

ANZ International Trade Services Terms & Conditions

Version: January 2009





This document contains specific and general terms and conditions which apply in respect of the following ANZ International Trade Services products and services:

Part A – Imports

- Import Documentary Credit
- ImportLink
- Release or Air Waybill/Customs Assessment Notice/Consignments and missing Bill of Lading
- Import Collection

Part B – Exports

- Export Documentary Credit
- Export Documentary Credit – Issue Transfer
- Export Documentary Credit – Assignment of Proceeds
- Export Collection
- ExportLink (general terms and conditions only)

Part C – Standbys and Guarantees

- Standby Letter of Credit
- Bid, Performance and Tender Bond
- Demand Guarantee

Part D – Trade Finance Loan Facility

Part E – General Conditions

In these terms and conditions

- **“ANZ”** means Australia and New Zealand Banking Group Limited ABN 11 005 357 522; and
- the **“Customer”** means any person or entity that applies for, and is issued with, any ANZ product or service covered by these terms and conditions.

ANZ recommends that the Customer reads all documentation that is provided to it in respect of an ANZ product or service (including these terms and conditions) and that the Customer asks ANZ about any issues that concern the Customer, **before** the Customer applies to acquire any such product or service.

All applications for products or services covered by these terms and conditions must be in the form specified by ANZ from time to time.

ANZ is not under any obligation to approve or otherwise act upon any application made by the Customer. All applications are subject to ANZ’s normal requirements and approval.

WARNING

- Fluctuations in the exchange rate of currencies occur from time to time. These fluctuations may mean the amount of any liability of the Customer to ANZ in Australian dollars for a loan or other credit facility issued in foreign currency could be significantly more than the Australian dollar equivalent of the original amount (in Australian dollars) of the loan or other credit facility.*
- While ANZ will inform the Customer of the availability of mechanisms, if they exist, for limiting the risks associated with fluctuations in the exchange rate of currencies, it is not ANZ’s role or responsibility to advise in relation to, monitor, manage or in any way take steps designed to protect the Customer’s exposure to loss as a result of fluctuations in the exchange rate of currencies from time to time. ANZ is not obliged to notify the Customer of fluctuations in exchange rates.*



Part A – Imports Specific Terms and Conditions

I. Import Documentary Credit

The terms and conditions set out in this Part A.I apply in respect of any Import Documentary Credit (“**Credit**”) Application from the Customer and subsequently issued by ANZ.

1. ICC Rules

The Credit is issued subject to the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits and the International Chamber of Commerce Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits in each case, current at the time of issuance.

2. Goods and Documents

2.1 The Customer agrees that:

- (a) all goods or produce the subject of the Credit (the “**Goods**”);
- (b) all documents of title, insurance policies or other documents representing or relating to the Goods (the “**Documents**”)

now or at any time delivered to or deposited with ANZ have been or will be so delivered or deposited by way of pledge as security for payment on demand to ANZ of all sums of money which now or at any time may become due or owing or may be accruing or become due to ANZ by the Customer together with, in all cases, interest, on a full indemnity basis, incurred in relation to this security or the enforcement of it (the “**Secured Indebtedness**”) and so that interest shall be computed (after as well as before any demand or judgment) according to the usual mode of ANZ in dealing with current accounts.

2.2 As further security for payment of the Secured Indebtedness, the Customer agrees at any time and from time to time on demand, to deliver, convey, transfer or assign to ANZ additional security of a value and character satisfactory to ANZ, or to make such payment as ANZ may require.

2.3 The Negotiating Bank is to forward the Documents and the drafts to ANZ together with their reimbursement claim.

3. Customer’s liability in respect of the Credit

3.1 The Customer must pay to ANZ:

- (a) all amounts paid by ANZ under the Credit on the day on which ANZ makes or is required to make that payment; and
- (b) all commissions, fees, charges, interest on overdue payments and expenses (incurred or to be incurred) under or in connection with the Credit.

3.2 If any amount payable by ANZ under the Credit is payable in a currency (the “**Payment Currency**”) other than the currency of the Customer’s account from which ANZ is entitled to debit that payment (the “**Account Currency**”), then:

- (a) ANZ will make the payment in the Payment Currency; and
- (b) the Customer must pay to ANZ an equivalent amount in the Account Currency, determined on the basis of ANZ’s ruling selling rate of exchange at the time ANZ is required to make the payment in the Payment Currency or at a rate pre-arranged between ANZ and the Customer by way of a forward exchange contract.

Details of ANZ’s ruling selling rate of exchange are available by contacting the Customer’s Relationship Manager or Product Specialist.

3.3 The Customer indemnifies ANZ against and must pay ANZ on demand the amount of, all losses, liabilities, costs and expenses (including legal expenses on a full indemnity basis and taxes) incurred by ANZ in connection with the Credit issued under these terms and conditions, including (but not limited to):

- in relation to any claim that is made or attempted to be made under the Credit; or
- ANZ acting on any representations made by the Customer to ANZ relating to this Credit; or
- any failure or refusal on the part of ANZ to honour this Credit because of a Court Order or other similar obligation, or because ANZ is of the view that a transaction to which this Credit relates is tainted by fraud.

This indemnity shall survive termination or expiration of the Credit.

3.4 If the Customer takes delivery of the Goods before advice of negotiation or presentation of drafts or documents, the Customer must pay to ANZ, on demand, an amount equal to the equivalent of the full invoice value of those Goods.

4. Making payments under the Credit

4.1 ANZ is entitled to pay any amount under the Credit that it believes in good faith to have been properly demanded under the Credit.

4.2 The Customer acknowledges that the Credit is by its nature a separate transaction from any contract between the Customer and any other party on which the Credit may be based. As such, the Customer acknowledges that ANZ is not obliged to notify the Customer prior to making a payment or accepting drafts, claims or drawings under the Credit. The Customer further acknowledges that ANZ is entitled to make any payment or accept any draft, claim or drawing under the Credit if it determines that the Documents comply with the terms of the Credit notwithstanding notice from the Customer of any claim or defence the Customer may have against the beneficiary of the Credit.



