

# ANZ CONSUMER LENDING PRODUCTS

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TERMS AND CONDITIONS  
EFFECTIVE NOVEMBER 2020  
TONGA EDITION



# INTRODUCTION

## References to ANZ

In these Terms and Conditions, 'we', 'us', 'our' and 'ANZ' refers to Australia and New Zealand Banking Group Limited ABN 11 0005 357 522.

## Read your product terms and conditions

You should read all relevant terms and conditions material that is provided to you and ask ANZ about any issues that concern you.

This document does not contain all the precontractual information required to be given to you. The rest of the information is contained in your Letter of Offer.

**Your Letter of Offer describes the annual percentage rate, repayments and credit fees and charges that apply to your loan or facility. When you accept the offer of credit from ANZ in your Letter of Offer, you agree to pay the annual percentage rate (interest) on the amount of credit provided by ANZ and to pay the credit fees and charges and to make the repayments described in your Letter of Offer (but subject to change as described in this booklet and in your Letter of Offer).**

If you accept the offer of credit made to you, the contract will be made up of (collectively, the "Agreement"):

- the terms in your Letter of Offer;
- these ANZ Consumer Lending Terms and Conditions ("Terms and Conditions"); and
- any special conditions accompanying your Letter of Offer or otherwise agreed in writing by you and ANZ to be "Special Conditions";

as may be varied, amended and supplemented from time to time.

## How to use this booklet

Below you will see the list of products and services that these Terms and Conditions cover and over the page are detailed contents, including page references.

This booklet outlines areas such as opening and using ANZ accounts, specific product terms and conditions and how to contact us (at the back of this booklet).

## General enquiries

If you have any general enquiries about this booklet, or the terms and conditions contained within it, or simply need more information about any ANZ account, please ask at any ANZ branch, or enquire via Bank Mail if you're registered for ANZ Internet Banking, or phone our Customer Service Centre on (676) 20 500 Monday to Friday from 9am to 4pm (excluding public holidays).

This booklet contains terms and conditions for the following consumer lending products:

- Home Loans
- Personal Loan
- Residential Investment Property Loans
- Investment Home Loans
- Personal Overdrafts.

These Terms and Conditions are in English. Any Tongan translation of these Terms and Conditions is for reference only and shall be treated as a translation of the Terms and Conditions. In the event of any inconsistency between the Tongan translation of these Terms and Conditions and the English version of these Terms and Conditions, the English version of these Terms and Conditions shall apply and prevail.

It is important that you read and understand the above mentioned documents. If you do not understand, or are unsure about any aspect of these documents, do not hesitate to ask us to clarify the matter for you.

When you are reading these ANZ Consumer Lending Products Terms and Conditions, keep in mind that some terms have a special meaning which is explained under Section 1 of this document.

# CONTENTS

<b>Section 1: General Conditions</b>	<b>7</b>		
1.1 Definitions	7		
1.2 Actual amounts you need to pay may be different from those in your Letter of Offer	9		
1.3 Annual Percentage Rate (Interest Rate)	9		
1.4 Processing of repayments, additional payments or other transactions	10		
1.5 How fees and charges are payable	11		
1.6 Changes to fees and charges	12		
1.7 Government charges	12		
1.8 Security	12		
1.9 Insurance	13		
1.10 Trusts	14		
1.11 ANZ's rights if there is a default under the Agreement	14		
1.12 Enforcement expenses	16		
1.13 Joint and several liability	16		
1.14 Disclosure of financial information	16		
1.15 Privacy and confidentiality – ANZ's collection, use and disclosure of personal information	17		
1.16 Statements	18		
1.17 Notices	19		
1.18 Transfer of ANZ's rights	20		
1.19 Waiver	21		
1.20 Changes to terms and conditions	21		
1.21 Availability of funds	21		
1.22 Accepting your Letter of Offer	22		
1.23 Disruption to service	23		
1.24 Withholding	23		
1.25 Changes in Government Requirements	23		
1.26 Changes in the law	24		
1.27 Market disturbance	25		
1.28 Law and jurisdiction	25		
1.29 Force Majeure	25		
1.30 Financial services dispute resolution schemes	26		
1.31 If you are in financial difficulty	26		
1.32 Anti-Money Laundering and sanctions	26		
		1.33 Date of advance (full sum advance loans)	27
		1.34 Loan purpose	27
		1.35 Loan disbursement	27
		1.36 Drawdown confirmation	28
		1.37 Specific obligations	28
		1.38 How interest is calculated and debited	28
		1.39 Loan repayments	29
		1.40 Changes to repayments of principal and interest	29
		1.41 Repaying your loan early during a variable interest rate period	30
		1.42 ANZ's right to combine accounts	30
		1.43 Late Payment Fee	30
		<b>Loans for construction purposes:</b>	<b>31</b>
		1.44 Date of first advance (progressively drawn loans)	31
		1.45 Progress payments	31
		1.46 Restriction on advances for construction loans	31
		1.47 Valuations and surveys	31
		<b>Section 2: electronic Banking Conditions of Use</b>	<b>33</b>
		2.1 Conditions of Use	33
		2.2 Transaction limits	33
		2.3 How you can use ANZ Internet Banking	33
		2.4 Access to and use of local transfer and international services	34
		2.5 Access levels for ANZ Internet Banking	34
		2.6 Processing instructions – general	35
		2.7 Processing date	36
		2.8 Processing instructions – ANZ Internet Banking	36
		2.9 Processing instructions – local transfers and international services	36
		2.10 Processing instructions – BillPay service	37
		2.11 Card validity and expiry	39
		2.12 Lost or stolen cards, password or PIN	39
		2.13 Lost and stolen card and PIN – while overseas	40
		2.14 Cancellation of cards or electronic access	40
		2.15 Withdrawal of electronic access	40
		2.16 Your responsibility regarding your ANZ card, password and PIN	41
		2.17 Unauthorised transactions	42
		2.18 Equipment malfunction	44

2.19 Liability under BillPay	44
2.20 Changes to the Electronic Banking Conditions of Use	46
2.21 Changes to transactions made through electronic terminals	47
2.22 Printed transaction records	47
2.23 Third party services	47
2.24 General	47
2.25 EFTPOS	47
2.26 Maestro and Cirrus	48
<b>Section 3: Other things you need to know</b>	<b>49</b>
3.1 Change of name and address	49
3.2 Our right to combine accounts and block access	49
3.3 Closing your ANZ account	49
<b>Customer enquiries</b>	<b>51</b>

## SECTION 1: GENERAL CONDITIONS

### 1.1 Definitions

The following definitions apply unless otherwise stated:

- **'Acceptance Period'** means the period described as such in your Letter of Offer.
- **'accrued interest'** means interest which ANZ is entitled to charge, but that has not yet been debited to your account.
- **'Agreement', 'contract' or 'credit contract'** means your Letter of Offer, these Terms and Conditions, and any special conditions accompanying your Letter of Offer or otherwise agreed in writing by you and ANZ, or as incorporated pursuant to the Terms and Conditions.
- **'annual percentage rate'** means the interest rate/s applicable to your loan or facility, as set out in your covering Letter of Offer (but subject to change as described in your Letter and these Terms and Conditions).
- **'ANZ Group member'** means ANZ and each of its branches, representative offices, regional offices, subsidiaries, affiliates, related entities, employees, officers and agents, in any country.
- **'Bank Mail'** means the secure electronic messaging service available via ANZ Internet Banking that enables you to communicate with ANZ to make general account or other enquiries and/or request services, if this functionality is available in ANZ Internet Banking in your jurisdiction.
- **'business day'** means any day from Monday to Friday (excluding public holidays), on which ANZ is open for business in at least one of its branch locations in Tonga.
- **'date of advance'** means, for full sum advance loans, the date all or any of the loan is first advanced. For progressively drawn loans, it means the date on which any part of the loan is first advanced.
- **'date of disclosure'** means the date of disclosure specified in your Letter of Offer.
- **'disruption to service'** means that a service is temporarily unavailable, or that a system or equipment fails to function in a normal or satisfactory manner.

