

# TERMS AND CONDITIONS FOR TRADING IN FOREIGN EXCHANGE AND DERIVATIVE TRANSACTIONS

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED  
(ABN 11 005 357 522)

VERSION: NOVEMBER 2023

**WARNING:** You should not enter into any transactions under these terms and conditions before you (on your own or through independent professional advice) have read the terms and conditions and assessed the merits and risks of entering into transactions



# TERMS AND CONDITIONS FOR TRADING IN FOREIGN EXCHANGE AND DERIVATIVE TRANSACTIONS

These Terms and Conditions govern all Transactions (as defined in clause 1 below) between you and ANZ and include the country schedule applicable to you (the "Country Schedule") as well as any schedule or addendum that is attached to these terms and conditions or that the parties agree will form part of these terms and conditions (collectively the "terms and conditions").

## 1 MEANING OF WORDS

1.1 The following terms have the following meaning when used in these terms and conditions and in other parts of this Agreement unless a contrary intention appears:

this "**Agreement**" has the meaning set out in clause 2.3.

"**ANZ**" means Australia and New Zealand Banking Group Limited (A.B.N. 11 005 357 522), a company incorporated in Australia, and its successors and assigns.

"**Authority**" means any regulatory, administrative, government, quasi-government, supranational, law enforcement or supervisory authority, court or tribunal.

"**Business Day**" means, except as set out in a Confirmation in respect of the relevant Transaction, or as otherwise specified in a Country Schedule, a day on which commercial banks are open for general business (including dealings in foreign exchange and foreign currency deposits) in the place(s) and on the days specified for that purpose in the relevant Country Schedule.

"**Confirmation**" has the meaning given to it in clause 2.1.

"**Costs**" means costs, charges and expenses including those incurred in connection with advisers and any legal costs.

"**Credit Support Provider**" means, if applicable, in relation to a party, a provider of credit support in relation to the obligations of such party under this Agreement; such credit support to include without limitation, a guarantee, a charge over cash deposit or similar agreement or instrument evidencing a security interest or the provision of collateral howsoever described (such agreement or instrument, a "**Credit Support Document**").

"**Discrepancy Notice**" means a notice in writing which states that it is a Discrepancy Notice and which sets out in reasonable detail the Transaction(s) and the Portfolio Data to which the discrepancy relates.

"**Early Termination Amount**" means an amount payable in respect of Terminated Transactions in accordance with clause 8.4(c).

"**Electronic Service**" has the meaning set out in clause 3.2(b).

"**Event of Default**" means an event described in clause 7.

"**Force Majeure Event**" has the meaning set out in clause 6.3.

"**Illegality**" has the meaning set out in clause 6.1.

"**Indirect Loss**" means any indirect or consequential loss including loss of profits or anticipated savings, loss of business opportunity, loss of goodwill or reputation, business interruption, unauthorised access to or loss of data, economic loss or any special, indirect or consequential damage and includes any Costs arising in connection with any of them. Indirect Loss does not include any Loss that arises in the usual course of things from the relevant act or omissions.

"**Law**" means any treaty, law, statute, rule, regulation, court order or standard of any Authority or any request, order, directive, guideline, notice, code, decision or statement of policy or practice of any Authority having the force of law or, if not having the force of law, in respect of which compliance in the relevant jurisdiction is customary.

"**Loss**" means any damage, loss, liability, Cost, delay or diminution in value

"**Personal Information**" means information or an opinion about an identified individual, or an individual who is reasonably identifiable.

"**Portfolio Data**" means, with respect to each Transaction subject to portfolio reconciliation, the valuation of the Transaction and other details of the Transaction which may include the effective date, the scheduled maturity date, any payment or settlement dates, the notional value of the Transaction, the currency of the Transaction, the type of Transaction, the Business Day convention and any relevant fixed or floating rates of the transaction. For the avoidance of doubt, 'Portfolio Data' does not include details of the calculations or methodologies underlying any term.

"**Principal Financial Centre**" means Sydney unless otherwise specified in the relevant Country Schedule.

"**Product Specialist**" means an ANZ employee who is responsible for the structuring, pricing and distribution of financial products provided by ANZ's Markets division.

"**Settlement Instructions**" means instructions to enable ANZ to settle Transactions on the required date.

"**Terminated Transaction**" means a Transaction which has been terminated in accordance with this Agreement.

"**Termination Currency**" means US Dollars unless otherwise specified in the relevant Country Schedule.

"**Termination Event**" means an event described in clause 6.

“**Transaction**” include:

- (a) foreign exchange transactions;
- (b) forward transactions;
- (c) option transactions;
- (d) swap transactions;
- (e) swaption transactions;
- (f) inflation derivative transactions;
- (g) equity derivative transactions;
- (h) commodity transactions;
- (i) any combination, synthesis or derivative of any of the above; and
- (j) any other transactions agreed between the parties from time to time.

“**US Dollars**” means the official currency of the United States of America.

“**you**” means a party to this Agreement other than ANZ. **You** includes your successors and assigns.

- 1.2 A reference to a party acting **reasonably** means acting in a commercially reasonable manner and in good faith.
- 1.3 Unless the contrary intention appears in the relevant Country Schedule, any schedule, addendum or Confirmation for the relevant transaction, in this Agreement:
  - (a) headings are for convenience only and do not affect the interpretation of this Agreement; and
  - (b) a reference to a time of day is a reference to the time in the Principal Financial Centre of the country specified in the relevant Country Schedule; and
  - (c) **person** includes an individual, a firm, a corporation or any other body corporate, an unincorporated association or an authority; and
  - (d) the singular includes the plural and vice versa; and
  - (e) the word “**including**” is not to be taken as limiting the meaning of the words to which it relates.

## 2 SCOPE OF TERMS AND CONDITIONS

- 2.1 These terms and conditions and the documents and other confirming evidence (each a “**Confirmation**”) exchanged between the parties or otherwise effective for the purpose of confirming or evidencing a transaction govern all Transactions entered into between you and ANZ at any time after you receive these terms and conditions. This clause applies even if no reference is made to these terms and conditions in a Confirmation of a Transaction.