4.3 If ANZ determines that any Documents do not appear on their face to be in compliance with the terms and conditions of the Credit, ANZ may refuse the Documents by notice to the Presenting Bank or by notice to the beneficiary if it received the Documents directly from the beneficiary. The Customer acknowledges that ANZ is not obliged to notify the Customer of any such determination or refusal or to seek the Customer's waiver of any discrepancies before refusing the Documents. The Customer further acknowledges that any decision by ANZ to seek a waiver at any time does not oblige ANZ to seek a waiver at any other time in respect of any other discrepancies.

4.4 The Customer agrees that ANZ is entitled, at its discretion and at the Customer's cost:

- (a) to request any Negotiating Bank to notify ANZ by teletransmission or other expeditious means, of the amount negotiated; and
- (b) to pay such amount under the Credit on receipt of such notice.

4.5 If the Customer requests ANZ to authorise release or delivery of the Goods to the Customer, the Customer agrees that ANZ may treat such a release as if it was a payment made by ANZ under the Credit.

4.6 The Customer acknowledges that ANZ may disclose information about the Customer to any person making a claim under the Credit.

5. Funding

5.1 The Customer authorises ANZ, without prior notice, to debit at any time from any account held by the Customer with ANZ:

- (a) all amounts paid by ANZ under the Credit on the day on which ANZ makes or is required to make that payment; and
- (b) all commissions, fees, charges, interest on overdue payments and expenses (incurred or to be incurred) under or in connection with the Credit, as and when incurred.

5.2 The Customer must ensure that sufficient funds are available in the Customer's accounts held with ANZ (either as available credit funds or as approved or available overdraft funds) so that the debits authorised under this clause can be made on time.

5.3 If at the time there are insufficient funds available in the Customer's accounts held with ANZ to allow the debits authorised under this clause to be made on time, the Customer:

- (a) authorises ANZ to advance the Customer an amount equal to any shortfall; and
- (b) agrees to pay interest on the amount so advanced from (and including the day on which the advance is made to (but excluding) the day on which that amount is paid (plus accrued interest) in full, at the current interest rate applicable to such advances.

5.4 Details of the current interest rates applicable to any amounts advanced in respect of Credits are available by contacting the Customer's Relationship Manager or Product Specialist.

6. Term Drawings

6.1 If, prior to the payment in full of the Secured Indebtedness, ANZ releases to the Customer the Documents or any of them to enable the Customer to obtain delivery of the Goods, the Customer must:

- (a) hold the documents, the Goods and the proceeds of any sale or other disposal of the Goods in trust for ANZ;
- (b) ensure that the Goods are clearly externally marked and identified as belonging to ANZ and are stored at all times separately from other goods;
- (c) keep the Goods duly insured, in ANZ's name, against fire, theft, loss, damage and all other risks;
- (d) immediately upon receipt of the proceeds of any sale or other disposal of the Goods, pay such proceeds to ANZ, without deduction; and
- (e) if required by ANZ, do all things necessary to give ANZ full authority to receive from any purchaser, any outstanding proceeds of any sale or other disposal of the Goods.

6.2 The Customer acknowledges and agrees that, where this clause applies:

- (a) the Customer has no claim, lien or set-off of any kind in respect of anything which the Customer holds on trust for ANZ under this clause;
- (b) the Goods shall remain the property of ANZ until sold or otherwise disposed of; and
- (c) any proceeds of sale or other disposal paid to ANZ in accordance with this clause, may be appropriated and applied by ANZ, as it thinks fit.

7. Buyer's Care Insurance

Where the Credit is opened on the basis of Insurance Buyer's Care, the Customer agrees:

- (a) to insure the Goods from loss or capture at sea in a manner satisfactory to ANZ, and to provide a copy of that insurance policy and all receipts for current premiums to ANZ, on request; and
- (b) if the insurance policy provided to ANZ in accordance with paragraph (a) is not acceptable to ANZ, that ANZ may effect further or other insurance (including War Risk) in respect of the Goods, and the Customer must reimburse to ANZ the cost of any such insurance.



8. Remedy on default

If the Customer fails to observe any of its obligations in respect of the Credit, ANZ may, without notice to the Customer (and without prejudice to any of its other rights and remedies) cause the Goods (or any part thereof), to be landed, stored, insured, and/or sold (or sold without landing) or otherwise disposed of on such terms and for such consideration, as ANZ considers appropriate, in which circumstance:

- (a) ANZ is not liable for any loss suffered by the Customer as a consequence of such action;
- (b) the Customer must pay to ANZ, on demand, an amount equal to:
 - (i) the Customer's liability to ANZ in respect of the Documentary Credit; and
 - (ii) the costs and expenses incurred by ANZ in respect of any actual or attempted landing, storage, insurance, sale or other disposal of the Goods,less the net proceeds (if any) of any sale or disposal of the Goods; and
- (c) the Customer must do any thing which includes endorse, assign, sign, execute and deliver any transfers, deeds or documents (or arrange any such matters) which ANZ requires in order to perfect ANZ's title to the Goods or to otherwise give effect to any proposed landing, storage, insurance, sale or other disposal.

9. Irrevocable

9.1 A Credit is irrevocable. Subject to this clause, it cannot be cancelled or altered without the written agreement of all relevant parties.

9.2 ANZ may make alterations to the Customer's requested wording of or other information contained in the Credit, including altering the requested Advising and/or Negotiating Bank, if in ANZ's opinion, such alterations will clarify, correct or otherwise improve the wording of or other information contained in the Credit.

10. Responsibility and liability

10.1 All instructions and correspondence relating to the Credit will be sent at the Customer's risk and ANZ is not responsible for any omissions, errors or delays on the part of postal or teletransmission companies or authorities.