- **'event of default'** is defined in Section 1.11 of these Terms and Conditions.
- **'Guarantor'** means a person (other than you) who has agreed to be responsible for the payment of any loan or facility provided to you and/or any person who has given, gives or is to give a security for the purpose of securing any loan or facility provided to you and includes that person's executors, administrators, successors and transferees.
- **'interest only Period'** means the period described as such in your Letter of Offer.
- **'Late Payment Fee'** means the fee (referred to in Section 1.43 of these Terms and Conditions and described as such in ANZ's Fees and Charges booklet).
- **'law'** means any law, legislation, regulation, proclamation, ordinance, by-law, rule, instrument, official directive, ruling, order or notice of any court or government body, circular, code of practice, code of conduct, prudential requirement or licensing requirement, in any country.
- **'Letter of offer'** means the letter of offer provided by ANZ and accepted by you, which covers your loan or facility.
- **'loan'** and **'facility'** means an ANZ Housing Loan, Fully Drawn Advance, Personal Loan, or such other loan or facility provided by ANZ, the terms of which are described in your Letter of Offer.
- **'material adverse change'** is defined in Section 1.11 of these Terms and Conditions.
- **'PIN'** means personal identification number and includes an action number.
- **'PPSA'** means the Personal Property Securities Act 2017.
- **'scheduled balance'** means the loan balance that your loan would have had, if you only ever paid the minimum repayments as they fell due on your loan.
- **'security'** means any:
  - (a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust or title retention or flawed deposit arrangement and includes a security interest under the PPSA; or
  - (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or
  - (c) right that a person (other than the owner) as to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease, or licence to use or occupy; or
  - (d) third party right or interest, or any right arising as a consequence of the enforcement of a judgment, or any agreement to create any of them or allow them to exist;
  - (e) or any agreement to create any of them or allow them to exist.
- **'Terms and Conditions'** means the terms and conditions described in this booklet.
- **'you'** includes any of the persons accepting the offer in your Letter of Offer.

## 1.2 Actual amounts you need to pay may be different from those in your Letter of offer

The actual amounts you need to pay under your loan or facility, including repayments and interest rates, may be different from the amounts set out in your Letter of Offer. This is because the financial details in your Letter of Offer are based on some assumptions that may change. The financial details in your Letter of Offer:

- use interest rates and fees applicable at the date of disclosure (set out in your Letter of Offer);
- assume the loan or facility will be fully drawn on the date of advance (where relevant) unless you nominated a progressive drawdown;
- include government duties and taxes payable on foreseeable withdrawals and receipts; and
- include periodic bank fees, where applicable, except when they are to be paid from another account.

## 1.3 Annual Percentage rate (interest rate)

### Interest rates can change

**Variable** reference rates (or Index rates) can be changed at any time including the period between the date of disclosure (set out in your Letter of Offer) and the date of drawdown.

**Fixed** reference rates can also be changed at any time before drawdown, but not once the loan has been drawn and the fixed interest rate period has started.

At the end of any fixed interest rate period, you may apply for another fixed interest rate period, and, if ANZ agrees to your request, you will be advised of any extra or varied terms which will apply. Please note that fees may apply as set out in your covering Letter of Offer.

If your Letter of Offer provides for an interest rate margin, that margin will, unless varied by ANZ, apply for the term of the loan or facility.

### **Notifying you of changes**

If there is a change in the reference rate or interest rate margin that applies to your loan or facility, you will be notified no later than the date on which the change takes effect, by notice in writing or advertisement published in a national newspaper.

Details of the change will also appear on your next statement.

You can also check interest rates and reference rates on [anz.com/tonga](http://anz.com/tonga), by asking at any ANZ branch or calling:

- ANZ Nuku'alofa Branch,  
(676) 20 500, 9am - 4pm (local time)  
weekdays (excluding public holidays);
- ANZ Neiafu Branch  
(676) 70 944, 9am - 4pm (local time)  
weekdays (excluding public holidays).

### **1.4 Processing of repayments, additional payments or other transactions**

If you make a request in relation to your ANZ loan or facility on a day that is not a business day, your request will generally be submitted for consideration on the following business day.

Generally, any transaction made on your ANZ loan or facility will be processed on the same day as long as it is made before the following times:

- 4pm local time Monday to Friday (excluding public holidays) for repayments, withdrawals or deposits at ANZ;
- 4pm local time Monday to Friday (excluding public holidays) for funds transfers made through ANZ Internet Banking.

Any transaction made after these cut-off times may be processed on the following business day.

If a payment is made by mail it will be credited to your account by ANZ on the date of receipt. You should allow a suitable amount of time for the mail to reach ANZ.

If a cheque used for a repayment is dishonoured, the repayment will be treated as not having been made, and interest will continue to accrue on the unpaid daily balance until actual payment is received. If a repayment or other payment is due on the 29th, 30th or 31st of a month which does not contain such a date, it is due on the last day of that month.

If a repayment or other payment is due on a day which is not a business day, it must be paid on the next business day.

A repayment or other payment made to your account on the last day of a statement period may not appear on the statement issued for that period. If so, the repayment or other payment will instead appear on your next statement, together with its effective date.

### **1.5 How fees and charges are payable**

Fees and charges are payable in the following manner:

- for continuing credit facilities, they will be added to the unpaid daily balance and accrue interest at the same rate, and in the same manner, as advances;
- for loans, during any Interest Only Period, they will be debited to your nominated ANZ account on the day they are due; and
- in all other situations, they will be debited to your nominated ANZ account on the day they are due. Where you have not nominated an account, they will be debited to your loan. Any fee debited to your loan which is not paid immediately will be added to the unpaid daily balance and accrue interest at the same rate as the principal.

When a fee is charged in arrears and your loan or facility is repaid or terminated before the fee is due to be charged, ANZ can charge this fee on a pro-rata basis to cover the period up to the date of repayment or termination.

Information on current bank fees is also available via [anz.com/tonga](http://anz.com/tonga), any ANZ branch or by calling (676) 20 500, 9am - 4pm (local time), weekdays (excluding public holidays).

## 1.6 Changes to fees and charges

ANZ can do the following:

	Minimum number of days of notice	Method of notice
Introduce a new fee, change the frequency or payment dates of each fee	30 days	By press advertisement, posters in branches, with details provided on next statement
Increase a fee, change the method of calculation or manner of payment of each fee	30 days	By press advertisement, posters in branches, with details provided on next statement
Decrease a fee	Day of change	By press advertisement, posters in branches, with details provided on next statement

If any other change reduces your obligations, ANZ can give less than 30 days' notice but you will be notified with or on your next statement.

## 1.7 Government charges

Government duties, taxes and other charges incurred because of receipts and withdrawals (including cheques) made to or from your account, are payable by you.

## 1.8 Security

Your Letter of Offer will tell you about any security required by ANZ for your loan or facility. Please be aware that:

- if ANZ is holding any existing security/ies at the date of disclosure, and you accept your Letter of Offer, you agree to that security also being held by ANZ as security for the new loan or facility;
- security documents are prepared on ANZ's normal security forms. If special circumstances exist, or if ANZ considers it necessary, these forms will be changed or new securities will be drafted to ensure there is effective security;
- if changes to securities or new security items are prepared outside ANZ, you must pay to ANZ any

reasonable external fees which are incurred. You can ask for a quote or an estimate and the fees will be payable on the date they are invoiced to ANZ;

- you can obtain copies of ANZ's normal security documents through any ANZ branch before you accept any loan or facility offer;
- ANZ must be satisfied with the title and the security documents before it will provide any credit.

You must pay any applicable stamp duty and registration fees by the date your loan is advanced or the date that the facility starts. You may also need to pay government fees and stamp duty when any security you are providing is discharged. Please refer to your Letter of Offer for details.

### Costs of further steps

Everything you are required to do under this section is at your expense. You agree to pay or reimburse the reasonable costs of ANZ in connection with anything you are required to do under this section.

Costs of ANZ for the purposes of this section include for example:

- ANZ's charges and commissions;
- expenses;
- fees;
- costs incurred in connection with professional advisors including legal costs (calculated on a full indemnity basis) for this loan or facility or any security for it; and
- taxes and duties (for example stamp duty).

## 1.9 Insurance

All insurable property mortgaged to ANZ must be insured for all usual risks under a policy acceptable to ANZ, at the replacement value or an insured sum not less than the loan or facility amount as may be determined by ANZ at its sole discretion, with an insurance company approved by ANZ. ANZ or its nominees must be recorded on the insurance policy as the appropriately ranked mortgagee and co-insured. An original insurance policy is to be provided to ANZ before the loan or facility will be available for drawdown and as and when it is required by ANZ.

Annually, you must provide ANZ with either a cover note or certificate of currency, together with a receipt for the premium(s) paid, for the property mortgaged to ANZ.

It is your responsibility to ensure that the required minimum level of cover as set from time to time is maintained throughout the term of the loan or facility. The costs of all premiums will be for your account and ANZ may pay the premiums (but shall at all times not be under the liability to) on your behalf. You shall at all times be liable to pay the premiums notwithstanding that any earlier payments may have been made by ANZ on your behalf.

Should you fail to provide ANZ with renewed certificate of currency within 7 days from its expiry date, ANZ may, after giving you a 7 day notice to comply, debit your account for the insurance premium due to be paid.

