

# FLEXIBLE DRAWDOWN FIXED RATE COMMERCIAL BILL FACILITY

SPECIFIC CONDITIONS OF USE  
ANZ BUSINESS BANKING 11.16



# SPECIFIC CONDITIONS OF USE FLEXIBLE DRAWDOWN FIXED RATE COMMERCIAL BILL FACILITY

*This document contains important Specific Conditions of Use that apply to your Flexible Drawdown Fixed Rate Commercial Bill Facility only. ANZ recommends you study it in detail and then keep it in a safe place for future reference.*

*If you have received Specific Conditions of Use in respect of other Commercial Bill Facilities offered to you by ANZ, please **do not** refer to them for the purposes of your Flexible Drawdown Fixed Rate Commercial Bill Facility. This document contains the relevant Specific Conditions of Use for your Flexible Drawdown Fixed Rate Commercial Bill Facility and should be read in conjunction with the ANZ Business Banking Finance Conditions of Use and letter of offer provided to you.*

*Also some words and expressions have special meanings in these Specific Conditions of Use. The meaning of those words is set out below and some of them are further explained or defined in the ANZ Business Banking Finance Conditions of Use. When you are reading these Specific Conditions of Use you should also refer to the ANZ Business Banking Finance Conditions of Use.*

## MEANING OF TERMS

For the purpose of these Specific Conditions of Use:

- (i) **'Bills Contract'** means each fixed rate financing arrangement you enter into with ANZ under your Flexible Drawdown Fixed Rate Commercial Bill Facility comprising of the initial Bill drawn by you and all subsequent replacement Bills drawn by ANZ on your behalf within the Fixed Rate Term at the same fixed Yield Rate, with each Bill having a Face Value no less than its Minimum Face Value and no greater than its Maximum Face Value. The details of your Bills Contract will be set out in a Confirmation;
- (ii) **'Commitment Fee'** means the percent per annum identified as the 'Commitment Fee' (if any) in your letter of offer;
- (iii) **'Confirmation'** means a document issued by ANZ providing details:
  - A. At or about the time of your acceptance of the Terms of each Bills Contract and detailing the Terms of each Bills Contract (confirming the details of what was quoted by ANZ and accepted by you); and
  - B. At or about the time of the Drawdown Date and each Rollover Date and detailing the specific Bill(s) for that Rollover Period;
- (iv) **'Discounted Proceeds'** of any Bill means the amount calculated with reference to the Yield Rate for the relevant Rollover Period and the Face Value of the relevant Bill using the following formula:
$$\frac{\text{Discounted Proceeds}}{\text{Face Value}} = \frac{(365 \times 100)}{(\text{Yield Rate} \times \text{No. of days in a Rollover Period}) + (365 \times 100)}$$
- (v) **'Drawdown Date'** is the date identified in the Confirmation as the 'Start Date', being the date on which an amount is first paid to you by ANZ in accordance with Specific Condition 3 in respect of a Bills Contract;
- (vi) **'Face Value'** is the Australian dollar monetary value of the relevant Bill prior to discounting;
- (vii) **'Facility Limit'** is the Australian dollar limit for your Flexible Drawdown Fixed Rate Commercial Bill Facility, set out in your letter of offer;