10.2 The Customer must comply with all laws, and pay all charges, duties and taxes relating to the Goods and the export or import of Goods as well as all freight and other amounts payable under any contract of carriage. The Customer indemnifies ANZ in respect of any costs or other liabilities that may arise as a consequence of the importation of the Goods which may be prohibited by law from import into the country of destination.

10.3 Neither ANZ nor any other bank relating to the Credit are responsible:

- (a) for the genuineness, correctness or validity of the drafts or of any of the Documents received by it;
- (b) in respect of any misrepresentation or breach of condition or warranty by any person as to the description, quantity, quality or value of any Goods;
- (c) for any detention, loss of, or damage to, the Goods;
- (d) for the shippers' charges on the Goods;
- (e) for any variations in the instructions agreed to by ANZ or any other bank relating to the Credit necessitated by the law and/or commercial practice of the country in which any draft is negotiated or presented for acceptance or for payment.

II. Importlink

The terms and conditions set out above in Part A.I (Import Documentary Credit) also apply in respect to Import Documentary Credits issued through ImportLink.

III. Release of Air Waybill/Customs Assessment Notice/Consignments and missing Bill of Lading

The terms and conditions set out in this Part A.III apply if, on the Customer's application, ANZ:

- endorses a guarantee signed by the Customer to a shipping company or its agent, to enable the Customer to obtain replacement Bills of Lading and/or delivery without production of the Bills of Lading for goods ex various vessels, with a value advised in the Customer's application; or
- releases to the Customer Air Waybills and Customs Assessment Notices or control of consignments covered by these documents before ANZ receives payment.

11. Indemnity

11.1 The Customer indemnifies ANZ against and must pay to ANZ on demand, the amount of, all losses, liabilities, costs and expenses (including legal expenses on a full indemnity basis and taxes) incurred by ANZ:

- (a) in connection with the Missing Bills of Lading Indemnity/ Guarantee; or
- (b) as a result of delivering Air Waybills or Customs Assessment Notices or control of consignments to the Customer.

This indemnity is irrevocable and may only be cancelled at ANZ's discretion and shall not affect ANZ's rights as pledgee.



12. Payment of Consignor's and carrier's invoices

12.1 The Customer undertakes to pay ANZ the amount of the Consignor's or any carrier's invoices on demand. If an invoice is expressed in foreign currency the Customer may make the payment of the amount of the invoice in that foreign currency or of an equivalent amount in AUD, in which case, the conversion rate to AUD will be ANZ's ruling selling rate of exchange at the time the Customer is required to make the payment. (Details of ANZ's ruling selling rate of exchange are available by contacting the Customer's Relationship Manager or Product Specialist.)

12.2 The Customer acknowledges that where ANZ pays the amount of the Consignor's or any carrier's invoices:

- (a) title of the goods the subject of the invoices passes to ANZ until such time as the Customer reimburses ANZ in full (together with any accrued interest); and
- (b) risk in the goods the subject of the invoices remains with the Customer at all times.

12.3 The Customer authorises ANZ, without prior notice, to debit at any time from any account held by the Customer with ANZ:

- (a) all amounts ANZ may be called upon to pay as a consequence of endorsing the guarantee; and
- (b) all costs, charges and expenses incurred in connection with making any such payment.

13. Return of guarantee

Upon receipt of the relevant Bills of Lading, the Customer must provide all originals of the Bills of Lading to the Shipping Company or its agent and must return the Guarantee to ANZ.

14. Compliance with laws

The Customer must comply with all laws, and pay all charges, duties and taxes relating to the Goods and the export or import of Goods as well as all freight and other amounts payable under any contract of carriage. The Customer indemnifies ANZ in respect of any costs or other liabilities that may arise as a consequence of the importation of the Goods which may be prohibited by law from import into the country of destination.

15. Import Documentary Credit

The Customer acknowledges that any request for ANZ to authorise release or delivery of a shipment of goods drawn under an Import Documentary Credit, will be treated as if it was payment made by ANZ under that Credit.

IV. Import Collection

Additional terms and conditions applicable to any Import Collection sent to the Customer by ANZ will be outlined in the relevant correspondence attached to the Import Collection.

ICC Rules

The Import Collection will be subject to the International Chamber of Commerce Uniform Rules for Collections current at the time of issuance.

PART B – Exports Specific Terms and Conditions

I. Export Documentary Credit

The terms and conditions set out in this Part B.I apply if, on the Customer's application, ANZ agrees to negotiate and/or confirm an Export Documentary Credit (the "**Export Documentary Credit**").

16. ICC Rules

These terms and conditions are subject to the International Chamber of Commerce current Uniform Customs and Practice for Documentary Credits and current Uniform Rules for Bank-to-Bank Reimbursements under Documentary Credits.

17. Negotiation

17.1 The application lodged by the Customer must be accompanied by documents and drafts for presentation under the Export Documentary Credit.

17.2 If ANZ or its contractor issues a discrepancy notice to the Customer noting certain discrepancies in or concerning the documents and drafts presented for negotiation (a "**Discrepancy Notice**") and the Customer provides instructions to ANZ or its contractor to negotiate the Customer's draft under the Export Documentary Credit notwithstanding the discrepancies, the Customer agrees that if the draft should be dishonoured or ANZ's claim under the Export Documentary Credit not be honoured, the Customer shall repay ANZ on demand:

- (a) the amount of the draft or the amount of the claim in each case; and
- (b) interest on that amount at ANZ's current lending rate from time to time for that currency, calculated from the date the draft or claim was negotiated until the date of repayment; and
- (c) all charges incurred by ANZ; and
- (d) to indemnify ANZ on demand against all damages, losses, costs and expenses whatsoever which ANZ may incur or be liable for as a result of negotiating the draft or claim as a result of the irregularities with the underlying Export Documentary Credit.

18. Confirmation

If the Customer applies to have ANZ confirm the Export Documentary Credit, ANZ will, if it accepts that application, notify the Customer of the basis on which ANZ accepts that application, including any additional terms and conditions.