### **1.10 Trusts**

If you enter into the loan or facility as a trustee, you agree that you are liable under the loan or facility both personally and as trustee of the trust. You are also assuring ANZ that:

- the loan or facility is for a proper purpose under the trust;
- you have the power and authority under the trust to enter into the contract; and
- you have the right to be indemnified fully out of the trust property, before the beneficiaries of the trust, for all liabilities you incur under the loan or facility.

The independent trustee's liability under this agreement shall not be personal and unlimited but shall be limited from time to time and at all times to the net assets of the trust in that trustee's hands and available to meet that liability of which would have been in that trustee's hands and so available but for any dishonesty or wilful breach of trust by him; for the purposes of this section the phrase 'net assets' means all the assets of the trust for the time being less all its liabilities for the time being but excluding any liability arising under this Agreement.

### **1.11 ANZ's rights if there is a default under the Agreement**

If any of the following events of default occur, ANZ can refuse to provide further credit and (subject to notice as described below) require you to make immediate repayment in full of all money you owe ANZ or will or may owe ANZ in the future under the loan or facility.

#### **An event of default occurs:**

- if you do not make a payment due under the Agreement by its due date;
- if there is any breach of any term or condition of this loan or facility, any other facility provided to you by ANZ, or any security provided to ANZ for this loan or facility or the other facility;
- if, in ANZ's opinion, any event or circumstance arises causing a material adverse change in your financial situation likely to affect your ability to meet your obligations under the loan or facility or any security for it.

A material adverse change includes, but is not limited to:

- your death; or
- termination of your employment; or
- your insolvency; or
- enforcement proceedings by any creditor against you or any property mortgaged as security for this loan or facility; or
- any reduction in the value of property mortgaged to ANZ as security for this loan or facility; or
- any insurance over the mortgaged property being cancelled or declined; or
- any information supplied by you to ANZ in connection with this loan or facility or any security for this loan or facility being found to be untrue, incorrect or incomplete; or
- a material adverse change to the effectiveness or priority of any security granted by you or a guarantor for this loan or facility.

Before ANZ requires immediate repayment in full, you will be given 30 days' written notice to allow you an opportunity to remedy your default. If ANZ fails to give you notice regarding any event of default, ANZ has not waived its right to do so later.

However, ANZ will not give you such notice if:

- ANZ believes, on reasonable grounds, that it was induced by fraud on your part to enter into the loan or facility; or
- ANZ has made reasonable attempts to locate you, but without success; or
- a court authorises ANZ to require immediate repayment without giving such a notice; or



- goods are mortgaged or otherwise given to ANZ as security for the loan or facility, and ANZ believes on reasonable grounds that they have been or will be removed or disposed of without ANZ's permission; or
- ANZ believes on reasonable grounds that urgent action is necessary to protect property that is mortgaged as security for the loan or facility.

### 1.12 Enforcement expenses

If you breach the loan or facility or any security required under it, you will be required to pay expenses reasonably incurred by ANZ in enforcing or preserving its rights under the loan or facility, or the security. These expenses include those incurred by ANZ in preserving or maintaining property secured, collection expenses and expenses resulting from dishonour of a cheque or payment. Enforcement expenses resulting may be debited in the same way as other fees and charges.

### 1.13 Joint and several liability

If there is more than one person who is party to the loan or facility, then each person is liable individually for the full amount of the loan or facility, in addition to each of you being jointly liable with each other.

### 1.14 Disclosure of financial information

ANZ can require you to provide information about your financial circumstances at any time during the loan or facility to show there has been no material adverse change in your financial situation which may be likely to affect your ability to meet your obligations under the loan or facility or any security for it.

ANZ can also require a new valuation of any property provided as security for the loan or facility.

If so, you may be charged:

- a fee equal to the cost of the valuation which ANZ must pay for employing an external valuer. This will be payable by you on the date it is invoiced to ANZ. It can be debited to your account on that date; or
- a valuation administration fee. This fee is payable for administration costs incurred when a valuation or price estimate is required by ANZ in connection with each security for a loan, change to security or guarantors as set out in your Letter of Offer. This will be payable by you on the date of advance or when the change is requested.

### 1.15 Privacy and confidentiality – ANZ's collection, use and disclosure of personal information

When you deal with ANZ, we may collect and use some of your information, including details about your transactions, your financial conditions, your relationship with us and/or your loan/s or facility/ies (collectively referred to as "information"). We explain below when and how we may collect, use and disclose your information.

#### (1) Collection of information

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

- (a) to provide information about a product or service;
- (b) to consider your request for a product or service;
- (c) to provide you with a product or service;
- (d) to tell you about other products or services;
- (e) to perform internal administrative, operational and technology tasks (including technology infrastructure maintenance and support, application maintenance and support, risk management, systems development and testing, credit scoring, staff training and market, customer satisfaction research and business continuity management);
- (f) to prevent or investigate any fraud, unlawful activity or misconduct (or suspected fraud, unlawful activity or misconduct);
- (g) as may be required under laws and/or by agreements with government agencies or revenue authorities, whether inside or outside of the country where your facility/ies is provided and held with us, to make inquiries about your tax status; and
- (h) as required by relevant laws and external payment systems, whether inside or outside of the country where your facility/ies is provided and held with us.

#### Absence of relevant personal information

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

## (2) Disclosure of information by ANZ

By applying for and/or continuing to use the loan/s or facility/ies provided by us, you acknowledge and agree that any information that ANZ has collected or will collect from or about you from time to time may be disclosed to and/or collected, held, processed, stored in electronic or virtual data storage, or used, in whole or in part, in any country by the following persons:

- (a) any ANZ Group Member;
- (b) any outsourced provider, contractors, agents, auditors and advisers which ANZ or any ANZ Group Member engages to carry out or assist with its banking functions and activities (for example mailing houses, credit reporting or debt collection agencies);
- (c) regulatory bodies, government agencies, revenue authorities, law enforcement bodies and courts, whether inside or outside of the country where your facility/ies is provided and held with us, for the purposes of complying with any law and/or disclosure obligations we may have under an agreement with such bodies, whether the disclosure is made directly or through any ANZ Group Member;
- (d) other parties that ANZ Group Members are authorised or required by law to disclose information to;
- (e) participants in the payments system (including payment organisations and merchants) and other financial institutions (for example banks);
- (f) insurers and reinsurers;
- (g) your representative (for example your legal adviser, mortgage broker, attorney or executor);
- (h) any person, which in ANZ's view, the disclosure is necessary or desirable for the purpose of allowing us to perform our duties and to exercise our powers and rights under this agreement; or
- (i) any person with your prior written consent.

### 1.16 Statements

ANZ will provide a statement for loans and facilities, when each statement is complete, or more often if required by either you or ANZ.

You must carefully review your statements so you are aware of the status of your account. If you believe there are errors or unauthorised transactions shown on your statement, you must contact ANZ as soon as possible.

### 1.17 Notices

#### How ANZ gives you notice

ANZ can send a written notice, statement or demand for payment to you by sending it by post, facsimile or similar facility to your residential or business address or by leaving it at that address. ANZ can use the last address it has recorded for you. If you change your name or address, you must let ANZ know as soon as possible. If there is more than one person who is party to this loan or facility, any notice, statement or demand will be given to each one of you at your residential or business address.

Where you have elected to receive notices or statements electronically and the account or facility allows electronic delivery of such information, ANZ will deliver these to you via ANZ's Internet Banking facilities (you must be registered for ANZ Internet Banking and have the account or facility linked to your Customer Registration Number ('CRN') to enable electronic delivery of this information).

A notice, statement or demand from ANZ will be considered to have been received by you:

- if left at your address, on the date delivered or the date it bears, whichever is the later;
- if sent by post, on the date it would have been delivered in the ordinary course of post or the date it bears, whichever is the later; and
- if sent by facsimile or other electronic means, on the date it bears or the date the transmitting machine reports it was sent, whichever is the later.

A demand for payment can be signed by any officer of ANZ, or any agent authorised by an officer of ANZ. Any other form of notice or statement need not be signed, unless the law requires it.

A certificate signed by any officers of ANZ as to any amount of monies and liabilities from the time being due from you to ANZ under any loan or facility shall, in the absence of manifest error, be conclusive evidence as against you that such liabilities have been properly incurred with respect to the amount or amounts certified.

## How you give ANZ instructions and notice

A notice that you give to ANZ must be signed by you or by your authorised representative unless otherwise agreed in writing with ANZ. You may give ANZ a notice by handing it in at any of our branches or by posting it to ANZ's address, as detailed at the back of this document. Your notice will be deemed to be received by ANZ when ANZ receives it.