- 2.2 Despite clause 2.1, you and ANZ may agree in writing that a particular Transaction (or class of Transactions) is not to be governed by these terms and conditions.
- 2.3 All Transactions are entered into in reliance on the fact that these terms and conditions and all Confirmations constitute a single agreement between you and ANZ, collectively referred to as “**this Agreement**”.
- 2.4 In the event of any inconsistency, the documents will be interpreted in the following order of priority:
  - (a) the Confirmation for the purposes of the relevant Transaction;
  - (b) the relevant Country Schedule;
  - (c) any other schedule or addendum; and
  - (d) these terms and conditions excluding the Country Schedule or any other schedule or addendum.

## 3 ENTERING TRANSACTIONS

- 3.1 You shall only enter into a Transaction in order to hedge genuine trade related exposure incurred during the normal course of your business, or otherwise in accordance with all applicable Laws and the commercial purposes set out in your business licence, articles of association or comparable constituent document.
- 3.2 You and ANZ may agree to enter into Transactions from time to time. Transactions are normally entered into orally or electronically. You and ANZ are bound by the terms of a Transaction from the moment:
  - (a) (if the Transaction is entered into orally) you orally communicate your acceptance of those terms to ANZ’s dealing personnel; or
  - (b) (if the Transaction is entered into electronically, via an electronic service or system agreed to by ANZ (“**Electronic Service**”)) ANZ is deemed to have received your electronic acceptance in accordance with any agreed terms of such Electronic Service or where there are no such agreed terms, commonly accepted market practice.
- 3.3 Prior to the settlement of a Transaction the parties must provide Settlement Instructions, including details of any account to which payment is to be made. ANZ may agree with you from time to time, the manner of providing instructions (including payment and Settlement Instructions) in connection with this Agreement.
- 3.4 After entry into a Transaction, ANZ will provide you with (by post, fax or electronically (including by email or other form of Electronic Service or method)) a Confirmation setting out certain details of the Transaction entered into between you and ANZ in accordance with clause 3.2. **Within three (3) Business Days of receiving the Confirmation, you must:**

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- (a) **verify the details of the Confirmation and notify ANZ that you believe the details of the Transaction are not correctly set out in the Confirmation; or**
- (b) **acknowledge that the Confirmation is correct:**
- (i) **by signing a copy and delivering it to ANZ; or**
- (ii) **using any other method of acknowledgment (including by email or other Electronic Service or method) that has been agreed to by ANZ.**
- 3.5 The Confirmation will be deemed to correctly set out the details of that Transaction unless ANZ has made a mistake or you have notified ANZ in accordance with clause 3.4(a) of any error, inaccuracies or omission you believe the confirmation contains. If you notify ANZ in accordance with clause 3.4(a), each party agrees to discuss in good faith to try to reach agreement on the details of the Transaction.
- 3.6 The existence of a binding Transaction is not conditional on:
- (a) ANZ's issuance of a Confirmation; or
- (b) your receipt of a Confirmation; or
- (c) your acknowledgment that the Confirmation is correct in accordance with clause 3.4(b).
- Accordingly, your failure to receive a Confirmation or acknowledge that the Confirmation is correct does not invalidate or otherwise prejudice the existence of a Transaction.
- 3.7 Each Confirmation may incorporate definitions published by the International Swaps and Derivatives Association, Inc ("**ISDA**") (the "**ISDA Definitions**"). For the purpose of construing those definitions, these terms and conditions are taken to be the "ISDA Master Agreement" as published by the International Swaps and Derivatives Association. A copy of the relevant definitions can be obtained from ISDA, through its website (which at the date of these terms and conditions, has the address [www.isda.org](http://www.isda.org)). If you do not have access to the ISDA Definitions, a copy can be requested from ANZ by contacting your Relationship Manager or Product Specialist.
- #### 4 PAYMENT OBLIGATIONS
- 4.1 Each party will make each payment or delivery specified in each Confirmation and perform other obligations required under each Transaction in accordance with this Agreement.
- 4.2 Subject to clause 4.4, payments under this Agreement will be made on the due date for value on that date in the currency and in the manner agreed in the relevant Confirmation or if it has not been agreed, as ANZ may reasonably nominate. Where settlement is by delivery, such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or in this Agreement.
- 4.3 Any payment to be made by a party under a Transaction or otherwise in connection with this Agreement must be made and received by the other party in cleared and immediately available funds, free from set-off or counterclaim and without deduction or withholding of any taxes, duties or charges. Unless the relevant Country Schedule or a relevant Confirmation specifies otherwise, each payment required to be made under this Agreement must be made by the relevant cut-off time (as advised by ANZ from time to time) in the relevant Principal Financial Centre on the due date.
- 4.4 ANZ's obligation to make a payment under a Transaction on a date is conditional on ANZ receiving payment in cleared and immediately available funds of all amounts which are payable by you to ANZ on or before that date.
- 4.5 Each of your and ANZ's obligations to make a payment or perform an obligation referred to in clause 4.1 is subject to the condition precedent that (i) no Event of Default has occurred and is continuing in respect of the other party or would occur with the lapse of time or giving of notice; and (ii) no early termination date in respect of the related Transaction has occurred or been effectively designated. However, this condition precedent does not apply to a payment owing by either party or an obligation to be performed by either party if the other party has satisfied in full all of its payment and other obligations in connection with this Agreement (including present, future and contingent obligations).
- 4.6 You authorise ANZ to debit (or arrange to debit) any of your accounts from time to time with any sum of money that is due and payable by you in connection with this Agreement in accordance with clause 4 (including, any fees or interest that are not paid when due).
- 4.7 All payments by either party (the "**payer**") under this Agreement will be made net of any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the U.S. Internal Revenue Code of 1986, as amended (the "**Code**"), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). The payer will not be required to gross up to the other party for any FATCA Withholding Tax.

## 5 REPRESENTATIONS AND UNDERTAKINGS

### 5.1 General Representations

Each party makes the following representations to the other party:

- (a) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its incorporation.
- (b) **Power and authority.** It has the power to enter into, perform and deliver and has taken all necessary action to authorise its entry into, performance and delivery of this Agreement, any other documentation relating to this Agreement and the Transactions contemplated by this Agreement.
- (c) **No violation or Conflict.** Execution, delivery and performance of this Agreement do not to the best of its knowledge, having made due enquiries, violate or conflict with any law applicable to it, any provision of its constitutional documents, or any order or judgement of any court of other agency of government applicable to it or any of its assets.
- (d) **Consents.** All governmental and other consents that are required to perform the obligations under this Agreement have been obtained and are in full force and effect and all conditions have been complied with.
- (e) **Obligations Binding.** Its obligations under this Agreement, any Credit Support Document to which it is a party and each Transaction constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms.
- (f) **No Agency.** It is entering into this Agreement, including each Transaction, as principal and not as agent of any person or entity.