19. Crediting proceeds

19.1 As indicated in the application, the Customer either makes an application to ANZ to:

- (a) negotiate and credit proceeds immediately to account(s) specified; or
- (b) negotiate and credit proceeds to account(s) specified when payment is received from the Reimbursing Bank.



19.2 (Interest) If ANZ accepts an application to negotiate and credit proceeds immediately, the Customer must pay interest:

- (a) in arrears, when the amount is received by ANZ from the Reimbursing Bank;
- (b) on the amount credited;
- (c) from (and including) the day on which the amount is credited to (but excluding) the day on which that amount is received by ANZ from the Reimbursing Bank; and
- (d) at the current rate applicable to such advances.

Details of applicable interest rates are available by contacting the Customer's Relationship Manager or Product Specialist.

19.3 (Exchange Rates) If ANZ accepts an application to negotiate and credit proceeds in a currency other than AUD, then ANZ will credit the proceeds in AUD, converted on the basis of ANZ's ruling buying rate of exchange at the time ANZ is required to make the payment in that currency or at a rate pre-arranged between ANZ and the Customer by way of a forward exchange contract.

Details of ANZ's ruling buying rates are available by contacting the Customer's Relationship Manager or Product Specialist.

II. Export Documentary Credit – Issue Transfer

The terms and conditions set out in this Part B.II apply if, on the Customer's application, ANZ agrees to issue a transfer (a **"Transfer"**) under an Export Documentary Credit (the **"Export Documentary Credit"**).

20. ICC Rules

The Transfer is subject to the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits current at the time of the Transfer.

21. Delivery of drafts

21.1 The Customer undertakes to deliver to ANZ their drafts and commercial invoices drawn in conformity with the terms of the Export Documentary Credit at first request. The Customer requests that ANZ substitute their drafts and invoices for those presented by the second beneficiary, and deliver to the Customer the invoices of the second beneficiary together with ANZ's payment advice for the amount by which the Customer's drafts exceed the amount of the drafts of the second beneficiary, less any expense or charges due to ANZ.

21.2 If the Customer fails to deliver their drafts and invoices to ANZ in conformity with the terms and conditions of the Export Documentary Credit, ANZ is hereby authorised to forward the documents accompanying the drafts of the second beneficiary without any responsibility on ANZ's part to pay the Customer the difference between the amount of the second beneficiary's drafts and the amount authorised to be paid under the Export Documentary Credit.

III. Export Documentary Credit – Assignment of Proceeds

The terms and conditions set out in this Part B.III apply if, on the Customer's application, ANZ agrees to issue an assignment of proceeds (an **"Assignment"**) under an Export Documentary Credit (the **"Export Documentary Credit"**).

22. ICC Rules

The Assignment is subject to the International Chamber of Commerce Uniform Customs and Practice for Documentary Credits current at the time of the Assignment.

23. Assignment instruction

23.1 An Assignment instruction issued by the Customer is an irrevocable and unconditional instruction as to assignment of all or part of (as notified in the Assignment instruction) the proceeds of an Export Documentary Credit.

23.2 All Assignment instructions are irrevocable unless the payee of the Assignment (the **"Payee"**) gives written authority to cancel it, and the Payee may request alternative disbursement arrangements. ANZ undertakes not to assign any further rights to the proceeds under the said Export Documentary Credit, nor issue additional instructions for payment thereof.

24. Conditions

All Assignments shall only occur if compliant documentation is presented under the Export Documentary Credit and the subsequent reimbursement claim is honoured by the issuing bank of the Export Documentary Credit.

25. Customer's acknowledgements

25.1 The Customer acknowledges that ANZ will only act upon the Customer's instructions to assign proceeds of a successful negotiation to the Payee and is not being asked to add ANZ's commitment, either actual or implied, to the arrangements entered into between the Payee and the Customer which have resulted in the issuance of the Assignment.

25.2 The Customer further acknowledges that if a "with recourse" drawing is subsequently not met by the issuing/reimbursing bank for any reason, the Customer remains responsible to reimburse ANZ for all amounts paid under the Assignment.

26. Customer's representations

26.1 The Customer represents that they have the power to make Assignments under the Export Documentary Credit(s) and to the best of their knowledge that no payment under the Assignment(s) could be avoided by law or will be encumbered or subject to any other claims.

26.2 The Customer acknowledges that ANZ will rely on the Customer's representations and the information contained in all Assignment instructions delivered to ANZ (in written or electronic form) and that ANZ will make no further or independent enquiries into such matters.



IV. Export Collection

The terms and conditions set out in this Part B.IV apply if ANZ accepts the Customer's application for an Export Collection ("**Collection**").

27. ICC Rules

The Collection is subject to the International Chamber of Commerce Uniform Rules for Collections current at the time of the Collection.

28. Collection

If ANZ agrees to act on a request to send documents for collection pursuant to an application, ANZ will act in accordance with the instructions included in that application.

29. Negotiation

29.1 If ANZ approves and acts on an application to negotiate a bill, or to advance against document(s) sent on collection pursuant to an application, ANZ retains all its rights of recourse to the Customer on the bill or document(s) unless the document(s) are advanced on a "without recourse" basis.

29.2 (Interest) If ANZ accepts an application to negotiate a bill, or to advance against documents(s) sent on collection, the Customer must pay interest:

- (a) in arrears, when the amount is received by ANZ from the Reimbursing Bank;
- (b) on the amount credited or advanced;
- (c) from (and including) the day on which the amount is credited or advanced to (but excluding) the day on which that amount is received by ANZ from the Reimbursing Bank; and
- (d) at the current rate applicable to such advances. Details of applicable interest rates are available by contacting the Customer's Relationship Manager or Product Specialist.

29.3 (Exchange Rates) If ANZ accepts an application to negotiate a bill, or to advance against documents(s) sent on Collection, in a currency other than AUD, then ANZ will credit the proceeds in AUD, converted on the basis of ANZ's ruling buying rate of exchange at the time ANZ is required to make the payment in that currency or at a rate pre-arranged between ANZ and the Customer by way of a forward exchange contract.