If you give ANZ notice that is expressed to be, or must be read as, irrevocable, you are not able to revoke it and it binds you from the time you give it.

Subject to the prior written approval of ANZ, you may give ANZ instructions or notices via facsimile, email or telephone. However, ANZ shall be entitled to refuse to accept such instructions or notices, without explaining ANZ's reasons for doing so. If ANZ does accept instructions or notices by facsimile, email or telephone, then ANZ may conclusively rely upon them if the member of staff receiving such a notice believes at the time that they were given by you or on your behalf and are duly authorised, accurate and complete, notwithstanding that it may subsequently transpire that they are not so given or not duly authorised, accurate and complete, and notwithstanding that the confirmation subsequently received from you or any subsequent confirmation differs in any respect from such instructions or notices, and you shall keep ANZ fully indemnified from and against all actions, proceedings, claims, demands or losses which ANZ may incur or sustain by reason either directly or indirectly of acting on such instructions or notices.

Acknowledgement of your notice may be given by ANZ in writing, in person, facsimile transmission, email or telephone.

You authorise ANZ to record electronically any conversations between you and ANZ and such recording or transcripts of recordings may be produced as evidence in any proceedings.

### 1.18 Transfer of ANZ's rights

ANZ may, without telling you or obtaining your consent:

- assign any of its rights under this contract; and
- give information about this contract and your obligations under it to any assignee of ANZ's rights under this contract, or anyone who is considering becoming an assignee.

### 1.19 Waiver

The rights that ANZ has under these Terms and Conditions cannot be waived except by ANZ giving you written notice waiving the particular right.

In particular:

- (a) ANZ does not waive any right that ANZ has in connection with this Agreement merely because ANZ does not exercise it, or does not exercise it as soon as it can;
- (b) if ANZ exercises a right once or partly, it does not mean that ANZ cannot exercise that right again or other rights; and
- (c) the rights and remedies herein are cumulative and not exclusive of any rights and remedies provided by law.

### 1.20 Changes to terms and conditions

To the maximum extent permitted by law, ANZ can vary any of the following:

- the dates on and frequency with which interest will be charged or debited, and the method of calculating interest. However, no such change will be made during any fixed interest rate period;
- the manner in which interest is to be paid or charged;
- the name of any reference rate;
- the amount, method of calculation, frequency, manner of payment and number of the repayments, together with the dates on which they are to be paid;
- the excess interest rate which applies to the loan or facility if the credit limit is exceeded; and
- the minimum amount that can be withdrawn from a continuing credit facility.

ANZ will give not less than 30 days' written notice of any such variation.

### 1.21 Availability of funds

Before any funds are made available you must:

- accept your Letter of Offer. If there is more than one person who is party to the loan or facility, each party must individually accept your Letter of Offer;
- make sure that any new security documents that are required by your Letter of Offer are signed;

- arrange any new insurance required by your Letter of Offer and give a copy of the policy to ANZ;
- complete a disbursement order, if this is required by your Letter of Offer;
- meet any other requirements as set out in your Letter of Offer; and
- meet any other condition precedent as detailed in your Letter of Offer.

ANZ must also be satisfied that:

- the documentation complies with legal requirements;
- you have received all statements and information required by law;
- no event of default has occurred;
- any required guarantee or security has been provided and that any guarantor has obtained independent legal and financial advice to ANZ's satisfaction; and
- if you or a guarantor is a trustee of a trust, that all trust requirements have been properly met.

### **1.22 Accepting your Letter of offer**

To accept the offer, you must do either of the following within 14 days of the date of disclosure or by the Acceptance Period, (if one is specified) whichever is earlier, appearing on the Letter of Offer:

- sign the copy of your Letter of Offer marked 'ANZ's copy' and return the signed copy to ANZ. If you are provided a Tongan translation of your Letter of Offer, this is for reference only. The English language version of the Letter of Offer should be signed and returned to ANZ; or
- fulfil the requirements described in your Letter of Offer as indicating acceptance.

If you do not accept a loan or facility offer within 14 days or by the Acceptance Period, whichever is sooner, but decide later you would like to accept it, you can contact your ANZ branch to request an extension of the Acceptance Period.

A second copy of your Letter of Offer marked 'Copy to Keep' is yours to keep along with this booklet.

### **1.23 Disruption to service**

A disruption is where a service is temporarily unavailable or where a system or equipment fails to function in a normal or satisfactory manner.

To the maximum extent permitted by law, ANZ will not be liable for any loss or damage, including consequential loss or damage, suffered because of a disruption to service. This disclaimer of liability does not apply to electronic banking transactions (see the section at the end of this booklet about the conditions which apply to those transactions). This disclaimer is in addition to, and does not restrict, any other provisions contained in these Terms and Conditions which limit ANZ's liability.

### **1.24 Withholding**

ANZ may be required to withhold on payments to certain account holders, and pass such amounts to a local or foreign government agency or revenue authority, by law or under an agreement with such authorities.

If at any time any local or foreign government agency or revenue authority requires ANZ to make a deduction or withholding on any payment due to you, you agree to immediately reimburse ANZ for the amount of any such deduction or withholding, including authorising ANZ to deduct such amounts from your account. You will indemnify ANZ against any loss ANZ suffers or cost ANZ incurs as a result of such deduction or withholding.

### **1.25 Changes in Government Requirements**

This section applies if:

- (a) after the date of your Letter of Offer, there is:
  - (i) a change in government requirement or a new government requirement (whether or not having the force of law);
  - (ii) a change in a tax or a new tax (for the purposes of this section 'tax' includes duties but does not include a tax on ANZ's net income in the normal course of ANZ's business); or
  - (iii) a change in the interpretation of a government requirement or a tax that affects loans or facilities of the kind contemplated in your Letter of Offer; and

- (b) its effect is, in ANZ's opinion, directly or indirectly;
  - (i) to increase the cost to ANZ of providing or maintaining the loan or facility or of providing funds under it;
  - (ii) to reduce the effective rate of return to ANZ (whether on capital, assets, deposits or otherwise) on the loan or facility. For the purposes of this section 'tax' includes duties but does not include a tax on ANZ's net income in the normal course of ANZ's business; or
  - (iii) to require ANZ to make a payment or to forgo or suffer a reduction in a return on or calculated by reference to any amount payable to it under this Agreement; and
- (c) in that event, you agree to pay to ANZ, on demand, the amount calculated by ANZ as necessary to compensate ANZ for the increase in cost or reduction in rate, attributable directly or indirectly to the changes set out in sub-section (a) above. The amount payable will be calculated by ANZ from the day when it first incurred the costs or suffered the reduction.

### 1.26 Changes in the law

If ANZ gives you notice that, in ANZ's opinion, it has become illegal in a jurisdiction or otherwise impracticable for ANZ to continue to make the loan or facility available, ANZ's obligations in relation to the loan or facility will terminate and you shall on written demand by ANZ repay within the time period permitted all advances outstanding under the loan or facility, together with accrued interest thereon (calculated at the applicable rate or rates) and all other sums payable under this Agreement.

Such a situation could arise because of:

- (a) a change in a government requirement or a new government requirement;
- (b) change in the law, written or unwritten, or a new law; or
- (c) a change in the interpretation of a government requirement or law.

### 1.27 Market disturbance

If in respect of any proposed or existing advance of a particular currency ANZ is of the view that:

- (a) the relevant funds are not readily available to ANZ; or
- (b) adequate and fair means do not exist for ascertaining the interest rate for the loan or facility;

the advance of a particular currency will not be made and if any advance in the aforesaid currency has been made, you shall on demand prepay the advance together with the accrued interest and all other sums payable under the loan or facility to ANZ.

### 1.28 Law and jurisdiction

- (a) The Agreement is governed by the law in force in the jurisdiction where ANZ's office is shown in your Letter of Offer.
- (b) In relation to any proceedings about or in connection with your loan or facility or any security, ANZ, you and the Guarantor (where applicable) agree to submit to the non-exclusive jurisdiction of the courts that have jurisdiction under that law.
- (c) When an action is commenced in the jurisdiction where ANZ's office is shown in your Letter of Offer, it is agreed that no party shall object to such procedures and rules employed by the courts of that jurisdiction for hearing any action raised and that no references shall be made to laws and procedures emanating from a foreign court. For this purpose, all notices, services of writs, summons or court documents relating to proceedings shall be deemed served if served on the address of the party indicated in this Agreement or at the last known address indicated. This section shall not prejudice the right of parties to effect service by other means permitted by law.