### 5.2 Customer Representations

You make the following representations to ANZ:

- (a) **No Trust.** Unless disclosed in writing to ANZ that you are acting in a trustee capacity or on behalf of another party, you are acting on your own behalf in entering into this Agreement and any Transaction.
- (b) **Non reliance.** You have made your own independent decision to enter into this Agreement and each Transaction and whether that Transaction is appropriate for you based on your own judgement and on advice from such advisers as you have considered necessary.
- (c) **Absence of Litigation.** To the best of your knowledge and belief, there is no pending, threatened or actual action, suits or proceedings at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator against you, that is likely

to affect the legality, validity or enforceability of this Agreement or your ability to perform your obligations under this Agreement.

- (d) **Accuracy of information.** All applicable information that is provided to ANZ (including any financial statements) in writing by you is, as of the date of the information, true, accurate and complete in every material respect.
- (e) **Events of Default.** To the best of your knowledge, having made due enquiries, no Event of Default has occurred and is continuing and no event or such event or circumstance would occur as a result of entering into or performing your obligations under this Agreement.
- (f) **Non-speculative hedging.** Each Transaction governed by this Agreement is entered into for the purpose of managing economic risk and not for purposes of speculation.

### 5.3 Partnership Representations

If you are one of the partners of a partnership, without limiting clause 5.1(b) (Power and authority) you represent that:

- (a) you have the power to enter into this Agreement, including each Transaction, and to bind all partners to this Agreement; and
- (b) by entering into this Agreement, including each Transaction, all partners are (or, in the case of future Transactions, once entered into, will be), bound jointly and severally.

### 5.4 Trustee Representations

If you are the trustee of a trust and enter into Transactions in your capacity as trustee of that trust, you represent on the date of each Transaction that:

- (a) you are not in breach of trust; and
- (b) you are the sole trustee of that trust; and
- (c) you have a right to be indemnified out of the assets of the trust for all your obligations under this Agreement.

Each of the above representation in clauses 5.1, 5.2, 5.3 and 5.4 will be deemed to be repeated by each party on each date on which a Transaction is entered into.

### 5.5 Undertakings

You agree that so long as you have or may have any obligations under this Agreement you must:

- (a) use all reasonable efforts to maintain in full force and effect all approvals or consents of any governmental or other authority that are required to be obtained in connection with this Agreement and obtain any that will be necessary in the future;

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- (b) comply in all material respects with all applicable Laws and orders which apply to you;
- (c) deliver to ANZ the following:
  - (i) evidence of your power and authority to enter into and perform your obligations under this Agreement and any Transactions entered into under this Agreement (including when required articles of association, minutes of your board of directors, shareholders approval or evidence of other corporate action to approve the Transactions, and business licence and other approvals relating to your establishment); and
  - (ii) upon reasonable demand by ANZ any form or document that may be required or reasonably requested relating to its business, assets, liabilities, finances, operations management, internal authorisation and compliance as requested by ANZ (acting reasonably) from time to time;
- (d) promptly notify ANZ if you become aware:
  - (i) that any representation given in connection with this Agreement has or will become incorrect or misleading (including by omission) in any material respect; or
  - (ii) of any material change in your shareholding or the board of directors or any change to the management control; or
  - (iii) of the occurrence of an Event of Default.

### 6 TERMINATION EVENTS

- 6.1 **Illegality.** It will be an illegality event (“**Illegality**”) if, at any time, due to an event or circumstance (other than any action taken by a party) occurring after a Transaction is entered into, it becomes unlawful under any applicable law (including the laws of any country in which payment, delivery or compliance is required by either party) on any day, or it would be unlawful if the relevant payment, delivery or compliance were required on that day (other than as a result of the party failing to maintain in full force and effect all necessary consents of any governmental or other authority) for the office through which such party (which will be the “**Affected Party**”) makes and receives payments or deliveries with respect to such Transaction to perform any absolute or contingent obligation to make a payment or delivery in respect of such Transaction (which will be an “**Affected Transaction**”), to receive a payment or delivery in respect of such Affected Transaction or to comply with any other material provision of this Agreement relating to such Affected Transaction.
- 6.2 If an Illegality occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Illegality and each

Affected Transaction, and will also give the other party such other information about that Illegality as the other party may reasonably require.

- 6.3 **Force Majeure Event.** It will be a force majeure event (“**Force Majeure Event**”) if at any time, by reason of force majeure or act of state occurring after a Transaction is entered into, on any day, the office through which such party (which will be the “**Affected Party**”) makes and receives payments or deliveries with respect to such Transaction is prevented from performing any absolute or contingent obligation to make a payment or delivery in respect of such Transaction, from receiving a payment or delivery in respect of such Transaction or from complying with any other material provision of this Agreement relating to such Transaction (or would be so prevented if such payment, delivery or compliance were required on that day), or it becomes impossible or impracticable for such office so to perform, receive or comply (or it would be impossible or impracticable for such office so to perform, receive or comply if such payment, delivery or compliance were required on that day), so long as the force majeure or act of state is beyond the control of such office or such party and such office or party could not, after using all reasonable efforts (which will not require such party to incur a loss, other than immaterial, incidental expenses), overcome such prevention, impossibility or impracticability.
- 6.4 If a Force Majeure Event occurs, each party will, promptly upon becoming aware of it, use all reasonable efforts to notify the other party, specifying the nature of that Force Majeure Event, and will also give the other party such other information about that Force Majeure Event as the other party may reasonably require.
- 6.5 **Ceasing to be a Lender.** It will be termination event if, at any time prior to the termination date of any outstanding Transaction (which will be an “**Affected Transaction**”) relating to any facility which ANZ provides to you for the borrowing of money or raising of finance by you or any other financial accommodation which ANZ provides to you is repaid, prepaid or satisfied in full, or otherwise terminated, cancelled or discharged in full. You will be the “**Affected Party**” and ANZ will be the **Non Affected Party**.
- 6.6 **Additional Termination Event.** If any “Additional Termination Event” is specified in any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties will be as specified for such Additional Termination Event in such Confirmation).
- 6.7 An event or circumstance that constitutes or gives rise to a Termination Event will not, for so long as that is the case, also constitute or give rise to an Event of Default under clause 7 in so far as such event or circumstance relates to the failure to make

any payment or delivery or a failure to comply with any other material provisions of this Agreement.

