

Cash Cover Indemnity Guarantee Facility

TERMS AND CONDITIONS | 11.11



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1. Indemnity Guarantee Facility

1.1 Conditions Precedent

ANZ's obligation to make the Indemnity Guarantee Facility (the "IG Facility") available to you is conditional upon ANZ being satisfied that:

- ANZ receives an Indemnity Application for Guarantee properly executed to ANZ's satisfaction. This must be given to ANZ no later than three clear business days before the day on which you want ANZ to issue the bank guarantee under the IG Facility ("**Bank Guarantee**"). If you do not want ANZ to issue the bank guarantee in its standard form, you also need to provide ANZ with a form of Bank Guarantee which is acceptable to ANZ, with details completed and signed by you to confirm content; and
- all the other conditions precedent (if any) have been fulfilled.

1.2 Representations Made by You

When you apply for the IG Facility (and for any Bank Guarantee to be issued pursuant to the IG Facility) you represent that each of the following statements is true:

- you have disclosed to ANZ all material matters that you know of which affect:
 - (i) your business, assets or financial condition; and
 - (ii) your ability to perform obligations under any of the documents associated with the IG Facility (the "**IG Facility Transaction Documents**").

You must give ANZ prompt written notice if, after it was made or given to ANZ, a representation or statement made to ANZ or information given to ANZ ceases to be true or becomes misleading.

For the avoidance of doubt, "IG Facility Transaction Documents" means the letter of confirmation of the provision of the IG Facility issued to you by ANZ ("Confirmation Letter"), these Cash Cover Indemnity Guarantee Facility Terms and Conditions, the terms and conditions of your IG Facility Account referred to in clause 2, any other document required in connection with this IG Facility, and any document or agreement that amends any of the same.

1.3 Information

You agree to provide ANZ with any financial or other information ANZ asks for by the time that ANZ specifies. ANZ agrees that:

- it will only ask you for information which it considers relevant; and
- it will specify, having regard to the kind of information sought, what it considers to be a reasonable time within which you are to provide the information.

You only need to provide the information to ANZ in writing, if ANZ asks for it to be in writing. If you are a public company, you also agree to provide ANZ with all written information that you give to your shareholders (generally or to any class of them) or to a stock exchange, at the same time as you give it to them.

1.4 Costs to be Paid by You

You agree to pay ANZ, on demand, all of ANZ's costs in connection with the IG Facility Transaction Documents. This includes ANZ's costs in taking any action in connection with an IG Facility Transaction Document, in particular:

- negotiating, preparing, reviewing, amending, executing, stamping, registering and discharging any IG Facility Transaction Document;
- valuing anything that ANZ requires to be valued;
- giving a consent; or
- enforcing or protecting ANZ's rights under the IG Facility Transaction Documents.

1.5 Different Currencies

Unless an IG Facility Transaction Document provides otherwise, all payments made under or for the purposes of this agreement or another IG Facility Transaction Document must be made in Australian dollars. Where conversion of one currency to another is required ANZ will apply its standard procedures for currency conversion.

1.6 Cancellation of the IG Facility

You may, at any time, cancel the IG Facility by returning all Bank Guarantee(s) issued under this IG Facility to ANZ and paying any unpaid fees and other amounts in relation to the Bank Guarantee(s). ANZ may at any time cancel the IG Facility by paying out the Bank

Guarantee(s) and debiting from the IG Facility Account (as defined in clause 2) an amount equal to the total value of the Bank Guarantee(s) so paid out. Should this result in your IG Facility Account having a debit balance, you must pay that amount to ANZ on demand.

1.7 Waiver

The rights that ANZ has under the IG Facility Transaction Documents cannot be waived except by ANZ giving you written notice waiving the particular right. In particular:

- ANZ does not waive any right that ANZ has in connection with the IG Facility Transaction Documents merely because ANZ does not exercise it, or does not exercise it as soon as ANZ can; and
- if ANZ exercises a right once or partly, it does not mean that ANZ cannot exercise that right again or other rights.