### 1.29 Force majeure

- (a) ANZ shall not be liable for any delay in performance and/or non-performance of any of its obligations under any loan or facility or in any transaction between you and ANZ or for any losses caused by the occurrence of any contingency beyond the reasonable control of ANZ including, but not limited to:
  - (i) breakdown or failure of transmission of communication facilities; and

- (ii) sabotage, insurrection, riot or other civil disobedience, coup, act of a public enemy, failure or delay in transportation, act of any government or agency or subdivision thereof, judicial action, labour dispute, accident, fire, explosion, flood, storm or other natural cause, a shortage of labour, fuel, raw material or machinery or technical failure.
- (b) ANZ may, in its sole discretion and without liability to you, cancel any loan or facility if its performance is delayed or rendered impossible due to the occurrence of any such contingency.

### 1.30 Dispute resolution schemes

#### Making a complaint

If ANZ makes a mistake, or ANZ's service doesn't meet your expectations, ANZ wants to know. For the fastest possible resolution to your complaint call ANZ on (676) 20 500, or talk to staff at your local ANZ branch.

#### ANZ Customer Advocate

If your complaint isn't resolved to your satisfaction, you can ask to have it reviewed by ANZ's Customer Advocate who will provide a free review of more difficult complaints to help achieve a prompt solution.

#### Contact details:

ANZ Customer Advocate

Tel: (676) 20 500

Fax: (676) 23 870

### 1.31 If you are in financial difficulty

You should inform ANZ as soon as possible if you are in financial difficulty. If you have an ANZ credit card or other ANZ loan account, ANZ will, with your agreement, try and help you overcome your difficulties with your loan or facility, including for example, developing a repayment plan.

### 1.32 Anti-money Laundering and sanctions

- (1) You agree that ANZ may delay, block or refuse to process any transaction without incurring any liability if we suspect or have reasonable grounds to suspect that:
  - (a) the transaction may breach any law;
  - (b) the transaction involves or may involve any person (natural, corporate, governmental, trust, partnership or any other person) that is itself sanctioned or is connected, directly or indirectly, to any person that

is sanctioned under economic and trade sanctions imposed by any supra-national organization, official body, the United States, 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, conduct which is unlawful in any country.
- (2) You must provide all information to ANZ which we reasonably require in order to manage our money laundering, terrorism-financing or economic and trade sanctions risk and to comply with any laws in relation to these.
  - (3) Unless you have disclosed that you are acting in a trustee capacity or on behalf of another party, you warrant that you are acting on your own behalf in entering into this agreement. If you are acting on behalf of another party (such as a trustee), you agree to provide the details of the beneficial owner of the funds to ANZ, as may be required by ANZ from time to time.
  - (4) You declare and undertake to ANZ that the processing of any transaction by ANZ in accordance with your instructions will not breach any laws.

### 1.33 Date of advance (full sum advance loans)

For full sum advance loans, you must draw down the full amount of the loan within six months of the date of any Letter of Offer for home loans, and within three months of the date of any Letter of Offer for personal loans, unless otherwise agreed by ANZ in writing. If the date of advance does not occur within this time period (or within any agreed extension of it), the contract will end and ANZ will not be obliged to advance the loan.

### 1.34 Loan purpose

You must not use the loan funds for any purpose other than that set out in your Letter of Offer without ANZ's prior written consent.

### 1.35 Loan disbursement

The proceeds will be paid to you or as you direct. If you want ANZ to pay money elsewhere, you must advise ANZ to whom and in what amounts the proceeds are to be paid.

If you instruct ANZ to pay out an existing ANZ account, the amount you specify may be different to the final balance owed and the actual amount payable may only

be determined at the time the account is paid out. You will be required to pay any shortfall to pay out the account.

If the amount you advise ANZ to pay is more than the final balance owed on the account, no interest will be paid on the surplus.

### **1.36 Drawdown confirmation**

The annual percentage rate which initially applies to your loan will be determined at drawdown and confirmed in writing afterwards.

### **1.37 Specific obligations**

When you accept your Letter of Offer, you will be agreeing to repay to ANZ by the end of the loan term, all principal, interest and any other amounts which are or become due under the loan.

In addition, if any of the following three events occur, you must notify ANZ immediately:

#### **Occupancy of your home**

If your loan purpose is to purchase a home as your personal residence and you no longer personally occupy the property.

#### **Construction and occupancy of your home**

If construction of a home as your personal residence is not started within three years from the initial date of advance, or you no longer intend to personally occupy the property.

#### **Construction and use of investment property**

If construction of a home as an investment property is not started within one year from the initial date of advance, or you no longer intend to use the property for residential investment purposes.

ANZ may treat the occurrence of one of these events as a material adverse change.

### **1.38 How interest is calculated and debited**

Interest is calculated on the unpaid daily balance of your loan. The rate applied each day is equal to your annual percentage rate applicable at the time, divided by 365. Your Letter of Offer advises how frequently interest will be debited, but you also need to be aware that:

- if any day on which interest is due to be debited (a 'due date') is not a business day, that interest will be debited on the next business day;

- if a due date falls on the 29th, 30th or 31st of a month which does not contain such a date, the due date will be the last day of that month;
- each time interest is debited, the period covered by the interest charge will include all days (for which interest has not been previously debited) up to and including the day before the due date;
- when interest is debited after the due date, subsequent interest charges will be calculated as if the interest had been debited to your loan on the due date; and
- when interest is debited, it will be added to the unpaid balance of your loan and accrue interest at the same rate and in the same way as the principal.

If, after the loan term commences, you and ANZ agree to change the loan terms in any way, ANZ may debit any accrued interest on the day on which the change takes effect. If this occurs, your interest charging cycle will be restarted from that date.

### **1.39 Loan repayments**

#### **Repayments of principal and interest**

Generally, you have the following options for repayment of principal and interest:

- by periodical payment from your nominated ANZ account;
- by deposit using a coupon booklet;
- by periodical payment from another financial institution.

If, at any time, you want to change your selected repayment method, and as long as the loan is not in a fixed interest rate period, you can notify ANZ in writing.

#### **Repayments during interest only periods**

During any interest only period, ANZ will debit your repayments to your nominated ANZ account.

Repayments will be automatically adjusted if there is a change in your annual percentage rate.

### **1.40 Changes to repayments of principal and interest**

#### **Changes to repayment amounts before drawdown**

Repayment amounts are recalculated at the date of advance to take into account your annual percentage rate at that time. Please remember that if your annual percentage rate is determined by a reference rate – this reference rate may have changed after your Letter of Offer was prepared.

## Variable interest rate Loans

Variable interest rates can change at any time during the life of your loan and if this occurs, the amount of your repayments may need to change if you are to repay your loan within its agreed term.

After any increase in your interest rate, ANZ can increase your repayments so they are sufficient to pay out the scheduled balance of your loan within the agreed term. ANZ will not automatically do this every time an interest rate change occurs. ANZ will give you no less than 30 days' written notice of any repayment change made by ANZ.

### 1.41 Repaying your loan early during a variable interest rate period

If you decide to repay your loan early, you may contact ANZ to request the amount required to repay your loan on that day. The amount required to repay your loan is accurate for the day that it is provided by ANZ, and may vary depending on when you repay your loan.

### 1.42 ANZ's right to combine accounts

ANZ can combine the balances of two or more of your accounts, even if the accounts are at different branches or in joint names. This may happen when one of your accounts is overdrawn or is in debit and another is in credit. This means that the credit balance in one account can be used to repay to ANZ the debit balance in another account. ANZ will promptly inform you if it has combined any of your accounts. You should not treat your accounts as combined unless ANZ has agreed to such an arrangement.

### 1.43 Late Payment Fee

The Late Payment Fee is payable on:

- Home Loans;
- Residential Investment Loans; and
- Personal Loans.

If the whole or any part of any payment due has been unpaid for:

- 10 days or more for Home Loans, Residential Investment Loans and Personal Loans.

The Late Payment Fee is also charged every subsequent 30 days that the loan is in arrears.

## LOANS FOR CONSTRUCTION PURPOSES:

### 1.44 Date of first advance (progressively drawn loans)

For progressively drawn loans, you must make the first drawdown within six months of the date of your Letter of Offer, unless otherwise agreed by ANZ in writing. If this date of first advance does not occur within this time (or within any agreed extension of it), the contract will end and ANZ will not be obliged to advance the loan.

### 1.45 Progress payments

Progress payments will only be advanced if:

- the funds you are contributing towards the purchase and construction of the property have already been used to meet these costs; and
- the progress payment is due and payable under your building contract; and
- documentary evidence.

To obtain the final progress payment, you must provide with your request:

- a builder's invoice.

Please note that you are responsible for making sure that specifications of the builder's contract are completed by the builder.