- (viii) **'Fixed Rate Term'** means that period of time agreed by you and ANZ, over which you must (subject to Specific Condition 5) rollover a series of Bills at the fixed Yield Rate agreed by you. The Fixed Rate Term starts on the Drawdown Date and ends on the Maturity Date;
- (ix) **'Forward Start Contract'** means a Bills Contract for which the Terms of each Bills Contract are accepted by you more than two clear Business Days before the Drawdown Date;
- (x) **'Maturity Date'** is the date identified as such in the Confirmation, being the last day of the Fixed Rate Term;
- (xi) **'Maximum Face Value'** is the amount identified as the 'Maximum Face Value' in a Confirmation for the relevant Bill, being the maximum Face Value that you may nominate for that Bill and its relevant Rollover Period. You and ANZ will agree to the Maximum Face Value for each Bill and its Rollover Period at the time you accept the Terms of each Bills Contract;
- (xii) **'Minimum Face Value'** is the amount identified as the 'Minimum Face Value' in a Confirmation for the relevant Bill, being the minimum Face Value that you may nominate for that Bill and its relevant Rollover Period. You and ANZ will agree to the Minimum Face Value for each Bill and its Rollover Period at the time you accept the Terms of each Bills Contract;
- (xiii) **'Net Discount'** means the Face Value less the Discounted Proceeds;
- (xiv) **'Rollover Date'** is each date identified in the Confirmation as a 'Rollover Date', being the first day of each Rollover Period other than the Drawdown Date;
- (xv) **'Rollover Period'** is the number of days identified as the 'Roll Days' in a Confirmation, being the number of days within which each Bill will mature. The Rollover Period will commence on the relevant Drawdown Date or Rollover Date and end on the next Rollover Date or the last day of the Fixed Rate Term (whichever is the earlier);
- (xvi) **'Term of Facility'** has the same meaning given to this term in the ANZ Business Banking Finance Conditions of Use;

- (xvii) **'Terms of each Bills Contract'** means:
- A. a fixed Yield Rate;
  - B. a Minimum Face Value for each Bill;
  - C. a Maximum Face Value of each Bill;
  - D. a Fixed Rate Term; and
  - E. Rollover Periods;
- (xviii) **'Usage Line Fee'** means the percent per annum identified as the 'Usage Line Fee' (if any) in your letter of offer;
- (xix) **'Yield Rate'** is the rate fixed for the Fixed Rate Term, agreed by you and ANZ at the time you accept the Terms of each Bills Contract. It will be identified in the Confirmation as the 'Yield Rate'.

## 1. DRAWDOWN AND OTHER DOCUMENTS

- a) You cannot draw a Bill under your Flexible Drawdown Fixed Rate Commercial Bill Facility until ANZ receives a Deed of Authority, Indemnity and Attorney properly executed to ANZ's satisfaction.
- (b) Any instruction given under a Deed of Authority, Indemnity and Attorney must be given by you or by Your Authorised Representative.
- (c) An instruction that requests ANZ to accept and discount Bills is irrevocable when you accept the Terms of each Bills Contract.
- (d) You may not instruct ANZ to accept Bills without discounting them.
- (e) You may draw multiple Bills Contracts under your Flexible Drawdown Fixed Rate Commercial Bill Facility. The aggregate Face Value of all Bills drawn under all Bills Contracts must not exceed the Facility Limit.
- (f) The date of the first Drawing of all Bills Contracts must occur within 3 months of the date you accept ANZ's Offer unless otherwise agreed by ANZ in writing.

## 2. QUOTATIONS FOR TERMS OF EACH BILLS CONTRACT

- (a) You must, before 4:00 pm (Sydney time) at least two Business Days before the Drawdown Date, ask ANZ (at ANZ's discretion) to quote the Terms of each Bills Contract.
- (b) You may only ask for quotations:
  - (i) for a specified Fixed Rate Term agreed to by ANZ; and
  - (ii) for Bills Contracts with Rollover Periods of approximately 30, 90 and 180 days or such other number of days as agreed with ANZ, and Rollover Dates to be specified by ANZ in ANZ's quotations.
- (c) However, you cannot ask ANZ to quote for a Fixed Rate Term where the last day of the Fixed Rate Term is a date after the last day of the Term of the Facility.