1.8 Changes in Government Requirements

If, after the date of the Confirmation Letter, there is a new Government requirement or a change in a Government requirement, a new tax or a change in a tax or a change in the interpretation of a Government requirement or a tax which, in ANZ's opinion increases the cost to ANZ of providing or maintaining the IG Facility or reduces the effective rate of return to ANZ on the IG Facility, you agree to pay ANZ on demand the amount calculated by ANZ as necessary to compensate ANZ for the increase in cost or reduction in rate. The amount payable will be calculated by ANZ from the day when it first incurred the costs or suffered the reduction. "Government requirement" means a law, or a direction or requirement, whether it has the force of law or not, imposed by the Reserve Bank of Australia, a Government or a Government authority in Australia or a similar body in a foreign country.

1.9 Changes in the Law

If ANZ gives you written notice that, in ANZ's opinion it has become illegal in a jurisdiction or otherwise impracticable for ANZ to continue to make the IG Facility available, ANZ's obligations in relation to the IG Facility will terminate.

2. IG Facility Account

2.1 Opening and operating an IG Facility Account

You agree to open an Indemnity Guarantee Facility Account (or any other type of account that you and ANZ agree may be used for the purposes of securing your IG Facility (in any case, the "IG Facility Account") with ANZ.

The terms and conditions for your IG Facility account will be provided to you separately.

You agree to deposit into your IG Facility Account and to ensure it always holds a minimum credit balance in available funds which are at least equivalent in value to the total value of the Bank Guarantee(s) issued under the IG Facility at any time (the "**Amount Deposited**"). The IG Facility Account must be held in your name and not that of a third party, and the funds deposited in IG Facility Account must be held in your own capacity and not in trust.

As the Amount Deposited secures the IG Facility provided to you by ANZ under the terms of the IG Facility Transaction Documents, without first obtaining ANZ's written consent, must not to:

- withdraw any part of the money in the IG Facility Account; or
- transfer or assign the benefit of, or create a charge or any other security interest to or in favour of any person, company or corporation, over the IG Facility Account.

2.2 Closure of Your IG Facility Account

You or any other authorised person can only close your IG Facility Account when the last remaining Bank Guarantee issued under the IG Facility expires or is called upon or where you choose to cancel the IG Facility in accordance with clause 1.6.

In any case, in the event that the last remaining Bank Guarantee issued under the IG Facility expires or is called upon or where you choose to cancel the IG Facility, ANZ may require you to close the IG Facility Account. ANZ will contact you prior to the closure of the IG Facility Account to confirm this course of action.

Upon closure of the IG Facility Account, ANZ will pay you the credit balance plus deposit interest if any, less any accrued account fees and Government charges at the closing date (if applicable).

For the avoidance of doubt, where the IG Facility has no Bank Guarantees issued under it (e.g. because each Bank Guarantee has been paid out by ANZ), ANZ will pay you any deposit interest if any, less any accrued account fees and Government charges (if applicable).

2.3 Authority to appropriate and set-off

In the event that:

- (a) demand is made on ANZ for payment under any Bank Guarantee issued under the IG Facility or ANZ reasonably apprehends that such demand will be made;
- (b) you suspend payment of your debts;
- (c) you are, or state you are, or are presumed by law to be, insolvent or unable to pay your debts;
- (d) you take a step for the purpose of entering into a compromise or arrangement with any of your creditors or with any of your members;
- (e) If you are a company, club, lodge, society, other incorporated association or cooperative any of the following things happen:
 - (i) an application is made, a resolution is passed or an order is made for your winding up;
 - (ii) you become an externally administered body corporate or a controller or a trustee for creditors is appointed in respect of any of your property; or
- (f) If you are an individual (including a partner), any of the following things happen:
 - (i) you commit an act of bankruptcy;
 - (ii) a bankruptcy notice is issued against you;
 - (iii) you become bankrupt; or
 - (iv) a trustee for creditors or in bankruptcy is appointed in respect of any of your property,

you irrevocably authorise ANZ at any time to apply all or any part of any credit balance in your IG Facility Account (“**IG Facility Account Balance**”) up to the total value of the Bank Guarantee(s) issued under the IG Facility by way of set-off in or towards payment of the liability (whether due now or later and whether actual or contingent) ANZ has or may have under the Bank Guarantee(s).