- 6.8 Except as contemplated in clause 6.7 above if an event or circumstance which would otherwise constitute or give rise to a Termination Event also constitutes an Event of Default, it will be treated as an Event of Default.
- 6.9 If an Illegality or Force Majeure Event has occurred and is continuing with respect to a Transaction, each payment or delivery which would otherwise be required to be made under that Transaction will be deferred to, and will not be due until:
- (a) the first Business Day following the end of any applicable Waiting Period in respect of that Illegality or Force Majeure Event as the case may be; or
  - (b) if earlier, the date on which the event or circumstance constituting or giving rise to that Illegality or Force Majeure ceases to exist, or if such date is not a Business Day, the first following day that is a Business Day.

For purposes of this Agreement, "**Waiting Period**" means:

- (a) in respect of an event or circumstances that constitutes an illegality, other than where the relevant payment, delivery or compliance is actually required on the relevant day (in which case no Waiting Period will apply) a period of three Business Days; and
- (b) in respect of an event or circumstance that constitutes a Force Majeure Event, other than where the relevant payment, delivery or compliance is actually required on the relevant day (in which case no Waiting Period will apply) a period of eight Business Days.

If a Termination Event has occurred and is continuing and any applicable Waiting Period has expired, the provisions of clause 8.2 (Right to terminate following a Termination Event) will apply.

## 7 EVENTS OF DEFAULT

The occurrence at any time of any of the following events in respect of a party constitutes an event of default (an "**Event of Default**"). For the purposes of this clause, any reference to a "**party**" shall mean such party or, if applicable, its Credit Support Provider, and any reference in this clause to "**this Agreement**" shall mean such agreement or any Credit Support Document. For the avoidance of doubt, an Event of Default is triggered once it occurs in respect of either a party or its Credit Support Provider:

- (a) the party does not pay or deliver on time any amount due under this Agreement and the failure to pay or deliver is not rectified for a period of 1 (one) Business Day after notice of the failure is given to the party; or

- (b) the party does not comply or perform any agreement or obligation to be complied with or performed (other than an obligation to make a payment or delivery covered by paragraph (a) above), under or in connection with any material aspect of this Agreement and in circumstances which may materially increase the risk of the other party and the failure is not remedied for a period of ten (10) Business Days after notice of the failure is given to the party by the other party; or
- (c) the party repudiates, disclaims or rejects in whole or in part or challenges the validity of this Agreement, any Confirmation executed by a party or any Transaction in any material respect and in circumstances which may materially increase the risk to the other party;
- (d) a representation made by the party in connection with this Agreement is untrue or misleading in any material respect and in circumstances which may materially increase the other party's risk; or
- (e) the party defaults under one or more agreements or instruments relating to any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of money borrowed or raised or under any finance lease, redeemable preference share, letter of credit, guarantee, indemnity, or any other financial markets transaction (after giving effect to any applicable grace period) in an aggregate amount of more than:
  - (i) if the defaulting party is you, the lesser of USD 1,000,000 or 3% of your total shareholder's equity as specified in your most recently published consolidated audited accounts, or an equivalent amount in any currency; or
  - (ii) if the defaulting party is ANZ, 3% of ANZ's total shareholders' equity as specified in ANZ's most recently published consolidated financial statements or an equivalent amount in any currency;

provided that a default shall not occur under either (i) or (ii) if the default arises out of a failure to pay or deliver caused by an error or omission of an administrative or operational nature and funds or property were available to such party to enable it to make the relevant payment or delivery when due and such payment or delivery is made within 3 (three) Business Days following receipt of written notice from an interested party of such failure to pay or deliver; or

- (f) the party (1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency

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law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (7) has a secured party take possession of all or substantially all of its assets or has a distress or other legal process levied, enforced or sued on or against all or substantially all of its assets and such secured party maintains possession or any such process is not dismissed, discharged or stayed or restrained within 15 days thereafter; (8) causes or is subject to any event with respect to it which, under any applicable laws of any jurisdiction, has an analogous effect to any of the events specified in (1) to (7) above (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

### 8 EARLY TERMINATION AND CLOSE-OUT NETTING

#### 8.1 Right to Terminate following an Event of Default

- (a) If at any time an Event of Default with respect to a party (the **"Defaulting Party"**) has occurred and is then continuing, the other party (the **"Non-defaulting Party"**) may, by not more than 20 days notice to the Defaulting Party, specifying the relevant Event of Default, designate a day, not earlier than the day the notice is effective, as an Early Termination Date in respect of all outstanding Transactions.
- (b) In this Agreement an Event of Default is "continuing" in respect of the Defaulting Party if it has not been waived in writing or remedied to the satisfaction of the other party.

#### 8.2 Right to terminate following a Termination Event

- (a) If at any time a Termination Event has occurred, the Non-affected Party may by no more than 20 days notice to the Affected Party, specifying the nature of that Termination Event and each Affected Transaction, designate a day not earlier than the day on which such notice becomes effective as an Early Termination Date in respect of (a) all Affected Transactions; or (b) by specifying in that notice the Affected Transactions in respect of which it is designating the relevant day as an Early Termination Date.
- (b) If at any time an Illegality or a Force Majeure Event has occurred and is then continuing and any applicable Waiting Period has expired either party may, by no more than 20 days notice to the other party, designate (a) a day not earlier than the day on which such notice becomes effective as an Early Termination Date in respect

of all Affected Transactions; or (b) by specifying in that notice the Affected Transactions in respect of which it is designating the relevant day as an Early Termination Date, a day not earlier than two Business Days following the day on which such notice becomes effective as an Early Termination Date in respect of less than all Affected Transactions. Upon receipt of a notice designating an Early Termination Date in respect of less than all Affected Transactions, the other party may, by notice to the designating party, if such notice is effective on or before the day so designated, designate that same day as an Early Termination Date in respect of any or all other Affected Transactions.

