You can learn more at [anz.com](https://anz.com).

It is your responsibility to check your statements to make sure that they are correct. If you believe there are any errors or you have any other concerns you must contact ANZ as soon as possible.

### **13.7 What happens if there is a disruption to our services?**

ANZ may experience a disruption to the banking services that it provides you. You can get further details online at [anz.com](http://anz.com).

### **13.8 What are ANZ's complaint procedures?**

If ANZ makes a mistake, or our service does not meet your expectations, then we want to know. For more information please visit your local branch, ring the contact centre on 13 13 14 or contact ANZ at [anz.com/your-feedback](http://anz.com/your-feedback).

### **13.9 What should you do if you are in financial difficulty?**

If you are having financial difficulty please contact us soon as possible on 1800 252 845.

Any information referred to in this section or in Schedule 2 is also available on request. If you have any questions about this section give us a call (our contact details are at the end of this document) or come into any ANZ branch.

You may also request general descriptive information from us about our banking services such as, account opening procedures, cheques and bank cheques and the importance of reading the terms of your Agreement.

## SCHEDULE 1 DICTIONARY AND INTERPRETATION

### 1 Definitions

The words and phrases below have the following special meanings in this document.

**Agreement** has the meaning given in your Letter of Offer.

**ANZ, us or we** means Australia and New Zealand Banking Group Limited (ABN 11 005 357 522). If we assign or transfer our rights or obligations under your Agreement then it also includes the assignee or transferee.

**Authorised Person** or **Authorised Representative** means any person that a Customer has nominated as an Authorised Person by a notice to us to act on its behalf. The notice needs to be in an account authority form or any other authority form or document that we accept.

**Business Day** means a day that is not a Saturday, a Sunday or an Australian national public holiday.

**Change in Law** means the introduction of any law, official directive, ruling or request or any change in it or how it is interpreted or applied.

**Costs** includes costs, liabilities, charges and expenses, actual fees charged by lawyers and other advisors and taxes or duties.

**Customer, you or your** means each person named as a borrower or customer for each Facility in a Letter of Offer. When more than one person is named as a borrower or customer, it means each person individually and any two or more of those people. It also includes each person's executors, administrators or permitted assigns or transferees.

**Default Rights** has the meaning given in section 7.3.

**Event of Default** means each event in section 7.1 and any other event that you and we agree in a Finance Document is a default event.

**Facility** means any of the facilities that we make available to you under your Agreement.

**Finance Document** means:

- (a) this document;
- (b) your Letter of Offer;
- (c) each Specific Conditions of Use;

- (d) any Security;
- (e) any other document or agreement that we agree with you is a finance document; or
- (f) any document or agreement that amends, replaces, assigns or transfers any of the above.

**Fixed Rate Term** has the meaning given in your Letter of Offer.

**interest rate** for a Facility means the interest rate specified in your Letter of Offer.

**Letter of Offer** or **Offer** means the letter titled 'letter of offer' between a Customer and ANZ.

**Merchant Facility** means any service or facility that ANZ makes available, at any time, to a Customer under a letter of offer issued by ANZ Merchant Services.

**New Payments Platform** means the new payments platform operated by NPP Australia Limited.

**Outstanding Money** for a Facility means all money that a Customer, either alone or with another person, owes or may in the future owe ANZ for that Facility for any reason. For example, it includes all interest, fees, other charges and costs (including early repayment costs) and any related informal overdraft.

**Review Event** means each event in section 6.1 and any other event that you and we agree in a Finance Document is a review event.

**Review Rights** has the meaning given in section 6.3.

**Security** means any of the following which secures an obligation owed to ANZ:

- (a) a mortgage, charge, pledge, lien or other security interest;
- (b) a 'security interest' as defined in sections 12(1) or (2) of the Personal Property Securities Act 2009 (Cth);
- (c) a guarantee or indemnity;
- (d) a document or agreement referred to in your Letter of Offer as being a Security; or
- (e) any other agreement or arrangement that has a similar effect to anything above.

**Security Provider** means a person who grants a Security to ANZ. It also includes their executors, administrators or



permitted people they assign or transfer their rights or obligations under a Security to.

**Specific Conditions of Use** means any ANZ booklet with 'specific conditions of use' or 'trade terms' in its title.

**Uncommitted Markets Facility** means any foreign exchange dealing facility, interest rate swap facility (including any inflation swap), commodity trading facility or other facility designated by ANZ and a Customer as an uncommitted markets facility.

## **2 Interpretation**

Headings are for convenience only and do not affect interpretation. The following interpretation rules apply unless a different rule is specified in your Agreement.

- (a) A reference to a person, company, trustee, partner or other entity includes any of them.
- (b) The singular includes the plural and vice versa.
- (c) A reference to an agreement or document includes it as amended, assigned, transferred or replaced from time to time.
- (d) A right or obligation of any two or more persons is joint and several.
- (e) A reference to a section, annexure or schedule is a reference to a section, annexure or schedule to your Agreement.
- (f) A reference to law includes a modification or re enactment of it or any substitution for it.
- (g) Where a word or phrase is defined, its other grammatical forms also have that meaning.