Details of ANZ's ruling buying rates are available by contacting the Customer's Relationship Manager or Product Specialist.

30. Proceeds

ANZ shall pay the proceeds of the Collection to the Customer only when ANZ receives clear authenticated advice of payment from the collecting bank. ANZ shall not be liable in any way including negligence for ANZ receiving late advice of payment, or for loss or delay in communication, or delays, errors or omissions in communication.

31. Collection bank

31.1 ANZ shall not be liable for, and the Customer indemnifies ANZ against, any losses, damages, claims, demands, suits or proceedings that may be brought due to any act, omission or default on the part of any collecting bank, settlement bank, or other bank used in the Collection by the Customer as their agent; or resulting from the Customer selecting an incorrect collecting bank, settlement bank, or other bank as their agent.

31.2 ANZ accepts no responsibility for any act, omission or default on the part of any collection bank selected by the Customer or recommended by ANZ.

V. Exportlink

The terms and conditions set out in the ANZ ExportLink Conditions of Use (attached to the Customer's application for ANZ ExportLink) apply if ANZ accepts the Customer's application to be provided with ANZ ExportLink.

PART C – Standbys and Guarantees Specific Terms and Conditions

Standby Letter of Credit, Performance Standby, Advance Payment Standby, Bid Bond/Tender Bond Standby, Counter Standby, Financial Standby, Direct Pay Standby, Insurance Standby, Commercial Standby and Demand Guarantee (the “**Instruments**”)

The terms and conditions set out in this Part C apply in respect of any applications for the above Instruments, received from the Customer and subsequently issued by ANZ.

32. ICC Rules

Each Standby will be issued subject to the International Chamber of Commerce International Standby Practices current at the time of issuance.

Each Demand Guarantee will be issued subject to the International Chamber of Commerce Uniform Rules for Demand Guarantees current at the time of issuance.

33. Customer’s liability in respect of the Instruments

33.1 The Customer must pay to ANZ:

- (a) all amounts paid by ANZ under the Instrument on the day on which ANZ makes or is required to make that payment; and
- (b) all commissions, fees, charges, interest on overdue payments and expenses (incurred or to be incurred) under or in connection with the Instrument.

33.2 If any amount payable by ANZ under the Instruments is payable in a currency (the “**Payment Currency**”) other than the currency of the Customer’s account from which ANZ is entitled to debit that payment (the “**Account Currency**”), then:

- (a) ANZ will make the payment in the Payment Currency; and
- (b) the Customer must pay to ANZ an equivalent amount in the Account Currency, determined on the basis of ANZ’s ruling selling rate of exchange at the time ANZ is required to make the payment in the Payment Currency or at a rate pre-arranged between ANZ and the Customer by way of a forward exchange contract.

Details of ANZ’s ruling selling rate of exchange are available by contacting the Customer’s Relationship Manager or Product Specialist.

33.3 The Customer indemnifies ANZ against and must pay ANZ on demand the amount of, all losses, liabilities, costs and expenses (including legal expenses on a full indemnity basis and taxes) incurred by ANZ in connection with the Instrument issued under these terms and conditions, including (but not limited to):

- in relation to any claim that is made or attempted to be made under the Instrument; or
- ANZ acting on any representations made by the Customer to ANZ relating to this Instrument; or

- any failure or refusal on the part of ANZ to honour this Instrument because of a Court Order or other similar obligation, or because ANZ is of the view that a transaction to which this Standby relates is tainted by fraud.

This indemnity shall survive termination or expiration of the Instrument.

34. Making payments under the Instrument

34.1 The Customer acknowledges that the Instrument is by its nature a separate transaction from any contract between the Customer and any other party on which the Instrument may be based. As such, the Customer acknowledges that ANZ is not obliged to notify the Customer prior to making a payment or accepting drafts, claims or drawings under the Instrument.

34.2 ANZ is entitled to pay to the beneficiary any amount (not exceeding, in aggregate, the amount specified above) under the Instrument that ANZ believes in good faith to have been properly demanded under the Instrument. ANZ shall not be required to make reference to, enquiry of or to take account of statements from the Customer or any other party.

34.3 If ANZ determines, in good faith, that a demand under the Instrument is not in compliance with the terms and conditions of a Instrument, ANZ may refuse the demand by notice to the bank from which it received the demand and any documents or by notice to the beneficiary if it received the demand directly from the beneficiary. The Customer acknowledges that ANZ is not obliged to notify the Customer of any such determination or refusal or to seek the Customer’s waiver of any discrepancies before refusing the demand. The Customer further acknowledges that any decision by ANZ to seek a waiver at any time does not oblige ANZ to seek a waiver at any other time in respect of any other discrepancies.

34.4 The Customer agrees that ANZ is entitled, at its discretion and at the Customer’s cost:

- (a) to request any bank negotiating under this Instrument to notify ANZ by teletransmission or other expeditious means, of the amount negotiated; and
- (b) to pay such amount under the Instrument on receipt of such notice.

34.5 ANZ may, at any time, discharge all its obligations under the unexpired Instrument by paying, whether or not ANZ has received a demand, the undrawn amount of the unexpired Instrument (or such lesser amount that the beneficiary requires) to the beneficiary or the successor in title to the beneficiary. On discharge of the unexpired Instrument by ANZ the Customer will be liable for (and must pay ANZ on demand) all amounts which ANZ has paid to the beneficiary or the successor in title to the beneficiary.

34.6 The Customer acknowledges that ANZ may disclose information about the Customer to any person making a claim under the Instrument.



35. Funding

35.1 The Customer authorises ANZ, without prior notice, to debit at any time from any account held by the Customer with ANZ:

- (a) all amounts paid by ANZ under the Instrument on the day on which ANZ makes or is required to make that payment; and
- (b) all commissions, fees, charges, interest on overdue payments and expenses (incurred or to be incurred) under or in connection with the Instrument, as and when incurred.