#### 8.3 Effect of Designation

- (a) If a notice designating an Early Termination Date is given under clause 8.1 or 8.2, the Early Termination Date will occur on the date designated whether or not the relevant Event of Default or Termination Event is then continuing.
- (b) Upon the occurrence or effective designation of an Early Termination Date, neither party need make further payments or deliveries in respect of the Terminated Transactions. Instead, the amount, if any, payable in respect of the Early Termination Date will be determined in accordance with clause 8.4 (Calculations and Payment Date).

#### 8.4 Calculations and Payment Date

- (a) As soon as reasonably practicable following the occurrence of an Early Termination Date, ANZ will make the calculations and will send you a statement (1) showing, in reasonable details, such calculations (including any quotations, market data or any other information used in making such calculations, (2) specifying any Early Termination Amount payable, and (3) giving details of the relevant account to which any amount payable to ANZ is to be paid.
- (b) An Early Termination Amount due in respect of any Early Termination Date will, together with any amount of interest payable pursuant to clause 14.2, be payable (1) on the day on which notice of the amount payable is effective in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default and (2) on the day which is two Business Days after the day on which notice of the amount payable is effective in the case of an Early Termination Date which is designated as a result of a Termination Event.
- (c) If an Early Termination Date occurs, the amount, if any, payable in respect of the Early Termination Date (the **"Early Termination Amount"**) will be an amount equal to:
  - (i) the sum of the Close-out Amount (whether positive or negative) for each Terminated



- Transaction or group of Terminated Transactions in the relevant Termination Currency; and
- (ii) the Unpaid Amounts (in the relevant Termination Currency) owing to the Non-defaulting Party or Non-affected Party less the Unpaid Amounts (in the relevant Termination Currency) owing to the Defaulting Party or Affected Party.
- (d) If the Early Termination Amount calculated above is a positive number, the Defaulting Party or Affected Party will pay that Early Termination Amount to the Non-Defaulting Party or the Non-affected Party; if it is a negative number, the Non-Defaulting Party or Non-affected Party will pay the absolute value of the Early Termination Amount to the Defaulting Party or Affected Party.
- (e) For purposes of this clause 8:
- (i) **Close-out Amount** means with respect to each Terminated Transaction or each group of Terminated Transactions the amount of losses or costs that are or would be incurred under then prevailing circumstances (expressed as a positive number) or gains that are or would be realised under the then prevailing circumstances (expressed as a negative number) in replacing, or in providing for the party that is not the Defaulting Party or Affected Party the economic equivalent of (a) the material terms of that Terminated Transaction or group of Terminated Transactions including the payments and deliveries by the parties under clause 4.1 in respect of the Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have been required after that date; and (b) the option rights of the parties in respect of that Terminated Transaction or group of Terminated Transactions.

Any Close-out Amount will be determined by ANZ who will act in good faith and use commercially reasonable procedures in order to produce a commercially reasonable result. Each Close-out Amount will be determined as of the Early Termination Date or, if that would not be commercially reasonable, as of the date following the Early Termination Date as would be commercially reasonable.

In determining the Close-out Amount, ANZ will consider any relevant information, including, without limitation, one or more of the following types of information:

- (A) quotations (either firm or indicative) for replacement transactions supplied

by one or more third parties that may take into account the creditworthiness of ANZ at the time the quotation is provided and the terms of any relevant documentation, including credit support documentation, between ANZ and the third party providing the quotation;

- (B) information consisting of relevant market data in the relevant market supplied by one or more third parties including, without limitation, relevant rates, prices, yields, yield curves, volatilities, spreads, correlations or other relevant market data in the relevant market; or
- (C) information of the types described in clause (a) or (b) above from internal sources if that information is of the same type used by ANZ in the regular course of its business for the valuation of similar transactions.

When considering above information ANZ may include costs of funding, to the extent costs of funding are not and would not be a component of the other information being utilised.

Without duplication of amounts calculated based on relevant information, and when it is commercially reasonable to do so, ANZ may in addition consider in making those calculations any loss or cost incurred in connection with the party that is not the Defaulting Party or Affected Party terminating, liquidating, or re-establishing any hedge related to a Terminated Transaction or group of Terminated Transactions (or any gain resulting from any of them).

Commercially reasonable procedures used in determining a Close-out Amount may include the following:

- (A) application of relevant market data from third parties or information from internal sources or other pricing or other valuation models that are used by ANZ in the regular course of its business in pricing or valuing Transactions, and
- (B) application of different valuation methods to Terminated Transactions or group of Terminated Transactions depending on the type, complexity or size of the Terminated Transactions or group of Terminated Transactions.
- (ii) **Unpaid Amounts** owing to any party means, with respect to an Early Termination Date, the aggregate of:

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- (A) in respect of all Terminated Transactions, the amounts that became payable or would have become payable under this Agreement on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date;
- (B) in respect of each Terminated Transaction, for each obligation which was required to be settled by delivery on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market value of that which was required to be delivered (determined as of the originally scheduled delivery date, in good faith and using commercially reasonable procedures; and
- (C) any Early Termination Amount due prior to such Early Termination Date which remains unpaid together with any amount of interest accrued or other compensation (including any legal fees and expenses) in respect of that obligation.

### 8.5 Set Off

Any Early Termination Amount payable to one party (the "Payee") by the other party (the "Payer") in circumstances where there is a Defaulting Party or where there is one Affected Party in the case where a Termination Event in respect of which all outstanding transactions are Affected Transactions has occurred, will at the option of the Non-defaulting Party or the Non-affected Party as the case may be (and without prior notice to the Defaulting Party or the Affected Party as the case may be) be reduced by its set-off against any other amounts ("Other Amounts") payable by the Payee to the Payer (whether or not arising under this Agreement, matured or contingent and irrespective of the currency, place of payment or place of booking the obligation). To the extent that Other Amounts are so set off, those Other Amounts will be discharged promptly and in all respect and the Non-defaulting Party or Non-affected Party will give notice to the other party of any set-off effected under this clause.