**Note: The 'Term of the Facility' is a defined term in the ANZ Business Banking Finance Conditions of Use.**

- (d) To accept a quote for a Bills Contract (including a Forward Start Contract), you must agree to the Terms of each Bills Contract being terms that (in ANZ's opinion) are consistent with ANZ's quote immediately upon ANZ giving you that quote. You agree that your acceptance will be communicated to ANZ verbally either in person or over the telephone.
- (e) Upon receipt of your acceptance, ANZ will send you a Confirmation confirming the Terms of each Bills Contract. Until the Limit Approval Fee (and any other Costs which the letter of offer specifies are due for payment prior to the first Drawing) are paid by you, ANZ has no obligations under the Bills Contract notwithstanding the issue of the Confirmation.
- (f) The Yield Rate fixed for the relevant Rollover Period is exclusive of the Usage Line Fee or Commitment Fee. Unless ANZ advises you in writing that your Usage Line Fee or Commitment Fee will be added onto the Yield Rate for the purposes of calculating the amount of the discount in Specific Condition 3(a), ANZ will charge the Usage Line Fee or Commitment Fee to you separately.

### 3. AMOUNT PAYABLE BY ANZ ON DISCOUNT OF BILLS

- (a) Subject to Specific Condition 8, you must before 4:00 pm (Sydney time) two Business Days before the relevant Drawdown Date or Rollover Date (as the case may be) nominate an amount for the Face Value for the relevant Bill during the relevant Rollover Period, to be discounted by ANZ, which must be no less than the Minimum Face Value for that Bill and no greater than the Maximum Face Value for that Bill. ANZ shall pay to you on the relevant Drawdown Date or Rollover Date the Face Value of the Bill less:
  - (i) the Net Discount; and
  - (ii) stamp duty and other taxes.
- (b) You acknowledge:
  - (i) you are responsible for the payment of the ANZ's Costs identified in ANZ's letter of offer and/or the ANZ Business Banking Finance Conditions of Use and/or the ANZ Business Banking Finance Fees and Charges. Unless ANZ agrees otherwise in writing, those Costs in respect to the Flexible Drawdown Fixed Rate Commercial Bill Facility will not be deducted from the Face Value of the Bill when ANZ is determining how much it will pay you in accordance with this Specific Condition 3. Instead you will pay those Costs separately to ANZ on the dates specified in the letter of offer; and
  - (ii) that ANZ's obligation to pay to you the Face Value of the Bill less the amounts specified in Specific Condition 3(a) on a Rollover Date may be satisfied by a net payment in accordance with Specific Condition 8. Any such net payment will be confirmed to you in a Confirmation.

### 4. ROLLOVER

- (a) Subject to Specific Condition 5, you must, before 4:00 pm (Sydney time) two Business Days before the relevant Drawdown Date or Rollover Date nominate the Face Value of the Bill to replace the maturing Bill, to be rolled over at the same fixed Yield Rate as that of the maturing Bill. The Face Value of the Bill you nominate must be

no less than the Minimum Face Value for that Bill and no greater than the Maximum Face Value for that Bill. ANZ will then draw, accept and discount a new Bill in replacement of the maturing Bill; or

- (b) If you do not nominate a Face Value to be rolled over by the time specified in Specific Condition 4(a) above, subject to Specific Condition 5, you irrevocably request ANZ to draw, accept and discount a new Bill in replacement of the maturing Bill, with the same Face Value and fixed Yield Rate as that of the maturing Bill with a Rollover Period ending on the next Rollover Date or the last day of the Fixed Rate Term (whichever is the earlier).

## 5. TERMINATION/PREPAYMENT

You may terminate and prepay a Bills Contract on the next Rollover Date if:

- (a) you have given written notice to ANZ, at least two clear Business Days before the next Rollover Date, that you wish to terminate and prepay a Bills Contract;
- (b) you have paid to ANZ the amount which ANZ determines is required to compensate ANZ for all costs or losses which ANZ may incur, directly or indirectly, because that Bills Contract is terminated and prepaid; and