### 1.46 Restriction on advances for construction loans

If the purpose(s) of your loan includes the construction of a residence, then, in addition to other restrictions on advances set out in Section 1.21 'Availability of funds', no part of the loan will be advanced to finance the construction of any residential building until you have given ANZ a copy of the following documents:

- a signed and enforceable fixed price contract for the construction of a residence entered into by you and a reputable licensed builder; and
- the builder's current Builder's Risk Insurance Policy (or equivalent form of insurance) or other documentation as agreed by ANZ confirming such insurance is current.

### 1.47 Valuations and surveys

ANZ may require a valuation or survey of the property before any progress payment is made. If a survey is required, you must make this available to ANZ and pay any related costs.



If a valuation is required, you may be charged:

- a time based valuation fee if the valuation is completed by an ANZ employee, or the actual valuation cost if it is carried out by an external valuer. All external valuation fees are payable on the date they are invoiced to ANZ and may be debited to your account; or
- a valuation administration fee. This fee is payable for administration costs incurred when a valuation or price estimate is required by ANZ in connection with each security for a loan, change to security or guarantors as set out in your Letter of Offer. This fee is payable on the date of advance or when the change is requested.

## **SECTION 2: ELECTRONIC BANKING CONDITIONS OF USE**

### **2.1 Conditions of Use**

This section applies to all electronic transactions except those where your signature may also be required.

Unless the account services are provided or referred to you by us, we do not authorise, promote or endorse the use of account services offered by third parties to access your ANZ accounts (including account aggregation services, such as may be provided by other financial institutions).

### **2.2 Transaction limits**

ANZ may change or impose limits on the amount of funds that are made available through electronic terminals, over any specific period of time for transactions that require the use of an ANZ Card and PIN. ANZ may also change such limits or impose new limits by giving you notice. Merchants and other financial institutions may also impose additional restrictions on transaction limits.

Unless you have made arrangements with ANZ for an increased or decreased limit, your ATM daily limit is TOP2,000 per ANZ Card. This means that you can use your ANZ Access Card to withdraw a total of TOP2,000 per day from the account(s) to which it is linked, provided your ANZ account(s) contain sufficient funds.

There is no limit on the funds that you can withdraw on your ANZ Card via EFTPOS facilities provided your account(s) contain sufficient funds.

### **2.3 How you can use ANZ internet Banking**

You can use ANZ Internet Banking to make transactions on your linked accounts, as set out these Terms and Conditions. You can also use ANZ Internet Banking to buy and order a range of financial services and products. You can get more details by visiting the website at [anz.com/tonga](http://anz.com/tonga).

## 2.4 Access to and use of local transfer and international services

### (a) Obtaining Local Transfer

When applying for local transfer for Internet Banking, you must request a local transfer daily limit which is subject to approval by us. The options for the daily limits are set out at [anz.com/tonga](http://anz.com/tonga) when you apply.

Restrictions apply depending on whether you are using local transfer for personal or business purposes.

If you require your password for local transfer for Internet Banking to be reset or reissued, we may reduce your current daily local transfer limit for Internet Banking. You will need to re-apply if you wish to reinstate that limit. Please allow sufficient time for the change to be made before you attempt to use the higher daily transfer limit. You can apply to increase or decrease your daily transfer limit for Internet Banking through ANZ Internet Banking.

### (b) Obtaining International Services

You can apply for international services after you have been granted local transfer access.

The total of all local transfer and international services transfers (converted into TOP) on any day cannot exceed your local transfer daily transaction limits.

## 2.5 Access levels for ANZ internet Banking

Only the account holder or account signatories can select an access level. The account holder or account signatories may authorise another person (an 'authorised user') to operate the account and that person may have a different access level to the account holder. The account holder is responsible for the operation of the account by the authorised user within that user's level of access.

The account holder or account signatories may cancel or change any access level by sending a written request or Bank Mail to us, or phoning us on the relevant number listed at the back of this booklet.

We may require written confirmation and it may take several days to process this change.

Authorised users can use ANZ Internet Banking to change their own profile, access their own Bank Mail and select and change their own password.

## 2.6 Processing instructions – general

The account holder authorises ANZ to act on the instructions you enter into electronic equipment. Any electronic transaction made by you cannot be cancelled, altered or changed by you unless allowed by the applicable terms and conditions.

We may delay acting on or may ask you for further information before acting on an instruction. Where ANZ has instructions for more than one payment from your account(s), ANZ will determine the order of priority in which payments are made.

If you make a cash withdrawal from an account by making an electronic transaction and there is a difference between the amount of cash received and the amount shown on the receipt, you must report this to ANZ and to the merchant (if applicable) as soon as possible. You can make your report to us by calling ANZ on +676 20500, from 8.30am - 4pm on an ANZ working day.

If you make a deposit of funds to an account by making an electronic transaction and there is a difference between the amount recorded as having been deposited and the amount ANZ receives, the account holder will be notified of the difference as soon as possible and will be advised of the actual amount which has been credited to the account.

ANZ is not liable for the refusal of any merchant to accept an electronic transaction and, to the extent permitted by law, is not responsible for the goods and services supplied by a merchant.

ANZ may refuse to process any transaction that contravenes any law or otherwise. We may notify you of electronic transactions we are unable to process.

You accept that:

- not all electronic equipment from which cash can be withdrawn will always contain cash;
- any cash dispensed at electronic equipment is at your risk once it becomes visible or available for you to collect; and
- not all electronic equipment will allow you to make deposits.

An immediate transfer, local transfer or BillPay cannot be revoked or stopped once we receive your instruction. Future dated transfer, local transfer or BillPay instructions can only be revoked or changed if instructions to delete the transaction are given to us through ANZ Internet Banking before 4pm Tongan time on the ANZ working day before the transaction is scheduled to occur. After this time, the instruction cannot be revoked.

## **2.7 Processing date**

Generally, any transactions made at ANZ ATMs and ATMs at other selected banks and financial institutions or EFTPOS transactions will be processed to your account on the same day provided they are made before 4pm Monday to Friday (excluding public holidays).

Transactions made after these cut-off times may be processed on the following ANZ working day.

## **2.8 Processing instructions – ANZ internet Banking**

Any ANZ Internet Banking (including BillPay) instruction will generally be processed to your account on the same day we receive your instructions, if given before 4pm Tongan time on an ANZ working day. Any transaction made after this time may be processed on the following ANZ working day.

Account information accessed using ANZ Internet Banking will generally reflect the position of the account at that time, except for transactions not yet processed by us (including uncleared cheques and unprocessed credit card transactions) or cleared cheques and direct debits processed by us that day.

## **2.9 Processing instructions – local transfers and international services**

ANZ will generally process local transfer instructions:

- for immediate local transfers, on the day the instruction is given, if ANZ receives the instruction before 4pm Tongan time on any ANZ working day;
- for immediate international transfers, on the day the instruction is given, if ANZ receives the instruction before 4pm Tongan time on any ANZ working day; or
- for future dated transfers, on the relevant future day you select if it is a Local Transfer Processing Day (or if it is not, on the Local Transfer Processing Day after that day).

Instructions you give will be delivered to the payee's financial institution on the day that ANZ processes them except where:

- we are not obliged to process your instructions;
- there is a technical failure;
- there is a delay or error in accepting the instructions caused by the financial institution to which the transfer is to be made; or
- the instructions are for a transfer by way of telegraphic transfer.

We cannot control (and are not responsible for) when, or if, the payee's financial institution processes your instructions or the fees that financial institutions may charge to process your instructions.

Once we process your transfer instruction, we are reliant on the payee's financial institution to advise whether your instructions have been successfully processed. If the payee's financial institution advises that your transfer instruction has not been successful, it may take a number of weeks, depending on the financial institution, to reverse the relevant withdrawal from your linked account.

## **2.10 Processing instructions – BillPay service**

BillPay is an electronic payments scheme set up from two of our electronic channels, our ATMs and our Internet Banking services, for both Business and Personal Accounts. BillPay Services allow customers to make payments from their Internet Banking using their value registered User ID and through our ATMs using their registered local debit card. All BillPay Service payments will directly credit the biller's account and directly debit the customer's account.

You must comply with the Terms and Conditions for our Internet Banking services and our Access Card services to have full access to our BillPay Services from these channels. Limits apply to your use of BillPay Services on both ATMs and Internet Banking per transaction and daily limit (per User ID) basis.

BillPay Services are strictly for our local business customers as a payment option for their business, and these businesses must meet our bill payment services terms and conditions to successfully register as a biller.