35.2 The Customer must ensure that sufficient funds are available in the Customer's accounts held with ANZ (either as available credit funds or as approval or available overdraft funds) so that the debits authorised under this clause can be made on time.

35.3 If at the time there are insufficient funds available in the Customer's accounts held with ANZ to allow the debits authorised under this clause to be made on time, the Customer:

- (a) authorises ANZ to advance the Customer an amount equal to any shortfall; and
- (b) agrees to pay interest on the amount so advanced from (and including the day on which the advance is made to (but excluding) the day on which that amount is paid (plus accrued interest) in full, at the current interest rate applicable to such advances.

35.4 Details of the current interest rates applicable to any amounts advanced in respect of the Instrument are available by contacting the Customer's Relationship Manager or Product Specialist.

36. Irrevocable

36.1 An Instrument is irrevocable. Subject to this clause, it cannot be cancelled or altered without the written agreement of all relevant parties.

36.2 ANZ may make alterations to the Customer's requested wording of or other information contained in the Instrument, including altering the requested Advising and/or Negotiating Bank, if in ANZ's opinion, such alterations will clarify, correct or otherwise improve the wording of or other information contained in the Instrument.

37. Responsibility and liability

37.1 All instructions and correspondence relating to the Instrument will be sent at the Customer's risk and ANZ is not responsible for any omissions, errors or delays on the part of the postal or teletransmission companies or authorities.

37.2 Neither ANZ nor any of its Correspondents are responsible for the genuineness, correctness or validity of any drafts or documents received by it.

PART D – Trade Finance Loan Facility Specific Terms and Conditions

Trade Finance Loan Facility – Australian and Foreign Currency

The terms and conditions set out in this Part D apply in respect of any application or drawing made by the Customer under the Customer's Trade Finance Loan Facility for a Trade Finance Loan ("**Loan**") which is accepted by ANZ.

38. Applications for Trade Finance Loans

38.1 The Customer may only make an application for a Loan if the Customer has an approved Trade Finance Loan Facility. (To avoid doubt, the Customer's Trade Finance Loan Facility is also subject to the terms and conditions set out in the Customer's Facility Agreement or Letter of Offer issued by ANZ (as the case may be).)

38.2 Each application must provide the following details for each Loan required:

- Currency
- Amount
- Term (number of days)
- Commencement Date
- Maturity Date
- Details of Shipment
- Full Disbursement Instructions
- Repayment instructions.

38.3 All applications must be lodged by the Customer by mail or facsimile on the day the Loan is required to be drawn.

39. Interest

Interest payable on each Loan will be:

- (a) calculated from (and including) the Commencement Date for that Loan to (but excluding) the Maturity Date for that Loan; and
- (b) at an interest rate equal to the sum of:
 - (i) ANZ's interest rate for trade finance loans (in the currency and for the term of the Loan) current on the Commencement Date for that Loan; and
 - (ii) margin agreed to by the Customer in the Facility Agreement or Letter of Offer issued by ANZ, or agreed between ANZ and the Customer in respect of that Loan

(the "**Interest**").

Details of applicable interest rates are available by contacting the Customer's Relationship Manager or Product Specialist.



40. Repayment

40.1 On the Maturity Date, the Customer must repay the Loan and any outstanding Interest (the “**Total Debt**”) in the currency in which it is drawn by either:

- (a) crediting the Total Debt or any part of the Total Debt outstanding to ANZ ID Melbourne account with any overseas bank nominated by ANZ; or
- (b) authorising ANZ to debit the Customer’s foreign currency account or current account.

40.2 If, at the Customer’s request, ANZ agrees to the prepayment of the Total Debt in full or in part before the Maturity Date, the Customer accepts that an interest adjustment may occur.

40.3 If the Customer fails to repay the Total Debt in full on the Maturity Date, the Customer authorises ANZ, without prior notice to debit the Total Debt from any account held by the Customer with ANZ.

40.4 If the Total Debt is in a currency (the “**Loan Currency**”) other than the currency of the Customer’s account from which ANZ is entitled to debit the Total Debt (the “**Account Currency**”), then ANZ will be entitled to debit an equivalent amount in the Account Currency, determined on the basis of ANZ’s ruling selling rate of exchange at the Maturity Date, or a rate pre-arranged between ANZ and the Customer by way of a forward exchange contract.

Details of ANZ’s ruling selling rate of exchange are available from the Customer’s Relationship Manager or Account Manager.

41. Bills of Exchange

41.1 At any time during the term of the Loan ANZ may arrange for the drawing and execution in the Customer’s name, of a bill of exchange in the currency of the Loan (each bill of exchange, a “**Bill**”) on any agency or office of ANZ or any other office of ANZ’s subsidiary companies or correspondents, provided that:

- (a) the maturity date of any such bill(s) is not later than the Maturity Date;
- (b) ANZ pays any charges, fees or government imposts relating to the Bills; and
- (c) the Customer’s responsibility to ANZ is limited to repaying the Total Debt on or before the Maturity Date.

41.2 The Customer appoints ANZ, and each authorised officer of ANZ appointed for this purpose, severally, as its attorney to sign and/or endorse each Bill drawn and executed by ANZ under this clause on the Customer’s behalf, and to complete the Bill in accordance with this clause.

PART E – General Conditions

The following terms and conditions apply in respect of all of the products and services referred to in all preceding parts.

42. ANZ Fees and Charges

42.1 The Customer agrees to pay to ANZ all fees and charges which apply in respect of the product or service provided by ANZ to the Customer. The Customer authorises ANZ to debit the Customer’s specified account for these fees and charges.

42.2 The relevant fees and charges which currently apply are contained in the most recently published version of the ANZ International Trade Services booklet. (For a copy, ask your Relationship Manager or Product Specialist).