For this purpose, either the Early Termination Amount or the Other Amounts may be converted by the Non-defaulting Party or Non-affected Party into the currency in which the other is denominated at the rate of exchange at which such party would be able, in good faith and using commercially reasonable procedures, to purchase the relevant amount of such currency.

This clause will be without prejudice and in addition to any right of set-off, offset, combination of accounts, lien, right of retention or withholding or similar right or requirement to which any party is at any time otherwise entitled or subject (whether by operation of law, contract or otherwise).

## 9 ELECTRONIC COMMUNICATION

Providing any communication by electronic means may be subject to fraud and security risk including the risk that it may be incomplete or inaccurate or may be fraudulently or mistakenly given or altered or not otherwise authorised by the person purporting to send the communication or may not be received in whole but may be received in part by the intended recipient.

If you provide instructions, documents, notices, or any other communication in connection with this Agreement by facsimile, email, or any other electronic method agreed between you and ANZ ("**Electronic Communication**") you acknowledge and agree that:

- (a) you are aware of and accept the security risk involved in Electronic Communications;
- (b) you must comply with the security procedure or measure (if any) agreed between you and ANZ;
- (c) making your security procedures or measures available to other people increases the risk of fraud;
- (d) you must comply with all applicable laws in its use of, the giving of instructions;
- (e) you must ensure that any instruction is correct, complete and authorised and that ANZ is entitled to assume so;
- (f) the Electronic Communication will be deemed effective as your notice, request or instruction and if provided is irrevocable;
- (g) ANZ may rely on that Electronic Communication without making any further enquiries unless ANZ is on notice that it is unauthorised, not authentic or in breach of any relevant security measure, or may (but is not obliged to) enquire about or attempt to verify the authenticity of any instruction;
- (h) ANZ may act on any instruction even if such instruction is contrary or inconsistent with any other existing instruction received by it;
- (i) ANZ may refuse to act on any Electronic Communication if:
  - (i) it is incorrect, incomplete, unclear or inconsistent or does not comply with the format specified by ANZ or agreed with ANZ; or
  - (ii) ANZ is on notice that it is unauthorised, not authentic or in breach of any relevant security measure; or
  - (iii) accepting or acting upon an instruction in an Electronic Communication would require any action or information from ANZ on a day that is not a Business Day; or
  - (iv) acting on it would cause a breach of any other agreement between you and ANZ or any applicable law, sanction, requirement of any competent authority or any internal policy relating to corporate governance, risk management or audit or

(v) an Event of Default has occurred.

ANZ shall not be liable to you for any Loss (including loss of data) suffered or incurred or which may arise from or in connection with any Electronic Communication except to the extent that such Loss is directly caused by the fraud, negligence or wilful misconduct of ANZ, its agents, representatives or appointed receivers.

Neither party will be liable to the other party for any Indirect Loss.

## 10 INDEMNITIES

- 10.1 Subject to clause 10.2, you indemnify and keep indemnified ANZ, its agents and representatives and make good all Loss (including actual legal costs reasonably incurred by ANZ) which ANZ, its agents or representatives may suffer, incur or sustain or for which ANZ its agents or representatives become liable, in connection with or related to:
- (a) ANZ acting or declining to act on your instructions, request or Electronic Communication from you, or given on your behalf;
  - (b) ANZ exercising, enforcing or preserving rights, powers, or remedies in connection with this Agreement;
  - (c) any claim made against ANZ under, or in connection with an obligation to a third party assumed by ANZ at your request or direction;
  - (d) any breach of any anti-money laundering, counter-terrorism financing or economic or trade sanctions laws (other than by ANZ) arising in connection with this Agreement.
- 10.2 You are not required to indemnify ANZ in respect of any Loss caused by the fraud, negligence, wilful misconduct or mistake (except a mistake caused by your act or omission or an act or omission of your agent or third party) of ANZ, its agents, representatives or appointed receivers.
- 10.3 Each indemnity in this Agreement is an additional, separate and independent obligation and survives termination of this Agreement.
- 10.4 If the indemnity is given by more than one person, the obligations under the indemnity are joint and several.
- 10.5 It is not necessary for ANZ to incur an expense or make a payment for enforcing a right of indemnity under this Agreement.
- 10.6 You agree to pay amounts due under this indemnity within the period specified in any demand from ANZ. In the demand, ANZ (acting reasonably) will specify the amount payable, instructions on where and how to pay it and reasonable notice of the date by which payment must be made. You must pay by that date.

## 11 PRIVACY AND DISCLOSURE OF INFORMATION

### 11.1 Privacy

- (a) If you do not provide ANZ with some or all of the Personal Information that ANZ may reasonably require for the purpose of providing the products or services under this Agreement, ANZ may be unable to provide you with any product or service (including entering into Transactions with you).
- (b) ANZ may collect and use personal information:
  - (a) to provide you with information about a Transaction, product or service;
  - (b) to consider and process your request for a Transaction, product or service;
  - (c) to provide a product or service to you;
  - (d) to tell you about other Transactions, products and services;
  - (e) to assist in arrangements with other organisations in relation to the promotion or provision of a Transaction, product or service;
  - (f) to manage Transactions, products and services and perform administrative and operational tasks;
  - (g) to consider any concerns or complaints raised by you against ANZ and/or to manage any legal action involving ANZ;
  - (h) to identify, prevent or investigate any actual or suspected fraud, unlawful activity or misconduct;
  - (i) to identify you or establish your tax status under any applicable legislation, regulation or treaty or pursuant to an agreement with any tax authority; and
  - (j) as required by relevant laws, regulations, codes of practice and external payment systems.
- (c) ANZ's Privacy Policy (available at <https://www.anz.com.au/privacy/centre/policy/>) contains information about:
  - (a) any laws that require or authorise ANZ to collect certain Personal Information and why those laws require ANZ to collect such personal information;
  - (b) the circumstances in which ANZ may collect Personal Information from other sources (including from a third party); and
  - (c) how an individual may:
    - (i) access their Personal Information and seek correction of their personal information;
    - (ii) instruct ANZ that the individual does not want to receive information about other products and services; and
    - (iii) raise concerns that ANZ may have breached the relevant laws or related code, and how ANZ will deal with these matters.