Subject to the processing instructions conditions set out above:

- any BillPay through online will impact immediately when submitted, where your account will be debited and the biller account will be credited immediately;
- if your payment submitted during the weekend, your payment may not be effective immediately, and your payment may not be available until our Internet Banking interface is online which should be around 2am Monday morning;
- BillPay through our ATMs must confirm immediately where your account will be debited and the biller account will be credited immediately; and
- Billpay over the weekend from our ATMs may not happen immediately.

A delay may occur in processing a BillPay where:

- there is a public or bank holiday on the day after you tell us to make a BillPay; or
- another participant, such as another financial institution or a biller does not process a payment as soon as it receives details of the payment or does not otherwise comply with its obligations under the BillPay service.

While it is expected that any such delay will not continue for more than one bank working day, it may continue for a longer period.

We will attempt to ensure a BillPay is processed promptly by billers and other participants.

You should check your account records carefully and tell us as soon as possible if you become aware of:

- a BillPay which has been made from your linked account which was not authorised;
- the possibility that you have been fraudulently induced to make a BillPay; or
- any delay or mistake in processing of your BillPay.

If we are advised by a biller that it cannot process your BillPay, we will:

- advise you of this;
- credit your account with the amount of that BillPay; and
- tell you how we can assist you, if possible, in making the payment as soon as possible.

Biller codes may only be used by authorised billers to receive payment of bills issued by that biller. You are not authorised to give a biller code to any person in order to receive payments owing to you. Where you do so, any terms and conditions for the use of BillPay service will not apply to such unauthorised use of the biller codes.

### **2.11 Card validity and expiry**

Your card remains ANZ's property at all times.

A card must be signed immediately by the person in whose name it has been issued and must only be used within the 'valid from' and 'until end' dates shown on the card. For security reasons you must, as soon as the card expires, destroy it by cutting it (including an embedded microchip on the card) diagonally in half.

The account holder may cancel an ANZ Card at any time by sending ANZ a written request or by calling ANZ on the relevant numbers listed on the back of this booklet.

### **2.12 Lost or stolen cards, password or PIN**

If you report that a card has been lost or stolen the card will be cancelled as soon as the report is made. You must not use the card once the report is made. If you recover the lost or stolen card, you must destroy the card by cutting it (including an embedded microchip on the card) diagonally in half and return it to an ANZ branch as soon as possible.

You must make a report to us (and the relevant third party, if a third party issued the username, password, PIN or card to you) immediately if you become aware or suspect that your password, username, PIN or User ID is disclosed or used without your authority, or lost. You must not then continue to use your password, username, PIN or User ID. ANZ will cancel it and arrange for you to select a new username, password or PIN or to be provided with a new User ID.

The best way to make the report is to call ANZ on the telephone numbers listed at the back of this booklet. If ANZ's telephone reporting service is unavailable, you must report the loss, theft or misuse to any ANZ branch.

### 2.13 Lost and stolen card and PIN – while overseas

If your ANZ card or PIN is lost or stolen, or if someone else has found out your PIN, you must tell us immediately. The best way to minimise your liability is to phone us. Emergency phone numbers are listed at the back of this booklet.

- ANZ Access card (ATM/EFTPOS card) – we cannot provide an emergency replacement card and PIN until you return to Tonga.

### 2.14 Cancellation of cards or electronic access

ANZ may cancel any card, User ID or electronic access without prior notice if:

- ANZ believes that use of the card or electronic access may cause loss to the account holder or to ANZ;
- the account is an inactive account;
- all the accounts which the card may access have been closed;
- the account has been overdrawn (other than by use of the informal overdraft facility), or you have exceeded your agreed credit limit;
- if we become aware that you do not meet, or cease to meet, our eligibility criteria for the card; or
- on giving you not less than three months' written notice.

ANZ may also at any time suspend your right to participate in the ANZ BillPay service.

The account holder may cancel an ANZ card at any time by sending ANZ a written request or by calling ANZ on the relevant number listed at the back of this booklet.

You can request ANZ to de-register you from ANZ Internet Banking at any time by Bank Mail or by phoning the relevant number listed at the back of this booklet.

### 2.15 Withdrawal of electronic access

ANZ may withdraw your electronic access to accounts without prior notice if:

- electronic equipment malfunctions or is otherwise unavailable for use;
- a merchant refuses to accept your card;
- any one of the accounts is overdrawn or will become overdrawn, or is otherwise considered out of order by ANZ;

- ANZ believes your access to accounts through electronic equipment may cause loss to the account holder or to ANZ;
- ANZ believes that the quality or security of your electronic access process or ANZ's systems may have been compromised;
- all the accounts which you may access using ANZ Internet Banking have been closed or are inactive; or
- ANZ suspects you of being fraudulent or engaging in inappropriate behaviour; unless this is prohibited by law.

ANZ may at any time change the types of accounts that may be operated, or the types of electronic transactions that may be made through particular electronic terminals.

### 2.16 Your responsibility regarding your ANZ Card and Password or PIN

You must keep your ANZ Card, password and PIN secure. Failure to do so may increase your liability for any loss.

**Warning:** You must not use your birth date or an alphabetical code, which is a recognisable part of your name as a password, or select a PIN which has sequential numbers, for example, '12345' or where all numbers are the same, for example, '11111'. If you do, you may be liable for any loss suffered from an unauthorised transaction.

### Password and PIN security

You must not:

- disclose your password or PIN to any other person;
- allow any other person to see you entering, or overhear you providing, your password or PIN;
- record your password or PIN on your card or on any article carried with or placed near your card that is liable to loss, theft or abuse at the same time as your card (unless your password or PIN is reasonably disguised);
- choose a PIN which has an easily retrieved combination, for example repeated numbers or letters; and
- choose a PIN that is easily identified with you for example your birth date, car registration, telephone number or your name.

## Card security

You should:

- sign the back of your ANZ Card immediately upon receipt;
- on the expiry date destroy your ANZ Card by cutting it diagonally in half;
- not let anyone else use your ANZ Card;
- take reasonable steps to protect your ANZ Card from loss or theft.

To assist you, we publish security guidelines. A copy of the current guidelines is available at [anz.com/tonga](http://anz.com/tonga)

### 2.17 Unauthorised transactions

#### When the account holder is liable

The account holder is responsible for any unauthorised use of their ANZ Card and PIN, including its use by anyone else in any way. The extent of the account holder's liability will depend on whether you have been responsible in any way for the unauthorised use of your ANZ Card and PIN.

If you have contributed to the loss arising from the unauthorised transaction:

- through your fraud;
- by voluntarily disclosing your PIN to anyone, including a family member or friend;
- by keeping a record of your PIN on your ANZ Card (even in a disguised form) on your card, any article carried with the ANZ Card or which may be lost or stolen at the same time as the ANZ Card;
- by using your birth date or an alphabetic code which is recognisable part of your name as a PIN; or
- by otherwise acting with extreme carelessness in failing to protect the security of your PIN; then the account holder will be liable for the actual losses which occur before ANZ is notified that your ANZ Card has been misused, lost or stolen, or that your PIN has become known to someone else.

If, after you become aware of the loss, theft, breach or misuse of your PIN or ANZ card, you unreasonably delay notifying ANZ, the account holder will be liable for losses between:

- the time you first became aware of the aforementioned events, or in the case of the loss or theft of a card, should reasonably have become aware of the loss or theft; and
- the time ANZ is actually notified of the relevant event.

If it is not clear whether you have contributed to the loss caused by an unauthorised transaction and where an ANZ Card or PIN was required to perform the unauthorised transaction, the account holder is liable for the actual loss at the time ANZ is notified of the loss, theft or unauthorised use of the ANZ Card or that the security of the PIN has been breached.

#### When ANZ is liable

ANZ will be liable for losses incurred by the account holder that:

- are caused by the fraudulent or negligent conduct of ANZ's employees or agents or companies involved in networking arrangements or of merchants or their agents or employees;
- relate to any forged, faulty, expired or cancelled part of the electronic access process;
- arise from transactions that require the use of any ANZ Card or PIN that occur before you have received or selected the ANZ Card or PIN;
- result from the same electronic transaction being incorrectly debited a second or more subsequent time to the same account;
- result from an unauthorised transaction that occurs after you have notified ANZ that any ANZ Card has been misused, lost or stolen or that the security of your PIN has been breached; or
- result from an unauthorised transaction if it is clear that you have not contributed to the losses.

## 2.18 Equipment malfunction

We are responsible to the account holder for any loss caused by the failure of equipment to complete a transaction that was accepted in accordance with your instructions.

However, if you were aware or should have been aware that the equipment was unavailable for use or malfunctioning, our responsibility will be limited to correcting errors in the account and refunding any charges or fees imposed as a result.

You are solely responsible for your own personal computer anti-virus and PC security measures, and those of any authorised user, to help prevent unauthorised access via ANZ Internet Banking to your transactions and linked accounts.