42.3 ANZ may vary these fees and charges and may introduce new fees and charges. If ANZ does so, ANZ will give the Customer 30 days prior notice.

42.4 ANZ must, upon request, provide to the Customer, details of the then current fees and charges.

43. Other expenses

43.1 The Customer agrees to pay all charges levied on ANZ by any third party (including any Correspondent or Negotiating Bank) in respect of the product or service.

43.2 The Customer will comply with all governmental exchange regulations applicable to the product or serviced provided by ANZ to the Customer and will pay ANZ on demand such amount as ANZ may be required to expend on account for such regulations.

44. Anti-Money Laundering and Sanctions

44.1 The Customer agrees that ANZ may delay, block or refuse to process any transaction without incurring any liability if ANZ suspects that:

- (a) the transaction may breach any laws and regulations applicable to that transaction;
- (b) the transaction 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; or
- (c) the transaction may directly or indirectly involve the proceeds of, or be applied for the purposes of, unlawful conduct.

44.2 The Customer must provide all information to ANZ which ANZ reasonably requires in order to manage anti-money laundering, counter-terrorism financing and economic and trade sanctions risk or to comply with any laws and regulations applicable to a transaction.

44.3 Unless the Customer has disclosed that it is acting in a trustee capacity or on behalf of another party, the Customer warrants that it is acting on its own behalf in entering into this agreement.



44.4 The Customer declares and undertakes to ANZ that processing of any transaction by ANZ in accordance with the Customer's instructions will not breach any laws or regulations applicable to the transaction.

45. Service failures and disruptions

45.1 ANZ accepts no responsibility and will not be liable for any loss or damage for any service failures or disruptions (including but not limited to, loss of data) attributable to a systems or equipment failure or due to reliance by ANZ on third party products or interdependencies including, but not limited to, electricity or telecommunications.

45.2 ANZ accepts no liability or responsibility for the consequences arising out of the interruption of its business by Acts of God, riots, civil commotions, insurrections, wars or any other causes beyond its control, or by strikes or lockouts.

46. Indemnity

46.1 The Customer indemnifies ANZ against, and must pay to ANZ on demand the amount of, all losses, liabilities, costs and expenses (including legal expenses on a full indemnity basis and taxes) incurred by ANZ in connection with the provision by ANZ to the Customer of any product or service in respect of which these terms and conditions apply, including but not limited to any loss, liability, cost or expense arising in relation to:

- (a) the genuineness, correctness or validity of any documents received by ANZ;
- (b) any representation, act or omission by the Customer; or
- (c) any failure, delay or refusal by the Customer to comply with these terms and conditions for any reason whatsoever (other than actual fraud or gross negligence by ANZ).

This indemnity shall survive termination or expiration of the provision of the product or service.

46.2 The Customer's obligations under any indemnity given in these terms and conditions (including in this clause) are absolute and unconditional. The Customer's obligations are not subject to any reduction, termination or other impairment by any set-off, deduction, counter claim agreement defence, suspension, deferment or anything which, but for this provision, might operate to relieve the Customer from any of these obligations.

46.3 The Customer's liability under these terms and conditions extends to and is not affected by any circumstance, act or omission which, but for this subclause, might otherwise affect its liability at law or in equity, including:

- (a) any falsity, inaccuracy, insufficiency or forgery of or in any demand, certificate, declaration or other document that on its face purports to be signed or authorised under or in respect of any product or service governed by these terms and conditions;
- (b) any failure by ANZ to enquire whether a communication has been inaccurately transmitted or received or has been sent by an unauthorised person;

- (c) the impossibility or illegality of performance of or any invalidity of or affecting any obligation that any product or service governed by these terms and conditions, is intended to secure, or any other agreement, document or transaction;
- (d) any act of a government agency (including a government, government department or other body, a governmental, semi-governmental or judicial person or any other person charged with the administration of a law) or any other person affecting the terms of any obligation any product or service governed by these terms and conditions, is intended to secure, or any other agreement, document or transaction;
- (e) any failure to obtain an authorisation (including any approval, authorisation, consent, exemption, filing, licence, notarisation, registration or waiver, howsoever described and any renewal of or variation of any of them) necessary or appropriate in connection with any obligation that any product or service governed by these terms and conditions, is intended to secure, or any other agreement, document or transaction;
- (f) any transfer or assignment or purported transfer or assignment of any product or service governed by these terms;
- (g) anything else (foreseen or unforeseen), whether or not similar to any of the above, that affects any obligation that any product or service governed by these terms and conditions is intended to secure, or any other agreement, document or transaction; or
- (h) the failure of any person to perform obligations under any contract or arrangement with respect to which any product or service governed by these terms and conditions, has been issued.

ANZ is not obliged to enquire into any of the above matters.

47. Limitation of liability

47.1 Except as expressly provided in this clause:

- (a) all terms, conditions, warranties, undertakings, inducements or representations whether express, implied statutory or otherwise relating in any way to the provision of any product or service by ANZ, are excluded; and
- (b) ANZ shall not be under any liability to the Customer in respect of any loss or damage (including consequential loss or damage) however caused which may be suffered or incurred or which may arise directly or indirectly in respect of the provision of any product or service by ANZ.

47.2 ANZ's liability will not be limited in respect of any direct loss suffered by the Customer arising from the negligence or fraud of ANZ or its employees in respect of the provision of any product or service by ANZ.



47.3 Where any law implies into these terms and conditions any term, condition or warranty and that law voids or prohibits provisions in a contract excluding or modifying the application or exercise of, or liability under such term, condition or warranty, such term, condition or warranty shall be deemed to be included in these terms and conditions. However, the liability of ANZ for any breach of such term, condition or warranty shall be limited, at ANZ's option to any one or more of the following:

- (a) if the breach relates to goods:
- (i) the replacement of the goods or the supply or equivalent goods;
 - (ii) the repair of such goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired; and
- (b) if the breach relates to services:
- (i) the supply of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

48. Complaint resolution procedure

If ANZ makes a mistake, or ANZ's product or service doesn't meet the Customer's expectations, ANZ wants to know.