### 11.2 Disclosure of information

- (a) ANZ may disclose any information (including personal information, or confidential information) relating to you, this Agreement or any associated Transactions, products or services to:
  - (a) any related entity of ANZ which may use the information to carry out ANZ's functions and activities; promote its own Transactions, products and services, unless

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you advise otherwise; assess your application for Transactions, products or services; manage your Transaction, product or service; perform administrative and operational tasks (including debt recovery); or comply with laws, regulatory requirements and prudential standards; (b) an organisation that is in an arrangement with ANZ to jointly offer products or services and/or has an alliance with ANZ to share information for marketing purposes (and any of its outsourced service providers or agents); (c) any agent, contractor or service provider ANZ engages to carry out or assist with its functions and activities; (d) an organisation that assists ANZ to identify, prevent or investigate fraud, unlawful activity or misconduct; (e) regulatory bodies, government agencies, law enforcement bodies and courts; (f) participants in payments systems (including payment organisations and merchants) and other financial institutions; (g) other credit providers; (h) insurers (including mortgage insurers) and reinsurers; (i) any person who introduces you to ANZ; (j) your referee(s), employer or representative (including any authorised agent, executor, administrator or trustee in bankruptcy, legal representative or anyone else acting for you in connection with your Transaction, product or service); (k) joint account holders; (l) any provider of a guarantee, security or other credit support for your obligations to ANZ; (m) other parties ANZ is authorised or required by law or court/tribunal order to disclose information to; (n) any professional advisors of ANZ who are under a duty of confidentiality to keep such information confidential; and (o) any credit reporting bodies (for more information about credit reporting in relation to personal information, including the name and contact details of credit reporting bodies and the circumstances in which ANZ may disclose Personal Information to them, refer to [www.anz.com/privacy](https://www.anz.com/privacy)).

- (b) In making the disclosures described above, ANZ may disclose information to recipients including service providers and related entities of ANZ. Details regarding the location of such recipients may be found at <https://www.anz.com.au/privacy/centre/policy/>.

### 11.3 Information about others

If you give ANZ Personal Information about someone else or direct someone else to give their Personal Information to ANZ, you must show that person a copy of this clause 11 (Privacy and Disclosure of Information) so that they understand the manner in which their Personal Information may be used or disclosed.

## 12 AMENDMENTS AND WAIVER

### 12.1 Amendments with notice

- (a) ANZ may amend, modify or supplement the provisions of this Agreement at any time by

giving you 30 days prior notice in a manner permitted under clause 13 (Notices).

- (b) Notwithstanding clause 12.1(a) ANZ may at any time amend this agreement without prior notice:
- (i) to comply with, or reduce the risk of non-compliance 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; or
  - (ii) where the amendments are to simplify the terms of this Agreement, correct a mistake, inconsistency or omission or any amendment of an administrative nature and such amendment is not detrimental to you.

### 12.2 Termination

- (a) If ANZ gives you notice that it will amend, modify or supplement the provisions of this Agreement in accordance with clause 12.1 and you do not agree with the proposed amendments you must notify ANZ that you do not agree to the amendments at least 5 Business Days before the amendment takes effect.
- (b) If you give a notice under clause 12.2(a):
- (i) this Agreement will not be amended, modified or supplemented as proposed by ANZ and all outstanding Transactions up to and including the date of your notice under clause 12.2(a) will not be affected; and
  - (ii) you will not be permitted to enter into any new Transactions under the Agreement with effect from the date of your notice give under clause 12.2(a); and
  - (iii) the Agreement will automatically terminate without any further notice with effect from the date on which there is no longer any Transactions outstanding under this Agreement.

### 12.3 Waivers

A provision of this Agreement, or right created under it, may not be waived except in writing signed by the party or parties to be bound.

## 13 NOTICES

Any notice or other communication to be made in connection with this Agreement must be in writing and may be given in any manner set out below to the address or number or in accordance with the electronic messaging system or e-mail details last notified to the other party and will be deemed effective:

- (a) if delivered in person or by courier, on the date it is delivered;
- (b) if sent by ordinary mail (not certified or registered mail), six (6) Business Days after posting (or ten (10) Business Days after posting if sent to or from a place outside the country of receipt);
- (c) if sent by certified or registered mail (airmail, if overseas) or equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted;
- (d) if sent by facsimile transmission, on the date that the transmission is received in legible form;
- (e) if sent by e-mail on the date that it is delivered;
- (f) if sent by electronic messaging system, at the date and time that it was received at the recipient's address for service of that Electronic Service;
- (g) if made available by ANZ at ANZ's website or other electronic address, on the date and time that ANZ notifies you (in a manner permitted under this clause 13) that it is made available on ANZ's website or other electronic address; or
- (h) if sent by any other method of delivery that has been agreed between you and ANZ in accordance with the agreed method of receipt,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable is not a Business Day or the communication is delivered (or attempted) or received (as applicable), after the close of business on a Business Day, in which case that communication will be deemed given and effective on the first following day that is a Business Day.

Unless ANZ provides otherwise from time to time and subject to any provision of a Country Schedule or a Confirmation, any notice to ANZ must be to:

**Melbourne (Head) Office**

Address: ANZ Transaction Management,  
L2C 833 Collins Street, Docklands VIC 3008

Attention: Manager, Derivative Operations

Email: [OTCDC@anz.com](mailto:OTCDC@anz.com)

SWIFT Code: ANZBAU3M

Facsimile No.: (613) 9188-0225

Either party may by notice to the other change the address, facsimile number, electronic messaging system or e-mail details at which notices or other communications are to be given to it.

**14 MISCELLANEOUS**

14.1 **No assignment** A party may not assign, mortgage, charge, declare a trust over or otherwise deal with any of its rights under this Agreement without the other party's prior written consent.

14.2 **Interest** Either party must pay the other interest on any amounts not paid by a party to the other when due under this Agreement. The interest accrues from the due date until the overdue amount is paid. Interest is calculated by ANZ (acting reasonably) from time to time at a rate per annum equal to 1% p.a. above the rate ANZ determines as ANZ's cost of funding the relevant overdue amount. Any interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

14.3 **Fees** You must pay to ANZ any reasonable fees, charges and expenses in connection with a Transaction as notified to you by ANZ from time to time. Payment will be due within 3 days from being notified.