## 2.19 Liability under BillPay

### General

You should note that:

- if you advise us that a BillPay made from a linked account is unauthorised, you should first give us your written consent to obtain from the biller information about your account with that biller or the BillPay payment, (including your User ID) as we reasonably require to investigate the BillPay. This should be addressed to the biller who received the BillPay. If you do not do this, the biller may not be permitted by law to disclose to us the information we need to investigate or rectify that BillPay payment;
- if you discover that the amount you instructed us to pay was less than the amount you needed to pay, you can make another BillPay for the shortfall. If you cannot make another BillPay for the shortfall because the shortfall amount is less than the minimum amount the biller will accept, you can ask us to arrange for a reversal of the initial payment. You can make a second payment for the correct amount. If you discover that the amount you instructed us to pay was more than the amount you needed to pay, you can ask us to request a reversal of the initial payment from the biller on your behalf, and if this occurs, you can make a second payment for the correct amount.

### ANZ's liability

Where you use your account for personal purposes, our liability under the BillPay Service is as set out under 'Unauthorised transactions'.

Where you use your account for business purposes, we will not be liable to you under the BillPay Service except in the circumstances set out in this clause.

### BillPay payments

Except where a BillPay payment is an unauthorised payment, a fraudulent payment or a mistaken payment, BillPay payments are irrevocable. No refunds will be provided through the BillPay Service where you have a dispute with the biller about any goods or services you may have agreed to acquire from the biller. Any dispute must be resolved with the biller.

### Unauthorised payments

If a BillPay is made in accordance with a payment direction, which appeared to us to be from you or on your behalf, but which you did not in fact authorise, we will credit your account with the amount of that unauthorised payment. However, you must pay us the amount of that payment if:

- (i) we cannot recover the amount from the person who received it within 20 ANZ working days of us attempting to do so; and
- (ii) the payment was made as a result of a payment direction which did not comply with our prescribed security procedures.

### Fraudulent payments

If a BillPay is induced by the fraud of a person involved in the BillPay Service, then that person should refund you the amount of the fraud-induced payment.

However, if that person does not refund you that amount, you must bear the loss unless some other person involved in the BillPay Service knew of the fraud or would have detected it with reasonable diligence, in which case that person must refund you the amount of the fraud-induced payment.

## **Mistaken payments**

If you discover that a BillPay has been made to a person, or for an amount, which is not in accordance with your instructions (if any), and your account was debited for the amount of that payment, we will credit that amount to your account. However, if you were responsible for a mistake resulting in that payment and we cannot recover the amount of that payment from the person who received it within 20 ANZ working days of us attempting to do so, you must pay that amount to us.

You acknowledge that the receipt by a biller of a mistaken or erroneous payment does not or will not, under any circumstances, constitute part or whole satisfaction of any underlying debt owed between you and that biller.

## **Consequential loss**

We are not liable for any consequential loss or damage you suffer as a result of using the BillPay Service, other than due to any loss or damage you suffer due to our negligence or in relation to any breach of a condition or warranty implied by law in contracts for the supply of goods and services and which may not be excluded, restricted or modified at all or only to a limited extent.

## **Indemnity**

To the extent permitted by law, you indemnify us against any loss or damage we may suffer due to any claim, demand or action of any kind brought against us arising directly or indirectly because you:

- (a) did not observe your obligations under; or
- (b) acted negligently or fraudulently in connection with these Terms and Conditions.

## **2.20 Changes to the electronic Banking Conditions of Use**

We can change the electronic Banking Conditions of Use at any time. We will give you 20 days' prior written notice of any changes which:

- impose or increase charges relating solely to the use of electronic equipment;
- increase your liability for losses relating to electronic transactions; or
- change your daily transaction limit or other periodical transaction limit applying to the use of electronic equipment.

## **2.21 Changes to transactions made through electronic terminals**

Any transactions made by you at an electronic terminal cannot be cancelled, altered or changed by you.

## **2.22 Printed transaction records**

When you complete a transaction at an electronic terminal you will receive a printed transaction record. You must check your record carefully. You should retain these records for verification purposes and to aid in reconciling account statements.

## **2.23 Third party services**

ANZ does not authorise, promote or endorse and shall not be responsible or liable in any way for the use of account services offered by third parties to access your ANZ accounts (including account aggregation services, such as may be provided by other financial institutions).

## **2.24 General**

ANZ is not liable for the refusal of any merchant to accept an electronic transaction and, to the extent permitted by law, is not responsible for the goods and services supplied by a merchant.

You accept that:

- not all electronic equipment from which cash can be withdrawn will always contain cash;
- any cash dispensed at electronic equipment is at your risk once it becomes visible or available to you to collect; and
- not all electronic equipment will allow you to make deposits.

## **2.25 EFTPOS**

EFTPOS stands for Electronic Funds Transfer at Point of sale.

This facility allows you to pay for goods and services with a card linked to your account. Depending on the retailer, you may also be able to use the card to withdraw cash using the EFTPOS terminal.



## 2.26 Maestro and Cirrus

Maestro® and Cirrus® are international EFTPOS and ATM networks that allow you to access available funds in ANZ accounts by using your ANZ Access card while overseas.

When you use your ANZ MasterCard card, you can usually choose (in Tonga) to withdraw funds from either your linked savings or cheque account. If you have both a savings account and a cheque account linked to your card, when you press 'debit', the ATM will automatically make the withdrawal from your linked savings account.

You cannot use your ANZ access card or ANZ MasterCard card at Cirrus ATMs overseas to pay money into your account or transfer funds between linked accounts.

### Fees and charges – Maestro and Cirrus

Transaction fees, overseas transaction fees and ATM operator fees apply for the use of Cirrus ATMs and Maestro EFTPOS overseas. If the amount of the transaction is more than your available balance (including any approved overdraft limit) and we do not agree to provide the amount under the informal overdraft facility.

### Surcharges – Maestro and Cirrus

You may have to pay a surcharge for making a withdrawal from some ATMs overseas. Surcharges will not appear as a separate item on your account statement. They will be included in the total amount of the withdrawal.

### Exchange rates and conversion – Maestro and Cirrus

All charges, purchases and cash advances will be processed through MasterCard international incorporated using the conversion rate set in accordance with its rules as at the date those transactions are processed by MasterCard international incorporated.

This means that:

- Transactions in United States dollars will be converted into Australian dollars.
- Transactions in other currencies will first be converted into United States dollars and then converted to the currency the account is held in.

In most cases, the conversion rate applied to a refund of a transaction will be different to the conversion rate used for the original transaction.

## SECTION 3: OTHER THINGS YOU NEED TO KNOW

### 3.1 Change of name and address

You should notify ANZ promptly in writing of any changes to your account details. ANZ will not be responsible for any errors or losses associated with account changes where ANZ has not received prior written notice.

### 3.2 Our right to combine accounts and block access

We reserve the right to block access to your account. We can combine the balances of two or more of your accounts, without giving you notice, even if the accounts are at different branches or in joint names. We may do this if one of your accounts is overdrawn or is in debit and another is in credit. We can then use the balance of the account that is in credit to repay the overdrawn amount in the other account. If we combine any of your accounts, we will tell you about this as quickly as possible. We do not need to notify you in advance. You should not treat your accounts as combined unless we have agreed to such an arrangement.

### 3.3 Closing your ANZ account

You or any other authorised person can close your account at any time upon request at any ANZ branch.

ANZ will pay you the credit balance plus deposit interest if any, less any accrued account fees and Government charges and fees applicable at the closing date ("net credit balance"). Monthly fees will apply even if the account has been open for only part of a calendar month. Any uncleared funds will not be released until they are cleared.

Any unused passbooks, cheque books, or ANZ Cards which solely operate the account must be returned to ANZ upon closure of your account. An account with cheque access may only be closed once all outstanding cheques have been presented. ANZ reserves the right to return any cheques presented for payment after the account has been closed.

If your account has either a nil or debit balance, and there have been no transactions (except for Government charges and fees) on the account for more than 30 days, then ANZ may close your account without giving you prior notice.

ANZ may exercise its discretion to close an account due to unsatisfactory conduct, where the balance falls below any required ongoing minimum balance, where required by law or regulatory body, or for any other reason it considers appropriate. In this event, ANZ will notify you in writing at the address shown on its records and will forward a bank cheque for the net credit balance of the account.

## CONTACT US

Australia New Zealand Banking Group Limited,

### **Tonga Branch**

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Nuku'alofa,  
Tonga

### **ANZ Nuku'alofa Branch | Va'a ANZ Nuku'alofa**

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This brochure is current as at November 2020 and the details in it are subject to change.