ANZ may do this without telling you first or getting your consent and ANZ’s right to do this is in addition to any other right that it has.

If ANZ assigns a debt (being a debt in or towards payment of which ANZ is authorised by this authority to apply all or any part of the IG Facility Account balance), ANZ may, subject to you being in default under the assigned debt, pay to, or as directed by, the assignee, all or any part of the IG Facility Account balance and any accrued or accruing interest of the IG Facility Account balance in order that the assignee may apply the amount towards payment of the assigned debt.

If ANZ applies all or any part of the IG Facility Account balance, it can adjust the rate of interest payable on that IG Facility Account Balance to the rate that would have been payable if it had originally been lodged with ANZ for the reduced term. The reduced term will be calculated from the day the IG Facility Account Balance was lodged to the day of application of all or part of it.

Your rights in respect of your IG Facility Account are personal to you, and despite anything in these terms and conditions, a purported dealing by you in relation to those rights (including by way of assignment, transfer, mortgage, charge, security interest, declaration of trust or otherwise) will not be effective to give anybody other than you any right or interest in your IG Facility Account as against ANZ.

2.4 Insolvency

At the time you become insolvent (which includes, but is not limited to any event described in clause 2.3(b) – 2.3(f) (inclusive), the IG Facility Account is debited with an amount equal to the total value of the Bank Guarantee(s) then currently issued under the IG Facility whether or not any debit is actually made to the IG Facility Account by ANZ at that time.

3. General

3.1 Fees

The fees and charges that will be charged to you are set out under the headings “Indemnity Guarantee Facility” in the Confirmation Letter. Unless otherwise specified in the Confirmation Letter, fees incurred will be charged to your nominated account (referred to in your Confirmation Letter) monthly, based on the account opening date or such other date as ANZ advises. Should you fail to nominate an account for this purpose ANZ may at its discretion charge any other account maintained by you with ANZ with those fees and otherwise those fees are payable to ANZ on demand.

3.2 Changes to Fees and Charges, Interest Rates and Terms and Conditions

ANZ may change any other condition of this IG Facility. The table below sets out how and when ANZ will notify you of changes to your IG Facility. You agree that ANZ may notify you of certain changes by advertisement in major daily or national newspapers. ANZ may make the following changes:

	Minimum Number of Days Notice	Minimum Number of Days Notice
Introduce a New Fee or Charge	30 days	In writing
Increase an Existing Fee or Charge	30 days	In writing or by press advertisement
Change any other term or condition, the name of interest rates, accounts or publications	Day of change	In writing or by press advertisement

3.3 GST

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

If any supply made under or in connection with this Agreement is subject to GST, the party making the supply (“ANZ”) may increase the consideration otherwise provided for by the amount of that GST and recover such additional amount from the party liable for payment of the consideration. This clause

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

If you are required to reimburse ANZ for any costs, the amount must be reduced to the extent that ANZ is entitled to claim an input tax credit in respect of those costs. A party will be assumed to have an entitlement to claim a full input tax credit unless it demonstrates otherwise prior to the date on which the consideration must be provided.

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

Any reference in this Agreement to fee, price, value, sales, revenue, or similar amount (“Revenue”) shall be a reference to that Revenue exclusive of GST, unless and to the extent that the revenue is expressly agreed to be GST inclusive.

3.4 Code of Banking Practice

If you are an individual or a small business (as defined in the Code of Banking Practice) ANZ is bound by the Code of Banking Practice when it provides its products and services to you.

3.5 Confidential Information and Privacy

(a) Confidential Information

‘Confidential Information’ means information acquired by ANZ from and concerning you in the course the banker/customer relationship and includes personal information (as defined in sub-clause 3.5 (b)) but does not include publicly available information.