***Warning – If you terminate/prepay a Bills Contract, the amount of costs or losses may be significant. When calculating any costs or losses suffered by ANZ as a result of a termination/prepayment, ANZ will value the Bills Contract on a mark to market basis which involves ANZ making a genuine attempt to estimate the economic loss or reduction of return and costs it might incur taking into account movement in rates in the Australian market. ANZ will make allowance for any benefit that ANZ will get as a result of the termination and prepayment.***

***If you wish to make a termination/prepayment, you should discuss it with ANZ first and ANZ can calculate the costs or losses that you would have to pay if you made the termination/prepayment. This will help you to decide whether you want to go ahead with the termination/prepayment.***



- (c) you have paid to ANZ all amounts actually or contingently owing or to become owing by you under or in connection with that Bills Contract.

A notice given under this clause cannot be withdrawn by you without ANZ's written consent and any reduction in the Face Value of the Bills Contract following any such termination or prepayment cannot be subsequently reinstated without ANZ's written consent.

## **6. ANZ MAY PREPARE BILLS**

On or before the Drawdown Date and each Rollover Date you irrevocably request ANZ to draw, sign and present the Bills which you have requested ANZ to accept and discount on the Drawdown Date or Rollover Date, so that each Bill:

- (a) is dated with the relevant Drawdown Date or Rollover Date;
- (b) is drawn by or on your behalf with the name of the payee to be completed by ANZ;
- (c) names ANZ as drawee and acceptor; and
- (d) is for a Face Value amount determined by you and agreed by ANZ and specified in a Confirmation.

## **7. YOUR LIABILITY IN RESPECT OF BILLS DISCOUNTED**

- (a) As between you and ANZ, you are primarily liable in respect of each Bill drawn by you or on your behalf under the Bills Contract. Accordingly, your liability with respect to each Bill will not be discharged because ANZ becomes the holder of the Bill on or after its maturity. ANZ and you agree that section 66 of the Bills of Exchange Act 1909 does not apply as between ourselves.
- (b) Subject to Specific Condition 8, at or before 11:00 am (Sydney time) on the Rollover Date for each Bill, you must pay to ANZ an amount equal to the Face Value of that Bill.

## 8. NET PAYMENTS ON ROLLOVER DATES FOR BILLS

Unless otherwise agreed between you and ANZ, if on the Rollover Date for a Bill, ANZ is obliged to discount one or more replacement Bills, ANZ or you (as the case may be) are only obliged to pay the net amount as between:

- (a) the amount equal to the Face Value of the maturing Bill(s) payable by you to ANZ on that date; and
- (b) the amount payable by ANZ to you under Specific Condition 3, on discounting the replacement Bill(s).

## 9. YOU INDEMNIFY ANZ

You indemnify ANZ against all loss and liability that ANZ may incur as acceptor of each Bill except to the extent that such loss or liability was caused by ANZ's fraud, negligence or willful misconduct. Your obligations under this indemnity are absolute and unconditional. Your obligations are not at any time affected by set-off, deduction, counter claim or defence or anything that, but for this provision, might operate to relieve you from any of these obligations.

## 10. ACKNOWLEDGMENT

You acknowledge that:

- (a) it is difficult to predict with any certainty the future movements in interest rates;
- (b) the Yield Rate Costs of a Bills Contract may exceed those that would apply for a variable rate Facility;
- (c) you are responsible in any way for any costs or losses that you may suffer or incur in connection with future movements of interest rates in the market;
- (d) in accepting the Terms of each Bills Contract you rely on your own assessment of future movements in interest rates;
- (e) for the purposes of the ANZ Business Banking Finance Conditions of Use provided to you, these Specific Conditions of Use are part of your agreement with ANZ and should be read in conjunction with those conditions and the letter of offer;

- (f) words and expression not defined in these Specific Conditions of Use have the meanings given to them in the ANZ Business Banking Finance Conditions of Use or the letter of offer; and
- (g) if there is an inconsistency between a Confirmation and any of these Specific Conditions of Use, the ANZ Business Banking Finance Conditions of Use and the letter of offer, the Confirmation prevails.

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