## SCHEDULE 2

### PRIVACY AND CONFIDENTIALITY

#### 1 Collection, use and disclosure of information

ANZ may use and disclose the information we collect about you for the following purposes:

- to assist in providing information about a product or service;
- to consider your request for a product or service;
- to enable us to provide a product or service;
- to tell you about other products or services that may be of interest to you;
- to assist in arrangements with other organisations (such as loyalty partners) in relation to the promotion or provision of a product or service;
- to manage accounts and perform other administrative and operational tasks (including risk management, systems development and testing, credit scoring, staff training, collecting debts and market or customer satisfaction research);
- to consider any concerns or complaints you raise against us, to manage any legal action involving ANZ, or both;
- to identify, prevent or investigate any fraud, unlawful activity or misconduct (or suspected fraud, unlawful activity or misconduct);
- to identify you or establish your tax status under any Australian or foreign legislation, regulation or treaty or pursuant to an agreement with any tax authority; and
- as required by relevant laws, regulations, codes of practice and external payment systems.

#### 2 Absence of relevant information

If you do not provide some or all of the information requested, we may be unable to provide you with a product or service.

#### 3 Information required by law etc.

We may be required by relevant laws to collect certain information from you. Details of laws that require us to collect information about individuals (personal information) and why these laws require us to collect personal information are contained in ANZ's Privacy Policy and at [anz.com/privacy](https://anz.com/privacy).

#### **4 Providing your information to others**

ANZ may provide your information to:

- any related entity of ANZ which may use the information to:
  - carry out ANZ's functions and activities;
  - promote its own products and services;
  - assess your application for one of its products or services;
  - manage your product or service;
  - perform administrative and operational tasks (including debt recovery); or
  - comply with regulatory requirements and prudential standards;
- an organisation that is in an arrangement with ANZ to jointly offer products or has an alliance with ANZ to share information for marketing purposes (and any of its outsourced service providers or agents), to enable them or us to:
  - provide you with products or services;
  - promote a product or service;
- any agent, contractor or service provider that we engage to carry out or assist us with our functions and activities (for example, mailing houses or debt collection agencies);
- an organisation that assists us to identify, prevent or investigate fraud, unlawful activity or misconduct;
- regulatory bodies, government agencies, law enforcement bodies and courts;
- other parties ANZ is authorised or required by law or court/tribunal order to disclose information to;
- participants in the payments system (including payment organisations and merchants) and other financial institutions (such as banks);
- other credit providers;
- mortgage insurers and any reinsurer of any such mortgage insurer;
- someone who is or may become a Security Provider;
- any person who introduces you to ANZ;
- your referee(s);
- your employer;

- your joint borrower(s) or account holder(s); and
- your authorised agents such as:
  - your executor;
  - administrator or trustee in bankruptcy;
  - your legal representative;
  - your attorney; or
  - anyone acting for you in connection with your account.

If you are an individual and do not want us to tell you about products or services, phone 13 13 14 or your ANZ Manager to withdraw your consent.

ANZ may disclose information to recipients (including service providers and ANZ's related entities) that are:

- located outside Australia; or
- not established in do not carry on business in Australia.

You can find details about the location of these recipients in ANZ's Privacy Policy and at [anz.com/privacy](https://anz.com/privacy).

## **5 Credit Reporting**

If you are an individual, you agree that we may obtain information about your credit history and credit worthiness, including credit liabilities, repayments and defaults, from a credit reporting body (including a body that provides information on commercial activity and commercial credit worthiness). We may use this information to assess any application for credit, to manage your credit and for the purposes of debt collection.

We may also disclose information about you to credit reporting bodies.

Information about credit reporting is available at [anz.com/privacy](https://anz.com/privacy) and includes:

- the name and contact details of these credit reporting bodies;
- when ANZ may disclose your personal information to them to include in a report about your credit worthiness; and
- how you can request credit reporting bodies not use your information in certain circumstances.

If you would like a hard copy of this information, please call 13 13 14 or visit any ANZ branch for a copy of ANZ's Privacy Policy.

## **6 ANZ's Privacy Policy**

ANZ's Privacy Policy ([anz.com/privacy](https://anz.com/privacy)) contains information about:

- the circumstances in which ANZ may collect personal information from other sources (including from a third party);
- how to access personal information and seek correction of personal information; and
- how you can raise concerns that ANZ has breached the Privacy Act or an applicable code and how ANZ will deal with those matters.

## **7 Collecting sensitive information**

We will not collect sensitive information about you, such as information about your health, without your consent.

## **8 Personal information you provide about someone else**

If you give us personal information about someone else, please show them a copy of this Schedule 2 so that they may understand the manner in which their personal information may be used or disclosed by ANZ in connection with your dealings with us.

## CONTACT DETAILS

ANZ may change the contact details below from time to time. If we do, we will not notify you of the change (unless required by law or industry code) but these details will be published on our website [anz.com](https://anz.com).

### **ANZ Business Banking**

1800 351 663

8am - 6pm (AEST), Weekdays

### **ANZ Agribusiness Banking**

Speak to your ANZ Agribusiness Manager or call 1800 462 474 8am - 6pm (AEST), Weekdays

### **ANZ Internet Banking for Business**

1800 269 242

+61 3 8699 6906 (International customers)

8am - 6pm (AEST), Weekdays

### **Lost or Stolen Cards, Suspected Unauthorised Transactions or Divulged Passwords**

1800 033 844

+61 3 9683 7047 (International customers)

24 hours, 7 days a week