By acquiring or continuing to hold this IG Facility from ANZ, you agree that ANZ and each of its related companies (including subsidiaries) may exchange with each other any confidential information about you for the purposes of:

- providing, managing or administering your product or service;
- performing administrative and operational tasks (including risk management, debt recovery, exposure aggregation, systems development and testing, credit scoring, staff training and market or customer satisfaction research);

- promotion of products or services; and
- complying with regulatory requirements and prudential standards; and
- you authorise ANZ to disclose any confidential information collected by it in the course of your relationship with ANZ to:
 - any contractor or service provider ANZ engages to provide services connected with your relationship with ANZ (for example mailing houses or debt collection agencies);
 - participants in payments systems (including financial institutions, merchants and payment organisations such as the Australian Payments Clearing Association and the Society for Worldwide Interbank Financial Telecommunication); and
 - to its alliance partners (and any of its outsourced service providers) to promote their products or services;
 - credit reporting agencies;
 - insurers and reinsurers;
 - your referee(s) (if you have provided referees to ANZ);
 - your representative (for example your lawyer, mortgage broker, attorney or executor).

Any contractor, agent or service provider engaged by ANZ is contractually required to only use the confidential information for ANZ purposes and to keep the information confidential.

Where you do not want ANZ or its alliance partners to tell you about their products or services you may withdraw your consent by calling your ANZ Manager.

ANZ may also provide your confidential information to:

- regulatory bodies, government agencies, law enforcement bodies and courts; and
- other parties ANZ is authorised or required by law to disclose information to.

(b) Privacy

'personal information' means information about an individual.

This sub-clause applies if you are an individual or if you provide personal information about an individual to ANZ.

When you deal with ANZ, ANZ is likely to collect and use some personal information about you. ANZ explains below when and how ANZ may collect and use your personal information.

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

Collection of Your Personal Information by ANZ

ANZ may collect your personal information:

- to provide information about a product or service;
- to consider your request for a product or service;
- to provide you with a product or service;
- to tell you about other products or services;
- 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 administrative and operational tasks (including risk management, debt collection, 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.

Accessing Your Personal Information Held by ANZ

Subject to the provisions of the Privacy Act, you may access your personal information at any time by calling your ANZ Manager or asking to do so at any ANZ branch. ANZ may charge you a reasonable fee for access.

If you can show that information about you is not accurate, complete and up to date, ANZ must take reasonable steps to ensure it is accurate, complete and up to date.

Collecting Your Sensitive Information

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

Where You Supply ANZ With Personal Information About Someone Else

If you give ANZ personal information about someone else or direct someone else to give their personal information to ANZ, you will show that person a copy of this clause so that they may understand the manner in which their information may be used or disclosed by ANZ.

3.6 Anti-Money Laundering

You agree ANZ may delay, block or refuse to make a payment if ANZ believes on reasonable grounds that making a payment may breach any law in Australia or any other country, and ANZ will incur no liability to you if it does so. You agree to provide all information to ANZ which ANZ reasonably requires to comply with any laws in Australia or other country.

You agree ANZ may disclose information which you provide to ANZ where required by any laws in Australia or any other country.

3.7 Problem Resolution Procedure

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 1800 805 154 (hearing or speech impaired customers can utilise the TTY [telephone typewriter] service by calling 1300 366 255), or:

- Talk to staff at your local ANZ branch or business centre, or
- Send a letter to ANZ Complaint Resolution Centre via: Locked Bag 4050, South Melbourne VIC 3205
- Email: YourFeedback@anz.com

Most often ANZ will be able to solve the problem on the spot. If it can't be resolved promptly ANZ's specialist complaints team will take responsibility and work with you to fix the matter quickly. ANZ's aim is to resolve the complaint within 5 working days.