For the fastest possible resolution to the Customer's complaint, ANZ recommends the Customer:

- Talk to its Relationship Manager or Product Specialist; or
- If unable to do so, talk to its Relationship Manager's or Product Specialist's immediate supervisor.

If the complaint can't be resolved promptly the Customer's Relationship Manager or Product Specialist (or their supervisor), will take responsibility and work with the Customer to fix the matter quickly. ANZ's aim is to resolve any complaint within 10 working days.

If this is not possible, ANZ will keep the Customer informed on the progress of the matter and how long ANZ expects it will take to resolve the Customer's complaint.

Financial Services Dispute Resolution Schemes

If the Customer is not satisfied with the steps taken by ANZ to resolve a complaint, or with the result of ANZ's investigation, the Customer may wish to contact an alternative dispute resolution scheme, such as:

Australian Banking Industry Ombudsman Limited
GPO Box 3A
Melbourne Vic 3001
Telephone: 1300 780 808
Fax: +61 3 9613 7345
Internet: <http://www.abio.org.au/>

49. Privacy

49.1 (Collection of Customer's information by ANZ) ANZ may collect the Customer's information:

- to assist in providing information about a product or service;
- to consider the Customer's request for a product or service;
- to enable ANZ to provide a product or service;
- to tell the Customer about other products or services that may be of interest to the Customer;
- to assist in arrangements with other organisations (such as loyalty partners) in relation to the promotion and provision of a product or service;
- to perform other administrative and operational tasks (including risk management, systems development and testing, credit scoring, staff training, and market or customer satisfaction research);
- to prevent or investigate any fraud or crime (or a suspected fraud or crime); and
- as required by relevant laws, regulations, Codes and external payment systems.

49.2 (Absence of relevant information) If the Customer does not provide some or all of the information requested, ANZ may be unable to provide the Customer with a product or service.

49.3 (Disclosures by ANZ) Subject to ANZ's general duties of confidentiality towards their customers, ANZ may need to disclose the Customer's information to:

- credit reporting or debt collecting agencies;
- an organisation that is in an arrangement or alliance with ANZ for the purpose of promoting or using their respective products or services (and any agents used by that organisation in administering such an arrangement or alliance);
- any service provider ANZ engages to carry out or assist its functions and activities;
- regulatory bodies, government agencies, law enforcement bodies and courts;
- other parties ANZ is authorised or required by law to disclose information to;
- other financial institutions (such as banks);
- the Customer's authorised agent, executor, administrator or legal representative.

49.4 (Accessing Customer's information held by ANZ) Subject to the provisions of the Privacy Act (if applicable), the Customer may access the Customer's information at any time by contacting the ANZ Relationship Manager or asking to do so at any ANZ branch. ANZ may charge the Customer a reasonable fee for access. If the Customer can show that information about the Customer is not accurate, complete and up to date, ANZ will take reasonable steps to ensure it is accurate, complete and up to date.



49.5 (Collecting the Customer's sensitive information) If the Customer is an individual, ANZ will not collect sensitive information about the Customer, such as health information, without the Customer's consent.

49.6 (Where the Customer supplies ANZ with personal information about someone else) If the Customer gives ANZ personal information about someone else or directs someone else to give their personal information to ANZ, the Customer will tell that person that:

- (a) ANZ is holding personal information about that person;
- (b) Personal information collected about that person will be used for the primary purpose of ANZ providing the services contemplated by this Agreement;
- (c) The person can access their information at any time by contacting the ANZ Relationship Manager or asking to do so at any ANZ branch. ANZ may charge a reasonable fee for access;
- (d) If the person can show that information about the person is not accurate, complete and up to date, ANZ will take reasonable steps to ensure it is accurate, complete and up to date; and
- (e) ANZ may give that person's information to any contractor or service provider ANZ engages to provide services connected with the Customer's relationship with ANZ.

49.7 (The Customer's consent to certain disclosures of information) The Customer agrees that ANZ may give the Customer's information to the following people and authorises these people to have access to the Customer's information:

- any contractor or service provider ANZ engages to provide services connected with the Customer's relationship with ANZ; and
- ANZ's related companies or alliance partners to enable them to decide if they want ANZ to tell the Customer about a product or service. Where the Customer does not want ANZ to tell the Customer about its products or services or those of its related companies or alliance partners, the Customer may withdraw the Customer's consent by calling 133 199 at any time.

50. Amendments to terms and conditions

ANZ may change the terms and conditions set out in any part of this document by written notice to the Customer. Such changes will take effect from the date indicated in the notice.

51. Other terms and conditions

51.1 These terms and conditions must be read in conjunction with:

- (a) any agreement between ANZ and the Customer; and
- (b) any other terms and conditions provided by ANZ to the Customer relevant to any product or service in respect of which these terms and conditions apply

("Other Terms").

51.2 If these terms and conditions are inconsistent with any Other Terms, then:

- (a) where the relevant Other Terms state that it prevails to the extent of the inconsistency, it shall so prevail over these terms and conditions; and
- (b) otherwise, these terms and conditions prevail to the extent of the inconsistency.

52. Code of Banking Practice

If the Customer is an individual or if the Customer is using ANZ's products and services in connection with a small business, ANZ is bound by the Code of Banking Practice when it provides its products and services to the Customer. A copy of the Code of Banking Practice is available on www.anz.com.

53. Financial difficulty

The Customer should inform ANZ as soon as possible if it is in financial difficulty. ANZ will, with the Customer's agreement, try and help the Customer to overcome its financial difficulties concerning any product or service, including for example, developing a repayment plan.

54. Governing law

This agreement is governed by the law in force in Victoria at any relevant time, and both the Customer and ANZ submit to the jurisdiction of the Supreme Court of Victoria to hear any action arising under this agreement.

Open partnerships
Open possibilities

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