14.4 **Consent to telephone recording** Subject to all applicable laws either party may record any telephone conversations (whether by telephone or other communication device) between them for quality control, security audit and legal and regulatory compliance purposes. You agree to obtain any necessary consent of and give necessary notice of such recording to your relevant personnel and agree, to the extent permitted by law, that recordings may be used in evidence in any proceedings brought in connection with this Agreement.

14.5 **Governing law and Jurisdiction** Unless specified otherwise in a Country Schedule, this Agreement will be governed by and construed in accordance with the law in force in the State of Victoria (Australia) and the parties submit to the non-exclusive jurisdiction of the courts of the State of Victoria.

14.6 **Financial Difficulty** ANZ recommends that you promptly notify ANZ if you encounter any financial difficulty.

14.7 **Remedies cumulative** The parties' rights and remedies in connection with this Agreement are in addition to other rights and remedies given by law independently of this Agreement.

14.8 **Exercise of rights** The parties may exercise a right or remedy in connection with this Agreement in any way it considers appropriate. If a party does not exercise a right of remedy in connection with this Agreement fully or at a given time, it may still exercise it later.

**15 ANZ AS A MARKET MAKER**

You acknowledge that ANZ and/or ANZ's affiliates may from time to time take proprietary positions, make a market or undertake proprietary activities (including hedging transactions) related to the initiation or termination of a Transaction with you. This may adversely affect the market price, rate or other market factor(s) underlying a Transaction entered into with you and consequently the value of the Transaction. ANZ has policies and procedures designed to minimise the risk that officers and employees are influenced by any conflicting

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interest or duty and that confidential information is improperly disclosed or made available.

### 16 ANTI-MONEY LAUNDERING

Notwithstanding any other provisions contained in this Agreement to the contrary, ANZ is not obliged to do or omit to do anything if it would, or might in its reasonable opinion constitute a breach of any anti-money laundering, counter-terrorism financing or economic or trade sanctions laws or regulations applicable to ANZ.

You must promptly provide to ANZ all information and documents that are within your possession, custody or control reasonably required by ANZ in order for ANZ to comply with any anti-money-laundering, counter-terrorism financing or economic and trade sanctions laws or regulations applicable to ANZ.

You agree that ANZ may disclose any information concerning you to:

- (a) any law enforcement or regulatory agency where requested, or where required by any court, law or regulation, in any relevant country; and
- (b) any correspondent ANZ uses to make any payment for the purpose of compliance with any law or regulation.

You agree to exercise any rights and perform any obligations under this Agreement in accordance with all applicable anti-money laundering, counter-terrorism financing or economic or trade sanctions laws or regulations.

### 17 COMPLAINTS

If ANZ makes a mistake or ANZ's service doesn't meet your expectations, ANZ wants to know. If you would like to make a complaint or provide feedback, ANZ recommends you:

- talk to your Relationship Manager or Product Specialist; or
- if unable to do so, you may talk to your Relationship Manager's or Product Specialist's immediate supervisor.

If the complaint cannot be resolved promptly your Relationship Manager or Product Specialist's immediate supervisor will work with you to address the complaint or feedback.

Additional provisions with regards to how to deal with complaints may be provided in the relevant Country Schedule.

### 18 CALCULATION AGENT

The "Calculation Agent" in respect of a Transaction under this Agreement will be ANZ unless otherwise specified in the relevant Confirmation.

The Calculation Agent will, subject to the terms of the relevant Confirmation, be responsible for:

- (a) calculating any rates, amounts, periods and dates (including changes to such rates, amounts, periods

and dates) specified in the Confirmation or relevant to the Transaction or as designated by the parties;

- (b) giving notice to the relevant party of such rates, amounts, periods and dates; and
- (c) giving reasonable details to the relevant party of the method of calculation of such rates, amounts, periods and dates.

When the Calculation Agent is required to act or to exercise judgment, it will do so in good faith and in a commercially reasonable manner. However, the Calculation Agent is not acting as a fiduciary for or as an advisor to you in connection with any Transaction.

### 19 PORTFOLIO RECONCILIATIONS

19.1 ANZ is subject to laws and regulations which may require ANZ to reconcile the data it holds about certain Transactions between you and ANZ with data you hold about those Transactions. This is known as "Portfolio Reconciliation".

19.2 For the purpose of portfolio reconciliation, ANZ may, from time to time send Portfolio Data to you in relation to certain Transactions between you and ANZ.

19.3 You acknowledge that:

- (a) ANZ will determine when ANZ will send Portfolio Data to you and what the Portfolio Data will consist of; and
- (b) the Portfolio Data will be sent to you by email.

19.4 **Discrepancies** You agree that:

- (a) if you, acting reasonably, identify any material discrepancies in the Portfolio Data, you will as soon as possible notify ANZ of such discrepancies by email to MOPortfolioReconcili@anz.com (or such other email address as advised by ANZ);
- (b) ANZ and you will promptly consult in good faith to resolve any material discrepancies notified to ANZ as soon as possible;
- (c) if you have not notified ANZ of any discrepancies by the fifth (5th) Business Day following the day ANZ sent the Portfolio Data to you, you will be considered to have accepted the Portfolio Data sent to you by ANZ as accurate.

19.5 **Discrepancy identification and dispute resolution procedure**

You and ANZ agree that the following procedure will be used to identify and resolve discrepancies in relation to the Portfolio Data that have not been resolved under the previous paragraph five (5) Business Days after being notified to ANZ:

- (a) either you or ANZ may deliver a Discrepancy Notice to the other party;

- (b) you will send any Discrepancy Notice to ANZ by email to APRADisputes@anz.com (or such other email address as advised by ANZ);
- (c) ANZ will send any Discrepancy Notice to you by email; and
- (d) on receipt by either party of a discrepancy notice, you and ANZ will promptly consult in good faith to resolve the discrepancy as soon as possible by exchanging relevant information and discussing the basis of the discrepancy and the corresponding Portfolio Data. ANZ is not obliged to disclose or discuss the calculations or methodologies underlying any Portfolio Data.

19.6 **No Event of Default** It is not an Event of Default if you or ANZ does not perform any obligation under this clause 19.

19.7 **Other portfolio reconciliation agreement** This clause 19 does not apply to you or ANZ if you and ANZ have entered into any other agreement with each other in relation to reconciliation of Portfolio Data.