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

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

Customer Advocate
Level 7/833 Collins Street
Docklands, VIC, 3008
Phone: 03 8654 1333
Fax: 1800 117 651
Email: customeradvocate@anz.com

Financial Services Dispute Resolution Schemes

If you are not satisfied with the steps taken by ANZ to resolve the complaint, or with the result of our investigation, you may wish to contact an alternative dispute resolution scheme.

Financial Ombudsman Service Limited

GPO Box 3
Melbourne VIC 3001
Tel: 1300 780 808
Fax: +61 3 9613 6399
Internet: <http://www.fos.org.au/>

3.8 Disruption to Service

You should bear in mind that occasionally a banking service may be disrupted. 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 only be liable for loss or damage suffered because of a disruption where that disruption is caused by an event within ANZ's reasonable control. ANZ will not be liable for consequential loss or damage because of such disruption. This disclaimer is in addition to, and does not restrict, any other provision contained in these terms and conditions which limits ANZ liability.

3.9 Notices

A notice that ANZ gives to you in connection with the IG Facility will be signed by one of our bank managers, bank officers or by our solicitors. ANZ may give you such notice by leaving it at your address or by posting it in a prepaid envelope addressed to you (in which case, the notice will be deemed to have been received

by you on the second business day after posting). Your address is that shown on the Confirmation Letter or the last address for you that ANZ has recorded in ANZ's books.

A notice that you give to ANZ in connection with the Confirmation Letter or the IG Facility must be signed by you or by your authorised representative. You may give such notice by leaving it or by posting it in a prepaid envelope addressed to ANZ. ANZ's address is that shown in the Confirmation Letter. Your notice will be effective when ANZ receives it. If you give ANZ a 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.

Despite the rest of these conditions, ANZ may act in accordance with any instruction in connection with this agreement given or purporting to be given to ANZ, orally or in writing, by you or your authorised representative. You agree that, if ANZ acts in accordance with an instruction given in this way, ANZ's act is done with your authority.

3.10 Law and Jurisdiction

This agreement is governed by the law in force in the place where ANZ's office shown in the Confirmation Letter is located. In relation to any proceedings about or in connection with the Confirmation Letter or the IG Facility, ANZ and you agree to submit to the non-exclusive jurisdiction of the courts that have jurisdiction under that law.

3.11 Inconsistency

If there is any inconsistency between the Confirmation Letter, these IG Facility terms and the IG Facility Account terms and conditions then the prevailing terms shall be determined in the following order:

- (a) First, the Confirmation Letter,
- (b) Second, the IG Facility terms and conditions, and
- (c) third, the IG Facility Account terms and conditions and the Specific Conditions for a facility, the Specific Conditions prevail.
- (d) If there is an inconsistency between this agreement and a security, this agreement prevails.

4. Contact Details

Postal addresses

ANZ Business Banking

Speak to your ANZ Manager or call
1800 801 485 (8am – 8pm)

ANZ Cards

Locked Bag No.10
Collins Street West Post Office
Melbourne VIC 8007

ANZ Personal Banking

Contact your nearest branch

ANZ Investment Lending

GPO Box 4338
Melbourne VIC 3001

ANZ Trustees (V2 PLUS Service Centre)

GPO Box 4028 Sydney NSW 2001 or
GPO Box 389D Melbourne VIC 3001.

Customer Enquiries

ANZ Cards

13 22 73

ANZ Internet Banking

13 33 50
+ 61 3 9643 8833 (International customers)

ANZ Personal Banking

13 13 14

ANZ Investment Lending

1800 639 330

ANZ Trustees (V2 PLUS Service Centre)

13 28 33

Lost or Stolen Cards, Suspected Unauthorised

Transactions or Divulged Passwords

1800 033 844 or
+ 61 3 9683 7047 (International customers)
(24 hours, 7 days a week).

Lost, Stolen or Divulged Passwords

For passwords used on-line and ANZ Security
Devices, call 1800 269 242

For all other passwords, call 1800 033 844
(24 hours, 7 days a week)
Ph: + 61 3 9683 7047 (International customers).

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